

Also at Johannesburg

CAROLYN NEVILLE

Our Reference	L Rhodie/dm/10154356
Account Number	10154356 (4965404v1)
Your Reference	
Direct Line	+27 21 405 6080
Direct Telefax	+27 21 405 6112
Direct Email	lucinde.rhodie@cdhlegal.com
Date	15 November 2017

Attention: Carolyn Neville
By Email: carolyn@neville.za.net

Dear Madam

OBSERVATORY CIVIC ASSOCIATION

- 1 We act on behalf of Theo Kruger ("**Mr Kruger**"), a director of TwoFiveFive Architects ("**TwoFiveFive**"), a member of the Observatory Civic Association ("**OCA**"), in his capacity as the newly elected chairperson of the OCA, Mr Ebrahim Abader ("**Mr Abader**") and Mr Tertius van Zyl ("**Mr Van Zyl**"), in their respective capacities as secretary and member of the Architecture and Heritage committee of the OCA respectively (collectively hereinafter referred to as "**our clients**").
- 2 We are in possession of correspondence, including emails sent to the members of the OCA, sent by you, purportedly in your capacity as chairperson of the OCA, alleging, *inter alia*, that-
 - 2.1 the election of the new executive committee was unconstitutional and accordingly null and void, because 18 individuals who voted at the Annual General Meeting ("**AGM**"), did not qualify for membership, having regard to the provisions of article 7.1 and 2.1 of the OCA constitution;
 - 2.2 a new election will have to be held on 28 November 2017 due to the election at the AGM on 31 October 2017 being unconstitutional, null and void; and
 - 2.3 due to the election being unconstitutional, the office bearers elected in 2016 remain responsible for the management of the OCA until the new election has occurred ("**the allegations**").
- 3 It is our instructions that our clients deny the allegations for the following reasons:-
 - 3.1 Our clients deny that the election was unconstitutional, null and void.
 - 3.2 The AGM was properly called and quorate in terms of articles 18 and 19 of the OCA constitution.

CHAIRMAN AW Pretorius **CHIEF EXECUTIVE OFFICER** B Williams **CHIEF FINANCIAL OFFICER** ES Burger

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EXECUTIVE CONSULTANTS: AC Alexander M Chenia HS Coetzee PJ Conradie NW Muller AM Potgieter JM Wits-Hewinson

CONSULTANTS: A Abercrombie JMA Evenhuis[#] Prof A Govindjee EJ Kingdon FF Kolbe

SENIOR ASSOCIATES: F Ameer-Mia A Bezuidenhout AS Bezuidenhout L Chance N Du Sart T Erasmus CM Gibson KJ Keanly N Loopoo HJ Louw MM Mailula NS Mbambisa NL Meyer A Mhlongo N Mia T Moodley V Moodley MB Mpahlwa S Mpotana KT Nkaiseng AP Pillay TP Smith M Somrey J Strydom T Tosen R Valayathum

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[#]British [#]Dutch [#]Cape Town Managing Partner

- 3.3 All persons that attended and voted at the AGM, were either existing members or individuals who in their personal capacity or as representatives of business entities, prior to the AGM, applied for membership, paid the membership fees and were approved as members by the then executive committee of the OCA.
- 3.4 Insofar as, after the fact, it appeared that certain votes were casted by individuals and/or representatives of businesses, who may not have qualified for membership (without conceding and/or admitting that this is correct), this does not render unconstitutional, null or void, the AGM or any proceedings or elections at the AGM.
- 3.5 You have alleged in your correspondence referred to herein above, that 18 (eighteen) individuals did not qualify for membership, the only reason advanced is that certain individuals allegedly reside outside the area of the OCA, as defined in article 2.1 of the constitution or signed up for membership recorded a business address, but who joined as an individual ("**the list**").
- 3.6 Article 7 of the constitution states that membership shall be open to all owners and occupiers over the age of 18 years of property in Observatory. It is clear from the wording of article 7.1 that an individual can be a member of the OCA, if it owns or occupies property anywhere in Observatory, in either its capacity as individual resident, student, pensioner or business owner.
- 3.7 Our clients considered the list and the grounds for ineligibility, and again, without admitting it is correct, our clients' instructions are that, at most, 7 (seven) of these individuals could arguably not qualify for membership.
- 3.8 Insofar as these 7 (seven) individuals' votes were taken into account at the AGM, it does not render the proceedings unconstitutional and at most, have to be disregarded. Furthermore, these votes did not in any manner change the outcome of the elections of the Chairperson and member of the Architecture and Heritage Committee, or prejudice the runners up, Mr Tauriq Jenkins ("**Mr Jenkins**") and Mark Turoc ("**Mr Turoc**"). Mr Kruger and Mr Van Zyl would still have been elected as Chairperson and member of the Architecture and Heritage Committee respectively, as their votes would still have exceeded Mr Jenkins' votes by 2 (two) votes and Mr Turoc's votes by 10 (ten) votes should these 7 (seven) individuals' votes be disregarded.
- 3.9 TwoFiveFive has, since its membership was accepted on or about 25 October 2016, participated in and contributed towards the operation of the OCA, through its representative, Mr Kruger; and
- 3.10 Mr Kruger's nomination as chairperson, as representative of TwoFiveFive, was accepted by the 2016 executive committee of the OCA, under the details provided with its application for membership.
- 3.11 As a duly constituted AGM was held on 31 October 2017, and Mr Kruger, Mr Abader and Mr Van Zyl, together with the rest of the newly elected executive committee, were duly and lawfully elected, they will continue to act in those positions and accordingly:-
 - 3.11.1 there are no basis in law for the previous office bearers of the executive committee of the OCA, elected in 2016, to continue to act in that authority;
 - 3.11.2 you have no authority to address correspondence as chairperson or in any other capacity to members of the OCA;
 - 3.11.3 you have no authorisation to convene a meeting or purported meeting to be held on 28 November 2017 and any proceedings conducted and elections made there will be invalid and unconstitutional; and
 - 3.11.4 to the effect that a purported notice was sent out on 7 November 2017, convening the meeting on 28 November 2017, such notice is of no force and effect.
- 4 Accordingly, it is our instructions to demand, as we hereby do, that you:-
 - 4.1 furnish us with a list of all the names of members you sent the correspondence referred to in 2 above, purportedly in your capacity as chairperson of the OCA; and

- 4.2 immediately retract the correspondence and copy our clients in the email withdrawing the allegations;
- 5 Should you fail to attend to the demands set out herein above within 24 (twenty four) hours of receipt of this letter, we hold instructions to (1) address the members of OCA directly on behalf of our clients and (2) approach the Western Cape High Court for an urgent interdict to prevent the purported AGM scheduled to take place on 28 November 2017, the costs of which will be for your account.
- 6 Our clients' rights remain fully reserved in the interim.
- 7 Please be advised accordingly.

Yours faithfully


LUSI DE HOODIE
CLIFF DEKKER HOFMEYR INC