

NDIFUNA UKWAZI

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c/o: Michael Clark, Researcher

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27 April 2020

To: Ms Ruby Gelderbloem
Director: Property Management
Economic Opportunity and Asset Management Department
City of Cape Town
ruby.gelderbloem@capetown.gov.za

For attention: Ms Gerda Du Plessis
Section Head: Leasing
Property Holding Branch (Tygerberg Region)
Economic Opportunity and Asset Management Department
City of Cape Town
susarah.duplessis@capetown.gov.za

To whom it may concern,

RE: NDIFUNA UKWAZI OBJECTION TO LEASE RENEWAL OF PORTIONS OF ERVEN 17007 AND 10840, VOORTREKKER ROAD, BELLVILLE TO BALLPARK PROMOTIONS (HARDEKRAALTJIE CARAVAN PARK)

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

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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 27 March 2020, the City of Cape Town (“the City”) published a notice inviting interested parties to comment and/or object to its plans to renew a lease of 26 211m² of public land, namely portions of erven 17007 and 10840, Voortrekker Road, Bellville to Ballpark Promotions (Hardekraaltjie Caravan Park) for a rental amount of R23 000 per month (inclusive of VAT).¹ According to the notice, the rental amount of R23 000 per month is a market-based rental. The City proposes to renew the lease for a period of two years and eleven months (the notice did not specify what the notice of termination period for the renewed lease might be).
3. On 15 and 21 April 2020, Ndifuna Ukwazi requested additional information on the lease per email from Ms Gerda Du Plessis, the Section Head: Leasing in the City’s Property Holding Branch (Tygerberg Region).
4. Ndifuna Ukwazi has read and considered the City’s invitation to comment, as well as the additional information furnished by Ms Du Plessis, and makes this submission to the City in accordance with the invitation to submit written comments.
5. As will be demonstrated, it is our view that leasing strategically 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 Transit Oriented Development is irrational and unreasonable. The proposed lease renewal is unacceptable, especially 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 spatial inequality in the Bellville area.
6. Ndifuna Ukwazi therefore objects to the proposed lease renewal and urges the City to consider using the land in question for the development of affordable housing. We call on the City not to renew the

¹ See “Lease: Portions of Erven 17007 and 10840, Voortrekker Road, Hardkraaltjie, Bellville”, *Cape Argus* (27 March 2020).

lease and to use the land for affordable housing, or if the City renews the lease to commit to investigating the feasibility of developing affordable housing on the site.

7. Please see attached our objection to the City's proposed grant of a lease of portions of erven 17007 and 10840, Voortrekker Road, Bellville to Ballpark Promotions (Hardekraaltjie Caravan Park).

Yours faithfully,

Ndifuna Ukwazi

(Per: Michael Clark, Researcher)

[Sent electronically]

NDIFUNA UKWAZI OBJECTION TO THE CITY OF CAPE TOWN'S PROPOSAL TO LEASE PORTIONS OF ERVEN 17007 AND 10840, VOORTREKKER ROAD TO BALLPARK PROMOTIONS (HARDEKRAALTJIE CARAVAN PARK)

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),² 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 proposal to renew the lease of the 26 311m² of largely undeveloped public land to Ballpark Promotions (Hardekraaltjie Caravan Park) for a period of two years and eleven months and objects to the lease renewal on the basis set out in this submission.

² 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>.

B. CAPE TOWN'S APARTHEID SPATIAL LEGACY

5. 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.
6. 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.
7. While this spatial inequality has its historical origin in the colonial and apartheid eras,³ 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.
8. 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 perform worse, gang violence is rife, substance abuse is more common, and social amenities such as schools, hospitals and clinics are hard to find.

³ 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.

9. 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%.⁴ This means poor and working-class people spend long hours commuting and contribute to congestion and pollution on the roads.
10. 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.⁵ Far-flung townships and informal settlements therefore end up trapping the poor in a cycle of structural poverty.⁶
11. 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.

C. CAPE TOWN'S EXCLUSIONARY HOUSING MARKET

12. 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.
13. 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).⁷ The effect of property inflation is even more worrying when delineated by market share and area. Property prices at the highest end of the market have decreased slightly, but property prices in middle-priced and lower-priced markets continue to increase.⁸ In lower-priced markets the year-on-year inflations

⁴ City of Cape Town Transport, *Transport Development Index* (2016).

⁵ 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).

⁶ 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.

⁷ 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>.

⁸ 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>.

is “in the double digit territory”.⁹ House price growth continues in areas like Bellville, Parow and surrounds – including Goodwood, Durbanville, Kraaifontein and Brackenfell.¹⁰

14. 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 R3 000 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.
15. 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.
16. 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.

D. PUBLIC LAND HAS THE POTENTIAL TO ADDRESS SPATIAL APARTHEID

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

¹⁰ FNB, “Cape Town Sub-Regional House Prices” (August 2019), p. 2. See also Carin Smith, “What’s happening to house price growth in Cape Town’s suburbs?”, *Fin24* (18 August 2019).

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 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.

18. 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
19. 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 Research conducted by Ndifuna Ukwazi investigated the City's practice of leasing out public land and delivered some concerning findings.

Inefficient, exclusive and unsustainable use of public land

20. The first important finding of the research is that many parcels of leased public land are unused or under-utilised given its potential.¹⁷ This land well-located land that is vacant or under-developed land like parking lots, bowling greens and golf courses.¹⁸ The use this prime public land for inefficient, exclusive and unsustainable purposes is a significant missed opportunity.

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.

¹⁸ 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".

21. 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.
22. 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

23. 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.¹⁹
24. 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.²⁰ For decades now, specialists in the fields of urban land use and urban sociology have shown that large pieces of infrastructure, vacant land or green space could operate as green walls or boundary landscapes separating suburbs of distinct socio-economic characteristics.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 used well-located public land to implement segregation and exclusion. The public land that has been subject to multiple successive

¹⁹ Ndifuna Ukwazi, *City Leases*, pp. 3-5.

²⁰ Ndifuna Ukwazi, *City Leases*, pp. 4-5.

²¹ See J Jacobs, *The Death and Life of Great American Cities* (1961), pp 257-269; A Heckscher, *Alive in the City* (1974); and WD Solecki and JM Welch, "Urban Parks: Green Spaces or Green Walls?", *Landscape and Urban Planning* (1995), 32(2), p. 94.

long-term leases therefore has the potential to act as barriers that discourages passage through them.

25. 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

26. 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).
27. 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.

28. 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 rationalized 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.

29. 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 Ndifuna 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

30. On the basis of the abovementioned findings, Ndifuna Ukwazi urged the City to:

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

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 Ndifuna Ukwazi, *City Leases*, p. 5.

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.

31. With these comments in mind, Ndlifuna Ukwazi turns to the constitutional and legislative obligations with which the City is compelled to comply.

E. CONSTITUTIONAL AND LEGISLATIVE IMPERATIVE TO PROMOTE SPATIAL JUSTICE

32. 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

33. 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".

34. 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.
35. 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

36. 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").
37. 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

38. 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.
39. 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.

F. OBJECTION TO THE LEASE RENEWAL OF PORTIONS 17007 AND 10840, VOORTREKKER ROAD, BELLVILLE TO BALLPARK PROMOTIONS (HARDEKRAALTJIE CARAVAN PARK)

40. The City is considering the lease renewal of 26 211m² of public land, namely portions of erven 17007 and 10840, Voortrekker Road, Bellville, to Ballpark Promotions (Hardekraaltjie Caravan Park) at a rental amount of R23 000 per month (including VAT) for a period of two years and eleven months.
41. The piece of land that is subject to the lease renewal is very well-located. It is close to the Bellville's Central Business Node, various primary schools and high schools, social facilities, some of the largest hospitals in the Province (Tygerberg Hospital, Louis Leipoldt Mediclinic, Cape Eye Hospital and Karl Bremmer Hospital), and three universities have campuses in the area (the University of the Western Cape, Cape Town University of Technology and Northlink College).
42. The site is located within the Voortrekker Road Corridor Integration Zone, an area which the City has prioritised for development in terms of its policy of Transport Orientated Development as a result of the public transport linkages between Cape Town CBD and Bellville. The site is also located within an area that enjoys bus, taxi and train public transit, and is particularly close to a number of train

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.

stations and junctions. In fact, the Bellville Public Transportation Interchange is the second busiest interchange in Cape Town, only after Cape Town Station. Densifying in the Voortrekker Road Corridor Integration Zone is a critical element to transit oriented development and would take advantage of the already established public transit backbone of the Voortrekker Road and the rail corridor.

43. The prime location of the site, as well as the fact that it remains largely undeveloped (as it currently has very permanent structures), means that it is ideal for the development of social or affordable housing. Ndifuna Ukwazi therefore objects to the renewal of the lease of the site to Ballpark Promotions (Hardekraaltjie Caravan Park) for the reasons elaborated on below.

Aligning the City's practice with its legislative obligations and political commitments

44. The City of Cape Town current housing policy is largely dictated by its policy of Transport Orientated Development (TOD) in terms of which the City is committed to developing social and affordable housing along various transport nodes. This approach recognises that the location of housing is important.
45. In line with its policy of Transit Orientated Development, the City in 2017 committed to releasing 11 sites in Woodstock, Salt River and the inner-city for development of affordable housing. However, much more needs to be done to address the housing and segregation crisis outlined above.
46. In particular, the City's prioritisation of Transit Orientated Development needs to be reflected in the way that it manages its assets.
47. As mentioned above, the Hardekraaltjie site is located within the Voortrekker Road Corridor Integration Zone, earmarked by the City for transit orientated development. As such, it would make little sense to use the land in question for a private entity when it could instead be used to further the City's stated priority of integration.
48. The site therefore offers the City a perfect opportunity to marry its practice with its legislative obligations and political commitments by using this well-located public land for the development of social or affordable housing.

Irrational and unreasonable use of strategically located asset

49. The City argues that “granting the proposed renewal of lease will generate a monthly market related rental income” and “relieve the City of a maintenance burden”. The rental amount, as stated above, will be R23 000 a month (inclusive of VAT).
50. The City’s attempt to make sense of the rental amount of R23 000 a month for the lease of a relatively large piece of land (26 211m²) does not hold up to scrutiny. The proposed rental amount of R23 000 comes in at just R0.88 per m² per month – hardly a market-based rental for well-located land within a development corridor.
51. An assessment of the value of the land based on the City’s General Valuations Roll shows that the rental amount has no bearing on the market value of the property. It is concerning that the 2018 General Valuations Roll omits any reference to Erf 10840 (a property of 32 662m²) and seriously undervaluing Erf 17007 (a vacant property of 7 342m²) at a value of R1 000. However, the 2016 General Valuations Roll provides a more accurate picture, valuing Erf 10840 at R15 065 000.00.
52. Ndifuna Ukwazi requested further information on how the rental amount was calculated from Ms Gerda Du Plessis, who noted that:

“the rental was not determined on the underlying basis of the market value of the property (i.e. return on land value). The reason for this is because the lease will not be a long term lease and will be restricted in nature of the lease in the sense that the property may only be used for a caravan park. The rental was thus determined by means of the income method i.e. the gross income and expenses are examined in order to arrive at the net income generated by the Property to which a rental was then applied.”³⁴

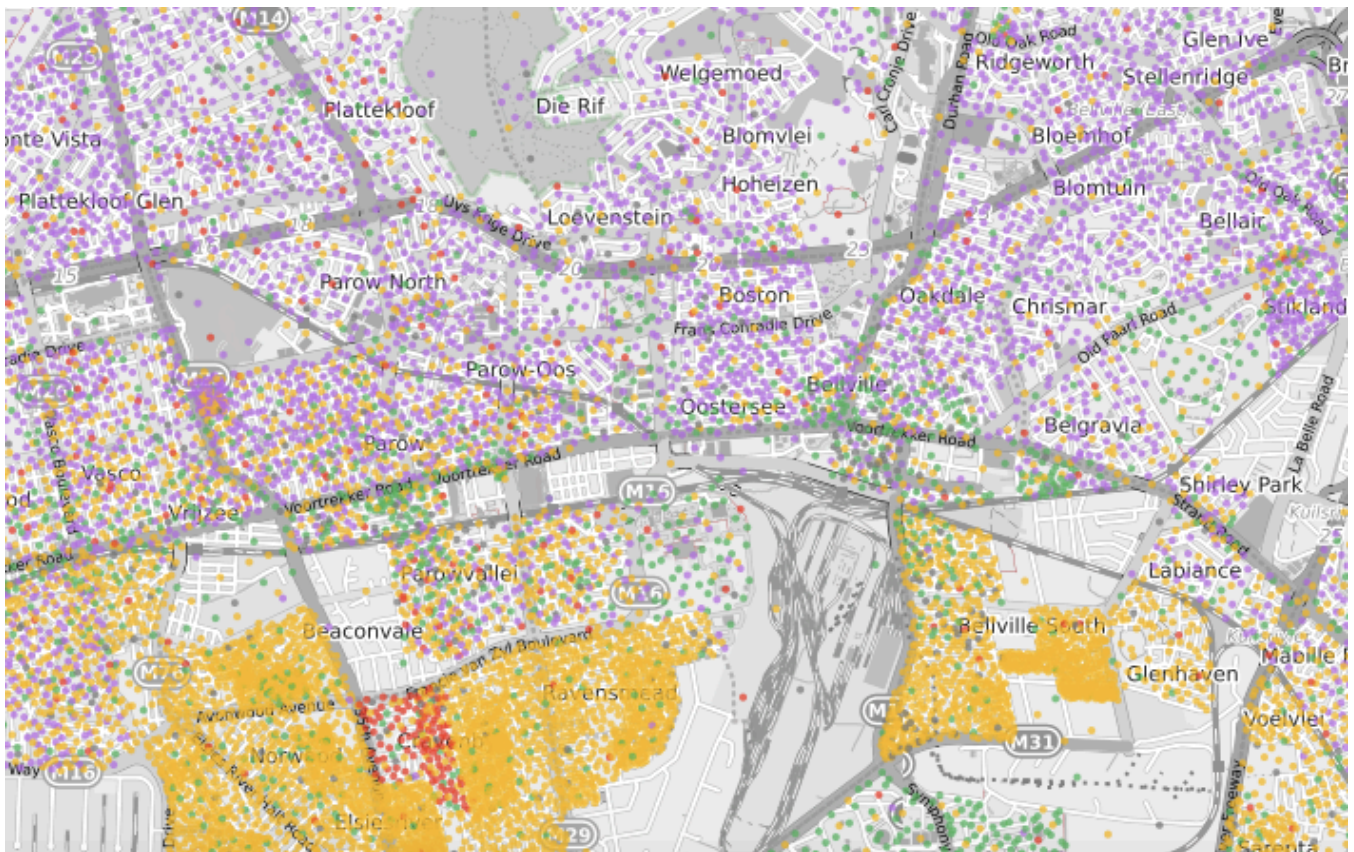
³⁴ Correspondence with Ms Gerda Du Plessis, the Section Head: Leasing in the City’s Property Holding Branch (Tygerberg Region) (22 April 2020).

53. It is concerning that the City is offering a private company such a significantly reduced rental rate, even if the land use and term of the lease is limited. The lease amounts to a *de facto* subsidization of a private company, when the land could be used to address the City's critical housing crisis.
54. The proposed lease at a discounted rate for a relatively large well-located piece of City land. The lease will generate a significantly diminished income compared to its economic potential, generate limited rates and taxes, produce a fractional amount of jobs compared to other land uses, and does nothing to promote integration or Transit Oriented Development.
55. The Local Government: Municipal Finance Management Act (2003) (MFMA) requires the City to consider "the fair market value of the asset and the economic and community value to be received in exchange for the asset."³⁵ We contend that the current lease does not realise fair market value nor does it yield a sufficient economic or community value especially in light of the City's stated priorities around spatial transformation. There is no acceptable economic, social, environmental, fiscal argument for why the continuation of these leases is acceptable in 2020 in one of the most unequal and spatially fragmented cities in the world.

Promoting social inclusivity

56. The land that the City proposes to lease to Ballpark Promotions (Hardekraaltjie Caravan Park) is located on the border of two segregated areas. To suburbs to the North – Bellville, Boston, Parow East, Vredelust – are predominantly White, while the suburbs to the South – Elsies River, Parow Valley, Ravenshead – are predominantly Coloured. Another key difference is that the areas to the South are much more densely populated – highlighting the inverse densification that characterises the rest of Cape Town.

³⁵ See s 14(2)(a) and (b) of the MFMA.



Adrian Firth's Race Dot Map spatialises 2011 Census data and clearly depicts segregation in the Bellville area – with Voortrekker Road and the train tracks representing a segregating line. Each dot represents approximately 25 people. Green represents Black people, Orange represents Coloured people and Purple represents White people.

57. By developing social or affordable housing at the site, the land could also offer a vital opportunity to promote social inclusivity between communities that have historically been segregated as a result of race and/or class.
58. As mentioned above, revered urban land use specialist, Jane Jacobs, has written about how large tracts of land designated to a particular land use or imposing infrastructure (like train tracks or highways) can function as borders or physical barriers to segregate people. She warns that these “borders divide up cities into pieces” and “can tear a city to tatters”.³⁶ Voortrekker Road and the rail to the South of it acts as such a barrier that separates various residential areas that, historically were separated as a result of race.

³⁶ J Jacobs, *The Death and Life of Great American Cities*, pp. 257-269.

59. However, the public land leased to Ballpark Promotions (Hardekraaltjie Caravan Park) presents a critical opportunity to promote social and economic inclusion. If the City were to pursue a social, affordable housing, a mixed-income housing development or student housing on this public land it could encourage and promote spatial transformation in a meaningful way. As Kevin Lynch, Associate Professor of Planning at the Massachusetts Institute of Technology, writes:

“An edge may be more than simply a dominant barrier if some visual or motion penetration is allowed through it – if it is, as it were structured to some depth with the regions on either side. It then becomes a seam rather than a barrier, a line of exchange along which two areas are sewn together.”³⁷

60. Ndifuna Ukwazi strongly urges the City to use the public land leased to the Ballpark Promotions as a “seam rather than a barrier”. Through using the site for affordable housing, this land can begin to advance reform by pulling together communities rather than using land to entrench barriers and keep them apart.

G. CONCLUSION

61. For the reasons outlined above, Ndifuna Ukwazi objects to the City’s proposed granting of the right to use, control or manage the portions of erven 17007 and 10840, Voortrekker Road, Bellville to Ballpark Promotions (Hardekraaltjie Caravan Park).

62. Leasing strategically 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 Transit Oriented Development is irrational and unreasonable. The proposed lease renewal is unacceptable, especially 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 spatial inequality in the Bellville area.

³⁷ See K Lynch, *The Image of the City* (1960). See also Jacobs, *The Death and Life of Great American Cities*, p. 267.

63. We call on the City not to renew the lease or to commit to investigating the feasibility of using the land for the development of social or affordable housing.
64. 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]