

Bo-Kaap Civic and Ratepayers Association

communities making cities

c/o Melanie Cloete

Statutory Compliance unit

Legal services department

City of Cape Town

Email: planning.appeals@capetown.gov.za

Date: 11 August 2016

Notice to appeal and Grounds for Appeal of decision CASE ID: 70268599

With reference to the above please note that we want to give written notice that we are appealing the decision. Our grounds for the appeal are:

Processes

1. The process that was used and followed by the tribunal. The composition of the tribunal and its methodology. There were no heritage expert/ practitioner on the tribunal especially in the light of the decision they had to make with regards to heritage overlays and the location of the ERVEN.
2. The tribunal had no qualified urban designer on the panel.
3. No neutral legal expert on the panel
4. We only received the hard copy documents consisting of 1800 pages on the Thursday, 02 June 2016. We had only two working days to read and prepare a response. It should be noted that Mrs. Susan Matthysen, a member of the Tribunal, commented that two working days was enough time to read through the 1800pages. We also note that this comment is omitted from the minutes.
5. It was noted and noticed that many of the members of the tribunal came with prescribed notes, which gives us an indication that the decision was made before the tribunal meeting.

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6. It is clear that the tribunal was not neutral but biased and in favour of the developer
7. The written minutes is not a true reflection of the meeting
8. Our observations apart from the attached documents

See below further comments:

With regards to the Zoning our appeal is based on:

1. The process of the revision of the zoning done in 2013 did not affect property in private ownership. Zoning revision was only on property owned by the government. So the 1940/1 zoning on privately owned property still exists today. Our appeal is on the basis that the zoning on the property falls under two overlays, i.e. the Heritage protection overlay zone and the CBD overlay. We noted that Mr. Van der Westhuizen indicated that council may impose conditions where development takes place in an HPOZ. He said that zoning is a real property rights with limitations. Heritage Western Cape has also indicated in their comment that they were not in favour of the building in an HPOZ.

And we appeal the decision to consolidate the two erven since one falls within the HPOZ and that building on that erven should be restricted under the HPOZ.

Please find attached documents prepared by qualified professional in their field that are assisting us with our grounds for appeal:

1. Prof Fabio Todeschini overview.
2. Prof Fabio Todeschini Urban Design Institute of South Africa
3. Prof Fabio Todeschini appeal document
4. Appeal document prepared Susan Campbell

Kindly acknowledge our intent to appeal as well as lodging of our appeal on the grounds as detailed above and in the attached documents. We reserve the right to present our appeal in person to the relevant authority when they meet on the matter.

We would like to express our disappointment in the City of Cape Town not granting us an extension.

Kind regards,

Jacky Poking

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