



# De Wet Leitch Hands Inc

*Attorneys & Conveyancers*

Company Registration: 2006/014988/21

Our Ref: DOL36/0001/CS/JDW

Your Ref:

23 November 2022

KWADUKUZA MUNICIPALITY

Director : Admin & Property Management

Per e-mail: [MeisieN@kwadukuza.gov.za](mailto:MeisieN@kwadukuza.gov.za)

The Municipal Manager

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CC Mr Sphelelo Ngobese  
Intergovernmental Relations and Protocol  
Email : [sphelelon@kwadukuza.gov.za](mailto:sphelelon@kwadukuza.gov.za)

Dear Sirs and Mesdames

**re: SALE OF LAND AT TOWNSEND PARK**

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1. We continue to act on behalf of the Dolphin Coast Residents and Ratepayers Association (DOCRRA). Our letters of 3 May 2019, 6 May 2019, 18 June 2019, 20 June 2019, 18 November 2019 and 20 July 2020 refer.
2. We also refer to a recent advertisement which appeared in the North Coast Courier of 11 November 2022 and respond as set out below.

### **The Council Resolution**

3. The resolutions of the Kwa-Dukuza Council dated 28 February 2019 included the following :

**DIRECTOR:** Jonathan De Wet  
**Associates:** Semantha Moodley; Solomzi Dube  
**Senior Consultants:** Ray Walpole; Gavin Gow

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### **HEAD OFFICE:**

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- 3.1 (3) That a portion (4000 m<sup>2</sup>) of Erf 517 Ballito be sold to the Zululand Islamic Society for worship purposes; and
- 3.2 (5) That a portion (4000 m<sup>2</sup>) of Erf 517 Ballito be sold to Zululand Islamic Society at market value i.e. R3,600,000.00.
4. It is clear from the aforesaid extracts that Council has, as a *fait accompli*, resolved to sell a portion of Erf 517.
5. As such, objections or comments by “the local community and other interested parties” are irrelevant.
6. Whilst the KwaDukuza Municipality (KDM) seeks to mislead the public that their comments or objections are part of some democratic process and that such comments or objections will be utilised by KDM’s Council in deciding whether to sell Erf 517, this is not so as that decision has already been taken (as far back as February 2019).

#### **The Advert**

7. Even a superficial reading of the advert published in The North Coast Courier leads one to the inescapable conclusion that it is fatally flawed.
8. The bold printed headline refers to a property of 400 sqm, whilst the body of the advert refers to a portion of 4000 sqm.
9. A party reading the advert may well consider that the sale and disposal of only 400 sqm is not worth objecting to, whereas that same person may take a different view as regards a portion of 4000 sqm.
10. The advert does not state what the purchase price is, and given KDM’s obligation to follow a process that is fair, equitable, transparent, competitive and consistent with KDM’S supply chain management policy this renders the advert non-compliant with KDM’s constitutional and legislative obligations (Section 14(5) of the MFMA).
11. The advert purports to be in compliance with Section 79(18) of the Local Government Ordinance 17 of 1939.
12. This Ordinance is the former Transvaal Local Government Ordinance.
13. It would appear that KDM have copied and pasted a document from Gauteng.

14. KDM's stated intention to comply with this "statutory precept" is totally misplaced, and frankly risible.
15. As pointed out above, KDM's advert is incompetent and irrelevant.
16. The advert further states that it is KDM's intention to comply with Section 14 of the Municipal Finance Management Act.
17. Such compliance is no longer possible since the decision to sell has already been taken without the necessary pre-requisite compliance with Sections 14(2)(b) or 14(5) (*inter alia*).
18. In addition the advert does not comply with Section 21(4) of the MFMA.
19. In short, the advert, as well as the process followed to date by KDM are fatally flawed and should KDM persist with such process DOCRRA will challenge the decision to sell a portion of Erf 517 in the Courts.
20. DOCRRA proposes that Council forthwith resolve to set aside or rescind its decision of 28 February 2019 and terminate its current public participation process.
21. In the event that KDM intends proceeding with a sale of portion of Erf 517, it is proposed that such process be commenced *de novo* and that such process be fully in accordance with the legislation and policies governing disposal of assets.
22. Our client proposes that a without prejudice meeting between it (DOCRRA) and the KDM legal team be arranged as soon as possible with a view to avoiding unnecessary litigation.
23. We await your urgent response.

Yours faithfully



**J M DE WET**  
**De Wet Leitch Hands Incorporated**