

PRESS STATEMENT BY JAMES TANNENBERGER

TRUSTEE AND SPOKESPERSON FOR THE LIESBEEK LEISURE PROPERTIES TRUST

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LLPT appeals against job killing interdict to halt construction of the River Club redevelopment

The Liesbeek Leisure Properties Trust (LLPT) will launch an appeal against Deputy Judge President Goliath's decision to "urgently" interdict construction of the R4.6 billion River Club redevelopment in Observatory, Cape Town, two months after the court hearing took place, and 8 months since commencement of construction began.

The result of the interdict, is the immediate suspension of thousands of permanent jobs in the Western Cape. Between June 2021 and March 2022 just under 4000 workers have been employed during various stages of construction on the site. When the ruling was delivered on Friday, 18th March, there were 750 workers on the site who were sent home due to a halt in construction.

The interdict also means that a number of sub-contractors, including First Nations owned companies, have had their contracts suspended, which will have a devastating impact on these businesses. Furthermore, just over 500 workers in factories supplying material to the site have also been impacted.

The interdict has also put a stop to the extensive work that has already been undertaken to rehabilitate the heavily polluted waterways running adjacent to the River Club property.

Judge Goliath, in the conclusion of her judgment, noted that her decision to grant the interdict must not be construed as a criticism of the development, or as casting aspersions on the views expressed by the majority of the indigenous groups and councils of the Western Cape, collectively known as the Western Cape First Nation Collective (WCFNC) (who joined as 8th respondents against the interdict and who support the development).

Most notably, that the development is a genuine instance of indigenous agency where the First Nations Collective have partnered with a commercial enterprise to ensure both sustainable development and the enhancement of the site's heritage resources.

However, this positive assessment of the development by the judge provides cold comfort to the affected First Nations, Developer and workers who have been told to leave the site, based on unsupported and the hearsay allegations of Mr Tauriq Jenkins (the 2nd Applicant). His claims, that some persons or groups were excluded from consultations in the public participation processes, were also only made for the first time at the hearing.

Of major concern is that neither Mr. Jenkins' affidavits, nor any confirmatory affidavits filed by any First Nations Peoples allege that they were excluded from or otherwise denied meaningful and effective consultation in the public participation processes. Instead, these affidavits centred on the allegations that some persons or groups were merely opposed to the development.

The groups or persons mentioned by Mr Jenkins that allegedly oppose the development and were then listed in the judgment were also not parties before the Court and did not file any affidavits in which they set out any facts to demonstrate that they were directly affected communities or community members, or bearers of any intangible cultural heritage who would allegedly be affected by the proposed development.

This means that the Respondents were denied the opportunity to place facts before the Court in their answering papers that would resoundingly rebut these allegations. These facts include:

- All affected First Nation Groups in the Peninsula, most importantly the groups recognised as the historical custodians of the Two Rivers landscape, of which the River Club property only forms 5%, were provided with the opportunity to comment on the proposed redevelopment during the three year development approval process and did.

- This includes the 2nd Applicant, Mr Tauriq Jenkins who participated extensively in these processes and who failed to provide any evidence in court that he had been excluded.
- This extensive consultation process culminated in a social compact, which incorporates the First Nations People's proposals into the River Club project plan in order to recognise and memorialise the intangible history of the broader Two Rivers area.

While the Applicants, Prof Leslie London (who represents the Observatory Civic Association – that boasts 55 members and is not a member of a Khoi / First Nation Group), and Mr Jenkins have claimed that the interdict being granted is a major victory for indigenous rights, it is clear that the real losers are the First Nations People who are hoping to see their aspirations realised – which is for their history and heritage to be memorialised and celebrated as part of the redevelopment – and the thousands of constructions workers who are currently without work.

The interdict also puts a number of other socio-economic opportunities that will be delivered by the redevelopment at risk, including:

- The provision of developer-subsidised affordable, inclusionary housing for low income earners who currently can't afford to live in the area.
- Major upgrades to the surrounding roads including the Berkely Road extension and construction of the Berkley Road bridge.
- The provision of safe and publicly accessible green open spaces including a green ecological park and 6km of running and cycling pathways.

The development is also expected to create 6000 direct jobs in total (800 of these jobs will only be created when the development is complete) and an additional 19 000 indirect jobs.

This is why the LLPT will be launching an appeal against the ruling. We cannot allow a small group, who have proven time and again that they have zero interest in an outcome that

creates social, economic and heritage benefits for the First Nation People and the people of Cape Town, to block this world class project and, no doubt, have a major dampening effect on future developments in the region, where it is sorely needed.

Media Enquiries:

Thabi Ndhlovu -061 993 6672