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Ndifuna Ukwazi Press Statement: Was the Tafelberg/Wynyard Mansions sale corrupt Premier Zille?

We ask the question: was the Tafelberg site sold in what could be regarded as insider trading by property mogul Gary Fisher, special adviser to Premier Zille and formerly the Head of Public Works?

In today's City Press (pg 2, 17 July 2016), the amaBhungane Centre for Investigative Journalism reveals that the chief provincial official responsible for the contested sale of the Tafelberg site in Sea Point - Gary Fisher - heads a company holding around R190 million in property investments in the immediate vicinity of the site. This includes The Equinox building directly opposite Tafelberg, and The Regent six hundred meters down the road (see map attached).

Fisher's dual-roles, as both one of the most senior public officials responsible for land disposal and an area property investor, in our view presents a prima facie conflict of interest. It fatally compromises the validity of the Tafelberg disposal process, raises serious questions about how the Western Cape Provincial Government (WCPG) monitors and promotes good governance, and has potentially undermined the development of vitally needed affordable housing for hundreds of families.

Gary Fisher appointed by the Western Cape Government to manage public land

Gary Fisher served as Head of Public Works within the Western Cape Department of Transport and Public Works (DTPW) from 2011 to March 2014. Fisher entered this position without any prior governmental experience, after almost two decades working in property investment companies nationally and overseas. He was also appointed without an advertising process.

During this time Fisher led the WCPG Inner-City Urban Regeneration Programme launched in 2011. The programme focuses on managing the future use and potential sale of several well-located inner-city provincially owned sites - including Tafelberg. [One of the objectives](#) of the Regeneration Program is to create integrated and affordable housing opportunities on well-located state land but not *one* affordable home for Black African and Coloured working-class people was built in the inner-city during this period.

In 2012 the DTPW supported a [feasibility study](#) to investigate the development of affordable housing on the Tafelberg site (also known as "The Sea Point Main Road Precinct"). The study, funded and co-ordinated by the Social Housing Regulatory Authority (SHRA) and the National Association of Social Housing Organizations (NASHO), concluded that the Tafelberg site was very well suited to affordable housing development.

The City of Cape Town and Western Cape Department of Human Settlements (WCDHS) [supported calls](#) by NASHO to have the site reserved for affordable housing. Under the Government Immovable Land Management Act (GIAMA), public land can only be sold if it is deemed “surplus” to service delivery needs, including housing.

Despite wide support within and beyond government, Fisher contacted social housing practitioners in 2012 to argue against social housing on the site, noting that “the area is under intense scrutiny by the local ratepayers and other stakeholders”, encouraging them to instead focus on the Woodstock Hospital site which he viewed as a “quick win”. It is now clear that Fisher's company was one of the "other stakeholders".

In the two years that followed it became increasingly clear that DTPW's intent - championed by Fisher and his then Minister Robin Carlisle - was to sell the site to the highest bidder, on the open market, with no conditions attached. This intent was expressed in the March 2014 call for Expressions of Interest (EOI) to potential developers of the Tafelberg site. Carlisle insisted that working-class people had no place in the City CBD or Sea Point as residents.

NASHO head Malcolm McCarthy has [noted in legal papers](#) that “despite WCDHS confirming that it needed the Tafelberg site, the DTPW issued a call for EOI in March 2014, in terms of which it proposed to dispose of the site to private investors through a commercial use structure”.

Immediately after the EOI was published Fisher left the DTPW to take up an advisory role in Premier Helen Zille's office, focusing on provincial urban regeneration and the “Live, Work, Play” mixed income housing mega-project on the former [Conradie Hospital site in Pinelands](#).

Public official and property mogul: Fisher's conflict of interest

Corruption Watch [describes](#) a conflict of interest as a scenario in which an individual “holds public office as well as private business interests and uses a public position to benefit private interests”. The National Development Plan's chapter on corruption draws attention to the dangers presented by “the practice of ‘Javelin Throwing’, in which public servants use their office to set up future business opportunities”. Many government agencies involved in land use and economic development decisions, such as the Johannesburg Development Agency, specifically regulate against this practice (see page 42 of the JDA's [Supply Chain Policy](#)).

While serving as Head of Department at provincial Public Works and subsequently advisor to the Premier, Fisher and brother-in-law Gavin Klerk - through their company Capitalgro - have amassed significant property interests across Cape Town but predominantly in Sea Point. Klerk founded Capitalgro in 2010 and serves as its CEO, while Fisher has served on the Board of Capitalgro since October 2013 and currently serves as its Chairman.

After Fisher joined the Board, Capitalgro entered into negotiations to purchase two buildings near the Tafelberg site. The Regent was purchased in November 2013 for R95.7 million (Fisher had opposed the use of Tafelberg on record during 2012). Ndifuna Ukwazi demands that his declarations of interest to the Department and the Premier be made public immediately. At this time, Fisher in his capacity as Head of Public Works was finalising the EOI terms of sale for the Tafelberg site to be published four months later. The Equinox was [purchased](#) in November 2014 for R94.6 million. Fisher had then moved to the Premier's Office, but still held privileged information on the future of the site and maintained links with the DTPW. The tender for the sale of the Tafelberg site was formally issued just two weeks after The Equinox was [transferred](#) in April 2015.

The publication of a land disposal tender is a significant milestone because it serves as what DTPW themselves refer to as [“Formal Market Engagement”](#). It is first public indication on

how land will be developed, and the impact this will have on surrounding properties. In the case of Tafelberg, the tender made it clear that the site would be sold to the highest bidder with mixed-use development potential. At earlier presentations, DTPW had envisaged a development similar to the [Old Biscuit Mill in Woodstock](#). The publication of tender concretising the terms set out in the EOI would have a significant impact on surrounding property values. This is additionally likely given that interest groups and estate agents have noted that the area had [lower property values](#) than other commercial sections of Main Road Sea Point, due largely to WCPG's failure over many years to develop and effectively manage the derelict Tafelberg site and Wynyard Mansions.

For this statement online, along with a timeline of Gary Fisher's tenure in both provincial Public Works and private property development, click [here](#).

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