

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case number: 11867/2020

In the matter between:

ANDRÉ VAN DER WESTHUIZEN

First Plaintiff

**THE TRUSTEES FOR THE TIME BEING OF
THE KELLERMAN FAMILIE TRUST**

Second to Fourth Plaintiffs

DIETLOF ZIEGFRIED MARE

Fifth Plaintiff

HENRIETTE CHRISTINE MARE

Sixth Plaintiff

and

**AKARANA HOME OWNERS'
ASSOCIATION**

First Defendant

**THE DRAKENSTEIN LOCAL
MUNICIPALITY**

Second Defendant

**MEMBERS OF THE AKARANA HOME
OWNERS' ASSOCIATION**

Third to Twenty-Seventh Defendants

COLIN BRUCE GLAZER

Twenty-Eighth Defendant

INGRID HINDLE

Twenty-Ninth Defendant

GRAHAM HINDLE

Thirtieth Defendant

LISE-ANN LIEBENBERG

Thirty-First Defendant

BREDA VAN NIEKERK

Thirty-Second Defendant

LIZELLE BRASLER

Thirty-Third Defendant

**LA BELLA VITA WINE ESTATE
PROPERTY OWNERS ASSOCIATION**

Thirty-Fourth Defendant

A handwritten signature in blue ink, consisting of a series of loops and strokes, located in the bottom right corner of the page.

PLAINTIFFS' SUPPLEMENTARY DISCOVERY AFFIDAVIT

I, the undersigned,

ANDRÉ VAN DER WESTHUIZEN

do hereby make oath and say that:-

- 1 I am an adult male businessman and the First Plaintiff in the above matter. I am duly authorised to depose to this affidavit on behalf of the Second to Sixth Plaintiffs. The facts herein contained are within my own personal knowledge, unless the context indicates otherwise.
- 2 I, together with the Second to Sixth Plaintiffs ("**the Plaintiffs**") have in our possession or under our control the documents which relate to the above matter and which the Plaintiffs intend to use in the action or which tend to prove or disprove the parties' cases, as set out in the attached schedules **A** and **B**.
- 3 The Plaintiffs object to the production of the books and documents set forth in schedule **B** on the grounds that they are privileged, being communications between attorney and client, statements of witnesses, or other documents that are by the nature and origin thereof, privileged.



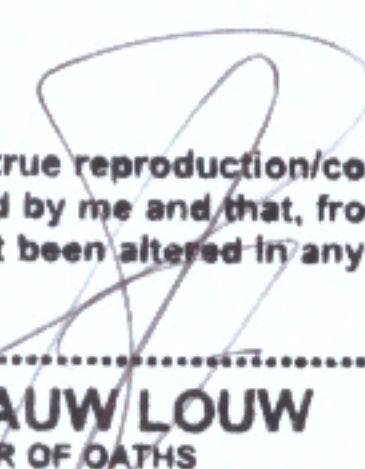
- 4 According to the best of our knowledge and belief, the Plaintiffs have not now, and never have had in our possession, custody, or power, or in the possession, custody or power of our attorney, or agent, or any other person on our behalf, any document, or copy thereof, or extract from any document, relating to any matters in question in this matter, other than the books and documents set forth in schedules **A** and **B** attached hereto, as well as the documents discovered previously by the Plaintiffs.


ANDRÉ VAN DER WESTHUIZEN

I certify that the deponent acknowledged that he knew and understood the contents of the above affidavit, and I duly administered the oath as prescribed by Government Notice No.R1258 of 21 July 1972 as amended and thereafter the deponent in my presence, signed the declaration at *Bellville* on the 17 day of July 2024.


COMMISSIONER OF OATHS

I certify that the document is a true reproduction/copy of the original which was examined by me and that, from my observation the original has not been altered in any manner.


.....
ADDO KRYNAUW LOUW
COMMISSIONER OF OATHS
BY APPOINTMENT - REPUBLIC OF SOUTH AFRICA
EX OFFICIO
Registered Associate General accountant (SA)
Membership Number: 30669348
12 Jacana Close, Somerset West, Cape Town, 7140

17/07/2024

CORRESPONDENCE			
NO	DESCRIPTION	DATE	C/O
1.	Letter to Dewgro (Pty) Ltd from Municipal Manager on behalf of WND Municipality	05/04/2001	C
2.	Email correspondence from Johann Meyer to Andrea Assirelli and other property owners of Akarana	17/12/2010	C
3.	Email from Zania Kellerman to Lise Liebenberg	18/01/2019	C
4.	Letter from Maurice Phillips Wisenberg Inc to Hayes Inc	11/07/2019	C
5.	Letter from Maurice Phillips Wisenberg Inc to Hayes Inc	11/07/2019	C
6.	Letter from Hayes Inc to Maurice Phillips Wisenberg	29/07/2019	C
7.	Letter from Hayes Inc to Pam Golding Properties Services	17/03/2020	C
8.	Letter from Hayes Inc to Pam Golding Property Management Services (Pty) Ltd	27/05/2022	C
9.	Letter to Maurice Phillips Wisenberg Inc from Hayes Inc	13/12/2022	C

DOCUMENTS			
NO	DESCRIPTION	DATE	C/O
1.	Letter from the Chief Executive Officer of the Drakenstein Municipality to Messrs David	06/02/1997	C



	Hellig and Abrahamse		
2.	The approval of subdivision of Portion 27 of the Farm Simonsvlei No 791, Paarl as issued by the District Roads Engineer	08/09/1998	C
3.	Portion 39 of farm 791 Deed of Transfer T019783/2001	06/02/2001	C
4.	Letter of Support in respect of the subdivision of Portion 39 of Farm 791, as issued by the Town Secretary of Drakenstein Municipality	21/08/2001	C
5.	Levy Invoice No LI0017 presented by Akarana Master Home Owners Association to Cosmodor Five (Pty) Ltd	01/09/2003	C
6.	Levy Invoice No LI0159 presented by Akarana Master Home Owners Association to Cosmodor Five (Pty) Ltd	29/02/2004	C
7.	Levy Invoice LI0713 presented by Akarana Homeowners Association to Sante Winelands Body Corporate c/o the Trustees	01/02/2007	C
8.	Levy Invoice LI0630 presented by Akarana Homeowners Association to Sante Winelands Body Corporate c/o the Trustees	01/02/2007	C
9.	Levy Invoice LI0631 presented by Akarana Homeowners Association to Sante Winelands Body Corporate c/o the Trustees	01/02/2007	C
10.	LBV & Akarana Loan and Special Levy Accounts	01/03/2008 – 29/02/2016	C
11.	LBV Winery Estate Property Customer Detailer Ledger 01/03/2008 to 28/02/2009 in respect of the Kellerman Family Trust	02/07/2009	C



12.	LBV Winery Estate Property Customer Detailer Ledger 01/03/2008 to 30/06/2009 in respect of the Kellerman Family Trust	02/07/2009	C
13.	Akarana Master Home Owners Customer Detailer Ledger 01/03/2008 to 28/02/2009 in respect of the Kellerman Family Trust	02/07/2009	C
14.	Akarana Master Home Owners Customer Detailer Ledger 01/03/2008 to 30/06/2009 in respect of the Kellerman Family Trust	02/07/2009	C
15.	LBV documents, 2010 AGM, LBV Ballets and AMHA Ballets	2010	C
16.	Akarana Master Home Owners Association Chairman's Report November 2010	November 2010	C
17.	Chronological Sequence of Events by Bruce Glazer Chairman of Akarana Home Owners Association	28/12/2011	C
18.	Statement issued by Akarana Master Home Owners Association in respect of Account Number 020	02/02/2015	C
19.	Credit Note CRN06 issued by Akarana Master Home Owners Association	31/01/2015	C
20.	Levy Invoice No 17151 presented by Akarana Master Home Owners Association	31/01/2015	C
21.	Curators Notice to Buyers	07/10/2016	C
22.	Conditions of Sale of Immovable Property known as Villa Tierkloof, Portion 50 of Farm 791, Simonsvlei	01/12/2016	C
23.	Deed of Transfer T14241/2017 for Red Line Investments 20 CC including annexures	21/08/2017	C



	thereto		
24.	Deeds Office Search on Portion 51, Farm 791, Simons Vlei	05/03/2018	C
25.	Deeds Office Search on Portion 39, Farm 791, Simons Vlei	05/03/2018	C
26.	Deeds Office Search on Portion 38, Farm 791, Simons Vlei	12/10/2018	C
27.	Deeds Office Search on Portion 48, Farm 791, Simons Vlei	01/12/2020	C
28.	Deeds Office Search on Portion 56, Farm 791, Simons Vlei	01/12/2020	C
29.	Community Schemes Ombud Service Application for Dispute Resolution Form together with Particulars of Application	10/05/2024	C



SCHEDULE B

1. Correspondence between attorney and client with confidential content for the purpose of obtaining legal advice in respect of matters in dispute and whether before, during or after the institution of proceedings in this action.
2. Statements of witnesses and reports which originated before, during or after the institution of this action and correspondence and documents in respect of evidence which is to be used and in respect of information which could lead to obtaining such evidence or which is otherwise intended for the purpose of prosecuting the action, which statements, reports, correspondence and documents are clearly privileged.
3. Plans, photographs, instructions to counsel, stated cases for opinion by counsel, notes and opinions in respect thereof with instructions, memoranda etc. which originated before or after the institution of this action, exclusively for the purpose of obtaining advice on behalf of or the furnishing of advice to the Plaintiffs and Plaintiffs' attorneys' legal advice in respect of this action which documents are clearly privileged.
4. All other documents and correspondence which originated to enable the Plaintiffs to institute or prosecute this action which documents and correspondence are obviously privileged in respect of this action.

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