IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case Number: **8866/2021**

In the matter between:

BUSINESS VENTURE INVESTMENTS 900 (PTY) LTD	Plaintiff
and	
THE CITY OF EKURHULENI METROPOLITAN MUNICIPALITY	First Defendant
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Second Defendant

FIRST DEFENDANT'S REPLY TO NOTICE IN TERMS OF RULE 35(6)

KINDLY TAKE NOTICE that the Defendant hereby presents the following reply to paragraph 3 of the pre-trial minutes, and further documents for discovery:

REPLY TO PRE-TRIAL MINUTES

The Plaintiff sought the following admissions:

1. An admission from the First Defendant as to whether the City's Municipal Planning Tribunal approved the establishment of Comet Extension 8 on the expropriated property;

1.1. The First Defendant admits that the Plaintiff submitted an initial application for the establishment of Comet Extension 8 as the registered landowner at the time. The Plaintiff appointed consultants to compile and submit the application on his behalf. The application was subsequently considered by the Tribunal and was heard on 19 June 2018, together with various objections received from members of the surrounding community. Based on the outcome of that hearing, the Tribunal approved the application approximately a week later. However, the approval only became official on 30 July 2018, when the Tribunal Chairperson formally signed the hearing minutes.

1.2. Following the approval, several objectors, dissatisfied with the outcome, lodged an appeal to the Appeals Authority. When the Plaintiff was invited to appear before the Appeals Authority to address the objections, its representative submitted documentation indicating that he no longer had a client, as the land in question was in the process of being transferred to the municipality.

1.3. As a result, the Plaintiff, through its representative, declined to attend the appeal proceedings, which did not proceed. Thus, the matter remained unresolved. Subsequently, the municipal council, more specifically, the Department of Human Settlements, submitted a revised application.

1.4. Accordingly, the original approved application is no longer valid as the appeal was abandoned pursuant to the developments on the Property, having been replaced by the newly submitted application, which is currently pending.

2. An admission from the First Defendant as to whether the Plaintiff incurred professional fees and costs in relation to such a land use outcome;

2.1. The First Defendant declines to answer directly to this question as it can neither admit nor deny the information, as it is not within its direct knowledge. Thus, the Plaintiff has invited it to speculate. The First Defendant, therefore, assumes based on experience that it incurred professional fees and associated costs arising from consultations with various professionals who were engaged to assess and evaluate the property in question.

3. An admission from the First Defendant as to whether the property appears on the Defendant's valuation roll at a valuation of R26,438,000.00 as at the date of expropriation;

3.1. The First Defendant consulted with its Finance department, which confirmed that the valuation of the property was conducted on 07 July 2017, in which the property was valued at R26,438,000.00.

4. An admission from the First Defendant as to whether the property has developmental potential;

4.1. The First Defendant states that, while the property possesses developmental potential, it is situated in an artificial wetland formed from historical mining

dumping activities rather than a natural wetland. The First Defendant further states that an earlier specialist assessment indicated that approximately 50% of the property was considered developable.

4.2. However, subsequent assessments conducted by geotechnical specialists have revised this figure downward, with only approximately 30% of the land now deemed suitable for development.

4.3. The First Defendant acknowledged that the property remains developable, albeit subject to stringent conditions arising from identified geological constraints. According to the current geospatial mapping, the number of developable residential units has been significantly reduced to 989 units.

4.4. In addition, the latest G-DAD (Geotechnical and Development Assessment Database) results revealed that the extent of the wetland is greater than initially anticipated by the environmental specialists.

4.5. As a result of these findings, the competent environmental authority issued a Record of Decision refusing development approval on the property. The First Defendant notes that any future development would necessitate prior rehabilitation of the land. It also indicates that the relevant environmental specialist had recommended that the wetland may need to be offset to facilitate development.

4.6. While the First Defendant confirms that a wetland offset may be considered, it is emphasised that such an intervention carries significant cost implications.

Furthermore, additional soil testing would be required to determine the feasibility and scope of any future development on the site.

5. The First Defendant hereby presents the following documents for the Plaintiff's inspection:

EXPROPRIATION

NO.	DATE	ITEM	O / C
1	06-02-2019	Expropriation Notices	C
2	01-07-2017	Valuations of the property as at 01 July 2017 to June 2021	C
3	01-07-2021	Valuations of the property as at 01 July 2021 to June 2025	C
4	01-04-2019	Service amounts outstanding for the period of April 2019	C
5	27-05-2025	The current ageing analysis	C
6	27-09-2018	A-RE (26-2018) Ordinary Council Meeting - Security of Tenure	C
7	27-09-2018	Minutes of Council Meeting.	C

6. The Plaintiff requested the complete file contents pertaining to the following properties, where the City was the purchaser:

No.	Title Deed	Farm Name	Farm No	Ptn No	Seller	Buyer	Extent (ha)	Sale Date	Price (Exl Vat)
1.	T66158/2014	Driefontein	85	402	Living Africa Pty Ltd	CEMM	42.9955	30 June 14	R69 000 000
2.	T1230/2016	Driefontein	85	31	Transnet Ltd	CEMM	19.1354		
		Driefontein	85	234			0.3954		

				544			19.5308	28 Jul-15	R15 500 000
3.	T49165/2016	Driefontein	87	169	Edward Ndlovu	CEMM	11.2724	02 Jun-16	R6 100 000
4.	T55678/2016	Driefontein	85	394	Living Africa 2 Pty Ltd	CEMM	21.7022	22 Jun-16	R36 432 391
	T55679/2016	Driefontein	85	521			23.3438	22 Jun-16	R39 188 214
	T94508/2016	Driefontein	85	551 (-/397)			4.6924	22 Jun-16	R7 895 794
5.	T65646/2016	Driefontein	87	230 (-/1)	Living Africa Developments Pty Ltd	CEMM	22.1419	22 Jun-16	R12 100 000

7. The First Defendant submits that the following documents were retrieved by it for the below-listed properties:

7.1. **Portion 402 of the Farm Driefontein 85**

7.1.1. Resolution for the acquisition of the farm dated 26 June 2014;

7.1.2. Agreement of Sale of the farm dated 30 June 2014; and

7.1.3. locality plan.

8.2. **Portion 31 of 234 of the Farm Driefontein 85**

8.2.1. Unsigned Agreement of Sale between the Respondent and Transnet;

8.2.2. Letter dated 28 September 2015 from the City of Ekurhuleni Metropolitan Municipality to Transnet;

8.2.3. Letter from Transnet to the City of Ekurhuleni Metropolitan Municipality dated 05 November 2014;

8.2.4. Acceptance letter by the City of Ekurhuleni Metropolitan Municipality dated 06 November 2014; and

8.2.5. Windeed search for Portion 544 of Farm Driefontein 85.

8.3. **Portion 169 of portion 132 of Farm Driefontein 87**

8.3.1. Windeed Search of the Property dated.

8.3.2. Affidavit from the land owner which grants consent for the First Defendant to enter and survey the land and undertake feasibility studies.

8.3.3 Deed of transfer between BOE Bank Limited in favour of Edward Ndlovu.

8.3.4 Locality Plan; and

8.3.5. Municipal statement with Municipal valuation.

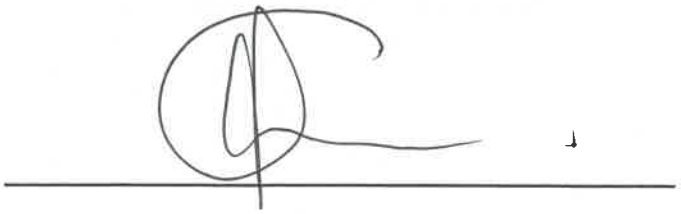
8.4. **Portion 394 of Farm Driefontein 85, Portion 397 of Farm Driefontein 85, and Portion 521 of Farm Driefontein 85**

8.4.1. Agreement of Sale dated 22 June 2016;

8.4.2. Windeed search for Portion 394 of Farm Driefontein 85; and

8.4.3. Windeed search for Portion 551 of Farm Driefontein 551

DATED AT RIVONIA ON THIS THE 12th DAY OF AUGUST 2025.



LUSENGA ATTORNEYS INCORPORATED

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