

TAURIQ JENKINS

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Date	24 November 2017

Attention: Tauriq Jenkins
By Email: oca@obs.org.za

Dear Sir

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 refer to the letter we addressed to Ms Carolyn Neville ("**Ms Neville**"), in her purported capacity as chairperson of the OCA, and your email dated 21 November 2017, in your purported capacity as "acting chair" of the OCA ("**your email**").
- 3 At the outset, it is our instructions to advise you that neither Ms Neville, nor yourself, nor any other member of the 2016/2017 executive committee of the OCA, have any authority whatsoever to address the members of the OCA in such capacities anymore and to call any form of a meeting of the OCA.
- 4 Your email purports to notify the OCA members of a special general meeting ("**SGM**") to be held on 28 November 2017 ("**your notice**"). Please note that your notice is unconstitutional and of no force and effect for the following reasons:-
 - 4.1 your notice fails to comply with article 18.3 of the OCA constitution in that it does not purport to be a notice by the 2017/2018 executive committee, convening a SGM neither, does it purport to be a notice convening a meeting pursuant to a requisition in writing to Mr Abader, as newly elected secretary of the 2017/2018 executive committee, by 10% (ten per cent) of the OCA members; and
 - 4.2 in addition to non-compliance with article 18.3, your notice furthermore does not comply with article 17.2 in that your email is addressed to OCA members in a purported capacity that does not, or no longer exist, as

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EXECUTIVE CONSULTANTS: AC Alexander M Chenia HS Coetzee PJ Conradie NW Muller AM Potgieter JM Witts-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 Kearnly N Loopoo HJ Louw MM Mailula NS Mbambisa NL Meyer A Mhongo N Mia T Moodley V Moodley MB Mphahwa 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

a duly elected 2017/2018 executive committee has been appointed at the annual general meeting on 31 October 2017 ("AGM").

- 5 Further, we are instructed to advise you that it is our clients' position that:-
- 5.1 they deny that the election was unconstitutional, null and void or that there were any irregularities in the election process that took place at the AGM;
 - 5.2 the AGM was properly called and quorate in terms of articles 18 and 19 of the OCA constitution;
 - 5.3 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.
 - 5.4 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;
 - 5.5 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;
 - 5.6 they considered Ms Neville's suggested grounds for ineligibility of certain individual's membership, 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.
 - 5.7 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, yourself 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 your votes by 2 (two) votes and Mr Turoc's votes by 10 (ten) votes should these 7 (seven) individuals' votes be disregarded.
 - 5.8 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
 - 5.9 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.
 - 5.10 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:-
 - 5.10.1 there are no basis in law for the previous office bearers of the executive committee of the OCA, elected for the 2016/2017 year, to continue to act in that authority;
 - 5.10.2 you have no authority to address correspondence as "acting chair" to members of the OCA, neither has any other member of the 2016/2017 executive committee such authority;
 - 5.10.3 a meeting will be held on 28 November 2017, which our clients, together with the 2017/2018 executive committee, has convened as a monthly meeting of the OCA;
 - 5.10.4 you are welcome and invited to address the issue of membership of the OCA and the provisions pertaining thereto in the constitution as an agenda point at the meeting referred to in 5.10.3, however any other proposed proceedings to be conducted, in your capacity as "acting chair" will be invalid and unconstitutional; and

- 5.10.5 to the effect that a purported notice was sent out by you on 21 November 2017, convening a SGM on 28 November 2017, such notice is unconstitutional and of no force and effect for the reasons set out above.
- 6 Accordingly, it is our instructions to demand, as we hereby do, that you:-
- 6.1 furnish us with a list of all the names of members you sent your email referred to in 2 above, purportedly in your capacity as chairperson of the OCA; and
- 6.2 immediately retract the correspondence and copy our clients in the email withdrawing the allegations.
- 7 As a result of your email and Ms Neville's correspondence to the OCA members, Mr Kruger will write to the OCA members to address these allegations directly.
- 8 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 approach the Western Cape High Court for an urgent interdict to prevent the purported SGM scheduled to take place on 28 November 2017, the costs of which will be for your account.
- 9 Our clients' rights remain fully reserved in the interim.
- 10 Please be advised accordingly.

Yours faithfully


LUCINDA SHOODIE
CLIFFE DEKKER HOFMEYR INC