
RESOLUTION OF A SPECIAL GENERAL MEETING OF THE OBSERVATORY CIVIC ASSOCIATION (OCA) HELD AT OBSERVATORY ON 12th January 2021

1. **WHEREAS** the Observatory Civic Association (OCA) has adopted a Constitution (as amended) on 3 September 2019; and
2. **WHEREAS** the Constitution states that the OCA's objectives are to (*inter alia*): -
 - Provide a public forum for concerns and opinions about the full range of civic issues that affect Observatory;
 - Identify, express and address the concerns of the community within the boundaries of the Association;
 - Represent the interests of the community in civic matters; and
 - Promote an active interest in, and to consider the policies and affairs of the City of Cape Town and of the sub-council of which Observatory is part; and further
3. **WHEREAS** the 2 Willow Road property falls within the OCA's boundaries and also within a broader Malta Park and Hartleyvale precinct, which is publicly owned land currently zoned for a variety of Open Space and Community uses; and
4. **WHEREAS** The residents of the 2 Willow Road property (the Willow Arts Collective) are Observatory residents, many of whom are also members of the OCA; and
5. **WHEREAS** the OCA is concerned over the failure of the City of Cape Town to be transparent about its plans for future development in the Malta Park and Hartleyvale precincts, including its plans for future use of the property at 2 Willow Road, and have not responded positively to a PAIA request in May 2019 and to a request on 11th October 2020, both by the OCA, for a participatory planning process for the precinct; and
6. **WHEREAS** the City Municipal Planning Tribunal recently approved a rezoning application in September 2020 for a large mixed use development at the River Club in close proximity to the precinct, both of which lie within the Two Rivers Urban Park and appears to have intentions for the development within the TRUP area which they are not making public; and
7. **WHEREAS** the City awarded the Cape Town City Football Club a lease to fields in the precinct in 2017 with no public participation and appears likely to do the same again after that lease expired at the end of 2020; and

8. **WHEREAS** the City is obliged under various laws of the land to promote public participation in civic matters; and
9. **WHEREAS** the OCA, as part of an alliance of Civic Associations organised under Civic Action for Public Participation (CAPP), approached the Mayor on 23rd September 2019 to discuss how the City could improve its support for public participation and proposed a Municipal Planning bylaw on participation, which the Mayor promised his office would consider but which since then has been unresponsive to any CAPP requests; and
10. **BELIEVING** that the case involving the eviction of the residents of the Willow Arts Collective at 2 Willow Road cannot be considered fairly without regard to community efforts to ensure a participatory planning process for the land in question; and
11. **BELIEVING** that the efforts of the OCA to seek information and to initiate such a planning process are directly relevant to the court's ability to make the best decision on whether it is just and equitable to proceed with the eviction at this stage; and
12. **NOTING** that the Public Interest Litigation NGO, Ndifuna Ukwazi, may be willing to act *pro bono* for the OCA in this matter; alternatively, there may be other Public Interest NGOs willing to play this role; and
13. **NOTING** that entry as an *amicus curiae* in a matter at the level of the magistrate's court may be precedent setting and is of particular importance for constitutional matters related to land and land use and as such, it is likely to be appealed to higher courts; and
14. **NOTING** that the matter raises two interrelated concerns, namely the eviction of Observatory residents without meaningful engagement and the effect of such eviction on public participation in relation to the planned developments in the Malta Park and Hartleyvale precincts; and
15. **NOTING** that the eviction of residents at the Willow Arts Collective negatively impacts on OCA's strategic objectives on land development in Observatory;
16. **NOW THEREFORE** this SGM of the OCA held at Observatory on 12th January 2021 resolves as follows:
 - a) to authorise the Management Committee of the OCA to approach Ndifuna Ukwazi or any other Public Interest Litigation NGO or law firm acting *pro bono* to act for the OCA to intervene as an *amicus curiae* in the matter of City of Cape Town v Moore N.O. and Others; Case Number: 8919/19;
 - b) to authorise and appoint Leslie London, the Chairperson of OCA or his nominee, to sign any documents or pleadings and/or depose to any affidavit, and do all

- steps necessary for the OCA's participation as an *amicus curiae* in the legal proceedings indicated in (a) above;
- c) that the OCA would only enter as an *amicus curiae* if the OCA's costs were covered and the OCA would not carry any financial risk;
 - d) that the OCA will submit evidence and or legal argument, in order to assist the court in determining whether eviction is just and equitable in the circumstances, including but not limited to evidence and or argument relating to future developments in the Malta Park and Hartleyvale precincts and to provide a vehicle for Observatory residents to present to the court their views on the Willow Arts Collective at 2 Willow Road, Observatory; and
 - e) that in light of the above, and based on future advice from our legal team, the OCA, if admitted as *amicus curiae* in the matter, is authorised to ask that the court exercise its discretion in the interests of justice and either postpone the eviction hearing or reject the eviction application until public participation processes have been concluded in relation to the property situated at 2 Willow Road

Proposed: Leslie London

Seconded: Edwin Angless

Resolution amendments:

Proposed: Jared Sacks

Seconded: Tabitha Paine

12th January 2020