

**DRAFT MINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**

**Held on Wednesday, 21 October 2020 via Microsoft Teams, scheduled
for 09:00**



1. Opening and Welcome

The Chairperson, Adv Mandla Mdludlu, opened the meeting at 09:00 officially and welcomed everyone present.

2. Attendance

Committee Members:

Ms Katherine Dumbrell (KD)
Dr Andre van Graan (AvG)
Dr Antonia Malan (AM)
Dr Nicolas Baumann (NB)
Adv Mandla Mdludlu (MM)

Members of Staff:

Ms Aneeqah Brown (AB)
Mr Olwethu Dlova (OD)
Ms Cathy-Ann Potgieter (CAP)
Ms Nosiphiwo Tafeni (NT)
Ms Colette Scheermeyer (CS)
Mr Thando Zingange (TZ)

Visitors:

Mr Kashief Damon
Ms Mushfiqah Damon

Observers:

None

3. Apologies

None

Absent

None

4. Approval of Agenda

4.1 Dated 21 October 2020

The Committee resolved to approve the Appeals Agenda dated 21st October 2020.

5. Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 16 September 2020

The Committee resolved to approve the minutes of the Appeals Committee meeting which was held on 16th September 2020.

6. Declaration of Conflict of Interests

6.1 None

7. Confidential Matters

7.1 None

8. Administrative Matters

8.1 Outcome of the Tribunal Committee and Recent Court Decisions

None

8.2 Report back from HWC Council

Although the tendered resignation of the Chief Executive Officer, Dr M Dlamuka does not specifically fall within the prerogative of the Appeals Committee, the Chairperson informed the members of the Committee that the CEO has tendered his resignation with effect from the end of November 2020. He did this for the benefit of those Appeals Committee members who are not members of Heritage Western Cape Council.

8.3 Site Visits Conducted

None

8.4 Potential Site Visits

None

8.5 Appointments

None

8.6 Procedural Matters

The Committee raised concerns regarding matters to be appealed and tabled before the Committee and questioned to what extent the Committee can hear new evidence or revised submissions. There are different interpretations as to what constitutes a wide appeal in terms of accepting new issues before the Appeals Committee. The question arose whether revised developments, elements or redesigns (i.e. a 'new' proposal) must be brought to the Appeals Committee or be referred back to the decision-making committee. It is important to clarify this because "new matters" should not be heard by the Appeals Committee. The Appeals Committee also needs to see the application that was made to the original committee in order to be clear as to the reasons for the original decision which is being appealed. The Appeals Committee is to get formal input from the legal team.

9 Matters Arising

9.1 None

10 New Matters

10.1 Proposed Additions to an existing structure on Erf 119707, 93 9th Street, Kensington HM/CAPE TOWN METROPOLITAN/KENSINGTON/ERF 119707

Case No: 20080504TZ0831E

Mr Thando Zingange introduced the case.

Mr Kashief Damon and Ms Mushfiqah Damon were present and took part in the discussion.

APPELLANTS

- The Appellants are appealing the decision to issue a S51 letter, stating that work had not started on the property at 93 Ninth Street, Kensington.
- The Appellants requested for the letter to be withdrawn so that they can continue with their submission to City of Cape Town (CoCT).

DISCUSSION

In summary, the committee noted and took the following into account:

- The Committee was of the opinion that this matter should not have been brought to this meeting as it is an administrative matter.
- The Committee took note of the S51 letter and noted that the work had in fact not commenced, and as such the letter was issued in error.
- The Committee noted that there was no need for a site inspection.
- WD confirmed the new process in the HOMs meetings whereby the case officers are to request written confirmation that work has commenced in the event of suspected illegal works before issuing a S51 letter to avoid such errors in the future.
- Because HOMs cannot reverse a decision to issue a S51 letter, the Appeals Committee must uphold the appeal in order for the applicant to continue with the CoCT submission.

DECISION

The Appeal is upheld. The plans prepared by DSD Architects number SK.12/01 dated 7th December 2019 are stamped and approved.

TZ

11. Other Matters

12. Adoption of decisions and resolutions

The Decisions and Resolutions of the meeting were unanimously adopted by the Appeals Committee.

13. Proposed next date of the meeting:

18th November 2020

14. Closure: The meeting was adjourned at: 10:45

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____

DATE _____

SECRETARY _____

DATE _____