

5.2.2 Ownership/Title:

Given the history of ownership by the State, several commentators have questioned the form of tenure and the process by which it was purchased:

Erf 151832, Cape Town (the property) was registered in the name of the South African Rail Commuter Corporation Limited and subsequently vested in Transnet Limited by virtue of the Legal Succession to South African Transport Services Act 9/1989 which property was ceded and transferred to Transnet SOC Limited in June 1993 in the deeds office.

Liesbeek Leisure Properties Pty (Ltd) (LLP Pty Ltd) had a long term development lease over the property since March 2002, which lease was registered over the property in May 2005. LLP Pty Ltd had all the rights of use to the property and Transnet only retained the bare dominium in the property. In terms of the registered lease LLP Pty Ltd was granted a right of first refusal to purchase the property (bare dominium) if Transnet elected to sell. Transnet independently elected to sell the property in 2014 and Transnet valued the property at R12 million (being the bare dominium value in the property). LLP Pty Limited exercised its right of first refusal (as long term tenant) and acquired the property at the bare dominium value in May 2015. As a result of the sale and transfer of the property to the long term tenant the long term lease lapsed by operation of law.

LLP Pty Ltd in turn on-sold the River Club business and future development rights, together with the land to Liesbeek Leisure Properties Trust (LLPT) in 2015 in order to facilitate development and its funding. A purchase price for the current River Club business was paid in addition to an initial price of R12 million. Further payment is payable at market value when the development rights are established and as and when the property is developed (in phases). Since acquiring the property and business, LLPT have progressively improved the existing River Club facilities, with numerous upgrades of the buildings, parking area and grounds having taken place. The owner is currently in the process of applying for further development rights as detailed in its planning application submitted to the City in terms of the provisions of the City of Cape Town Municipal Planning Amendment By-Law (MPBL), including the Cape Town Development Management Scheme (DMS), in March 2018.¹⁶

In other words, the land is in private ownership which establishes rights and responsibilities. This current process under the NHRA and NEMA and Municipal Planning by-Law, initiated by the property owner, is the process required by the legal framework in order to develop the site.

¹⁶ Email from Michelle Couzyn-Rademeyer, Zenprop Property Holdings, dated 13/3/2018 (and as edited more recently). The LLPT trustees have appointed the Zenprop Group to manage the development.