

## **NEWSLETTER 1: 2010**

Dear Member.

### **ERF 599: LEAVE TO APPEAL REFUSED**

As you know the Cape High Court ruled recently that transfer of erf 599, the property opposite the main road camp site must be cancelled and the land returned to the municipality. The sale and a number of other actions relating to the development of the property were found to be illegal.

It was not a surprise that the first respondent in the case, Verreweide, immediately applied for leave to appeal against the judgment as they have much to lose. It was, however, most surprising that the municipality also applied for leave to appeal as they have much to gain if the judgment is carried out. It is difficult to understand how a local authority justifies using large amounts public money to employ senior legal council to oppose a judgment which is patently in its own favour and to the direct benefit of the community. In addition, by its actions, the municipality exposes itself further to the risk of having to pay the applicants costs as well as their own.

The applications for leave to appeal and our opposition were heard over a full day on the 27<sup>th</sup> January. On the 2<sup>nd</sup> February the Judge ordered that both applications for leave to appeal are denied.

All members should be pleased that once again their decision to pursue this matter has been vindicated. At every turn both the municipality and Verreweide have had the defence of their wrongdoings soundly repudiated .

The only avenue now left open to the respondents is to petition the Chief Justice to overrule the Cape High Court's denial of leave to appeal. We have been notified that Verreweide intends to do so as is their right. We have yet to hear if the municipality will once again dig deeply into the public coffers to do the same in the hope of an opportunity to spend even more money going to Bloemfontein. All Agulhas ratepayers will understandably be curious to know what is behind this apparently imprudent use of their money.

In any event we have little option but to stand our ground on the principle of what is right and just concerning the protection of Waenhuiskrans Arniston. We cannot allow to go unopposed the 'willy nilly' exploitation of our environment to the detriment of the community and the general public good. We have to stand up and take to task controlling authorities who do not exercise their authority as they should. In essence that is what this whole matter is about.

Your committee has taken your mandate very seriously and so too are those of you and others who have so willingly and generously supported this enormous yet essential and worthwhile task. We are committed and with your continued support will remain motivated to take it to conclusion. We do need to be prepared for the final lap which will involve appearing at the Supreme Court of Appeal in

Bloemfontein to argue against Verreweide and possibly also the municipality. That will cost more money and I must therefore again ask all members – especially those who have not already done so to assist

Your contribution, clearly marked **WARA** and with your name - unless you wish it to be anonymous - can be deposited directly into the trust account:

John Taylor & Associates Inc.

Account 07 111 6281

Standard Bank

Branch Code 02 41 09

Yours sincerely.

Colin Bird