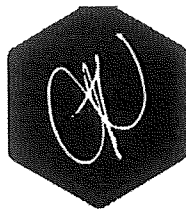


082 820 6428



044 333 0127



FIONA WILLIAMSON
ATTORNEY • NOTARY • CONVEYANCER



FIONA@FWLAW.CO.ZA

9 Mitchell Street | Mossel Ba
PO BOX 713 6500

21 February 2024

Attention:- CLINTON PETERSEN
Head of Town Planning
George Municipality
GEORGE
6529
cpetersen@george.gov.za

Dear Sir/Madam (Head of Town Planning)

RE: NON-BINDING NATURE OF THE CONSTITUTION OF DOLPHINS LEAP HOME OWNERS ASSOCIATION, WILDERNESS; AND REQUEST FOR MULTIPLE UNIT CONSTRUCTION APPROVAL - ERF 2003

With reference to the above, we would like to bring to your attention certain pertinent matters regarding the Dolphins Leap Home Owners Association (HOA) in Wilderness and its constitution in relation to an application for the construction of multiple units on a particular property within its jurisdiction.

As per Clause 29 of the Land Use Planning Ordinance 15/1985 (under which regulations the HOA came into being in 1993), any governing document or regulation pertaining to land use and development must be approved by the relevant municipal authority to hold legal validity. It has come to our attention that the constitution of the Dolphins Leap HOA has not received approval from the Garden Route Eden District Municipality (George), rendering it legally non-binding, especially in matters concerning land use and development within its jurisdiction.

ATTORNEY | NOTARY | CONVEYANCER: Fiona Williamson - B.PROC(UPE) LIB(UPE)

Fiona W Law | ABSA Bank | 632005 | 4085879890 | Trust Acc

The following legal factors are currently not on record:

- * A letter from George Municipality, dated from the year 1993 or any other date, to confirm the approval of a constitution for Dolphins Leap HOA.
- * A stamp dated at a certain time during 1993 or any other year, on each page of the constitution, in order to make the document binding, as part of an approval and to ensure that no single page of such document could be altered in any way possible. (See attached example to prove the correct manner in which such a document is normally approved by your office.)
- * Since 1993, no formal inaugural meeting was held with members, no AGM's called for, no budgets proposed, no levies raised, and no annual activities were recorded or any contributions requested from members up to date.
- * No trustees were ever elected who could deal with matters relating to a HOA.
- * On transfer of the said erf within the jurisdiction of the HOA, no clearance was requested from the transfer attorneys, and it was also not demanded from the Deed Office. In view of this, one must conclude that there were no legally binding documents which could order such an action.

For this reason, the request made by one of the members of the HOA to build more than one unit on their property must be considered independently of the HOA's internal regulations, especially in light of the non-binding nature of its constitution. Clause 21 of the said illegal constitution, which suggests that such requests can be withheld, holds no legal weight in this context due to the lack of approval from the Municipality.

Additionally, it is crucial to note the composition of the Dolphins Leap HOA, which comprises four members. Out of these four members, two are in favour of the application for multiple unit construction, including the member directly involved in the application. One member opposes the application, and the fourth member, residing outside the borders of South Africa, cannot be contacted, with all attempts to reach him proving futile.

Given these circumstances, it is imperative that the Municipality acknowledges the non-binding nature of the Dolphins Leap HOA constitution and assesses the application for multiple unit construction on its own merits, in accordance with relevant municipal regulations and ordinances.

Also given that the right is reserved in the Constitution that all amendments, additions or substitutions may not be effected without the prior written consent of Wilderness Local Council, we submit that the Wilderness Local Council is de facto authorized to make a decision on the request for approval.

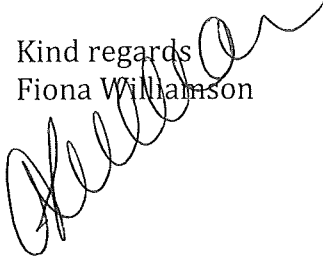
We believe that our client is currently experiencing financial loss due to having fulfilled all requirements set forth by the local authority for this application. Our client has already incurred significant costs in processing the aforementioned application, and we cannot foresee any further delays caused by a document that lacks binding authority for this purpose.

We, therefore propose that, given the availability of the members who consent to the application, do currently constitute the majority. Therefore, we suggest that you proceed with advancing the said application to the next step in your process.



Thank you for your attention to this important issue. Should you require any further information or clarification, please do not hesitate to contact me at your earliest convenience.

Kind regards
Fiona Williamson

A handwritten signature in black ink, appearing to read 'Fiona Williamson', written in a cursive style. The signature is positioned to the right of the typed name.