

**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

REPORT TO SUBCOUNCIL 16

LC23430

1 ITEM NUMBER 16 SUB 06/10/19

2 SUBJECT

**PROPOSED LEASE OF PORTION OF ERF 1154 VREDEHOEK, VAN
RIEBEEK PARK, ORANJEZICHT : UNITED HERZLIA SCHOOLS**

ONDERWERP

**VOORGESTELDE VERHURING VAN GEDEELTE VAN ERF 1154
VREDEHOEK, VAN RIEBEECK PARK, ORANJEZICHT: UNITED HERZLIA
SCHOOLS**

ISIHLOKO

**ISIPHAKAMISO SOKUQESHISWA KWESIQEPHU SESIZA 1154 ESISE-
VREDEHOEK, VAN RIEBEECK PARK, ORANJEZICHT: KWABE-UNITED
HERZLIA SCHOOLS**

L0497

PTMS NO: 130002707

File Ref No: CT14/3/6/1/2/1148/A10

(Category 5)

3 DELEGATED AUTHORITY

- ☒ The report is for comment by Subcouncil to the competent authority in terms of Part 24, Delegation 10(1).

"To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings and to recommend conditions of approval where deemed necessary."

- ☐ In terms of delegation Part 27B paragraph 19(7), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

"To approve the granting of rights to use, control or manage capital assets: Capital assets less than R10 million, longer than 3 years (<R10 million and

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> 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and <3 years) for the following categories:

- a) Social Care Leases: Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
- b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

Provided that this delegation may only be exercised after considering the comment from the Sub-council in whose area of jurisdiction the capital is situated.

☐ Final decision lies with Director: Property Management.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed lease for sporting purposes			
Site extent	2 3304 hectares			
Submission date	20 June 2016			
Current zoning	Public Open Space			
Current usage	Sporting			
Proposed usage	Sporting			
WARD CLLR	NOTICE DATE		WARD	
Brandon Golding	21 May 2018		77	
Internal circulation date	7 July 2016			
Internal department comments	Branch comments received and no objections were received.			
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on 08 February 2019.			
Viable	Yes	X	No	
	Viable immovable property is deemed to be property that can be developed and function as a separate entity and can be registered as a separate entity by the Registrar of Deeds.			
Recommended decision	Approval	X	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority after 21 June 2018			
Factors motivating recommendation:	<ul style="list-style-type: none">• The leasing of the land will relieve Council of the maintenance burden.• A market related rental income will be generated.• Better utilization of City land.			

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Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town	
	Objective 1.1	Positioning Cape Town as forward globally competitive City
	Programme 1.1(g)	Leveraging the City's assets

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of portion of Erf 1154 Vredehoek situated at Van Riebeeck Park, Oranjezicht shown hatched and lettered A inner edge of stream B bottom of bank C inner edge of stream DEFG inner edge of stream HJKLMNPQ on the attached sketch SZC 1413 marked annexure A, in extent approximately 2 3304 hectares, to United Herzlia Schools, or their successors in title, be approved subject to inter alia the following conditions, that:

- a) A tariff rental of R920 per annum excluding VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- b) The lease will endure for a period of ten years;
- c) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- d) The property be used for sporting purposes only;
- e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- f) Subject to compliance with any other statutory requirements;
- g) No compensation will be payable for any improvement made to the property.

AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van gedeelte van erf 1154 Vredehoek geleë te Van Riebeeck Park, Oranjezicht, gearseer en aangetoon met die letters A binne rand van stroom B onderkant van oewer C binne rand van stroom DEFG binne rand van stroom HJKLMNPQ op die aangehegte skets SZC 1413 gemerk bylae A, ongeveer 2 3304 hektaar groot, aan United Herzlia Schools, of hul regsopvolgers, goedgekeur word onderworpe aan onder meer die volgende voorwaardes dat:

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- a) 'n Tariefhuurbedrag van R920 per jaar, BTW uitgesluit bereken teen die koers van toepassing ten tye van die transaksie, betaalbaar is. Eiendomsbelasting nie van toepassing nie;
- b) Die huurooreenkoms vir 'n tydperk van tien jaar duur;
- c) Die huurbedrag jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- d) Die eiendom slegs vir sportdoeleindes gebruik word;
- e) Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendombestuur ingevolge haar gedelegeerde magtiging;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaalbaar sal wees vir enige verbeteringe aan die eiendom nie.

IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ukuqeshiswa kwesiqephu sesiza 1154 esiseVredehoek esimi eVan Riebeeck Park, Oranjezicht, esibonakaliswe sinonobumba A kuhlangothi olungaphakathi lomfula B emazantsi onxweme C kuhlangothi olungaphakathi lomfula DEFG kuhlangothi olungaphakathi lomfula HJKLMNPQ kumzobo SZC 1413 oqhotyoshelweyo ophawulwe isihlomelo A, esibukhulu bumalunga neehektare ezingama-2 3304, kwabe-United Herzlia Schools, okanye abayakungena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo, yokuba:

- a) Makuhlawulwe intlawulo yokurenta engama-R920 ngonyaka ngaphandle kweRhafu-ntengo, eyakube ibalwe ngexabiso elifanelekileyo ngokwexesha elo lonaniselwano. lintlawulo zobuhlali azisebenzi;
- b) Le ngqeshiso iyakuthi ihlale isithuba seminyaka elishumi;
- c) Le ntlawulo yokurenta iyakuthi ilungelelaniswe rhoqo ngonyaka ngokwesakheko sentlawulo yokurenta esiphunyezwe liBhunga;
- d) Le propati mayisetyenziselwe imibandela yezemidlalo kuphela;
- e) Ngokuxhomekeke kwimiqathango engeminye eyakuthi inyanzeliswe nguMlawuli wezoLawulo lwePropati ngokwamagunya akhe agunyazisiweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwazo naziphi na iimfuno ezingezinye ezimiseliweyo;

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- g) Akukho mbuyekezo iyakuthi yenziwe ngalo naluphi na uphuculo oluyakuthi lwenziwe kule propati.

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

United Hertzlia Schools (applicant) leases a portion of City land being Erf 1154 Vredehoek situated at Riebeeck Park, Oranjezicht shown hatched and lettered A inner edge of stream B bottom of bank C inner edge of stream DEFG inner edge of stream HJKLMNPQ on the attached sketch SZC 1413 marked annexure A, in extent approximately 2 3304 hectares, for parking purposes. The lease has expired and has continued tacitly on a month to month basis in order to perpetuate billing.

The previous lease terms provide for full public access when the field is not used for sporting purposes by United Hertzlia Schools. Currently, St Cyprians School, Stepping Stones Montessori and Grass Boots FC uses the fields for different sports codes on certain different days. Property Management engaged with the abovementioned parties to confirm that the existing arrangements would remain in place and to get their schedules times for the use of the fields.

St Cyprians School requires to use the field 15 times within a calendar year and they will identify their usage requirements at the beginning of each year. Stepping Stones Montessori requires to use the fields on every Friday from 13h15 until 14h00. Grass Boots FC requires to use the fields during their season on Saturdays from 01 March until 30 September within a calendar year, these dates includes pre-season and Cape Town Tygerberg Football Season dates. They also require to use it twice in the evenings from 17h15 to 18h30 and the use of Club House and toilet when they use fields. It was resolved that applicant will accommodate the parties as per their schedule when it is possible or when they are not using the fields on those particular days.

The proposal was circulated to all relevant Branches for comment. No objections were raised by the Branches to the proposed lease of the subject property.

This is viable City land which is currently not required for any basic municipal services. As the land is viable, and as part of the Public Participation Process a call for alternative proposals in terms of Clause 12.5 of the Policy on the Management of Certain of the City of Cape Town's Immovable Property was advertised. No alternative proposals or objections were received.

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During the currency of the lease period the agreement of lease will contain a clause that in the event that Council does require the land, a two months cancellation period will be applicable.

6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

- i. No additional permanent structures are permitted;
- ii. Existing trees may not be damaged nor may be removed without prior consultation with and approach approval from the Director: Recreation & Parks;
- iii. The applicant shall be responsible for the ongoing maintenance of the leased area (including all cost);
- iv. The site is formally protected as a Provincial Heritage site and approval for the footbridge and other works requires approval in terms of section 27 of the National Heritage Resources Act;
- v. The previous lease conditions signed in 1992 be continued and kept in as conditions;
- vi. The previous landscaping details and any new landscaping proposals should be circulated to Environmental and Heritage Department for input/comment;
- vii. No works may impact on the stream or stream bed and no footings or work may take place within the 1 in 50 year flood line;
- viii. Details of the bridge that include size, design and materials used must be forwarded to our section for input/comment prior to the signing of the lease. We suggest that this structure be a lightweight timber structure with low impacts;
- ix. A Construction phase Management phase/method statement detailing how the construction works will avoid any negative impacts on the sensitive receiving environment must be forwarded to our section for comment and approval prior to the signing of the lease. An Environmental Control Officer (ECO) would need to oversee the construction of the bridge;

Handwritten signature/initials

- x. Neither the Water and Sanitation Department nor the Council will be liable for any damages or loss if any lock or gate has forced or broken in order to gain access to attend the burst mains, blocked sewers or other emergencies such as inspections that must be carried out, meters that must be read, or any other cause outside the control of Council;
- xi. The ground surface over a water or sewer main shall not be altered in any way except with the prior approval of the Water and Sanitation Department;
- xii. No trees shall be planted within 3m of the water and sewer mains;
- xiii. The City of Cape Town has the right to construct and/or erect and lay such poles, stays, cables, wires or appurtenances aforesaid. This includes the right to bring machinery onto the property and to carry out excavations;
- xiv. The City of Cape Town has the right for any employee or servant or contractor of City of Cape Town to enter and be upon the property at any time in the exercise of the aforesaid rights;
- xv. No building, containers or structure shall be erected within 3m of the electrical services;
- xvi. No excavation or filling shall be carried out within the leased area without the prior written consent of the Director: Electricity Services via the wayleave approval process. All excavations within 3m of the electrical services must be carried out under the direction of a representative of this Department. In this regard, please contact this Department's Drawing Office Manager Mr D Smith on 021 444 2146 or davidb.smith@capetown.gov.za;
- xvii. No stakes, pegs or pins shall be driven into the ground within 1m of any part of the electricity services;
- xviii. No plant or material shall be stored within 1m of any part of the electricity services;
- xix. No mechanical plant may be used within 3m of medium voltage cable or 5m or high voltage cable;
- xx. The existing electricity substation is to be excluded from this application.

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6.3 VALUATION

The application category fits within the tariff structure of the City approved on 29 May 2019;

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.

6.4.2 Chapter C of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the leasing of immovable property.

Paragraph 12.5.1. of the Policy is quoted, as follows:

Social Care Properties / Community sport properties

In exceptional circumstances where a Property, to be used for a social care / community sport purposes, has not been reserved in accordance with the processes provided for in Chapter C of this policy, and where the City's Property Management Department receives an unsolicited application for Property Transaction, then the following factors may be taken into account in justifying not following a competitive process

Whether the applicant has historically enjoyed a Property Right granted by the City and, if so, how long;

The applicant, United Herzlia Schools has been leasing the subject property since 1992.

The terms and conditions of such lease;

The lease will endure for endure for a period of ten years .The proposed rental is rental of R920 per annum excluding Vat calculated at the rate applicable at the time of transaction be payable. Rates not applicable.

The exact nature of the social care or community purposes;

The property will be utilized for sporting purposes only that will enrich and benefit the community.

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Whether the applicant in the past made improvements to the property and, if so, the value of such improvements

Not Applicable

Whether or not the City is satisfied with the in which the applicant gives effect to the social care or community purpose:

The City is satisfied that the Property will be used by United Herzlia Schools and also by the surrounding local schools and will have beneficial advantages for both the City and the community.

6.4.3 Competitive Process:

The City is entitled to use any of the following methods to conclude a Property Transaction dealing with Viable Property to ensure that the principle of competitiveness is given effect to:

- a) Public tender
- b) Public auction
- c) Closed tender
- d) Call for alternative proposals

Call for Alternative Proposals:

In the event that none of the three competitive methods outlined above are appropriate to the nature of the Property Transaction in question, then the City shall, where none of the circumstances in respect of which a deviation may be granted are applicable, call for alternative proposals in respect of the Property Transaction in question.

Alternative proposals were called for and none were received.

6.5 FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Applicant's account.

6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

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In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person who's tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per paragraph 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City Owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not applicable.

6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that the debt profile is not in arrears.

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

Council's service branches confirmed that the asset is not required for own purposes.

Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a tariff rental to the amount of R920 per annum excluding VAT calculated at the rate

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applicable at the time of transaction be payable, as well as rates and taxes, if applicable.

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management, in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Argus and Die Burger on 08 February 2019. Closing dates for objections were 22 March 2019. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. Objections not received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. Objections not received.

Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to Proposed Granting of Rights

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

6.10 STAFF IMPLICATIONS

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No ☒

Yes ☐

ANNEXURES

AMH

Annexure A: SZC 1413
Annexure B: NPO Certificate

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FOR FURTHER DETAILS CONTACT:

NAME	XOLISILE TWAYI
CONTACT NUMBERS	(021) 400 6438
E-MAIL ADDRESS	XOLISILE.TWAYI@CAPETOWN.GOV.ZA
DIRECTORATE	ASSETS AND FACILITIES MANAGEMENT (AFM)
FILE REF NO	CT14/3/6/1/2/1148/A10
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	M. S. Sims 23-08-2019

ACTING DIRECTOR : PROPERTY MANAGEMENT IN HER
CAPACITY AS EXECUTIVE DIRECTOR : ASSETS &
FACILITIES MANAGEMENT NOMINEE

NAME ~~RUBY CELESTINE~~ M. S. Sims

DATE 20/9/2019

Comment:

[Signature]

LEGAL COMPLIANCE

- ☒ REPORT COMPLIANT WITH THE PROVISIONS OF
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS
AND ALL LEGISLATION RELATING TO THE MATTER
UNDER CONSIDERATION
- ☐ NON-COMPLIANT

NAME Joan - Mari Holt

TEL 021 400 2753

Date 03/10/2019

Comment:

Certified as legally compliant: *JMH*
Based on the contents of the report.

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ANNEXURE A

CITY OF CAPE TOWN

LOCALITY SKETCH

DIMENSIONS IN METRES	
DE	± 9.0
EF	± 1.5
FG	± 9.7
HJ	± 41.8
JK	± 77.9
KL	± 31.9
LM	± 24.9
MN	± 6.1
NP	± 9.8
PQ	± 6.5
QA	± 11.3

LEASE OF CITY LAND - VAN RIEBEEK PARK - ORANJEZICHT

The figure A inner edge of stream B bottom of bank C inner edge of stream DEFG inner edge of stream HJKLMNPQ shown bordered grey represents City Land (portion of Erf 1154 Vredehoek) in extent approximately 2 3304 hectares available for lease to the

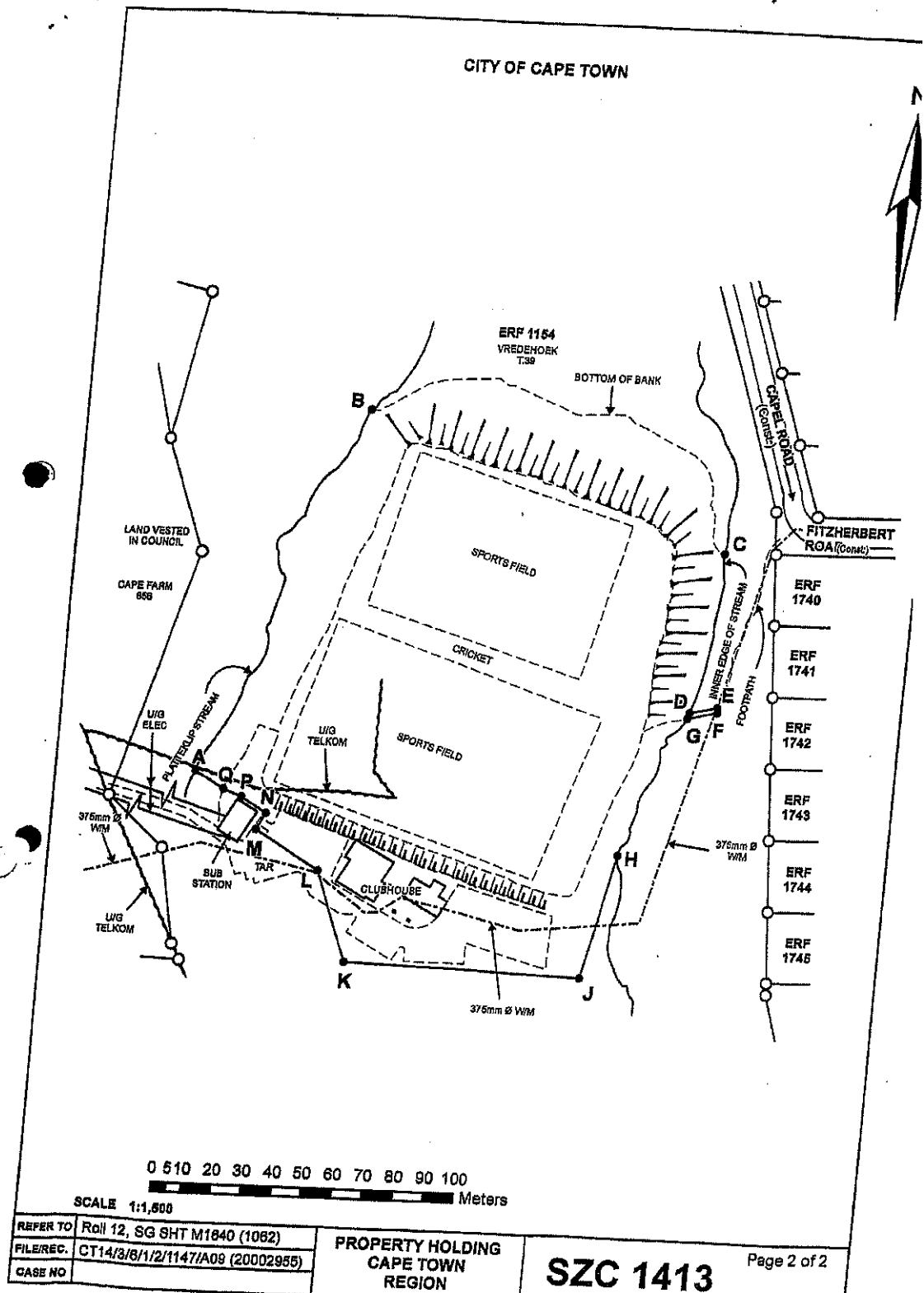
UNITED HERZLIA SCHOOLS

City Land Zoned: Public Open Space

Note: 1. Erf 1154 Vredehoek is registered in the name of the Municipality of the City of Cape Town by D/T 48 dated 1889-02-06 (T.39).
 2. The figure DEFG represents additional land to be leased to above to construct a footbridge over stream.


WARD 77 SUBCOUNCIL 16		REVISION: RENEWAL OF LEASE		SUPERSEDES SZC 13/1	
REFER TO	Roll 12, SG SHT M1840 (1082)	Page 1 of 2			
CASE NO.		PROPERTY HOLDING CAPE TOWN REGION			
PROP REF	WB 29A 1				
FILE/REG.	CT14/3/16/1/2/1147/A09 (20002855)				
MEMO					
		SURVEYOR	N. CHETSANE		
		GIS OPERATOR	S. ABRAHAMS (2018/05/09)		
		CHECKED	T. de Graaf 2016/11/25		
		SZC 1413			

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17-01-2014-023



**CERTIFICATE OF REGISTRATION OF
NONPROFIT ORGANISATION**


In terms of the Nonprofit Organisations Act, 1997, I am satisfied that.....

United Herzlia Schools
(name of the nonprofit organisation)


meets the requirements for registration.

The organisation's name was entered into the register on..... 28 May 2002
(date)

Registration number
019-713-NPO

Director's signature


Date 28 May 2002

Department of Social

Development