

**Waenhuiskrans Arniston Ratepayers Association  
Waenhuiskrans Arniston Belastingbetalersvereniging**

07 December 2015

Dear Members,

Thank you to all those members who contributed to the litigation referred to in my circular of 25 November 2015. As a result of your support, your Association was able to institute proceedings to stop the auction of erf 599. On 30 November 2015 we launched an application to interdict (stop) the auction sale of erf 599 to be held on 09 December 2015. I attach hereto a copy of the Notice of Motion in the proceedings.

In terms of the settlement agreement between the Municipality and various parties, most noticeably Verreweide (Pty) Ltd (in liquidation) and Arniston Bay Consortium (Pty) Ltd, an entity of which Robert Haarburger is the sole director, the Arniston Bay Consortium was the entity which had the most to gain from the auction and as stated previously it was required to bid up to R9.5 million, which amount it would not be obliged to pay should it have been the highest bidder and if it was not the highest bidder, it would receive an amount of R9.5 million as settlement compensation for the damages allegedly suffered by Vereweide due to the setting aside of the transfer of the property from the Municipality to Vereweide and as ordered by De Swart AJ in the previous litigation. It was, and is, the Association's view that this settlement agreement is irregular.

Arniston Bay Consortium and the Municipality opposed our application for the interdict. I was some what surprised that the Municipality opposed the application because in so doing they incurred costs and one of their main reasons for entering into the settlement agreement with the Haarburger entities, so they allege, was to prevent the incurring of further costs! There are no reasons that the property has to be sold as urgently as contended by the Municipality and a cautious Municipality should have merely agreed to postpone the auction. By opposing the interdict relief they in my view incurred unnecessary costs, both for them and the Association.

The application was to be heard today, Monday 07 December 2015, but was settled in that it was agreed that the Municipality would not dispose of erf 599 by way of auction or otherwise pending the final determination of the review of, inter alia, the conclusion of the settlement agreement. In terms of the court order, which was granted by agreement, certain times were agreed for the various parties to file papers so as to finalise the review as soon as possible. The question relating to who must pay the costs of the application to stop the auction are to stand over for determination at the review application. As the parties had agreed that the auction would not proceed, it would have been a waste of court time to have gone to court to argue who should pay the costs. The Association was successful in its application and will in all likelihood be awarded the costs of the interdict application. For your information a copy of the court order relating to the above is annexed hereto.

Postal Address: c/o Advocate Murray van Heerden SC  
9<sup>th</sup> Floor, Huguenot Chambers, 40 Queen Victoria Street, Cape Town, 8001  
Fax: 086 585 9770  
Email: [warasecretary@gmail.com](mailto:warasecretary@gmail.com)

**Waenhuiskrans Arniston Ratepayers Association  
Waenhuiskrans Arniston Belastingbetalersvereniging**

Further details relating to this and other matters will be communicated to members in the annual newsletter.

Yours faithfully



Murray van Heerden

Postal Address: c/o Advocate Murray van Heerden SC  
9<sup>th</sup> Floor, Huguenot Chambers, 40 Queen Victoria Street, Cape Town, 8001  
Fax: 086 585 9770  
Email: [warasecretary@gmail.com](mailto:warasecretary@gmail.com)