

"HWI"

**jsblomkamp@capebar.co.za**

**From:** Ron Paschke SC <ron@za.legal>  
**Sent:** Friday, 10 September 2021 11:44  
**To:** Adele Erasmus; Louise Ferreira; Jane Blomkamp  
**Cc:** Sean Rosenberg; John Newdigate; Andrew Brown; Vitima Jere  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear all

The City's team is not available in the week of 18 October 2021. We are available the following week from Tuesday 26 October to Friday 29 October 2021.

However, before agreeing to hearing dates, it is necessary to consider the replying affidavits. If there is any new material introduced in reply which requires further answering affidavits, then obviously the hearing date can be arranged only after those affidavits are filed.

Kind regards  
 Ron

**ron paschke sc**  
 advocate of the high court of south africa | member of the cape bar

ron@za.legal	7th floor huguenot chambers
w +27 21 422 2265	67 keerom street
m +27 82 4857 123	cape town, 8001
	south africa

-----Original Message-----

**From:** Adele Erasmus <adele.erasmus@capebar.co.za>  
**Sent:** Friday, 10 September 2021 10:26  
**To:** Louise Ferreira <l.ferreira@law.co.za>; Jane Blomkamp <jsblomkamp@capebar.co.za>  
**Cc:** Sean Rosenberg <rosenberg@capebar.co.za>; Ron Paschke SC <ron@za.legal>; John Newdigate <john.newdigate@capebar.co.za>; Andrew Brown <adbrown@capebar.co.za>; Vitima Jere <jere@capebar.co.za>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Good morning

From the Province's side we confirm we are also available on the dates as indicated by the Trust.

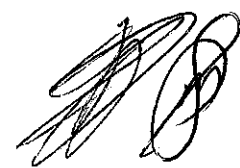
Warm regards  
 Adèle

-----Original Message-----

**From:** Louise Ferreira <l.ferreira@law.co.za>  
**Sent:** Friday, 10 September 2021 09:10  
**To:** Jane Blomkamp <jsblomkamp@capebar.co.za>  
**Cc:** Sean Rosenberg <rosenberg@capebar.co.za>; Ron Paschke SC <ron@za.legal>; John Newdigate <john.newdigate@capebar.co.za>; Adele Erasmus <adele.erasmus@capebar.co.za>; Andrew Brown <adbrown@capebar.co.za>  
**Subject:** Re: OCA and another v LLPT and Others - hearing

Dear Jane,

I refer to your email regarding possible hearing dates in the 3rd week of October.



I can confirm that our team is available on Mon., 18 Oct and then again on Wed., 20 - Fr., 22 October.

Kind regards,

Louise

Louise Ferreira  
 Advocate of the High Court of South Africa Member of the Cape Bar Suite 604, Keerom Street Chambers  
 56 Keerom Street  
 Cape Town  
 Mobile: 083 26 500 28  
 Fax: 021 424 9689

----- Original Message -----

From: "Jane Blomkamp" <jsblomkamp@capebar.co.za>  
 To: "Sean Rosenberg" <rosenberg@capebar.co.za>  
 Cc: "Ron Paschke SC" <ron@za.legal>, "I ferreira" <l.ferreira@law.co.za>, "John Newdigate" <john.newdigate@capebar.co.za>, "Adele Erasmus" <adele.erasmus@capebar.co.za>, "Andrew Brown" <adbrown@capebar.co.za>  
 Sent: Monday, September 6, 2021 12:58:04 PM  
 Subject: Re: OCA and another v LLPT and Others - hearing

Dear All

As advised by our attorneys, the Applicants will be filing their replying papers on or before Monday 13 September.

We would like, if at all possible, to start the process of securing a date and a judge before then.

Could we agree on some rough dates for a hearing?

Kind regards

Jane Blomkamp

On 2021-08-17 15:52, Sean Rosenberg wrote:

> Dear All

>

> I agree that we should not approach the JP until the papers have been  
 > filed - it is most unlikely that he will allocate a judge or a date  
 > before then.

>

> Kind regards

>

> Sean Rosenberg

>

> -----Original Message-----

> From: Jane Blomkamp <jsblomkamp@capebar.co.za>

> Sent: Tuesday, 17 August 2021 10:59

> To: Sean Rosenberg <rosenberg@capebar.co.za>; Ron Paschke SC

> <ron@za.legal>; l.ferreira@law.co.za; John Newdigate

> <john.newdigate@capebar.co.za>; Adele Erasmus

> <adele.erasmus@capebar.co.za>

> Cc: Andrew Brown <adbrown@capebar.co.za>  
> Subject: OCA and another v LLPT and Others - hearing  
>  
> Dear All  
>  
> We will shortly be writing to the JP to request the allocation of a  
> Judge in this matter.  
>  
> Can we agree on some rough dates for a hearing beforehand?  
>  
> Kind regards  
>  
> Jane Blomkamp

Advocate of the High Court of South Africa

Member of the Cape Bar

102.12 42 Keerom Street Chambers

072 603 0119

A handwritten signature in black ink, consisting of a circular flourish at the top and several horizontal strokes below it.

"HW2"

jsblomkamp@capebar.co.za

**From:** John Newdigate <john.newdigate@capebar.co.za>  
**Sent:** Thursday, 07 October 2021 18:45  
**To:** jsblomkamp@capebar.co.za; Ron Paschke SC; 'Louise Ferreira'; Adele Erasmus  
**Cc:** Sean Rosenberg; 'adv petersen'; Ashley Pillay; Vitima Jere  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Thank you Jane.

Would you keep us up to speed with the allocation by the JP?

Regards

John Newdigate

**From:** jsblomkamp@capebar.co.za <jsblomkamp@capebar.co.za>  
**Sent:** Thursday, October 7, 2021 5:00 PM  
**To:** John Newdigate <john.newdigate@capebar.co.za>; Ron Paschke SC <ron@za.legal>; 'Louise Ferreira' <l.ferreira@law.co.za>; Adele Erasmus <adele.erasmus@capebar.co.za>  
**Cc:** Sean Rosenberg <rosenberg@capebar.co.za>; 'adv petersen' <adv.petersen@outlook.com>; Ashley Pillay <ashley.pillay@capebar.co.za>; Vitima Jere <jere@capebar.co.za>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear All

I have been instructed to accept the proposed hearing dates of the 24<sup>th</sup> and 25<sup>th</sup> of November. We will be writing to the judge president to request that the matter is allocated accordingly.

Kind regards

Jane

**From:** John Newdigate <john.newdigate@capebar.co.za>  
**Sent:** Wednesday, 29 September 2021 17:50  
**To:** Ron Paschke SC <ron@za.legal>; jsblomkamp@capebar.co.za; 'Louise Ferreira' <l.ferreira@law.co.za>; Adele Erasmus <adele.erasmus@capebar.co.za>  
**Cc:** Sean Rosenberg <rosenberg@capebar.co.za>; 'adv petersen' <adv.petersen@outlook.com>; Ashley Pillay <ashley.pillay@capebar.co.za>; Vitima Jere <jere@capebar.co.za>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Jane

As mentioned yesterday, Adele Erasmus and I are involved in separate matters commencing on 10 November. Whereas one would hope that both matters finish in a day, there is no guarantee of this, and there is the real possibility that either or both matters would continue on 11 November. We can therefore not commit to these dates.

Regarding 24 and 25 November, it appears that all counsel are available on these dates, except your new senior counsel. Your previous leader, who we understand was involved in the drafting of the applicants' papers, Andrew Brown, is apparently no longer representing the applicants. In these circumstances it appears to us to be

inappropriate for the applicants to adopt the attitude that dates should be chosen in order to suit the new counsel's diary, when these are not convenient for the Province's counsel who have been involved in this matter from the outset.

Regards

John Newdigate

**From:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>  
**Sent:** Wednesday, September 29, 2021 4:34 PM  
**To:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za); 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>  
**Cc:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; 'adv petersen' <[adv.petersen@outlook.com](mailto:adv.petersen@outlook.com)>; Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Jane

While Province is considering the questions from your attorney, I might mention that the request to revisit whether there can be a hearing on 11 and 12 November raises the issue of the timing of the applicants' heads. That was something which we did not need to pursue yesterday because we ended the meeting on the basis of the proposal for a hearing on 24 and 25 November 2021 or possibly in the New Year.

However, if the hearing were to start on 11 November 2021 (assuming that Province is confident that its counsel will be available), then keeping to our agreement of heads being filed 10 and 20 days before the hearing, the applicants' heads would be due on 14 October 2021. That is in two weeks. Considering the capacity constraints of your new leader, and the additional time that was required for your reply, are you able to give a firm undertaking that you will file your heads by that date?

I do not think there will be any significant difference in whether construction will have been ongoing for three and half rather than four months by the date of the hearing. What will make a difference is whether we have realistic time to draft our respective heads.

Kind regards

Ron

**ron paschke sc**

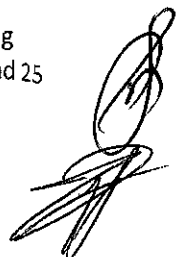
**advocate of the high court of south africa | member of the cape bar**

<a href="mailto:ron@za.legal">ron@za.legal</a>	7th floor huguenot chambers
w +27 21 422 2265	67 keerom street
m +27 82 4857 123	cape town, 8001
	south africa

**From:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za) <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>  
**Sent:** Wednesday, 29 September 2021 15:39  
**To:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>; 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>  
**Cc:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; 'adv petersen' <[adv.petersen@outlook.com](mailto:adv.petersen@outlook.com)>; Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear All

I have now had an opportunity of discussing what transpired during yesterday's meeting with my instructing attorneys. They have instructed me to inform you that the dates proposed by Respondents' counsel (24 and 25



November 2021) are not acceptable to the Respondents because our senior counsel is not available on those dates and because by then construction will have been underway for almost four months.

They have requested that you relook at the week commencing 8 November 2021 when our senior counsel is available. As you will recall, we started the discussion yesterday on the basis of the availability summarised in the following table. However, during the discussion John Newdigate SC indicated that his hearing on Wednesday 10 November 2021 might spill over into Thursday and Friday so he should be regarded as unavailable for the last three days of that week. My instructing attorneys would like John to advise whether or not he believes that his hearing is likely to go ahead on Wednesday 10 November, and if so, why he thinks that it is likely to require another one or two days to complete.

Kind regards

Jane

Date	Applicants	Developer	City	Province
Monday, 8 November 2021	available	available	not available	available
Tuesday, 9 November 2021	available	not available	not available	available
Wednesday, 10 November 2021	available	available	available	not available
Thursday, 11 November 2021	available	available	available	available
Friday, 12 November 2021	SC available, junior not	available	available	available

**From:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>

**Sent:** Tuesday, 28 September 2021 17:10

**To:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za); 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>

**Cc:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; 'adv petersen' <[adv.petersen@outlook.com](mailto:adv.petersen@outlook.com)>; Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>

**Subject:** Re: OCA and another v LLPT and Others - hearing

Thanks for this Jane.

To add to para 3 of your email, we proposed specifically 24 and 25 November 2021.

We also agreed that heads will be filled 10 days and 20 days before the hearing.

Kind regards  
Ron

[ron@za.legal](mailto:ron@za.legal) | +27 82 4857123

Sent from my mobile: please excuse brevity and typos.

From: [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za) <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>  
 Sent: Tuesday, September 28, 2021 5:03 PM  
 To: 'Louise Ferreira'; Adele Erasmus  
 Cc: Ron Paschke SC; Sean Rosenberg; John Newdigate; 'adv petersen'; Ashley Pillay; Vitima Jere  
 Subject: RE: OCA and another v LLPT and Others - hearing

Dear All

As requested, I confirm that the current position is as follows:

1. The senior vacancy on the applicants' team has (as of today) been filled by Tembeka Ngcukaitobi. Tembeka's only availability during the month of November is from the 8<sup>th</sup> to the 12<sup>th</sup>.
2. These dates are unsuitable for all other counsel.
3. The respondents' counsel have proposed a 2-day hearing during the week commencing 22 November.
4. The applicants' team will consider and revert as soon as possible.

Kind regards

Jane

From: Louise Ferreira <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>  
 Sent: Tuesday, 28 September 2021 11:31  
 To: Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>  
 Cc: Jane Blomkamp <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>; Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>; Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; adv petersen <[adv.petersen@outlook.com](mailto:adv.petersen@outlook.com)>; Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>  
 Subject: Re: OCA and another v LLPT and Others - hearing

Dear all,

Jane requested me to schedule the meeting on Zoom, as the application would not allow her to schedule a meeting for later in the day.

Please find the link below.

Kind regards,  
 Louise

[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za) is inviting you to a scheduled Zoom meeting.

Topic: River Club review application  
 Time: Sep 28, 2021 02:00 PM Johannesburg

Join Zoom Meeting  
<https://zoom.us/j/99231305429?pwd=Qmh2MlplTnhMcER2QlUQW5xamRVdz09>

Meeting ID: 992 3130 5429  
 Passcode: 821204  
 One tap mobile  
 +13017158592,,99231305429#,,,,\*821204# US (Washington DC)  
 +13126266799,,99231305429#,,,,\*821204# US (Chicago)



Dial by your location

+1 301 715 8592 US (Washington DC)  
 +1 312 626 6799 US (Chicago)  
 +1 346 248 7799 US (Houston)  
 +1 646 558 8656 US (New York)  
 +1 669 900 9128 US (San Jose)  
 +1 253 215 8782 US (Tacoma)

Meeting ID: 992 3130 5429

Passcode: 821204

Find your local number: <https://zoom.us/j/99231305429>

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**From:** "Adele Erasmus" <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>  
**To:** "Jane Blomkamp" <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>, "Ron Paschke SC" <[ron@za.legal](mailto:ron@za.legal)>, "I ferreira" <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>  
**Cc:** "Sean Rosenberg" <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>, "John Newdigate" <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>, "adv petersen" <[adv.petersen@outlook.com](mailto:adv.petersen@outlook.com)>, "Ashley Pillay" <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>  
**Sent:** Tuesday, September 28, 2021 9:46:38 AM  
**Subject:** Re:OCA and another v LLPT and Others - hearing

From Province's, we're available at 2pm

Regards  
 Adele

----- Original message -----

**From:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)  
**Date:** Tue, 28 Sep 2021, 9:41 am  
**To:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>, 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>  
**Cc:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>, Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>, John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>, [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com), Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>  
**Subject:** RE: OCA and another v LLPT and Others - hearing  
 Derrick, is 14h00 suitable for you?

**From:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>  
**Sent:** Tuesday, 28 September 2021 09:38  
**To:** Louise Ferreira <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; Jane Blomkamp <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>  
**Cc:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>; Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com); Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Sean

I am not why my junior, Ashley Pillay, and Derrick Petersen (the FNC's counsel) disappeared from your reply-all list – which dropped them off the distribution. I have added them back. There was no communication about moving the meeting to 13:30.

But it seems that we are now settled on 14:00 today.

Kind regards





Ron

**ron paschke sc**

**advocate of the high court of south africa** | member of the cape bar

ron@za.legal  
w +27 21 422 2265  
m +27 82 4857 123

7th floor huguenot chambers  
67 keerom street  
cape town, 8001  
south africa

**From:** Louise Ferreira <l.ferreira@law.co.za>

**Sent:** Tuesday, 28 September 2021 09:35

**To:** Jane Blomkamp <jsblomkamp@capebar.co.za>

**Cc:** Sean Rosenberg <rosenberg@capebar.co.za>; Adele Erasmus <adele.erasmus@capebar.co.za>; Ron Paschke SC <ron@za.legal>; John Newdigate <john.newdigate@capebar.co.za>

**Subject:** Re: OCA and another v LLPT and Others - hearing

Dear Jane,

I have just spoken with Sean. It seems sensible that we keep the meeting at **14h00** and that I attend on behalf of our team. Sean will be able to take my calls during his consultation, so that I may verify dates.

Kind regards,

Louise

Louise Ferreira  
Advocate of the High Court of South Africa  
Member of the Cape Bar  
Suite 604, Keerom Street Chambers  
56 Keerom Street  
Cape Town  
Mobile: 083 26 500 28  
Fax: 021 424 9689

---

**From:** "Jane Blomkamp" <jsblomkamp@capebar.co.za>

**To:** "Sean Rosenberg" <rosenberg@capebar.co.za>

**Cc:** "Adele Erasmus" <adele.erasmus@capebar.co.za>, "Ron Paschke SC" <ron@za.legal>, "John Newdigate" <john.newdigate@capebar.co.za>, "l ferreira" <l.ferreira@law.co.za>

**Sent:** Tuesday, September 28, 2021 9:20:08 AM

**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Sean

Apologies, I was unaware. I think I may have been left out of that correspondence.

I unfortunately have another zoom meeting at 13h00 which probably will not be finished by then.

Would it be possible to move the meeting later then, perhaps to 16h00?

Kind regards

Jane



**From:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>  
**Sent:** Tuesday, 28 September 2021 09:17  
**To:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)  
**Cc:** Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>; Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; Louise Ferreira ([l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)) <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Jane

As I understand it, the meeting is scheduled for 1.30pm – it was brought forward because I have a 2.00pm commitment.

Kind regards

Sean Rosenberg

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**From:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za) [<mailto:jsblomkamp@capebar.co.za>]  
**Sent:** 28 September 2021 09:05 AM  
**To:** Adele Erasmus; Ron Paschke SC; Sean Rosenberg  
**Cc:** 'Louise Ferreira'; John Newdigate; [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com); Ashley Pillay  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Sean, Louise and Derrick

Is 14h00 today suitable for a meeting?

Kind regards

Jane

**From:** Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>  
**Sent:** Monday, 27 September 2021 09:13  
**To:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za); Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>; Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>  
**Cc:** 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>; [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com); Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>; Andrew Brown ([adbrown@law.co.za](mailto:adbrown@law.co.za)) <[adbrown@law.co.za](mailto:adbrown@law.co.za)>  
**Subject:** RE: OCA and another v LLPT and Others - hearing

Good morning

The Province's team are available to meet tomorrow at 2pm.

Warm regards

Adv Adèle Erasmus  
 5<sup>th</sup> floor, Huguenot Chambers  
 40 Queen Victoria Street  
 Cape Town  
 8001  
 Tel. 021 879 3200  
 Cell. 082 44 25 491

**From:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za) <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>  
**Sent:** Friday, 24 September 2021 13:11  
**To:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>; Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>

Cc: Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>; 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>; [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com); Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>

**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Ron

If there is to be a meeting to agree a timetable, then I think it makes sense to settle all aspects of the timetable during that discussion.

Kind regards

Jane

**From:** Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>

**Sent:** Friday, 24 September 2021 11:37

**To:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za); Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>

**Cc:** Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>; 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>; [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com); Ashley Pillay <[ashley.pillay@capebar.co.za](mailto:ashley.pillay@capebar.co.za)>

**Subject:** RE: OCA and another v LLPT and Others - hearing

Dear Jane

I am not sure if you are suggesting that the judge should have less than ten days to read the respondents' heads, but I don't think that would be suitable. I am also happy to discuss this when we meet. Please can you commit to a date by when your heads will be filed.

The City's team is available to meet at 14:00 on Monday or 14:00 on Tuesday.

Kind regards

Ron

**ron paschke sc**

**advocate of the high court of south africa | member of the cape bar**

<a href="mailto:ron@za.legal">ron@za.legal</a>	7th floor huguenot chambers
w +27 21 422 2265	67 keerom street
m +27 82 4857 123	cape town, 8001
	south africa

-----Original Message-----

**From:** [jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za) <[jsblomkamp@capebar.co.za](mailto:jsblomkamp@capebar.co.za)>

**Sent:** Friday, 24 September 2021 08:58

**To:** Sean Rosenberg <[rosenberg@capebar.co.za](mailto:rosenberg@capebar.co.za)>; Ron Paschke SC <[ron@za.legal](mailto:ron@za.legal)>

**Cc:** Adele Erasmus <[adele.erasmus@capebar.co.za](mailto:adele.erasmus@capebar.co.za)>; 'Louise Ferreira' <[l.ferreira@law.co.za](mailto:l.ferreira@law.co.za)>; John Newdigate <[john.newdigate@capebar.co.za](mailto:john.newdigate@capebar.co.za)>; Vitima Jere <[jere@capebar.co.za](mailto:jere@capebar.co.za)>; [adv.petersen@outlook.com](mailto:adv.petersen@outlook.com)

**Subject:** RE: OCA and another v LLPT and Others - hearing

Thank you, Sean. That seems like a good idea. I can make myself available at any time on Monday or Tuesday.

Ron, I don't want to be unreasonable, but it is not clear to me why the judge must have both sets of heads of argument in hand before he can commence reading. Surely some of the processes contemplated in your timetable below can run concurrently. In any event, it seems that this debate will be overtaken by a conflict in timetables.

Kind regards



Jane

-----Original Message-----

From: Sean Rosenberg <rosenberg@capebar.co.za>  
 Sent: Thursday, 23 September 2021 20:42  
 To: Jane Blomkamp <jsblomkamp@capebar.co.za>; Ron Paschke SC <ron@za.legal>  
 Cc: Adele Erasmus <adele.erasmus@capebar.co.za>; Louise Ferreira <l.ferreira@law.co.za>; John Newdigate <john.newdigate@capebar.co.za>; Vitima Jere <jere@capebar.co.za>; adv.petersen@outlook.com  
 Subject: RE: OCA and another v LLPT and Others - hearing

Dear Jane

The week of 26 October were dates which I understand were put forward by the City's team, who could not do the preceding week, which suited all the other parties. Unfortunately we can't make the week of 26 October.

It seems to me that it will be necessary to schedule a meeting, to sort out possible dates.

Kind regards

Sean Rosenberg

-----Original Message-----

From: Jane Blomkamp <jsblomkamp@capebar.co.za>  
 Sent: Thursday, 23 September 2021 16:58  
 To: Ron Paschke SC <ron@za.legal>  
 Cc: Adele Erasmus <adele.erasmus@capebar.co.za>; Louise Ferreira <l.ferreira@law.co.za>; Sean Rosenberg <rosenberg@capebar.co.za>; John Newdigate <john.newdigate@capebar.co.za>; Vitima Jere <jere@capebar.co.za>; adv.petersen@outlook.com  
 Subject: Re: OCA and another v LLPT and Others - hearing

Dear All

May I proceed to request a hearing date ?

Adv. Petersen, please accept my apologies. You were initially left out of this correspondence in error.

Kind regards

Jane Blomkamp

On 2021-09-10 11:44, Ron Paschke SC wrote:

> Dear all  
 >  
 > The City's team is not available in the week of 18 October 2021. We  
 > are available the following week from Tuesday 26 October to Friday 29  
 > October 2021.  
 >  
 > However, before agreeing to hearing dates, it is necessary to consider  
 > the replying affidavits. If there is any new material introduced in  
 > reply which requires further answering affidavits, then obviously the  
 > hearing date can be arranged only after those affidavits are filed.  
 >  
 > Kind regards  
 >



> Ron  
 >  
 > \_\_\_\_\_  
 >  
 > ron paschke sc  
 > ADVOCATE OF THE HIGH COURT OF SOUTH AFRICA | member of the cape bar  
 >  
 > ron@za.legal  
 >  
 > w +27 21 422 2265  
 > m +27 82 4857 123  
 >  
 > 7th floor huguenot chambers  
 > 67 keerom street  
 > cape town, 8001  
 > south africa

> -----Original Message-----

> From: Adele Erasmus <adele.erasmus@capebar.co.za>  
 > Sent: Friday, 10 September 2021 10:26  
 > To: Louise Ferreira <l.ferreira@law.co.za>; Jane Blomkamp  
 > <jsblomkamp@capebar.co.za>  
 > Cc: Sean Rosenberg <rosenberg@capebar.co.za>; Ron Paschke SC  
 > <ron@za.legal>; John Newdigate <john.newdigate@capebar.co.za>; Andrew  
 > Brown <adbrown@capebar.co.za>; Vitima Jere <jere@capebar.co.za>  
 > Subject: RE: OCA and another v LLPT and Others - hearing

> Good morning

> From the Province's side we confirm we are also available on the dates  
 > as indicated by the Trust.

> Warm regards

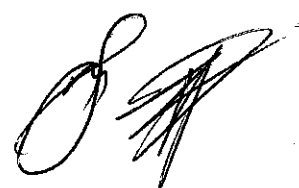
> Adèle

> -----Original Message-----

> From: Louise Ferreira <l.ferreira@law.co.za>  
 >  
 > Sent: Friday, 10 September 2021 09:10  
 >  
 > To: Jane Blomkamp <jsblomkamp@capebar.co.za>  
 >  
 > Cc: Sean Rosenberg <rosenberg@capebar.co.za>; Ron Paschke SC  
 > <ron@za.legal>; John Newdigate <john.newdigate@capebar.co.za>; Adele  
 > Erasmus <adele.erasmus@capebar.co.za>; Andrew Brown  
 > <adbrown@capebar.co.za>  
 >  
 > Subject: Re: OCA and another v LLPT and Others - hearing

> Dear Jane,

> I refer to your email regarding possible hearing dates in the 3rd week  
 > of October.



> I can confirm that our team is available on Mon., 18 Oct and then  
> again on Wed., 20 - Fr., 22 October.

>  
> Kind regards,

>  
> Louise  
>  
> Louise Ferreira

>  
> Advocate of the High Court of South Africa Member of the Cape Bar  
> Suite 604, Keerom Street Chambers

>  
> 56 Keerom Street

>  
> Cape Town

>  
> Mobile: 083 26 500 28

>  
> Fax: 021 424 9689

>  
> ----- Original Message -----

>  
> From: "Jane Blomkamp" <jsblomkamp@capebar.co.za>

>  
> To: "Sean Rosenberg" <rosenberg@capebar.co.za>

>  
> Cc: "Ron Paschke SC" <ron@za.legal>, "l ferreira"

> <l.ferreira@law.co.za>, "John Newdigate"

> <john.newdigate@capebar.co.za>, "Adele Erasmus"

> <adele.erasmus@capebar.co.za>, "Andrew Brown" <adbrown@capebar.co.za>

>  
> Sent: Monday, September 6, 2021 12:58:04 PM

>  
> Subject: Re: OCA and another v LLPT and Others - hearing

>  
> Dear All

>  
> As advised by our attorneys, the Applicants will be filing their  
> replying papers on or before Monday 13 September.

>  
> We would like, if at all possible, to start the process of securing a  
> date and a judge before then.

>  
> Could we agree on some rough dates for a hearing?

>  
> Kind regards

>  
> Jane Blomkamp

>  
> On 2021-08-17 15:52, Sean Rosenberg wrote:

>  
>> Dear All

>  
>>>

>  
>>> I agree that we should not approach the JP until the papers have

> been  
>  
>> filed - it is most unlikely that he will allocate a judge or a date  
>  
>> before then.  
>  
>>  
>  
>> Kind regards  
>  
>>  
>  
>> Sean Rosenberg  
>  
>>  
>  
>> -----Original Message-----  
>  
>> From: Jane Blomkamp <jsblomkamp@capebar.co.za>  
>  
>> Sent: Tuesday, 17 August 2021 10:59  
>  
>> To: Sean Rosenberg <rosenberg@capebar.co.za>; Ron Paschke SC  
>  
>> <ron@za.legal>; l.ferreira@law.co.za; John Newdigate  
>  
>> <john.newdigate@capebar.co.za>; Adele Erasmus  
>  
>> <adele.erasmus@capebar.co.za>  
>  
>> Cc: Andrew Brown <adbrown@capebar.co.za>  
>  
>> Subject: OCA and another v LLPT and Others - hearing  
>  
>>  
>  
>> Dear All  
>  
>>  
>  
>> We will shortly be writing to the JP to request the allocation of a  
>  
>> Judge in this matter.  
>  
>>  
>  
>> Can we agree on some rough dates for a hearing beforehand?  
>  
>>  
>  
>> Kind regards  
>  
>>  
>  
>> Jane Blomkamp



"HWS"



**NICHOLAS SMITH ATTORNEYS**  
**ENVIRONMENTAL LAW SPECIALISTS**

Cullinan and Associates

Attention: Mr. Cormac Cullinan / Mr. Hercules Wessels

By email: [cormac@greencounsel.co.za](mailto:cormac@greencounsel.co.za)  
[hercules@greencounsel.co.za](mailto:hercules@greencounsel.co.za)

Our ref: NDS/sg/L38-001  
 Your ref:

29 October 2021

Dear Messrs. Cullinan and Wessels

**RE: OBSERVATORY CIVIC ASSOCIATION AND GORINGHAICONA KHOI KHOIN  
 INDIGENOUS TRADITIONAL COUNCIL v TRUSTEES, LIESBEEK LEISURE  
 PROPERTIES TRUST AND OTHERS (CASE NO. 12994/2021 IN THE WESTERN CAPE  
 DIVISION OF THE HIGH COURT OF SOUTH AFRICA) - PROPOSED HEARING DATES  
 OF 24 AND 25 NOVEMBER 2021**

1. We have now confirmed that not only has no order been made by the Judge President for the set down of the matter for hearing on 24 and 25 November 2021, no draft order was ever submitted to this end and, so we understand from the Registrar, the matter has in fact not been enrolled for hearing on these days.
2. Notwithstanding suggestions to the contrary, an order submitted to and granted by the Judge President is necessary for the enrolment of matters on the urgent roll. Accordingly, the necessary order must be obtained from the Judge President.
3. Your client's failure to have its heads of argument delivered by 27 October 2021 and the assurance that your counsel would only be in a position to email the heads to the legal representatives of the various respondents by 2 November 2021 has disrupted the timetable put in place to accommodate a possible hearing on 24 and 25 November 2021. We are concerned that, as happened with the dates for the filing of the answering and replying affidavits, our client faces timetable pressure while your client gives itself generous extensions of time, to our client's prejudice.
4. In the circumstances, an adjusted timetable, including adjusted hearing dates, must be agreed to and incorporated in a draft order to be submitted to the Judge President for his approval. We will be requesting our client's counsel to arrange another meeting with all the other counsel involved, in order to agree to a revised timetable.

---

Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

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 nicks@nsmithlaw.co.za | www.nsmithlaw.co.za | 2nd Floor, 114 Bree Street, Cape Town.





Yours faithfully,  
**NICHOLAS SMITH ATTORNEYS**  
Per:

**NICHOLAS SMITH**

**Copies to:**

Heritage Western Cape  
Attention: Ms. Penelope Meyer  
By email: [penelope.meyer@westerncape.gov.za](mailto:penelope.meyer@westerncape.gov.za)

Webber Wentzel Attorneys  
Attention: Ms. Sabrina De Freitas  
By email: [sabrina.defreitas@webberwentzel.com](mailto:sabrina.defreitas@webberwentzel.com)

The State Attorney  
Attention: Mr. Mark Owen  
By email: [mowen@justice.gov.za](mailto:mowen@justice.gov.za)

Basson Petersen Attorneys Inc.  
Attention: Mr. Petersen  
By email: [Bpinc.law@gmail.com](mailto:Bpinc.law@gmail.com)

**WEBBER WENTZEL**

in alliance with &gt; Linklaters

**Attention: Mr Cormac Cullinan and Hercules Wessels  
Mr Nick Smith**By email: [cormac@greencounsel.co.za](mailto:cormac@greencounsel.co.za)  
[hercules@greencounsel.co.za](mailto:hercules@greencounsel.co.za)  
[nicks@nsmithlaw.co.za](mailto:nicks@nsmithlaw.co.za)15th Floor, Convention Tower  
Heerengracht, Foreshore  
Cape Town, 8001PO Box 3667, Cape Town  
8000, South Africa

Docex 34 Cape Town

T +27 21 431 7000

F +27 21 431 8000

[www.webberwentzel.com](http://www.webberwentzel.com)

Your reference

Our reference

Date

SDF / 3049766

29 October 2021

Dear Sirs

**RE: OBSERVATORY CIVIC ASSOCIATION AND OTHERS v TRUSTEES OF THE LIESBEEK  
LEISURE PROPERTIES TRUST AND OTHERS (CASE NO. 12994/2021)**

1. We refer to the letter on behalf of the first respondent, dated 29 October 2021.
2. We agree that the applicants' failure to deliver their heads of argument by 27 October 2021 means that the proposed hearing dates of 24 and 25 November 2021, initially contemplated by the parties, are no longer viable.
3. It is indeed so that an order must be obtained from the Judge President for the matter to be enrolled. The City's counsel will co-operate in revising the timetable, including finding mutually suitable hearing dates, which will need to be incorporated into an agreed draft order.

Yours faithfully

**WEBBER WENTZEL**

Sabrina De Freitas

Associate

Direct tel: +27 21 431 7335

Direct fax: +27214318335

Email: [sabrina.defreitas@webberwentzel.com](mailto:sabrina.defreitas@webberwentzel.com)*Letter sent electronically. A signed copy will be provided on request*

Partners in office at Cape Town: Office Managing Partner: G Fitzmaurice Partners: RB Africa AE Bennett AR Bowley SJ Chong KM Colman R Cruywagen MA Diemont HJ du Preez LF Egypt AE Esterhuizen MJR Evans OH Geldenhuys PM Holloway SJ Hutton AV Ismail S Jooste LA Kahn ACR Katzke A Keyser KE Kilner CS Meyer LE Mostert RA Nelson A October K Rew H Samsodien J Smit RS Smith PZ Vanda DM Visagie AWR Westwood

Senior Partner: JC Els Managing Partner: SJ Hutton Partners: BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Bellings AE Bennett AP Blair AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claessens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Druce GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eisler AE Esterhuizen MJR Evans K Fazel AA Feleke G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealy S Haroun JM Harvey JS Henning KR Hillis Z Hlophe CM Hofeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy KE Kilner A Keyser MD Kota JC Kraamwinkel J Lembo E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbers MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Ntongomezulu P Mohantlali M Ntoli N Moodley LE Mostert VM Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October I Odendaal GJP Olivier N Palge AMT Pardini AS Perry S Pate N Parher GR Penfold SE Phajane M Philpides BA Phillips MA Phillips DJ Rafferty D Ramjattan GI Rapson K Rew SA Ritchie J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeuij LJ Swaine Z Swahopoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Thavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmell JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warrington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaker

Chief Operating Officer: SA Boyd



"HWS"

**TRANSMITTED BY EMAIL**

		Date:	2 November 2021
TO:	Nicholas Smith Attorneys	Your ref:	NDS/sg/L38-001
ATT:	Nicholas Smith		<a href="mailto:nicks@nsmithlaw.co.za">nicks@nsmithlaw.co.za</a>
FROM:	Hercules Wessels		<a href="mailto:hercules@greencounsel.co.za">hercules@greencounsel.co.za</a>
Total pages:	3	Our ref:	O 023-002

---

The information contained in this document is confidential and intended for the exclusive attention of the addressee. Unauthorised disclosure or distribution of the information is prohibited. Please advise us immediately should you have received this document in error.

---

Dear Mr Smith

**OBSERVATORY CIVIC ASSOCIATION AND ANOTHER // TRUSTEES FOR THE TIME BEING OF THE LIESBEEK PROPERTY TRUST (12994 / 2021) - HEARING DATES**

1. We refer to the above matter and your letter of 29 October 2021 in which you advised us that your counsel intends to convene a meeting of all counsel with a view to agreeing an adjusted time table for this matter, including adjusted hearing dates.
2. In your letter you indicate that you believe the timetable should be renegotiated because:
  - 2.1. we did not file the Applicants' heads of argument on Wednesday 27 October 2021 as agreed (i.e. 20 court days before the scheduled commencement of the hearing on 24 November 2021); and
  - 2.2. the matter has not been enrolled for hearings on those dates because the Judge President has not granted an order to that effect.
3. This morning the applicants' heads of argument were filed in court and copies were emailed to the parties. This means that despite the fact that we filed the applicants' heads three court days later than we had undertaken to do, they were still filed 15 court days before the hearing commences. (In this regard it is worth noting that in the

**Expertise grounded in experience**

Cullinan & Associates Incorporated (2001/001024/21)

DIRECTOR: CP Cullinan

ATTORNEYS: B Adams, GD Daniels, M Groenink, X Handley, P King, SD Kvalsvig, R Stone, HD Wessels

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ordinary course the relevant practice directives requires the applicant's heads to be filed 10 court days before the hearing and the respondent's heads within 5 court days before the hearing of the matter.)

4. As you will have seen from the applicants' heads, despite the fairly voluminous pleadings, the number of legal issues in dispute for the purposes of the interdict application are limited. The experienced counsel representing the various respondents should have no difficulty in preparing the respondents' heads by 10 November 2021 (i.e. ten court days before the commencement of the hearing.) However, given that we filed our heads three court days later than we had agreed, we would not object to your clients taking up to three additional court days to file their heads should you find it to be necessary.
5. As previously advised, the Judge President has given a directive that this matter will be heard on 24 and 25 November 2021. We understand that the reason that the dates had not been allocated when you checked is because the General Office has mislaid the court file. We are in the process of rectifying that.
6. As you know, our counsel prepared a draft order for the enrolment of this matter and sought the consent of the other parties to that order. Neither of your counsel responded to that request. However, we were assured by the Judge President's registrar that an order is not required for the enrolment of this matter. (Please note that this matter is not on the urgent roll.)
7. Given the fact that construction of your client's development is well underway, it is important that the hearing of the application for interdictory relief be heard as soon as possible. Consequently, we are disinclined to reopen debate on either the timetable or the hearing dates, since this would inevitably delay the hearing of that application.

Yours sincerely



**CULLINAN & ASSOCIATES INC.**

per: Hercules Wessels

**Copies to:**

**Heritage Western Cape**

Attention: Ms. Penelope Meyer

By email: [penelope.meyer@westerncape.gov.za](mailto:penelope.meyer@westerncape.gov.za)



**Webber Wentzel Attorneys**

Attention: Ms. Sabrina De Freitas

By email: [sabrina.defreitas@webberwentzel.com](mailto:sabrina.defreitas@webberwentzel.com)**The State Attorney**

Attention: Mr. Mark Owen

By email: [mowen@justice.gov.za](mailto:mowen@justice.gov.za)**Basson Petersen Attorneys Inc.**

Attention: Mr. Petersen

By email: [Bpinc.law@gmail.com](mailto:Bpinc.law@gmail.com)A handwritten signature in black ink, consisting of a stylized initial 'B' followed by a series of loops and a final flourish.

HWS



**NICHOLAS SMITH ATTORNEYS**  
 ENVIRONMENTAL LAW SPECIALISTS

Cullinan and Associates

Attention: Mr. Cormac Cullinan / Mr. Hercules Wessels

By email: [cormac@greencounsel.co.za](mailto:cormac@greencounsel.co.za)

[hercules@greencounsel.co.za](mailto:hercules@greencounsel.co.za)

Our ref: NDS/sg/L38-001

Your ref:

3 November 2021

Dear Messrs. Cullinan and Wessels

**RE: OBSERVATORY CIVIC ASSOCIATION AND GORINGHAICONA KHOI KHOIN  
 INDIGENOUS TRADITIONAL COUNCIL v TRUSTEES, LIESBEEK LEISURE  
 PROPERTIES TRUST AND OTHERS (CASE NO. 12994/2021 IN THE WESTERN CAPE  
 DIVISION OF THE HIGH COURT OF SOUTH AFRICA)**

1. We refer to the above and to your letter of yesterday, 2 November 2021.
2. We note your confirmation that you breached the undertaking given previously by your counsel and regarding the delivery of the applicants' heads by 27 October 2021. We point out that due to your delay our counsels' respective programmes have been disrupted.
3. We also note your proposal contained in paragraph 4 of your letter under reply. The three further court days you propose for the delivery of the respondents' heads (calculated from Thursday 11 November 2021) will take us to the end of Monday 15 November 2021. In the circumstances that extension will hopefully suffice for purposes of the delivery of the first respondent's heads, and we will do our best to file our client's heads by the adjusted date.
4. As regards the contents of paragraph 6 of your letter, and your suggestion that neither of our counsel responded to the request pertaining to the draft order you describe there, we point out that neither of our counsel gave any indication in the various email exchanges between counsel for the litigants in this matter that the draft order was one to which they did not consent. In fact, at the zoom meeting at which the hearing dates in late November were discussed, our junior counsel made it clear that we were in agreement with 24 and 25 November 2021 as being suitable for the hearing of Part A of your clients' application. The same applied to the agreed dates for the filing of heads.

---

Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

T: +27 (0) 21 424 5826 | F: +27 (0) 21 424 5825 | C: +27 (0) 82 375 0905  
[nicks@nsmithlaw.co.za](mailto:nicks@nsmithlaw.co.za) | [www.nsmithlaw.co.za](http://www.nsmithlaw.co.za) | 2nd Floor, 114 Bree Street, Cape Town.



Yours faithfully,  
**NICHOLAS SMITH ATTORNEYS**  
Per:

**NICHOLAS SMITH**

**Copies to:**

Heritage Western Cape  
Attention: Ms. Penelope Meyer  
By email: [penelope.meyer@westerncape.gov.za](mailto:penelope.meyer@westerncape.gov.za)

Webber Wentzel Attorneys  
Attention: Ms. Sabrina De Freitas  
By email: [sabrina.defreitas@webberwentzel.com](mailto:sabrina.defreitas@webberwentzel.com)

The State Attorney  
Attention: Mr. Mark Owen  
By email: [mowen@justice.gov.za](mailto:mowen@justice.gov.za)

Basson Petersen Attorneys Inc.  
Attention: Mr. Petersen  
By email: [Bpinc.law@gmail.com](mailto:Bpinc.law@gmail.com)



"HW?"

**TRANSMITTED BY EMAIL**

		Date:	20 December 2021
TO:	Nicholas Smith Attorneys	Your ref:	NDS/sg/L38-001
ATT:	Nicholas Smith		
FROM:	Hercules Wessels		<a href="mailto:hercules@greencounsel.co.za">hercules@greencounsel.co.za</a>
Total pages:	2	Our ref:	O 023-002

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Dear Mr Smith

**OBSERVATORY CIVIC ASSOCIATION AND ANOTHER // TRUSTEES FOR THE TIME BEING OF THE LIESBEEK PROPERTY TRUST (12994 / 2021)**

1. We refer to our clients' previous requests and specifically that of 12 August 2021, that all construction pertaining to the River Club development, be halted pending the determination of part A of the application.
2. The purpose of this letter is to reiterate our clients' previous requests to your client to halt with construction of the River Club development until the outcome of part A of our clients' application. It is our instructions that construction at the site is still active and going ahead.
3. In light of part A of our clients' application having been allocated to be heard on 19, 20 and 21 January 2022 our clients implore your client to stop with further construction at least until the outcome of part A of their applications has been made known by the Western Cape High Court.
4. We look forward to receiving your client's reply as soon as possible.

**Expertise grounded in experience**

Cullinan &amp; Associates Incorporated (2001/001024/21)

DIRECTOR: CP Cullinan

ATTORNEYS: B Adams, GD Daniels, M Groenink, K Handley, P King, SD Kvalsvig, R Stone, HD Wessels, P Keichel, A Lawrie

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Yours sincerely



**CULLINAN & ASSOCIATES INC.**

per: Hercules Wessels

**Copies to:**

**Heritage Western Cape**

Attention: Ms. Penelope Meyer

By email: penelope.meyer@westerncape.gov.za

**Webber Wentzel Attorneys**

Attention: Ms. Sabrina De Freitas

By email: sabrina.defreitas@webberwentzel.com

**The State Attorney**

Attention: Mr. Mark Owen

By email: mowen@justice.gov.za

**Basson Petersen Attorneys Inc.**

Attention: Mr. Petersen

By email: Bpinc.law@gmail.com



"HWS"



**NICHOLAS SMITH ATTORNEYS**  
**ENVIRONMENTAL LAW SPECIALISTS**

Cullinan and Associates  
 Attention: Mr. Hercules Wessels  
 By email: [hercules@greencounsel.co.za](mailto:hercules@greencounsel.co.za)  
[cormac@greencounsel.co.za](mailto:cormac@greencounsel.co.za)

Our ref: NDS/sg/L38-001  
 Your ref:

23 December 2021

Dear Mr. Wessels

**RE: OBSERVATORY CIVIC ASSOCIATION AND GORINGHAICONA KHOI KHOIN  
 INDIGENOUS TRADITIONAL COUNCIL v TRUSTEES, LIESBEEK LEISURE  
 PROPERTIES TRUST AND OTHERS (CASE NO. 12994/2021 IN THE WESTERN CAPE  
 DIVISION OF THE HIGH COURT OF SOUTH AFRICA)**

1. We refer to the above application and to your letter of the 20<sup>th</sup> instant.
2. In the context of your previous requests and your belated recent reiteration thereof in the correspondence under reply, we point out that since mid-August 2021 you have pursued the progression of Part A in what can only be described as a somewhat leisurely fashion. This pertains to your failure to meet the parties' agreed deadlines in respect of the delivery of your clients' replying affidavit, and also in respect of the delivery of your clients' heads of argument. You only supplied updated indexes last Tuesday, 14 December 2021, despite repeated requests from the respondents' attorneys of record that you do so at your earliest convenience in the circumstances.
3. Furthermore, you pursued the confirmation of the mid-January 2022 hearing dates in a less than expeditious manner. Part A is being heard from 19 to 21 January next year principally because of the respondents' legal teams' *bona fide* efforts to make themselves available at the earliest of the dates indicated by the DJP's registrar in her correspondence with the parties on that aspect of the matter. You only recently indicated that those dates suit the applicants' legal team.
4. We are now well into the festive and holiday season, and the hearing of Part A is set down for three consecutive days in the first week of the first term of 2022.
5. Given what is set out above, read with our previous correspondence to you on this aspect (and given that your most recent request is yet another example of self-created

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Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

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urgency following on your generally dilatory approach to the matter) our client's instructions are that it cannot accede to your request.

6. We reserve our client's rights to deal with this aspect in more detail at the hearing of Part A, and to the extent necessary in the circumstances.

Yours faithfully,  
**NICHOLAS SMITH ATTORNEYS**

Per:

**NICHOLAS SMITH**

**Copies to:**

Heritage Western Cape  
**Attention:** Ms. Penelope Meyer  
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