

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

2.

**IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 6847 KLEINMOND
(SITUATED AT 3 BERGROOS CRESCENT, UITBREIDING 6, KLEINMOND) BY
MEANS OF A COMPETITIVE PROCESS**

**A Le Roux
9 November 2023**

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain in principle approval for the alienation of Erf 6847 Kleinmond (359m² in extent), hereinafter referred to as “the Property”, for residential purposes by means of a competitive process at a market related value. The locality maps of the Property are attached hereto as “Annexure A1” and “Annexure A2”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Local Government: Municipal Financial Management Act (Act 56 of 2003) (“MFMA”)
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)
- Municipal Supply Chain Management Regulations (Notice 868 of 30 May 2005)
- Overstrand Municipality Supply Chain Management Policy, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

An application was received from the neighbouring owner to purchase the Property. The applicant has been storing his boats on the Property with no consent from the Municipality, thus illegally. The Applicant was informed that the boats cannot remain on the Property and must be removed as he has no consent for the use of the Property.

The Property is zoned Residential Zone I and there are services available in the vicinity of the Property. As there is a great need for vacant residential properties to be made available to the public to purchase and as this Property is suitable, it is recommended that it be made available in the open market by means of a competitive process at a market related price.

Evaluation

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy are applicable:

Paragraph 9(1)(a): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of section 14(2)(a) and (b) of the MFMA decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services.”

The comments received from the relevant officials confirmed that the Property is not needed for the provision of the minimum level of basic municipal services.

Paragraph 9(1)(b): “The Municipality may transfer ownership or otherwise dispose of non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with section 14(2) of the MFMA.”

HCB Valuers determined the market related value of the Property on 29 September 2023 at an amount of R143,600.00 (ONE HUNDRED AND FORTY-THREE THOUSAND AND SIX HUNDRED RAND) (VAT excluded).

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Paragraph 9.1(c): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”

The purpose of this report is to request an in principle approval from Council for the alienation for the Property by means of a competitive process.

Paragraph 15.1: “The transfer of immovable property must, except in the case of non-viable immovable property, be affected by means of a competitive process, which may include a public or closed tender, auction or proposal call.”

It is proposed that the Property be alienated by means of a competitive process which can either be a tender process or auction. This is due to the high demand for vacant residential properties in the Overstrand and to be fair to all. The Property can be developed and does not qualify as a non-viable property. The adjoining property owner will be able to partake in the competitive bidding process.

Paragraph 28: “All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.”

The successful bidder/purchaser will be liable for the costs of the transaction, excluding the valuation of the Property. Cost for the successful bidder/purchaser will include, but is not limited to, the section 14 advertisement, transfer costs, connection of services, and any other costs pertaining to the transaction.

Paragraph 29: “Should existing services need to be relocated or secured by means of the registration of a servitude in favour of the Municipality as a result of the alienation of the immovable property, all related costs shall be for the account of the successful bidder/purchaser.”

No services need to be relocated and no servitude needs to be registered.

Paragraph 31: “Where immovable property is alienated for development, a condition, taking into consideration the nature of

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the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.

A condition to this effect can be included in the Deed of Sale if needed. In this case it will not be a big development, but rather a purchaser who will need time to build from own funds. It is recommended that this not be included in the Deed of Sale.

Paragraph 32: "Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes."

A condition to this effect will be included in the Deed of Sale.

Paragraph 33: "The agreement might contain a suspensive condition in respect of immovable property which is sold subject to approval in terms of land use planning legislation."

A condition to this effect will be included in the Deed of Sale.

Paragraph 34: "A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder within 10 days of date of request in writing thereof by the Municipality."

A condition to this effect will be included in the Deed of Sale.

Paragraph 35: "Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser."

A condition to this effect will be included in the Deed of Sale.

B: Advertisement / Notification:

The necessary advertisement in terms of Section 14 of the MFMA will be placed after the tender is duly awarded. The successful bidder/purchaser will be liable for the costs of the Section 14 advertisement.

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Conclusion

It is recommended that the Property be alienated for residential purposes by means of a competitive process at a market related value.

Furthermore, it is recommended that the successful bidder/purchaser be liable for all the costs, excluding the costs for the valuation of the Property. Subsequently, the costs will entail the Section 14 advertisement, transfer costs, connection of services, and any other costs pertaining to the transaction.

7. Financial Implications

The Municipality stands to gain a market related purchase price to the minimum amount of R143,600.00 (ONE HUNDRED AND FORTY-THREE THOUSAND AND SIX HUNDRED RAND) (VAT excluded) for the Property.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets - Mr J Vorster

“The full extent of Erf 6847 Kleinmond is currently reflected as Social Housing in the fixed asset register for PPE: Land at a carrying value of R18’000 as at 30 June 2023. Once the proposed alienation of the 359m² has been concluded, it will have to be written out of the fixed asset register at the applicable selling price in order to account for the actual gain / (loss) on the disposal of a portion of an asset.

There is no objection against the alienation.”

Senior Town Planner - Ms H Van Der Stoep

“The Erf is zoned Residential Zone 1: Single Residential. No Objection: residential purposes only.”

Manager: Housing Planning & Project Management - Ms A Jacobs

“Erf 6847 does not form part of the properties identified as part of the Kleinmond Housing Project.”

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Senior Manager: Building Control - Mr L Coetzee

“No objection. A building plan application must be submitted for any proposed structure on the Property.”

Assistant Chief: Fire Safety & Health and Safety - Mr E Solomons

“The fire department has no objection.”

Manager: Solid Waste: Planning - Mr C Mitchell

“There is no objection from Solid Waste Planning to the sale to the erf via a competitive bidding process as requested.”

Senior Manager: Operational Services: Kleinmond - Mr D Van Rhodie

“Operational Services Kleinmond have no objection against the alienation of property. No Operational Services affected.”

Senior Superintendent: Traffic Operational - Mr P de Gruchy

“I have no objection towards the process of a competitive bidding process for the sale or purchase of this erven.”

Environmental Officer: Kleinmond - Ms T Zweig

“Environmental Management Services (EMS) has no objection to this application.”

10. Annexures

Annexures A1 and A2: Locality Plan

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 6847 Kleinmond (359m² in extent), for residential purposes by means of a competitive process at a market related purchase price, **be approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, the section 14 advertisements, etc., but excluding the valuation costs, be paid by the successful bidder/purchaser;
3. that a condition be included in the Title Deed of the Property that it may only be used for residential purposes; and

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4. that it is confirmed that Council has taken cognisance of the fact that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy (2015) and section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	15 MARCH 2024
TARGET DATE TO INFORM APPLICANT :	29 MARCH 2024
TARGET DATE TO INFORM OBJECTOR :	N/A

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**A Le Roux
9 November 2023**

Manager: Property Administration

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 7 FEBRUARY 2024, WHICH COMMITTEE
RECOMMENDED AS FOLLOWS:**

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RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

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N/A



Erf 6924
Uitbreiding 6
Kleinmond
(359m² in extent)

