

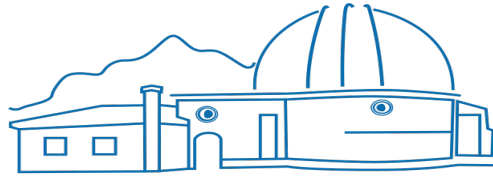
OBSERVATORY
Civic Association

DCAS Award Winner, 2018 : Most Active Conservation Body [email : info@obs.org.za](mailto:info@obs.org.za)

Attention : Zondo Commission

Affidavit : Tauriq Jenkins, Chair of the Observatory Civic Association

1. I, Tauriq Jenkins, write as the chairperson of the Observatory Civic Association (OCA)
2. I have been chair of the Civic since 2017 and a member of the OCA since 2008.
3. I am a resident of Observatory, at 3 Duke Street and have lived in Observatory for 16 years.
4. I provide this information to the Zondo commission regarding the purchase of the property now known as the River Club, in Observatory, Cape Town, which I believe may have resulted from circumstances that fall under the purview of the Commission.
5. The Erf number for the property is 151832.
6. My sources for this affidavit are:
 - a. An article published in Noseweek in March 2010, pages 14 to 16, titled "Sold down the river. How did Transnet come to sell a huge piece of prime real estate in Cape Town, worth R 200, for just R3.5m?" A photocopy of the article is included with this affidavit as Annexure 1.
 - b. An account by Professor Stephen Townsend regarding the purchase of the property and change of ownership since 1989. This account is contained in a Heritage Impact Assessment he conducted as part of an Environmental Impact Assessment in terms of Section 38(8) of the National Heritage Resources Act and the National Environmental Management Act and its Regulations for the development of the River Club. Page 53 of the report (paragraph 5.2.2) deals with changes in ownership/title and is attached as Annexure 2. The full report is available from Amy Hill at SRK Consulting, address: The Administrative Building, Albion Spring, 183 Main Road, Rondebosch, 7700. Tel: +27-(0)21-659-3060; Fax: +27-(0)86-530-7003. Email ahill@srk.co.za.
 - c. A pdf of the Deed of Sale for the River Club (Annexure 3)
 - d. A pdf of the bond raised on the River Club four months after the sale (Annexure 4)
7. The owners of the River Club are currently pursuing a multi-billion rand development at the site. Should this be approved, there will be a hugely profitable outcome for the developers.
8. It should be incumbent on citizens and our public institutions to be sure that such profits have not been based on property transactions that were potentially fraudulent

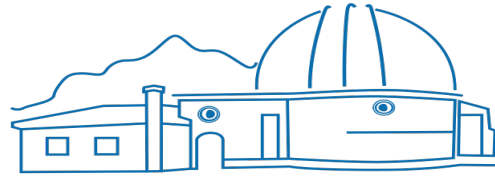


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or corrupt. For that reason, I bring this matter to your attention, for your consideration as to whether the matter warrants further investigation.

9. Erf 151832, Cape Town (the property), the site currently occupied by the River Club was established by the South African Railways & Harbours (SAR&H) as the Liesbeek Park Recreation Club in the 1920s and was subsidized by SAR&H for the benefit of its employees.
10. The Erf 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.
11. In 2000, a lease agreement was signed with Liesbeek Leisure Properties Pty (Ltd) (LLP Pty Ltd) for a 75-year lease to develop the property. The offer put in by LLP Pty Ltd was reportedly far lower than a competing offer made by another company but the LLP Pty Ltd offer was accepted. I understand that at that time, LLP Pty Ltd was owned by Fred Robertson and that it was Propnet, then a division of Transnet charged with administering Transnet's property that signed the lease for the site with LLP Pty Ltd.
12. It was reported that, at the time, LLP Pty Ltd was in partnership with Brimstone Investment Corporation (BIC) whose board of directors included three members of the Transnet Board – Jakes Gerwel, Patricia Gorvalla and Fred Phaswana. Phaswana was subsequently elected chair of the Transnet Board.
13. In December 2007, **Liesbeek Leisure Club** reportedly approached Propnet for permission to sell the Club's business interests, including the lease to Business Venture Investments (Pty) Ltd. (BVI). BVI was partly owned by Robertson and other investors, and Robertson had financial interests in at least one of these other investors. As outlined in the 2010 Noseweek article: a) Robertson was seeking to sell the lease and development proposals to himself, but now with funding partners included; b) legal advice indicated that this transaction would risk Transnet suffering a large opportunity loss and could not be supported; c) despite this, an agreement was concluded and signed in 2008 by the Group Chief Financial Officer, Christopher Well, which ceded the lease with first option to buy the property to Robertson's company.
14. In 2014, Transnet elected to sell the property which Transnet valued at R 12 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. The Deed of Sale confirms the sale by Transnet to LLP Pty Limited for the price of R12 million plus VAT, 2 June 2015 (Annexure 3). As a result of the sale and



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transfer of the property to the long term tenant the long term lease lapsed by operation of law.

15. Within 4 months of the sale, LLP Pty Ltd in turn sold on the River Club business and future development rights, together with the land to Liesbeek Leisure Properties Trust (LLPT) in order to facilitate development and its funding, for the price of R 100 million, approximately 8 times the purchase price.
16. It is reported that further payment is payable at market value when the development rights are established and as and when the property is developed (in phases).
17. It is therefore evident that a considerable amount of money is now contingent on the planning approvals for this development.
18. The original sale of the River Club took place at a price far lower than the market value of the property in 2015.
19. National Treasury regulations (Regulations in terms of the Public Finance Management Act, 1999: Framework for supply chain management as published in Gazette no. 25767 dated 5 December 2003) mandate that "The accounting officer or accounting authority of an institution to which these regulations apply must – (a) in relation to the sale or other disposal of state assets, ensure that – (i) immovable property is sold at market related prices, unless the relevant treasury determines otherwise." There is no evidence that permission or instruction from Treasury was secured to sell the property in question at less than market value.
20. The commitment to ensure disposal of immovable state assets at market value is echoed in the National Department of Public Enterprises State Owned Enterprises' Non-Core Property Disposal Policy and Broad-Based Black Economic Empowerment Guidelines, dated June 2008, which confirm that, "Wherever possible, the immovable asset shall be transferred at fair market value." ç
21. I remain concerned that the original sale of the River Club, as a public asset, to a private company, did not conform to policy prescripts existing at the time. Given the extensive potential for conflict of interest amongst a range of stakeholders, I believe this warrants grounds for further investigation.
22. I therefore urge the Zondo Commission to initiate an investigation into these concerns, given their ramifications for the mandate of the Commission.

Signed : Observatory, 2019