

NDIFUNA UKWAZI

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c/o: Michael Clark, Researcher

Email: michael@nu.org.za

29 June 2020

For attention: Mr Shelton Nhiwatiwa

Professional Officer: Property Management

Economic Opportunity and Asset Management Department

City of Cape Town

shelton.nhiwatiwa@capetown.gov.za

To whom it may concern,

RE: NDIFUNA UKWAZI COMMENT ON PROPOSED LEASE OF PORTION OF ERF 12137, OFF PENTZ DRIVE, TABLE VIEW

1. Ndifuna Ukwazi is a non-profit activist organisation and law centre that combines research, organising and litigation in campaigns to advance urban land justice in Cape Town. Our primary mission is to expand and protect access to affordable housing towards building a more just and equal city.
2. On 29 May 2020, the City of Cape Town ("the City") published a notice inviting interested parties to comment and/or object to its plans to consider leasing 1 247m² of public land, namely a Portion of

Ndifuna Ukwazi is a not-for-profit trust (IT 540 - 2001)(NPO 094 - 737).

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Erf 12137, off Pentz Drive, Table View to be used as a club house for a rental amount determined by the City's sporting tariff, which is currently R1 058 per annum (inclusive of VAT).¹

3. On 24 June 2020, Ndifuna Ukwazi requested additional information on the lease per email from Mr Shelton Nhiwatiwa, a Professional Officer in the City's Property Management Office. According to Mr Nhiwatiwa, the City has not yet determined the duration of the lease or the conditions that will form part of the lease but published the notice to determine whether the land in question is needed for a minimum level of basic services.²
4. Ndifuna Ukwazi has read and considered the City's invitation to comment, as well as the additional information furnished by Mr Nhiwatiwa, and makes this comment to the City in accordance with the invitation to submit written comments.
5. As will be demonstrated, it is our view that leasing well-located City-owned land at a discounted rate to a private entity instead of using it for transformation and redress, to advance spatial justice through the delivery of affordable housing in line with the City's constitutional and legislative obligations to promote spatial transformation is irrational and unreasonable. The City's unsupported assertions that "housing is not viable" on the land is insufficient in the context of a profound housing and segregation crisis faced by the City and the opportunity the parcel of land offers the City to redress social inclusivity in the Table View and Milnerton area.
6. Ndifuna Ukwazi therefore objects to the proposed lease and calls on the City to commit to investigating the feasibility of using the land for the development of social and/or affordable housing; and, if the City determines that the land is not suitable for the development of social or affordable housing, urge it to commit to making other suitable public land in the immediate vicinity available for the development of social or affordable housing.
7. Please see attached our comment to the City's proposed grant of a lease of the Portion of Erf 12137, off Pentz Drive, Table View.

¹ See "Lease: Erf 12137 Milnerton", *Cape Argus* (29 May 2020), read with email correspondence with Mr Shelton Nhiwatiwa (25 June 2020).

² Email correspondence with Mr Nhiwatiwa (25 June 2020).

Yours faithfully,

Ndifuna Ukwazi

(Per: Michael Clark, Researcher)

[Sent electronically]

NDIFUNA UKWAZI COMMENT ON PROPOSED LEASE OF PORTION OF ERF 12137, OFF PENTZ DRIVE, TABLE VIEW

A. INTRODUCTION

1. As mentioned in our cover letter, Ndifuna Ukwazi is a non-profit activist organisation and law centre that campaigns to advance urban land justice in Cape Town through research, organising and litigation. Our primary mission is to expand, promote and protect access to affordable housing towards building a more just and equal city.
2. Over the last five years Ndifuna Ukwazi has been involved in legal, research and organising work around evictions, relocations, rental housing, the allocation of state-subsidised houses, and the promotion of social, transitional and inclusionary housing. We have been involved in a series of important court cases dealing with land occupations, evictions, the provision of alternative accommodation, and the state's constitutional and legislative obligation to combat spatial apartheid and promote spatial, economic and racial justice and equality through expanding access to affordable housing.
3. Last year, Ndifuna Ukwazi published a research report, *City Leases: Cape Town's Failure to Redistribute Land* (2019),³ which shed light on the manner in which the City of Cape Town ("the City") is disposing of many of the strategically important pieces of public land that it owns by leasing this land out for private use often at discounted rents.
4. It is from this perspective that Ndifuna Ukwazi has considered the City of Cape Town's plans to consider leasing 1 247m² of public land, namely a Portion of Erf 12137, off Pentz Drive, Table View, to be used as a club house for a rental amount determined by the City's sporting tariff (currently R1 058 per annum (inclusive of VAT)), for an undetermined period.

B. CAPE TOWN'S APARTHEID SPATIAL LEGACY AND EXCLUSIONARY HOUSING MARKET

³ See N Budlender, J Sendin and J Rossouw, *City Leases: Cape Town's Failure to Redistribute Land*, Ndifuna Ukwazi Research Report (2019), available at: <https://www.dropbox.com/s/c524q5x89yrtcc/Ndifuna%20Ukwazi%20%28NU%29%20City-Leases-Cape-Towns-Failure-to-Redistribute-Land.pdf?dl=0>.

5. Some general comments on Cape Town's apartheid spatial legacy and exclusionary housing market, and the need for affordable housing, warrant mentioning.

Cape Town's Apartheid Spatial Legacy

6. The legacy of colonial and apartheid spatial planning continues to dominate Cape Town's geography. Twenty-six years after apartheid, Cape Town remains the most spatially divided city in the country – with residential settlement patterns still segregated along race and class lines.
7. The City continues to be split in two: The majority of Black and Coloured families live in densely populated, peripheral townships and informal settlements where most are trapped in a cycle of poverty; while (predominantly) White people inhabit the well-located residential areas of Cape Town where jobs, transport facilities and social amenities are plentiful.
8. While this spatial inequality has its historical origin in the colonial and apartheid eras,⁴ it has been exacerbated since the end of apartheid. Post-apartheid housing policy has prioritised scaling up of state-subsidised housing by developing larger-scale housing projects in peripheral areas where land is usually more affordable. This approach has had the unintended consequence of reproducing spatial inequality and social exclusion by creating poverty traps on the outskirts of the city far from economic opportunities and social amenities.
9. Where you live in the city determines your opportunities in life and the quality of services you receive. Living on the urban periphery makes you poor and keeps you poor. Many of these peripheral areas have limited access to basic services, forcing families to share an insufficient number of temporary outdoor toilets and collect water from communal standpipes. The schools in these areas generally

⁴ During the colonial era until the end of apartheid, various laws were used to systematically dispossess Black and Coloured people of their land. Millions of Black and Coloured people were forcibly removed from the cities and dumped in peripheral areas far away from any existing social and support networks, hospitals, schools, and jobs. See, for example, M Clark, *Pathways out of Poverty: Improving Farmdwellers' Tenure Security and Access to Housing and Services*, Association for Rural Advancement (AFRA) Research Report (2017), pp. 8-10; and S Wilson, J Dugard and M Clark, "Conflict Management in an Era of Urbanisation: Twenty Years of Housing Rights in the South African Constitutional Court", *South African Journal on Human Rights* (2025), 31(3), pp. 472-477.

perform worse, gang violence is rife, substance abuse is more common, and social amenities such as schools, hospitals and clinics are hard to find.

10. Poor and working-class people spend a disproportionate component of their income and time on unreliable transport. In Cape Town, low-income earners spend on average 45% of their earnings on transport compared a global average of 5-10%.⁵ This means poor and working-class people spend long hours commuting and contribute to congestion and pollution on the roads.
11. Critically, research shows that there is a direct relationship between where people live in South African cities and the likelihood that they will find employment opportunities.⁶ Far-flung townships and informal settlements therefore end up trapping the poor in a cycle of structural poverty.⁷
12. This spatial inequality, inverse densification and urban sprawl costs poor and working-class families more every day and costs the City more in the long term. The present spatial distribution is unsustainable socially, economically and environmentally.

Cape Town's Exclusionary Housing Market

13. One of the primary drivers of spatial inequality in Cape Town is the City's acute housing affordability crisis – with stubbornly high rents and property prices. The City's failure to regulate land and property markets has meant that it has remained inaccessible to most poor and working-class families.
14. The average sale price for a home in Cape Town is the highest in South Africa and buying a home is unaffordable for the vast majority of residents. In 2019, the City registered the seventeenth highest year-on-year property inflation in the world at 9.1% (higher than any other city in Africa).⁸ The effect of property inflation is even more worrying when delineated by market share and area. Property

⁵ City of Cape Town Transport, *Transport Development Index* (2016).

⁶ See, generally, J Budlender and L Royston, *Edged Out: Spatial Mismatch and Spatial Justice in South Africa's Main Urban Areas*, Socio-Economic Rights Institute of South Africa (SERI) Research Report (2016).

⁷ See Budlender and Royston, *Edged Out*, p. 2. See also the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change (High Level Panel), *Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change* (November 2017), p. 81.

⁸ High Level Panel, *Report of the High Level Panel*, p. 81.

⁸ Frank Knight, "Global Residential Cities Index: Q4 2019" (2019), p. 2:

<https://content.knightfrank.com/research/1026/documents/en/global-residential-cities-index-q4-2019-7111.pdf>.

prices at the highest end of the market have decreased slightly, but property prices in middle-priced and lower-priced markets continue to increase.⁹ In lower-priced markets the year-on-year inflations is “in the double digit territory”.¹⁰

15. According to 2011 Census Data, 75% of households in Cape Town earn less than R18 000 a month (the figure rises to 92% for black households), and most people cannot afford to pay more than R3000 a month in rent or R281 000 to own.¹¹ This puts rent and homeownership in well-located areas close to economic nodes out of reach for most middle-class South Africans, let alone the poor or working class.
16. The enduring effect of Cape Town’s property bubble, beyond inflation increases in property values, and soaring rents mean that only the very wealthy can afford to live in well-located areas close to economic nodes.
17. As a result, middle class residents and private property developers are increasingly eyeing traditionally working-class neighbourhoods – driving property prices in those areas. The overall effect has been that poor and working-class families are increasingly forced out of well-located areas to the urban periphery as a result of gentrification or large-scale evictions.

C. PUBLIC LAND HAS THE POTENTIAL TO ADDRESS SPATIAL APARTHEID

18. The City has consistently blamed this spatial injustice on a lack of available well-located land that could be used for affordable housing.¹² The City is not wrong when it says that suitable land is extremely scarce in central or well-located areas – it is expensive to buy and will only become more so in the future. But the City is missing the most obvious solution: It already owns vast tracts of land in well-located areas, of which a large proportion is unused or under-utilised given its potential.¹³

⁹ First National Bank (FNB), “Cape Town Sub-Regional House Prices” (August 2019), p. 1:

<https://www.fnb.co.za/downloads/economics/reports/2019/CapeTownSub-RegionalHousePricesAug.pdf>.

¹⁰ FNB, “Cape Town Sub-Regional House Prices” (August 2019), p. 1.

¹¹ See Ndifuna Ukwazi, *Inclusionary Housing: Measuring Access to Residential Development by Race and Class* (November 2018).

¹² See, for example, P Grobbelaar, “Cape Town hurts housing”, *Property 24* (6 July 2011).

¹³ According to the City’s own polices it owns 87 000 pieces of land, and while not all of that land is not well-located or suited for the development of affordable housing, much of that land will be well-located and suited for housing

19. By unlocking and releasing well-located state land for the development of social or affordable housing, the City could alleviate the housing affordability crisis and reverse the City's apartheid legacy.¹⁴ The City should embrace the 'social value' of public land, and adopt a more transparent and socially orientated approach to the portfolio of state assets. This is in line with the recommendations to alleviate poverty and inequality in the context of urban land rights issued by the High Level Panel on the Assessment of Key Legislation and Acceleration of Fundamental Change and the Mandela Initiative.¹⁵
20. However, despite the potential that this public land holds, the City has continued to lease out a large chunk of the public land it owns to private entities for discounted amounts.¹⁶
21. A research report published by Ndifuna Ukwazi in 2018 investigated the City's practice of disposing of land by way of long-term leases and delivered some concerning findings.¹⁷ This report highlighted the City's myopic approach of the value of public land and its failure to prioritise public land for the development of affordable housing. The failure to use prime public land in this way is a significant missed opportunity. The findings of the report are briefly discussed below.

Inefficient, exclusive and unsustainable use of public land

development. See City of Cape Town, "Management of Certain of the City of Cape Town's Immovable Property Policy" (26 August 2010), Ref No C54/08/10, cl. 5.2. See also, generally, Ndifuna Ukwazi, *City Leases*, p. 1.

¹⁴ See Ndifuna Ukwazi, *City Leases*. See also M Clark, "Cape Town's course of injustice: Subsidising the rich to exclude the poor", *Daily Maverick* (28 January 2020).

¹⁵ See High Level Panel, *Report of the High Level Panel*; and M Clark and LR Circolia, "Informalisation, Urban Poverty and Spatial Inequality", Mandela Initiative Brief (2018).

¹⁶ As noted in our cover letter, the City's current sporting tariff is R1 058 per year. See City of Cape Town, "2029/2020 Budget" (May 2019), Annexure 6 – Tariffs, Fees and Charges Book, Economic Opportunity and Asset Management – Property Management, p. 6.2:

http://resource.capetown.gov.za/documentcentre/Documents/Financial%20documents/Ann6_2019-20_Property%20Management.pdf. It should also be noted that the City's Property Management Department has encouraged private organisations to rent public land at these low rates, see City of Cape Town, "Applying to Buy or Lease Municipal Land" (August 2019):

https://resource.capetown.gov.za/documentcentre/Documents/Procedures,%20guidelines%20and%20regulations/PropertyManagement_Applying%20to%20buy%20or%20lease%20land.pdf.

¹⁷ See Ndifuna Ukwazi, *City Leases*, pp. 3-5.

22. The first important finding of the research is that many parcels of leased public land are unused or under-utilised given its potential.¹⁸ This land well-located land that is vacant or under-developed land like parking lots, bowling greens and golf courses.¹⁹ The use this prime public land for inefficient, exclusive and unsustainable purposes is a significant missed opportunity.
23. Cape Town is characterised by an acute housing affordability crisis, inverse densification, and extreme levels of social and economic exclusion. Moreover, building and maintaining new services and infrastructure in a sprawling city costs more in the long term and increases congestion and environmental damage.
24. The best way to address inverse densification is to develop medium to high-density housing in as many well-located areas as possible. Well-located public land that lies vacant, underdeveloped or under-utilised therefore hinders the improvement of Cape Town's spatial form. By continuing to lease out land at discounted rates for these uses, the City is effectively subsidising inverse densification and, ironically, hampering the very development around transport nodes that the City seeks to encourage.

Entrenching spatial apartheid

25. The second research finding that deserves mentioning is that the ongoing renewals of these leases, without critical reflection about the impact of each renewal, has the effect of entrenching and exacerbating spatial apartheid.²⁰
26. The majority of these leases find their origin in apartheid and colonial spatial planning – which often intentionally sought to prevent Black and Coloured families from accessing the City.²¹ Spatial regulation was integral to the implementation of colonialism and apartheid, with the executive, law makers and law enforcers all collaborating to deny, or forcibly remove, Black and Coloured people from well-located urban areas. In this context, the colonial and apartheid state apparatus frequently

¹⁸ See Ndifuna Ukwazi, *City Leases*, pp. 3-5.

¹⁹ Ndifuna Ukwazi, *City Leases*, pp. 3-5. See also N Budlender, "We need bowling greens and golf courses for affordable housing", *Ground Up* (12 March 2018); Clark, "Cape Town's course of injustice".

²⁰ Ndifuna Ukwazi, *City Leases*, pp. 3-5.

²¹ Ndifuna Ukwazi, *City Leases*, pp. 4-5.

used well-located public land to implement segregation and exclusion. The public land that has been subject to multiple successive long-term leases therefore has the potential to act as barriers to spatial transformation.

27. Many parcels of leased public land are located in former White Group Areas that still require desegregation.²² These parcels of land therefore offer the City a vital opportunity to promote social inclusivity between communities that have historically been segregated as a result of race and/or class. Combatting the ongoing legacy of colonialism and apartheid is a critical project that needs to be urgently addressed. The City cannot keep kicking the issue of spatial inequality into the long grass – it needs to act as and when the opportunity to do so arises. The City should therefore critically evaluate whether it is reproducing existing spatial patterns by renewing historic leases and intentionally desist from renewing leases that would contribute to this reproduction.

Cape Town's mismanagement of public land

28. The third key research finding from Ndifuna Ukwazi's report is that the leasing of public land is often poorly managed by the City.²³ The report points out that, according to the City's own reports, money is frequently being lost through the poor administration of leases over public land and that there continues to be uncertainty about who is responsible for managing thousands of contracts.²⁴ Many of the leases over public land are not up-to-date (some of the most recent leases Ndifuna Ukwazi was able to obtain via Promotion of Access to Information Act-applications are contracts from decades ago).
29. The City's mismanagement is further evidenced by the fact that the leasing of public land continues to occur without following rational guidelines. There is a level of arbitrariness to leasing decisions. For example, the sporting rental tariff is often applied to a sports and recreational facility irrespective of the size of the land. At the same time, even the City's leases for other public purposes seems sporadically determined – with rental amounts varying dramatically.²⁵

²² Ndifuna Ukwazi, *City Leases*, p. 4.

²³ Ndifuna Ukwazi, *City Leases*, pp. 3-5.

²⁴ See the Asset and Facilities Portfolio Committee Report (June 2018). See also Ndifuna Ukwazi, *City Leases*, p. 5.

²⁵ For example, the City has recently rented out a small portion of land to the Serendipity maze on the promenade in Mouille Point for R3 000 a month.

30. The City itself has acknowledged its approach to the management of public land is woefully inadequate. In 2016, Mr Ian Nielson, then Deputy Mayor of Cape Town, publicly committed to rationalise the use of City-owned land. Mr Ian Nielson was quoted in the *Southern Suburbs Tatler* saying:

“It is essential that more intensive land use takes place within the urban core area, rather than ongoing expansion of the city footprint due to expansion at the edges of the city.”²⁶

In spite of these claims, the leases over public land have still not be rationalised and mismanagement continues to occur. This is a serious ongoing challenge that requires immediate intervention given the significant potential that public land has for urban land reform and advancing justice and equality.

31. At core, the City has failed to develop a coherent, overall plan on how to manage prime public land for the public good and in a way that challenges the acute urban housing crisis Cape Town faces. As Ndfuna Ukwazi’s report notes:

“The City has no coherent approach to mismanaging public land and is not effectively reviewing, rationalising and preparing land for redistribution to transform spatial inequality. Those in charge of asset management are the custodians, but have no strategic forward planning function when it comes to land management. Those responsible for spatial planning, land use management and housing are not the custodians of public land and have limited power to influence how it is used.”²⁷

The need for radical reform

32. On the basis of the abovementioned findings, Ndfuna Ukwazi urged the City to:

²⁶ See J Harvey, “Golf clubs have plan B”, *Southern Suburbs Tatler* (28 April 2016): <https://www.southernsuburbstatler.co.za/news/golf-clubs-have-plan-b-5152016>.

²⁷ Ndfuna Ukwazi, *City Leases*, p. 5.

- 30.1 Establish or delegate a coordinated department responsible for land management with clear powers and responsibilities to proactively manage all its public land, ensure that it meets its broad obligations to redistribute land and balance the competing interests of different departments that need access to land;
- 30.2 Immediately review its largest and most well-located parcels of leased public land, proactively rezone them, negotiate the end of leases, and decline to renew leases where land is needed for housing; and
- 30.3 Tender land, at a nominal amount, to social housing institutions or private companies that can develop the greatest proportion of affordable housing for families earning between R3 500 and R18 000 a month and ensure homes are affordable to rent or buy in perpetuity.
33. With these comments in mind, Ndifuna Ukwazi turns to the constitutional and legislative obligations with which the City is compelled to comply.

D. CONSTITUTIONAL AND LEGISLATIVE IMPERATIVE TO PROMOTE SPATIAL JUSTICE

34. This section describes the City's obligations under law. In particular, how the Spatial Planning and Land Use Management Act ("SPLUMA") imposes new obligations on City's and all their municipal departments to promote socially integrated and spatially just human settlements. To be truly integrative and to discharge the obligations under SPLUMA, planning decisions must promote the development of well-located affordable housing.

The Constitution

35. The Constitution of the Republic of South Africa, 1996 ("the Constitution") recognises South Africa's history of forced removals and dispossession and places obligations on the state to proactively redress past injustice. This is clearly evident from the preamble of the Constitution, which states that the Constitution was enacted in order to "heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights".

36. Section 25(5) of the Constitution places an obligation on the state to ensure that citizens progressively gain access to land on an equitable basis,²⁸ and section 26 sets out the state's obligation to progressively realise the right to housing.²⁹ These obligations cannot be divorced from, but rather give context to, the state's responsibility, at all levels of government, to advance spatial justice.
37. When read together these rights imply that the state has a duty to do more than simply building homes where-ever – the location of housing delivery becomes a crucial component of the realisation of this right.³⁰ It is therefore not sufficient for the City to claim that it has fulfilled its obligations to provide housing by developing housing opportunities on cheap land on the periphery of the City, as this type of housing is likely to replicate the spatial inequality these constitutional provisions seek to undo.

SPLUMA and LUPA

38. The Spatial Planning and Land Use Management Act (2013) ("SPLUMA") is national legislation which aims to advance spatial transformation. It articulates the obligations on the state to advance and support the development of spatially just cities. These obligations are reinforced in the Western Cape Land Use and Planning Act (2014) ("LUPA").
39. SPLUMA and LUPA set out progressive development principles which must apply to spatial planning, development and land use management when considering any application that impacts on

²⁸ See section 25(5) of the Constitution, which reads:

"The state must take reasonable legislative and other measures, within available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."

²⁹ Section 26 of the Constitution reads:

"(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable measures, within available resources, to achieve the progressive realisation of this right.

(3) No-one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions."

³⁰ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)* (13 December 1991), UN Doc E/1992/23.

or may impact on the use and development of land at all levels of government, including at the local level. These principles include spatial justice,³¹ spatial sustainability³² and spatial efficiency.³³

40. Importantly, SPLUMA and LUPA should not only apply to how the state governs how others use land, but also to how it uses its *own* land. Land use and land management should be guided by the same principles, whether driven by the private or public sector.
41. The overall effect of these provisions is that the City is also required to use its own land to give effect to spatial transformation and should proactively review the land that it owns, and consider how this land could be used to more actively give effect to spatial justice; and social, economic and racial inclusion.

E. COMMENT ON THE POSPOSED LEASE OF A PORTION OF 12137, OFF PENTZ DRIVE, TABLE VIEW

42. The City is considering the lease 1 247m² of public land, namely a Portion of Erf 12137, off Pentz Drive, Table View, to be used as a club house for a rental amount determined by the City's sporting tariff (currently R1 058 per annum (inclusive of VAT)).
43. The land that the City proposes to lease out as a club house is well-located. The area within which the site is located is close to various primary schools and high schools, colleges and social facilities. It is also a sought-after area as a result of the public transport linkages between Cape Town CBD and Table View, due to the considerable My Citi Bus infrastructure in Table View.
44. In email correspondence, Mr Nhiwatiwa stated (entirely unprompted) that the site is "not viable for housing".³⁴ We believe that this indicates that the City has prejudged our objection by stating that social or affordable housing is not feasible on the site, without providing any concrete evidence to support its assertions that social or affordable housing could be developed on this piece of land.

³¹ See s 7(a)(iii) of SPLUMA and ss 59(1)(a) and (g) of LUPA.

³² See ss 7(b)(iv)-(vii) of SPLUMA and ss 59(2)(a)(vi)-(vii) and 59(2)(g) of LUPA.

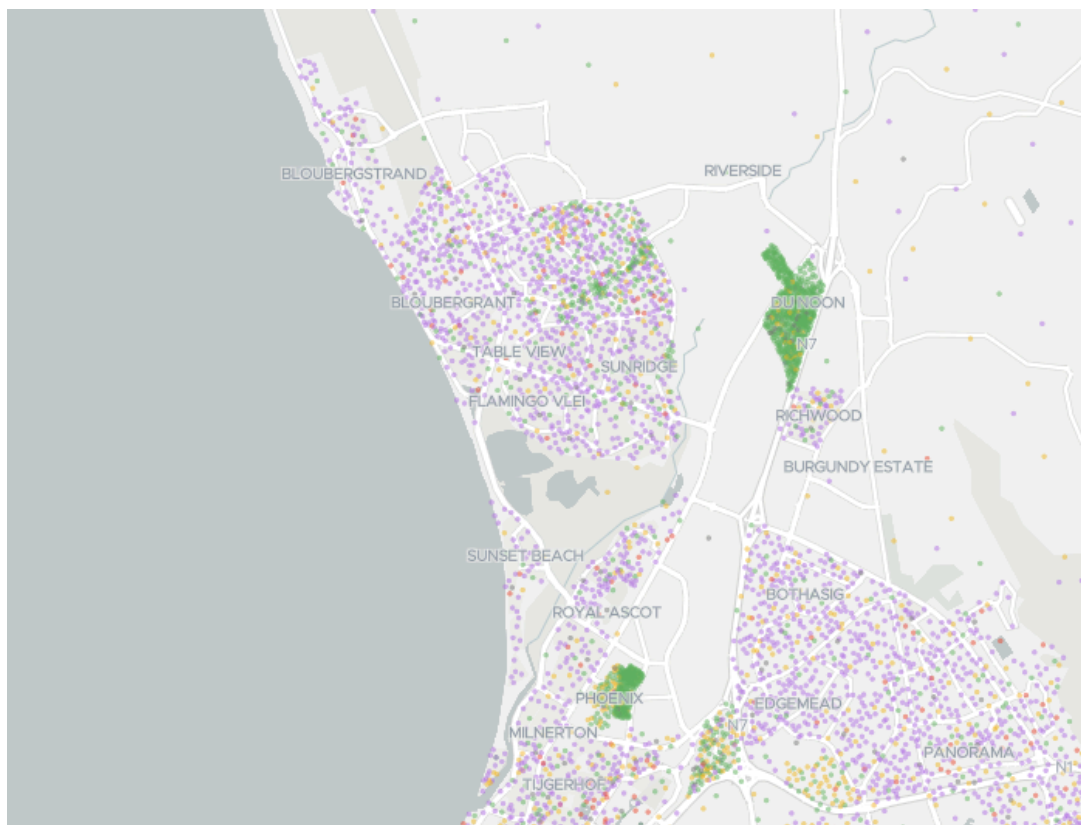
³³ See ss 7(c)(i) and (ii) of SPLUMA and s 59(3)(b) of LUPA.

³⁴ Email correspondence with Mr Nhiwatiwa (25 June 2020).

45. We are also concerned that the City has not provided any evidence in support of its assumption that the use of the land for sporting and recreational facilities is a more productive or desirable use of the land. We contend that the City's constitutional and legislative obligations hold the City to a higher standard. The City is required to demonstrate, with reference to objective supporting documentation, why it believes that the land should be used for sporting and recreational facilities rather than the development of social or affordable housing. It is not clear from the notice published in the *Cape Argus* or the information obtained from Mr Nhiwatiwa via email correspondence that the need for sporting and recreational facilities outweighs the urgent need for affordable housing, spatial transformation, social inclusivity and desegregation. The City has not provided any statistics on the housing needs and/or housing market in the Table View and Milnerton areas to support its claim that the land's use as a sporting and recreational facility supersedes its use as social and/or affordable housing.

Promoting social inclusivity

46. The land that the City proposes to lease for the use as a club house is located in an area that is still largely segregated. Most of the suburbs in the area are predominantly White, while the suburbs of Phoenix and De Noon are predominantly occupied by Black households. Another key difference is that two suburbs predominantly occupied by Black households is more densely populated – highlighting the inverse densification that characterises the rest of Cape Town.



Adrian Firth's Race Dot Map spatialises 2011 Census data and clearly depicts the segregation in the Table View and Milnerton areas. Each dot represents approximately 25 people. Green represents Black people, Orange represents Coloured people and Purple represents White people.

47. By developing social or affordable housing at the site, the land could also offer a vital opportunity to promote social and economic inclusivity between communities that have historically been segregated as a result of race and/or class. If the City were to pursue a social, affordable housing, or a mixed-income housing development on this public land it could encourage and promote spatial transformation in a meaningful way.
48. Ndifuna Ukwazi strongly urges the City to use the public land as a “seam rather than a barrier”.³⁵ Through using the site for affordable housing, this land can begin to advance reform by pulling together communities rather than keeping them apart.

³⁵ See K Lynch, *The Image of the City* (1960). See also Jacobs, *The Death and Life of Great American Cities*, p. 267

The City is obliged to take positive steps to promote spatial transformation

49. It is not enough for the City to simply state that a site is not suitable for the development of social or affordable housing, without providing evidence in support of its assertions.
50. The City has a constitutional and legislative obligation to combat spatial inequality, and is therefore required to proactively investigate whether well-located land it owns is suitable for the development of social or affordable housing (in particular, the City should commit to conducting assessments to determine whether the development of social and affordable housing is feasible in relation to *all* well-located land that it owns).
51. If such an assessment indicates that a parcel of land is not suitable for the development of social or affordable housing, the City is required to take positive steps to proactively identify public land in well-located areas that *is* suitable for the development of social and affordable housing; and make that land available for such development.
52. Without a firm commitment from the City to making alternative public land available for the development of social or affordable housing, the City's insistence that individual sites are unsuitable for housing development are, at best, a dereliction of duty and, at worse, an intentional diversion tactic "to postpone the conversation to get these leases out the door and then they can't be challenged for another 10 years".³⁶
53. Ndifuna Ukwazi therefore submits that the City's constitutional and legislative mandate to promote spatial transformation means that the City should commit to conducting a feasibility study to determine whether social and/or affordable housing can be developed on the site. If the City determines that the Portion of Erf 12137 is not suitable for the development of social or affordable housing after producing concrete evidence to support its decision, then it must commit to making other suitable public land in the immediate vicinity available for the development of social or affordable housing.

³⁶ See P Luckhoff, "City's arguments for leasing prime Rondebosch land to golf club are 'pathetic'", *Cape Talk* (23 January 2020), available: <http://www.capetalk.co.za/articles/372823/city-s-arguments-for-leasing-prime-rondebosch-land-to-golf-club-are-pathetic>.

G. CONCLUSION

54. For the reasons outlined above, Ndifuna Ukwazi calls on the City to commit to investigating the feasibility of using the site for the development of social and/or affordable housing; and, if the City determines that the site is not suitable for the development of social or affordable housing, urge it to commit to making other suitable public land in the immediate vicinity available for the development of social or affordable housing.
55. We also urge the City to consider our research report documenting the City's practice of leasing public land and implement the recommendations outlined therein immediately.

Yours faithfully,

Ndifuna Ukwazi

Per: Michael Clark, Researcher

[Sent electronically]