

8.

A PORTION OF ERF 389 HAWSTON ($\pm 217\text{M}^2$ IN EXTENT) ADJACENT TO ERF 226 HAWSTON, SITUATED AT 226 MARINE DRIVE, HAWSTON: CESSION OF ENCROACHMENT AGREEMENT FROM DC HARTFORD TO R MALECKI AND K NEMEC

A Le Roux

Divisional Manager: Property Management

2 December 2024

(028) 316 - 5623

1. Executive Summary

To obtain approval to cede the encroachment agreement entered into between the Overstrand Municipality and DC Hartford to R Malecki and K Nemec (hereinafter referred to as "the Applicants") for the remainder of the encroachment period of 5 (FIVE) years in respect of a portion of Erf 389 Hawston ($\pm 217\text{m}^2$ in extent), adjacent to Erf 226 Hawston, situated at 226 Marine Drive, Hawston (hereinafter referred to as "the Property"), for gardening purposes. See the locality maps attached hereto marked "Annexure A1 & A2".

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
The encouragement of structured community participation in the matters of the municipality

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

DC Hartford, previous owner of Erf 226 Hawston, has been encroaching on the Property for gardening purposes since 2009.

The latest encroachment agreement entered into between the Overstrand Municipality and DC Hartford is for a period of 5 (FIVE) years which

commenced on 1 May 2022 and will expire on 31 April 2027. The Executive Mayor at a Mayoral Committee Meeting held on 21 February 2022 resolved as follows:

- “1. that the encroachment of municipal property, being a portion of Erf 389 Hawston ($\pm 217\text{m}^2$ in extent), adjacent to Erf 226 Hawston, to DC Hartford at an amount of R499.50 (FOUR HUNDRED AND NINETY NINE RAND AND FIFTY CENTS) (VAT excluded) per annum for a period of 5 (FIVE) years in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, be approved; and*
- 2. that the encroachment fee mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2022.”*

DC Hartford sold his property to the Applicants on 14 June 2023. Following this, the Applicants recently submitted a request for the encroachment agreement to be ceded to them. They confirmed that the Property is still being used for gardening purposes. Accordingly, the Applicants applied to have the encroachment agreement with the Municipality ceded to them for the remainder of the agreement period.

Conclusion

With reference to the above discussion, it is recommended that the application to cede the encroachment agreement for the Property to the Applicants be approved for the remainder of the agreement period.

7. Financial Implications

Should the cession be approved, the Municipality will continue to receive R499.50 (FOUR HUNDRED AND NINETY NINE RAND AND FIFTY CENTS) (VAT excluded) per annum for the remainder of the agreement.

8. Staff Implications

None

9. Annexures

Annexures A1 & A2: Locality maps

RECOMMENDATION:

that the cession of the encroachment agreement for municipal property, being a portion of Erf 389 Hawston ($\pm 217\text{m}^2$ in extent), from DC Hartford to R Malecki and K Nemeč, for the remainder of the period, **be approved**.

RESPONSIBLE OFFICIAL:	W MURTZ
TARGET DATE FOR IMPLEMENTATION:	17 APRIL 2025
TARGET DATE TO INFORM APPLICANT:	24 APRIL 2025
TARGET DATE TO INFORM OBJECTOR:	N/A



