

Submission on the Proposed Drought Levy by the City of Cape Town

Observatory Civic Association

1. The Observatory Civic Association recognizes the enormity of the crisis facing Cape Town as a result of the Severe Water Shortage affecting the City and the province. These are extraordinary times. And extraordinary times require extraordinary measures. For that reason, the OCA is not, in principle, opposed to the idea of a Drought levy being use to raise revenue for the capital expenditures needed for more sustainable sourcing of potable water.
2. However, extraordinary times require extraordinary measures by all parties. The current proposal excludes from its ambit some very large users of water who are neither businesses nor residents. Large property developments in Observatory, of which there are at least 16, either planned, under construction or recently constructed, consume huge quantities of potable water in the construction of the buildings. An analysis of the full life cycle of an apartment development (typical of the developments mushrooming in Observatory) suggest that the average 150 apartment development will be responsible for the consumption of about 250 000 kl of water in the construction alone¹, not including the water consumption of residents of water through its lifetime. Yet, the construction and property business, who are making huge profits from these developments, is untouched by this Drought levy. Effectively, the City is asking local businesses and local residents to subsidise these developers since these developers can build without having to pay extra for their water.
3. The construction of such buildings currently has no mandatory requirements for water saving elements in the design. These have been left as optional to the particular developer. Our experience in Observatory is that developers have the discretion as to how whether or not to include such measures, and how actively to implement water-saving design. In Observatory, there have been at least 8 approvals given to large developments since December 2015, when the City first acknowledged the Water Crisis in Cape Town by implementing additional water restrictions. It is unconscionable that in December 2017 that this situation should continue to exist that new developments are not subject to compulsory measures to save water. The City has known and spoken about the need for action on our water shortage for at least the past 2 years, but has not yet mandated the reuse of grey water, water saving measures and green design in any new constructions. For example, the City has recently proposed amending the municipal Water Amendment By-law² to, amongst other matters, enhance enforcement measures

¹ Bardhan, in estimating water use for material production as well as construction for a large apartment building in Calcutta construction, arrives at a figure of 25l to 30 Kl per m², of which most is embedded water. For a typical large apartment with 150 apartments in Observatory, the total floor area is estimated at about 10 000 m² (using the Paragon as example). This means that an apartment of this size would consume approximately 250 000 kl, in the construction phase alone. See Bardhan S. Assessment of water resource consumption in building construction in India. WIT Transactions on Ecology and the Environment, Vol 144; 93-101; doi:10.2495/ECO110081.

² <http://www.capetown.gov.za/City-Connect/Have-your-say/Issues-open-for-public-comment/comment-on-the-proposed-draft-water-amendment-by-law>

involving plumbers so as to reduce demand on municipal water. Why are no measures being taken to ensure construction companies and developers play their part?

4. The City has used pricing of water to reduce consumption, amongst other measures. It is a measure of the success of the pricing strategy that the City's Water tariffs have had to be adjusted to recoup income from water. The point is that if consumers of water comply with measures to reduce water usage, they should be rewarded for behavior that is in the common interest. The current levy is a completely blunt tool that is implemented without reference to the amount a household or a business consumes. This measure therefore treats water-savers (whom the City reports as constituting only 34% of water users in the City) in exactly the same way as it does residents or businesses who do not care about saving water. This makes it an extremely blunt measure that punishes all in the same way, based on value of the property. We do not believe this is a fair way to generate the income needed, and it may reduce the effectiveness of appeals to save water by undermining citizen commitment to efforts by the City to encourage residents to reduce water usage. Why bother to save water if you are punished in the same way as those who couldn't care about saving water? There is an obvious solution to this conundrum, as included in our recommendations below. But it is puzzling as to why the City could not reach this conclusion on its own accord.
5. There are some serious disjunctures between the public message of the City's efforts to address the water crisis and the decisions made by other City departments and municipal structures – in that other City departments make decisions that impact on water use and on the water crisis but without any common coherent plan. We refer here to the many decisions by the City to approve large building developments in the City. In Observatory, in the documentation that accompanies the applications that we have seen, not one word of attention is paid to the impact of the development on the City's water sustainability. In a further example, the Municipal Planning Tribunal recently (in September) reduced the fine recommended by a city official on a business that had been operating illegally for 7 years. The MPT reduced the fine by more than 80% and the amount in absolute terms (R 439 000) comprises about 25% of what the City will recover from Observatory residents over a period of a year if the Drought Levy is to be implemented. How is it possible that the City is cash strapped to implement Drought Relief measures, but at the same time, its Municipal Planning Tribunal, hands back R 439 000 to a businessmen who has been noted to have ignored law enforcement efforts for 7 years? Notably, the said businessman has applied to the MPT to appeal the reduced fine to get it reduced even further. By levying the Drought Levy on citizens who play by the rules and letting persons who have knowingly flout the law off with the most modest of fines, the City is making a mockery of its own governance systems. To ask citizens to make sacrifices will require the City to be consistent – otherwise, there will be a crisis of trust in a City system that works for some people but not for people who obey the law.
6. Lastly, it is not clear that raising of a Drought levy is actually going to solve the immediate problem of day Zero. If the drought levy were to be used urgently and optimally, there could be an argument to be made. However, our experience of

what the City has presented as its emergency plans does not reassure us that the money will be wisely spent. We would want the City to account more transparently for why it needs this levy, how it will be used, and what it will be used for. The City should also explain whether it has approached Provincial and National Government for assistance and what their responses have been.

Many people are angry with the City for waking up too late to this water crisis. We are not going to repeat those assertions here since they are not helpful to finding the best way forward. But the City needs to understand that its performance in managing this problem thus far has been dismal and it has engendered suspicion, distrust and disbelief, at times, in the very people whom you are asking to make a special sacrifice.

We therefore make the following recommendations:

1. If this levy is to work, it must be underpinned by complete transparency and accountability on the part of the City. What the levy is used for should be clearly reported on;
2. The levy should be based on criteria that do not solely rely on property values but also a history of water usage as the basis for calculating the levy and not be a flat proportion of property value. This will avoid visiting a disincentive on water-compliant homes and businesses and provide an incentive to water non-compliant homes and business to reduce their excessive water consumption. There should be a sliding scale that is exponentially increased with increasing water usage such that very high water users carry the burden of the levy. Property owners and businesses who comply with water saving measures should pay much less than the average.
3. Developers for large apartments should carry an appropriate component of the levy so that the real costs of construction are borne by those who will profit from the construction and not externalized to the residents of Cape Town;
4. The City should as an immediate priority amend/adopt the regulations/by laws governing development and construction to mandate water saving measures rather than leaving it to the discretion of developers who sole intent is to make as much money from their property as possible.

We would be happy to provide further information if requested.

We trust this submission will be taken seriously in line with the City's policies on public participation.

Yours