

Our Reference: 53270029

Professor Leslie London
Chairperson
Observatory Civic Association
CAPE TOWN

[Via email: chair@obs.org.za]

Dear Professor London

COMPLAINT AGAINST MR GERHARD GERBER

1. Your correspondence originally dated 20 March 2020 and referred to me on 8 May 2020 has reference.
2. Having considered the content of your complaint made in your capacity as Chairperson of the Observatory Civic Association, against one of the officials employed in my Department, Mr Gerhard Gerber, and having had the matter investigated and taken under advisement from our Provincial Legal Services, I have come to the following conclusions:
 - a. With regard to your allegations of bias on the part of Mr Gerber and his alleged attempts to mislead the Heritage Appeal Tribunal, whilst you quite correctly conclude that this is rather a case of professional disagreement in respect of the point taken by Mr Gerber during proceedings, you nevertheless then also proceed to frame this as an attempt by Mr Gerber to "mislead" the Tribunal. I cannot agree with this assertion, which is not supported by the facts.
 - b. Then, regarding the complaint of inappropriate/unprofessional conduct, I am of the view that Mr Gerber's conduct does not warrant the demands made in your correspondence i.e. to have him removed from his position as Acting TRUP Programme Manager. It is evident that he acted for an appellant in that process and in a manner that he considered would best protect the integrity of the process at the time. He did not act with malicious intent nor, as per your complaint, with the intention of unduly influencing the Tribunal at any time, but rather only as a legitimate party to appeal proceedings.

- c. Finally, it is my view that Mr Gerber's retention by the Provincial Custodian Department of Transport and Public Works, as Acting TRUP Programme Manager is not a risk to either the current or any future Environmental Impact Assessment (EIA) processes in respect of the proposed TRUP development. His current position at the Department of Environmental Affairs and Development Planning is entirely removed from any decision-making capacity in respect of EIAs, which is handled by a Directorate in the Department which sits outside and apart from the one where Mr Gerber is employed.
3. Accordingly, Mr Gerber's contributions to this matter, will only be either as Acting TRUP Programme Manager representing the Custodian Department of Transport and Public Works or in his role as Director: Development Facilitation in the Department of Environmental Affairs and Development Planning.
4. I have consulted with my colleague Ms Jacqui Gooch, Head of the Department of Transport and Public Works, and she concurs with my findings in this regard.
5. I therefore consider the matter to be concluded and trust that we can count on your organisation, as well as all the other stakeholders, to focus on the furtherance of the TRUP development process in a professional and expeditious manner.

Yours faithfully



PIET VAN ZYL
HEAD OF DEPARTMENT
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 29 July 2020