

Chairperson's report: OCA AGM Dec 7th 2022

Firstly, I want to thank the outgoing committee for a year of incredibly hard work under difficult circumstances. I say that every year, but it is true every year.

Secondly, when we held our last AGM more or less at the same time last year, the citizen-versus-Goliath campaign against the River Club development was still in a legal process. Today we are in a very different situation, having had to withdraw from the River Club court case as a result of an inability to raise money sufficiently rapidly, and as a result of infighting within the campaign that an attempted mediation with our Goringhaicona partners failed to resolve. The case has never been heard in court which we believe would have shown that the approvals were unlawful. But a combination of lawfare both in- and outside the court have resulted in the development now being able to proceed without challenge to the invalid decisions that permitted the development.

Nonetheless, I am pleased to present this chairperson's report to the 2023 AGM of the Observatory Civic Association. It's an association that is 38 years old and has, in the face of developer pressures, survived various attempts at capture, first in 2017, when a local developer illegally packed the AGM with his associates to vote in a fraudulent committee and then in 2022, when a faceless and anonymous but well-funded campaign (BestforObs) tried to encourage Observatory residents to join the OCA with the express purpose of undermining our opposition to the River Club development, using illegal methods to defame the OCA and its committee members. That effort failed abjectly as Observatory residents saw through the transparent propaganda and were not taken in by its misinformation. The latest attempt to divide the Observatory community is the formation of a competing association for property owners in Observatory, with the launch of the Observatory Ratepayers Civic Association, ORCA. The idea of the ORCA was floated by our former Ward Councillor in 2017 when, instead of coming to the aid of the OCA when we were captured, he proposed the formation of a ratepayers association only. My understanding is that there is no requirement for the City to recognise one Civic organisation over another. We will see how this ORCA develops and whether it behaves in the predatory style of its organisational title.

Organisational status

Throughout 2023, the Management Committee met once a month to transact the business of the OCA.

We maintained our Public Benefit Organisation (PBO) status with SARS and renewed and updated our Non-Profit Organisation (NPO) status with the Department of Social Development, submitting a set of outstanding reports. We also updated our details on the City's database of community organisations.

For 2023, we were able to fill the positions of Secretary and Deputy Chair but were unable to fill the Social Issues portfolio that had been left vacant after the tragic death of Kiki Bisogno in 2022. Carolyn Neville and Nicole Rassmussen, respectively, managed liquor license and noise issues, respectively, but the OCA lacked a champion for the wider social issues, particularly the engagement in the Obs Journey. We could not resuscitate the Business Forum as, after Akhona Simelani left in 2022, no-one came forward to take on that role. OBSID and ONW have standing ex-officio positions on Man Comm, as does the TRUPA, but attendance was irregular and most recently, we have been told by the Chair of OBSID that he sees no value in attending OCA meetings. We are still to engage the OBSID formally over their presence at OCA Man Comm meetings.

The ONW is struggling, as is the CPF. However, two OCA members (De Vos Rabie and Cara Morris) are currently on the revived Observatory sub-sector of the CPF so we should have good communication with the CPF going forward.

In 2022, the OCA was removed from the Sub council 16 Ward Committee because our Councillor chose to exclude Civics from the Ward Committee. There has been no change to that situation, seemingly informed by a policy on Ward Committee composition adopted by the City without any public consultation in January 2022.

The OCA continued to hold various public and member meetings.

We held a River Club feedback public meeting on 11th March 2023, an OCA strategic planning discussion on 27th May 2023 and a [Special General Meeting](#) on 2nd November to give feedback on the court case outcome and to review and adopt changes to the OCA constitution. The revised constitution is included in the communications sent out for this AGM and is also to be found on our website [here](#).

We enter the AGM with (at the time of drafting this report) 82 members, somewhat down from 116 members in 2022 but more or less the same as the 81 from 2021.

So what did OCA's Mancom achieve in the 2022-2023 year?

1. Architecture and Heritage

The activities of the Architectural & Heritage committee consist mostly of exercising our right to comment on building plans that fall within the Heritage Protection zone of Obs and helping residents to submit their own comments and objections. Marine le Blond continued the task of coordinating the A&H committee for the OCA. Because Observatory is both in an HPOZ and a very attractive site for new developments and for renovations of old houses, that committee is kept extremely busy and I want to thank Marine and the committee for their hard work holding those processes together. Since the last AGM the Committee dealt with 40 applications, which is slightly fewer than in 2022 but exactly the same number as in 2021. Of the applications, 14 (35%) were supported, 9 (22%) were opposed or objected to and 14 (35%) were applications to which we did not submit comments. Three submissions are still being assessed.

The vast majority of applications consist of renovations and additions to homes, but there have been a few larger, and generally contentious proposals. These include a 2-storey block of flats at 1b Arnold street, tucked behind a row of single-storey Victorian houses and another 2-storey block of flats at 11 Bellevliet. Both are ill-conceived proposals to which we have objected.

Two large projects are currently going through plan approvals and are on our radar. These include the controversial construction of a church auditorium on the site of the historical Coornhoop farm - controversial due to the architectural proposal but also due to the severe disturbances inflicted on the neighbours by the current activities of the Shofar church. Secondly, there is a proposal for the construction of a large temple compound for the Mormon Church within the Two River Urban Park to which we have objected.

This is a very busy portfolio supported by a small group - currently only 3 active members. We need to welcome new members to the committee, so we can process applications more efficiently, communicate better about the development of our suburb and get more involved in projects for the Observatory community. Even if you are not a planner or architect, being interested in maintaining

the heritage fabric of Observatory and being willing to assist the coordination of the committee would be of real assistance.

Since Marine will be standing down at this AGM, this is a very, very important position to fill. The Committee will have to co-opt a suitable convener after the AGM.

In addition to processing development applications, OCA also consolidated its 2022 nominations of sites across Observatory as Provincial heritage sites. These include: (a) the former Bantu Administration offices ('Pass Offices') in Fir Street; (b) the former Heidelberg pub, scene of a tragic guerilla attack by APLA forces; (c) the Coornhoop property as an original remnant of the colonial farms created by early Dutch settler administrations; (d) the former NUSAS offices on Lower Main Rd; (e) the former SACHED premises, now the site of an occupation where the Riverview Lodge backpackers used to be in Anson Rd; (f) the confluence of the Black and Liesbeek Rivers as memorial of early Khoi pastoralists movements into the Cape and (g) the Mowbray Muslim cemetery (in Browning Rd) containing many historic gravesites. An OCA member, Lalou Melzer conducted further research to confirm that the old Bantu Administration building is still intact but incorporated into the Black River Park complex. We will pursue the nominations with Heritage Western Cape over the coming year.

The OCA is also working with OBSID and the original artists to have the hip-hop mural at Wrensch Rd restored.

2. Communications

Since the last AGM, Edwin Angless has sourced material and curated it to produce 33 OCA newsletters and 4 LAC newsletters, as well as been able to grow the readership of both. For those who aren't subscribed to the OCA newsletter, many are still able to get it through the local Whatsapp groups which post it often. The OCA You Tube channel continues to be a useful repository of vital visual records of all the OCA's activities from Town Halls to marches and court appearances. Newsletters have continued to carry a wide range of important activities and information, such as cultural events, environmental success stories, where to get your COVID vaccines, etc, etc.

3. Social Issues

Our very large social issues portfolio continues to stretch across many facets.

3.1 Dealing with liquor license applications or renewals. This is managed by a sub-committee convened by Carolyn Neville. We follow a policy we adopted some years back that we generally do not oppose liquor licenses if they are part of an application by a restaurant serving food, but for premises that are set up as drinking holes, with only token food provided, we have been more critical. Over the course of the year, there were five applications which were problematic and which attracted our intervention. We will still appeal the license granted to the bottle store in Scott Rd, and are awaiting the re-application by Retrouvaille after their license was revoked last year and are dealing with two other applications. The Southern African Alcohol Policy Alliance (SAAPA) has a campaign to keep alcohol out of schools and we lodged an objection to a school in Somerset West seeking a license as part of our wider social activist commitment to healthier urban development in Cape Town. In July, we also submitted comments as the Civic on the policy proposals from the Province to limit trading hours and to implement Minimum Unit Pricing, largely in favour of the proposals.

3.2 Noise. Nicole Rasmussen has provided support to this portfolio in dealing with noise issues. We are aware of multiple places where noise issues have arisen, the latest being the use of the parking area at the Observatory Station for partying, but also the generators from large blocks of flats during load shedding and the Student Residence on Main Rd (formerly Premier House).

3.3 People living on the street or in marginal living circumstances

Efforts to address the issues related to homeless in Observatory were organised last year under the Obs Journey which held a few enthusiastic meetings and planned for various strategies. However, it has not had a champion to drive it since Kiki Bisogno died so tragically in 2022. There is a great need for us to find joint solutions. Obs CAN Feed You continues to operate, providing meals to various groups. We have responded to a recent request to help OCFY access bread from a large retailer after the main bread supplier indicated it would cut back its donations of bread.

The Rainbow House, which was part of the plans to address homelessness, collapsed as a project in 2022 and has turned into an occupation. DAG have been attempting to mediate but it is unclear what alternative resolution will be achieved. Meanwhile, the persons living on the Observatory common have been removed by court order, while some others have taken up an occupation of the old Riverview Lodge backpackers in Anson Road. Given the health and safety risk associated with unplanned urban repossession of vacant buildings, as happened in central Joburg when numerous people died in a fire, we have attempted to reach out to the owners of the building to alert them – the owners are in the Netherlands. It is only the owners who can intervene to take actions to prevent such a disaster.

We are aware that the Ward Councillor has plans for the Common. Although he has claimed the community will be consulted, it is not clear at what stage the plans are currently nor when the community will be informed. The OCA introduced Councillor Mohamed to John Young, a former OCA chairperson, who had long ago done work on proposals to reactivate the Common Space as a community space. Although John Young's proposals were seemingly well received by the ward councillor we have no idea whether his ideas will have any influence on what is planned. The Ward Committee, where one might imagine such plans would be tabled, is also closed to us, since we have been removed from the Committee. No minutes are provided to the public of discussions in the Ward Committee. Despite asking the assistance of the OBSID Chair, who serves on the Ward Committee, for access to the minutes, only one set of minutes has been forthcoming.

With regard to the occupation at Singabalapha, the OCA has assisted with humanitarian support following fires and flooding that took place at the settlement through circulating appeals for funds for repairs. We have also arranged access for learners to venues at UCT Health Sciences so they can do their after school tutoring in a more conducive environment (with two UCT students as tutors). Singabalapha has attended Man Comm meetings and we have had specific engagements with Singabalapha leadership to try to find solutions to their water and other needs. However, it has not been easy to find such solutions.

The residents at the Willow Arts Collective (old Circus Training School) near Hartleyvale remain under threat of eviction with a recent rejection of their appeal by the Cape High Court. OCA plans to hold a Town Hall meeting once there is clarity on what their way forward is. We may have to seek an application under PAIA to get clarity on what is happening and what is planned by the City.

4. The Car Park

The OCA continues to run the Pepper Square car park as a social enterprise. The turnover at the car park has more or less returned to pre-COVID levels and, despite requiring a great deal of maintenance, the carpark is gradually returning to liquidity following a long period of running at a substantial loss due to COVID. We kept the car park going including keeping staff on at the car park, by dipping into our savings and also from generous donations made by Obs residents. We have not had any boot sales in 2023 as we have not had the champion for this. We are still awaiting an updated lease from the City and are leasing the park as statutory tenants for the moment, but long-term stability is required.

5. Arts, Culture and Sports

The OCA supported the annual Youth Soccer Event at the Hartleyvale fields organised by FC Kapstadt. We have also supported FC Kapstadt's attempts to secure a lease for their club and their objection to the renewal of the City of Cape Town Football Club's lease.

The Observatory pool has been closed since COVID and there has been damage to the pool property for which repairs have been tendered. At one stage, we were told the documents had been submitted to the City's Bid Adjudication committee. One informant indicated that they thought that the City is not planning to re-open the pool for some time, perhaps pending wider re-development plans in the precinct, but another has indicated that workers are busy on site and there is high likelihood it will be open for the 2024/2025 swimming season. Despite asking about the City's re-development plans for the precinct, and asking for a co-design process, we have not had any response from the City.

The Telling the Observatory Story project that was commissioned by OBSID in 2021 is still awaiting proposals that would contribute to implementing its recommendations. Applications can still be submitted to OBSID - see [here](#).

6. The relationship with the City of Cape Town

Our relationship with the City remains of concern. Some officials are very open and honest in how they engage, but other departments less so - particularly in Building and Development approvals. We would prefer a better relationship with our Ward Councillor but it has been difficult getting responses to issues let alone getting his support.

7. Comments on Public Policies - there were no City Policies on which we commented but we commented on the Provincial Policy on strategies to reduce alcohol related harms and engaged with SAAPA on their campaign against alcohol in schools.

8. The River Club

As we know, the OCA and its partner, the GKKITC, suffered a huge setback in November last year, when the court overturned the interim interdict and found that Tauriq Jenkins had misled the High Court and slapped the OCA with costs. Although we know that the findings against Tauriq were based on deliberate misinformation submitted by parties supporting the development, Tauriq was unable to defend himself because of a late submission of his affidavit and because he failed to attend a pre-trial meeting on time where postponement of the rescission case would have been decided. As a result, the courts made devastating findings against Tauriq and against the case. The OCA did its best to point out that the only fraud was that which was perpetrated against Tauriq, but the damage was done in that our case was now permanently tainted with the notion of fraud. The developer

succeeded in closing down our Backabuddy funding platform, claiming the case was based on fraud and the funding platform did not bother to hear our side of the story. Following that deliberate attack on our fundraising platform, we were never able to recover. Our funding took a huge dip as a result.

Then, in December 2022, a caucus within the Liesbeek Action Campaign, began an attack on OCA participants in the LAC, leading to the unilateral removal of the LAC coordinator and the OCA media coordinator from the campaign's Social Media, the issuing of a lawyer's letter threatening the LAC coordinator and the spreading of misinformation about the OCA and its Man Comm members in the LAC. The removal of key persons linked to the OCA from the LAC Social Media meant that our fundraising efforts, already in dire straights, were undercut completely. Despite appealing to Tauriq for intervention to rectify the matter and secure the SM to support funding, he did not respond, let alone assist the OCA.

The OCA then entered mediation with the GKKITC facilitated by two staff from DAG but two months later, the agreement reached in mediation was then disregarded by the GKKITC partners and we were left with no choice but to face pulling out of the court case. Without a partner willing to engage meaningfully, and with a LAC campaign deeply divided into caucuses, the chances of challenging the decisions to permit the development were fragile, and without funding coming in at a rate able to keep up with the lawfare we were subject to, we were facing extremely difficult prospects. After our appeal of the cost order against us was turned down by the Supreme Court in May 2023 (again, a decision we believe completely wrong in law), the OCA therefore chose to settle out of court by withdrawing from the Review if the respondents waived their claims to costs.

All the respondents did so, save the City which in a remarkable show of pettiness, insistent on part payment of their costs (an amount of R 20000, far, far less than the costs of their senior counsels, etc) and used that to accuse us of vexatious litigation. Just to be clear, litigation cannot be vexatious when your own Environmental Management staff appealed the Environmental Authorisation (EA) on heritage and environmental grounds, nor when the competent authority for heritage in the Western Cape (Heritage Western Cape) appealed the EA as being unlawful. What happened is that we were beaten back by lawfare, by parties with endless access to funds (taxes, rates or corporate profits), with the backing of one of the richest companies in the world as anchor tenant. The case never got to court because the legal and extra-legal strategies deployed by those wanting the development to go ahead could not be resisted.

Following the settlement, we are still in process of clarifying how to settle other legal costs about which we will report at next AGM. The settlement precludes us from any litigation regarding the River Club but does not preclude us from expressing our views or our opposition to the development. Notably, the developers' agents have just started advertising the upmarket apartments to be completed with selling prices of between R 1.5 and R 4.5 million. For Observatory, what do we get? More traffic and two episodes of flooding in Ossian Road in 2023 that were out of synch with what normally happens in Observatory. The most northern field at Malta Park is regularly flooded, likely due to interference with storm water drainage caused by infill of the Western arm of the Liesbeek River by the development.

One of the many disappointments in the case is the complete failure of the South African Heritage Resources Agency to fulfil its statutory mandate as a steward of the national estate. Despite receiving a nomination for the Two Rivers Urban Park, including the River Club, to be declared a

National Heritage Resource in 2020, and a referral from Heritage Western Cape for the same outcome in 2021, SAHRA has not yet begun the process of assessment required. Even worse, when presented with an urgent application to provisionally protect the River Club site in 2021 because of evident threats to national heritage, they waited two years and then failed to find sufficient ground to warrant provisional protection, simply because they were too reluctant to challenge a development approval and a massive development in progress. In their rationalisation of their decision, they made much about the absence of extant cultural practices by indigenous groups at the site. Notwithstanding the fact that Khoi and other indigenous respondents did claim to have memory of such practices at the site, the very fact that first it was apartheid legislation and then later private property that excluded indigenous people from the site appeared unimportant to SAHRA's calculus. It is really a devastating indictment of an Agency meant to fulfil a public function but which has failed its constitutional mandate.

As the Treasurer will confirm, the OCA has raised almost every single rand from voluntary donations and crowd funding and has kept meticulous account of our funding and expenses for audit. And our actions in pursuing the case to the point where we decided to settle, have always been done on the advice of our legal teams and consistent with our constitution. We do not have the wealth of big corporations or the access to rates and taxes that our opponents in court can muster and do muster. We are therefore extremely grateful that we have been so strongly supported by the Observatory community in this campaign.

But while the River Club development will go ahead, we will remain resolute about protecting the wider Two Rivers Urban Park and its heritage and environmental resources from further pillaging by insensitive development. In particular, there are two developments pending, one at the Mormon Church property and the other a precinct development planned for Oude Molen that will require our close attention.

Conclusion

Most importantly, the OCA needs to reconnect with our base in our community and get back to doing that which will strengthen what our members wish to see in Observatory. It's been a draining three years much of which has been taken up and taken over by the River Club campaign. We are not sorry we followed this path. But we need to keep doing what our community needs from us – sharing information, providing opportunities to comment and object, if necessary, to development applications, promoting community safety and care for the environment, and building a community that values and reinforces diversity and respect for human dignity. There are also new challenges to which we should respond, such as the traffic logjam in Observatory and the narrow streets, increasingly filled with cars, both driving and parked on both side of the road. If anyone wants to tackle our mobility logjam, please volunteer to set up a working group to bring new ideas to find solutions.

We need to elect a strong Management committee to take our work forward –to make sure we don't neglect making our public spaces safer and greener and happier, our community more inclusive and less unequal, our built infrastructure consistent with the type of environment we want to live in.

I thank you for attending this AGM and thank the outgoing Man Comm for its hard work in 2023.

Leslie London, 1st December 2023