

LA BELLA VITA WINE ESTATE PROPERTY OWNERS' ASSOCIATION

Constituted in terms of section 29 of the Land Use Planning Ordinance, No. 15 of 1985
(“Association”)

NOTICE OF SPECIAL GENERAL MEETING OF THE MEMBERS

NOTICE IS HEREBY GIVEN to the members of the Association that a special general meeting of the Association shall take place at the Entrance Security Office of La Bella Vita Wine Estate on Friday 17th March 2023 at **13H00** to consider, and if deemed fit, approve the matters set out hereunder.

ATTENDANCE VIA ELECTRONIC COMMUNICATION: Microsoft Teams / Zoom video conferencing facilities are available for members who wish to attend the meeting virtually. The Microsoft Teams / Zoom video link will be made available to members on request by email to ghindle@nuworld.co.za.

PURPOSE OF MEETING

The purpose of the special general meeting is to transact the business as set out in the Agenda annexed as **Annexure A** hereto.

PROXIES

1. Members entitled to attend and vote at the special general meeting may appoint a proxy to attend, speak and, vote at the meeting in their stead. A proxy need not be a member of the Association.
2. A form of proxy, which sets out the relevant instructions for its completion, is enclosed with this Notice for the use by any member who wishes to be represented by proxy at the meeting.
3. The proxy forms, duly completed and signed, must be deposited at the office of the Association at any time before the time appointed for the commencement of the meeting.
4. If the member is a company, the proxy may be signed by the chairperson of the board of directors of that company or by its secretary. If the member is an association of persons, the proxy may be signed by the secretary thereof.

ATTENDANCE AND QUORUM

In terms of clause 18 of the constitution of the Association, a special general meeting of the members may not begin, and no business may be transacted thereat, unless (i) members representing at least 50% of the total votes of all members of the Association entitled to vote are present at the meeting, in person or by proxy, and (ii) not less than 3 members are personally present at the meeting.

RESOLUTIONS AND VOTING

1. All resolutions tabled at the special general meeting may be passed with or without modification.

2. Each member present at the meeting, in person or proxy, is entitled to exercise **one vote** for each Unit Erf registered in its name. If an Erf Unit is registered in the name of more than one person, then all such co-owners shall jointly have one **vote**.
3. Resolutions put to the vote at the meeting shall be decided on a **show of hands**, unless a poll is demanded by any member entitled to vote at the meeting.
4. Every resolution, and every amendment of a resolution, proposed for adoption by the meeting shall be **seconded** at the meeting. If not so seconded, the resolution shall be deemed not to have been proposed.
5. An ordinary resolution of the members shall be carried on a simple majority of all the votes cast thereon, and an abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, the chairperson of the meeting shall be entitled to a casting vote in addition to his or her deliberative vote.
6. A special resolution of the members shall be passed on the affirmative vote of not less than three fourths of the total members present, in person or by proxy, at the quorate meeting.

ANNEXURES TO THIS NOTICE

Annexure A: Agenda

Annexure B: Notice of Application

Annexure C: Form of Proxy

BY ORDER OF:

Full name: G R HINDLE

Date: 24TH FEBRUARY 2023

AGENDA

Constitution of Meeting

1. Welcome
2. Attendances, Proxies and Apologies
3. Quorum
4. Meeting Duly Constituted

Resolutions

Special Resolution 1

RESOLVED THAT all defects, if any, in the giving of notice and/or the convening the Special General Meeting of the Association be and are hereby ratified.

The reason for Special Resolution 1 is to ratify any defects pertaining to the calling of this Special General Meeting by the members of the Association, instead of the Trustee Committee.

Special Resolution 2

RESOLVED THAT the Association shall not oppose the application made to join the Association as the thirty-fourth defendant in the action instituted by Andre Van Der Westhuizen and others against Akarana and the members thereof in the Western Cape High Court, under case number 11867/2020, in relation to the challenge to the validity of the various Akarana Home Owner's Association Constitutions.

Special Resolution 3

RESOLVED THAT in the event of the Association being joined to the action, instituted by Andre Van Der Westhuizen and others against Akarana and the members thereof in the Western Cape High Court, under case number 11867/2020, in relation to the challenge to the validity of the various Akarana Home Owner's Association Constitutions, the Association shall oppose the relief, which is being claimed in this regard.

Special Resolution 4

RESOLVED THAT in the event of the Association being joined to the action, instituted by Andre Van Der Westhuizen and others against Akarana and the members thereof in the Western Cape High Court, under case number 11867/2020, in relation to the challenge to the validity of the various Akarana Home Owner's Association Constitutions and resolving not to oppose the relief, which is being claimed, that the Association shall abide by the court's decision in such action.

Matters Arising

5. Matters arising
6. Close Meeting

“F”

ANNEXURE C

FORM OF PROXY

To be completed by the members of

LA BELLA VITA WINE ESTATE PROPERTY OWNERS' ASSOCIATION

(“Association”)

I/We _____

(Insert name in block capitals)

of

(insert address in block capitals)

being the registered owner of Erf / Erven Unit/s _____ *(insert description of Erf Units)* in La Bella Vita Wine Estate and accordingly entitled to _____ vote(s) at any general meeting of the members of the Association, hereby appoint

Full name of proxy: _____

Identity number of proxy: _____

as my/our proxy to vote for me/us on my/our behalf at the Special General Meeting of members of the Association to be held on **Friday 17th March 2023 at 13h00**, in respect of the following resolutions, with or without modification:

	Vote in favour of	Vote against	Abstain
SPECIAL RESOLUTION 1 All defects (if any) in the notice convening the Special General Meeting are ratified.			
SPECIAL RESOLUTION 2 The Association shall not oppose the application made to join the Association as the thirty-fourth defendant.			

	Vote in favour of	Vote against	Abstain
SPECIAL RESOLUTION 3 In the event of the Association being joined to the action (under case number 11876/2020), the Association shall oppose the relief, which is being claimed in this regard.			
SPECIAL RESOLUTION 4 In the event of the Association being joined to the action (under case number 11876/2020), resolved not to oppose the relief, which is being claimed, that the Association shall abide by the court's decision in such action.			

(Place X in appropriate boxes)

My/our proxy has been instructed to vote in accordance with my / our wishes as indicated by the placing of a cross in the appropriate space above. Unless so instructed, my / our proxy may vote as he/she thinks fit.

Signed at _____ this _____ day of _____ 202____.

Signature/s of Member/s

E-mail address :

Telephone:

Notes to the form of proxy

- A Member entitled to attend and vote at the special general meeting is entitled to appoint a proxy to attend and vote in his stead. A proxy need not be a member of the Association.
- All proxy forms or other instruments of authority must be deposited with the Association at ghindle@nuworld.co.za or personally to Graham Hindle before the time appointed for the commencement of the meeting.

Subject: Re: NOTICE OF SPECIAL GENERAL MEETING OF MEMBERS OF LBV POA REGARDING JOINING APPLICATION

Date: Wednesday, 15 March 2023 at 11:06:40 South Africa Standard Time

From: Graham Hindle

To: dzhcmare@gmail.com, fransjohan@fjd.co.za, dzhcmare@gmail.com, zania.kellerman@gmail.com, Andre van der Westhuizen, mmckinnon@seeffadmin.co.za, cwitbooi@seeffadmin.co.za, Samuel Seeff, Kevin Douglas, Guy Doug, Belstead, Edward, Elsabe, Breda van Niekerk, breda@vanfam.co.za, Kobus Pienaar, theoinsa@gmail.com, Laurent Mauger, Laurent Mauger, peter@aldera.co.za, Mark Sonik, willem@rukou.co.za, lise, Lise Liebenburg, Jadrick Coetzee, Ingrid Hindle

CC: Zerlinda | TVDM Consultants, Antony Arvan, Riaan Meintjes, Samantha Frost

To All Homeowners

To avoid any confusion, the below SGM scheduled for 17th March 2023 at 13H00 will proceed as scheduled.

We are of the view that given the nature of the issue to be voted upon, that an **ordinary resolution is required and not a special resolution**, which will mean that a majority vote will approve the resolution. Should anyone have any objection thereto, please could you advise me accordingly.

Regards Graham Hindle

From: Graham Hindle <ghindle@nuworld.co.za>

Date: Friday, 24 February 2023 at 15:28

To: "dzhcmare@gmail.com" <dzhcmare@gmail.com>, "fransjohan@fjd.co.za" <fransjohan@fjd.co.za>, "dzhcmare@gmail.com" <dzhcmare@gmail.com>, "zania.kellerman@gmail.com" <zania.kellerman@gmail.com>, Andre van der Westhuizen <andrev@emeraldlife.co.za>, "mmckinnon@seeffadmin.co.za" <mmckinnon@seeffadmin.co.za>, "cwitbooi@seeffadmin.co.za" <cwitbooi@seeffadmin.co.za>, Samuel Seeff <samuels@seeff.com>, Kevin Douglas <kd@wpc.co.za>, Guy Doug <guyddoug@gmail.com>, "Belstead, Edward" <Ed.Belstead@kpmg.co.za>, Elsabe <elsabe@vanfam.co.za>, Breda van Niekerk <breda@bestcase.co.za>, Breda van Niekerk <breda@vanfam.co.za>, Kobus Pienaar <jpienaar@pepkor.co.za>, Theo Du Toit <theoinsa@gmail.com>, Laurent Mauger <laurent@cosmaperfumes.com>, Laurent Mauger <laurentmauger@icloud.com>, "peter@aldera.co.za" <peter@aldera.co.za>, Mark Sonik <mark@spica.co.za>, Willem Hanekom <willem@rukou.co.za>, lise <lise@labellavitastudios.co.za>, Lise Liebenburg <lise@bugz.co.za>, Jadrick Coetzee <jadrick@bugz.co.za>, Ingrid Hindle <Ingridh@santeretreat.co.za>

Subject: NOTICE OF SPECIAL GENERAL MEETING OF MEMBERS OF LBV POA REGARDING JOINING APPLICATION

To All Homeowners

1. I wish to confirm that on 14 February 2023, an application, dated 6 February 2023, was served on behalf of Andre van der Westhuizen and other applicants, namely Kellerman Family Trust, Dietlof Mare and Henriette Mare (the applicants/plaintiffs), by Hayes Inc, in relation to the action, which they instituted against Akarana and other owners regarding the validity of the various Akarana Master Home Owner's Association Constitutions, in Case No. 11867/2020.
2. In terms of the abovementioned application, the applicants/plaintiffs are seeking an order to join La Bella Vita Wine Estate Property Owner's Association as the thirty-fourth defendant in the matter.
3. The application to join has been made as a consequence of Akarana and the other opposing defendants having specifically raised, as one of the technical defences to the manner in which the claim has been formulated, that LBV should have been joined as a party to the proceedings due to its interest in the matter.



**PURPORTED TRUSTEES OF
THE LA BELLA VITA PROPERTY
OWNERS' ASSOCIATION**

Our Reference:
Reply to Email:
Your Reference:

R Meintjes / HR931
samantha@themis.co.za
LBV POA

Date:

14 March 2023

By Email: ghindle@nuworld.co.za;
quyddoug@gmail.com; peter@aldera.co.za

Dear Sirs

**LA BELLA VITA PROPERTY OWNERS' ASSOCIATION: SPECIAL GENERAL MEETINGS, 17
MARCH 2023**

1. The proposed special general meetings of the members of the La Bella Vita Property Owners' Association scheduled to be held at 13h00 and at 15h00 on 17 March 2023 refer.
2. As you know, we act on the instructions of Mr Andre van der Westhuizen, the registered owner of Portion 57 of Farm 791, Simonsvlei. By virtue of his ownership of Portion 57, we confirm that our client is a member of the La Bella Vita Property Owners' Association ("**LBV POA**").
3. We hold instructions to request that the following resolutions be tabled at the special general meeting of the members of the La Bella Vita Property Owners' Association scheduled for 13h00 on 17 March 2023:

3.1. Proposed Special Resolution 5:

The members' right to receive the notice period referred to in clause 16.1 of the LV POA Constitution concerning Proposed Ordinary Resolution 1 (referred to below) be waived and it is agreed that the Proposed Ordinary Resolution 1 be tabled and voted upon at the meeting.

HAYES INCORPORATED

T: +27 21 461 0123 F: +27 21 461 0128

Unit 1, Roeland Square, Corner of Roeland Street and Drury Lane, Cape Town, 8001

www.themislawchambers.co.za

Directors: Suma de Bruyn (BCom (Law) LLB H Dip (Tax)) / Jeanelize Fitzgerald (BA (Law) LLB H Dip (Tax)) / Judi Hayes (BA (Law) LLB)
Riaan Meintjes (B.Soc.SCI LLB MBA) / Farahnaaz Akherwaray (LLB) / Hugo van Heerden (BA (Law) LLB LLM) / Taryn Calmeyer (BJuris LLB)

Reg no: 2005/042622/21 Vat no: 4330225816

3.2. Proposed Ordinary Resolution 1:

That the special general meeting of the LBV POA members scheduled to take place at 15h00 on 17 March 2023 be postponed pending the POA's receipt of a final award in the arbitration proceedings instituted by Andre van der Westhuizen and in respect of which Advocate Liziwe Dzai has been appointed as the Arbitrator.

4. We look forward to hearing from you.

Yours sincerely



RIAAN MEINTJES
HAYES INCORPORATED

CC: ALL MEMBERS
La Bella Vita Property Owners' Association

Subject: NOTICE OF SPECIAL GENERAL MEETING OF MEMBERS OF LBV POA REGARDING JOINING APPLICATION

Date: Friday, 24 February 2023 at 15:28:27 South Africa Standard Time

From: Graham Hindle

To: dzhcmare@gmail.com, fransjohan@fjd.co.za, dzhcmare@gmail.com, zania.kellerman@gmail.com, Andre van der Westhuizen, mmckinnon@seeffadmin.co.za, cweitbooi@seeffadmin.co.za, Samuel Seeff, Kevin Douglas, Guy Doug, Belstead, Edward, Elsabe, Breda van Niekerk, breda@vanfam.co.za, Kobus Pienaar, theoinsa@gmail.com, Laurent Mauger, Laurent Mauger, peter@aldera.co.za, Mark Sonik, willem@rukou.co.za, lise, Lise Liebenburg, Jadrick Coetzee, Ingrid Hindle

Priority: High

Attachments: LBV Notice of SGM - 17th March 2023 JOINING APPLICATION REVISED.docx, NOTICE OF APPLICATION LBV.pdf

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2. In terms of the abovementioned application, the applicants/plaintiffs are seeking an order to join La Bella Vita Wine Estate Property Owner's Association as the thirty-fourth defendant in the matter.
3. The application to join has been made as a consequence of Akarana and the other opposing defendants having specifically raised, as one of the technical defences to the manner in which the claim has been formulated, that LBV should have been joined as a party to the proceedings due to its interest in the matter.
4. Given the far-reaching consequences of the above action and the costs associated therewith, as the trustees we believe that it would be prudent for the members to decide for themselves on whether to oppose the application and furthermore, if joined as a defendant to the proceedings, whether LBV should oppose the relief, which is being claimed by the plaintiffs or whether LBV should abide by the court's decision in the action.
5. Accordingly, notice is hereby given of a Special General Meeting to vote on the above issues in accordance with the attached Notice of Special General Meeting, which is to be held at **1:00pm on Friday 17 March 2023.**
6. Please find attached the Notice of Special General Meeting, Agenda and Proxy forms.
7. Please revert to me if you have any queries.

Regards Graham Hindle

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Regards Graham Hindle

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Subject: NOTICE OF SPECIAL GENERAL MEETING OF MEMBERS OF LBV POA REGARDING JOINING APPLICATION

To All Homeowners

1. I wish to confirm that on 14 February 2023, an application, dated 6 February 2023, was served on behalf of Andre van der Westhuizen and other applicants, namely Kellerman Family Trust, Dietlof Mare and Henriette Mare (the applicants/plaintiffs), by Hayes Inc, in relation to the action, which they instituted against Akarana and other owners regarding the validity of the various Akarana Master Home Owner's Association Constitutions, in Case No. 11867/2020.
2. In terms of the abovementioned application, the applicants/plaintiffs are seeking an order to join La Bella Vita Wine Estate Property Owner's Association as the thirty-fourth defendant in the matter.
3. The application to join has been made as a consequence of Akarana and the other opposing defendants having specifically raised, as one of the technical defences to the manner in which the claim has been formulated, that LBV should have been joined as a party to the proceedings due to its interest in the matter.

4. Given the far-reaching consequences of the above action and the costs associated therewith, as the trustees we believe that it would be prudent for the members to decide for themselves on whether to oppose the application and furthermore, if joined as a defendant to the proceedings, whether LBV should oppose the relief, which is being claimed by the plaintiffs or whether LBV should abide by the court's decision in the action.
5. Accordingly, notice is hereby given of a Special General Meeting to vote on the above issues in accordance with the attached Notice of Special General Meeting, which is to be held at **1:00pm on Friday 17 March 2023**.
6. Please find attached the Notice of Special General Meeting, Agenda and Proxy forms.
7. Please revert to me if you have any queries.

Regards Graham Hindle



9 February 2023

Mr. Riaan Meintjes

Per email: riaan@themis.co.za

Dear Riaan

RE: OUR CLIENTS: THE TRUSTEES OF LA BELLA VITA PROPERTY OWNERS ASSOCIATION ("LBV POA") // YOUR CLIENT: MR. A. VAN DER WESTHUIZEN

1. Thank you for your letter, dated 2 February 2023, and request for a reply yesterday, 8 February 2023. In this regard, we thank you for the brief extension to allow the Trustees to consider this reply.
2. We have consulted with the Trustees of LBV POA, and in particular Mr. Graham Hindle, who chaired the special general meeting ("SGM") referenced in your letter, and who held the proxies currently under dispute.
3. It is our instructions that you have had sight of the completed proxy forms, upon request of another member within the POA, as per the email thread upon which your aforementioned letter was sent, and can note the written instructions given by owners to Mr. Hindle, as proxy holder. We note that Mr. Hindle further sent the proxies to you directly today.
4. At no stage before, during or after the SGM, were the aforementioned instructions altered or withdrawn by the respective owners, who have confirmed this statement. It is noted that you mention that the SGM was adjourned for a short while, and we confirm that during this time, Mr. Hindle engaged with a couple of the attendees, and not with the owners he represented in regard to a potential alteration of their instructions.
5. As such, Mr. Hindle could only exercise the vote as instructed, which he did not do, hence invalidating the votes cast by him on behalf of the proxies he held, and the outcome of the voting accordingly.
6. We note that you state that as no objections were tabled at the time of the announcement of the vote by Mr. Hindle, the outcome cannot be altered or challenged following the SGM. This is not a correct interpretation, and one should be aware that the outcome of any vote taken at an SGM or AGM within a community scheme may most certainly be challenged via the Community Schemes Ombud Service.



7. The above being noted, it is the responsibility of the chairperson to ensure that the meeting is conducted in terms of the constitution of the POA and the Common Law of Meetings. It is incorrect to reference the Companies Act as the POA is not an NPC or section 21 Company.
8. It is further the responsibility of the chairperson, in the absence of a managing agent who is delegated the duty, to ensure that the votes cast at the meeting is correct and in line with the attendance register and proxies, and that quorum was met and members entitled to vote had done so.
9. To hold the chairperson to an outcome announced at the meeting, with no reference to the proxy forms, and then to obstruct any challenge to the voting outcome is unreasonable, and contrary to the Practice Directives of the Community Schemes Ombud Service ("CSOS"), and the aforementioned legislation. To this end, the CSOS has made it abundantly clear that in community schemes the chairperson or trustees can not be the "final arbiter".
10. Further, the Trustees are entitled to call an SGM in their discretion and when they deem fit. It is correct that the Trustees wish to table the failed resolutions again, and despite a dispute in regard to the interpretation as to whether the outcome was correct or not, the Trustees may proceed to do so.
11. The above being noted, the SGM called, will be cancelled by the Trustees due to the lack of adequate notice period. However, it will be in the members' best interest to review the proposed resolution/s and reasons therefore, and to partake in the SGM, to be called and convened.
12. We note your argument as to a show of hands, and disagree vehemently that such a method of voting can only be exercised for those owners present personally, with the view to exclude or disqualify a vote cast on behalf of an owner not present, but represented by proxy. Such owners are deemed to be present, count towards the quorum, and may partake in the discussion and vote, via their appointed proxy, acting on their mandate. Again, the constitution cannot be interpreted in accordance with the Companies Act. Further, to attempt to exclude any member, who has validly appointed a proxy to represent them at such a meeting, is definitely not the correct interpretation of, and/or reading into, the constitution.
13. We request that you engage with your client and encourage attendance at the upcoming SGM, once called, failing which, we encourage you to approach, on behalf of your client, the correct forum to resolve this dispute.



14. Kindly note that it is the Trustees intention to resolve this matter amicably, and if further legal action can be avoided, it will be in the best interests of the parties.

Yours faithfully,

Zerlinda van der Merwe BA Law LLB LLM (Cum Laude) (Stell.)
Co-Founder | Director



DRAFT.

8 February 2023

Mr. Riaan Meintjes

Per email: riaan@themis.co.za

Dear Riaan

RE: OUR CLIENTS: THE TRUSTEES OF LA BELLA VITA PROPERTY OWNERS ASSOCIATION ("LBV POA") // YOUR CLIENT: MR. A. VAN DER WESTHUIZEN

1. Thank you for your letter, dated 2 February 2023, and request for a reply today, 8 February 2023. In this regard, I refer to my email correspondence earlier today, requesting a brief extension to allow the Trustees to consider this reply.
2. We have consulted with the Trustees of LBV POA, and in particular Mr. Graham Hindle, who chaired the special general meeting ("SGM") referenced in your letter, and who held the proxies under dispute.
3. It is our instructions that you have had sight of the completed proxy forms, upon request of another member within the POA, and can note the written instructions given by owners to Mr. Hindle, as proxy holder.
4. At no stage before, during or after the SGM, were the aforementioned instructions altered or withdrawn by the respective owners, who have confirmed this statement.
5. As such, Mr. Hindle could only exercise the vote instructed, which he did not do, hence invalidating the votes cast and the outcome of the voting.
6. We note that you state that as no objections were tabled at the time of the announcement of the vote, the outcome cannot be altered or be challenged following the SGM. This is not a correct interpretation, and one should be aware that the outcome of any vote taken at an SGM or AGM within a community scheme may most certainly be challenged via the Community Schemes Ombud Service.
7. The above being noted, it is the responsibility of the chairperson to ensure that the meeting is conducted in terms of the constitution of the POA and the Common Law of Meetings. It is incorrect to reference the Companies Act as the POA is not an NPC or section 21 Company.



8. It is further the responsibility of the chairperson, in the absence of a managing agent who is delegated the duty, to ensure that the votes cast at the meeting is correct and in line with the attendance register and proxies, and that quorum was met and members entitled to vote had done so.
9. To hold the chairperson to an outcome announced at the meeting, with no reference to the proxy forms, and then to obstruct any challenge to the voting outcome is unreasonable.
10. Further, the Trustees are entitled to call an SGM in their discretion and when they deem fit. It is correct that the Trustees wish to table the failed resolutions again, and despite a dispute in regard to the interpretation as to whether the outcome was correct or not, the Trustees may proceed.
11. The above being noted, it will be in the members' best interest to review the proposed resolution/s and reasons therefore, and to partake in the SGM, called and to be convened.
12. We note your argument as to a show of hands, and whilst we do not disagree that the constitution provides for this method, it most certainly does not exclude or disqualify a vote cast on behalf of an owner not present, but represented by proxy. Such owners are deemed to be present, count towards the quorum, and may partake in the discussion and vote, via their appointed proxy, acting on their mandate.
13. To attempt to exclude any member, who has validly appointed a proxy to represent them at such a meeting, is definitely not the correct interpretation of the constitution.
14. We request that you engage with your client and encourage attendance at the upcoming SGM, failing which, we encourage you to approach, on behalf of your client, the correct forum to resolve this dispute.

Yours faithfully,

Zerlinda van der Merwe BA Law LLB LLM (Cum Laude) (Stell.)
Co-Founder | Director

Graham Hindle

From: Graham Hindle
Sent: 31 January 2023 02:12 PM
To: dzhcmare@gmail.com; fransjohan@fjd.co.za; dzhcmare@gmail.com; zania.kellerman@gmail.com; Andre van der Westhuizen; mmckinnon@seeffadmin.co.za; cwitbooi@seeffadmin.co.za; Samuel Seeff; Kevin Douglas; Guy Doug; Belstead, Edward; Elsabe; Breda van Niekerk; breda@vanfam.co.za; Kobus Pienaar; theoinsa@gmail.com; Laurent Mauger; Laurent Mauger; peter@aldera.co.za; Mark Sonik; willem@rukou.co.za; lise; Lise Liebenburg; Jadrick Coetzee; Ingrid Hindle
Subject: NOTICE OF SPECIAL GENERAL MEETING OF MEMBERS OF LBV POA
Attachments: LBV Notice of SGM - 17th February 2023.docx

To All Homeowners

Further to my email dated today, advising of the incorrect voting of the chairman exercised as proxy holder, please find attached the Notice of Special General Meeting of Members of LBV POA to be held at 15H00 on Friday 17th February 2023.

All supporting documents and annexures are attached to this email and sent out with previous SGM Notice of 27th January 2023 (from Hayes Incorporated and Andre van der Westhuizen)

I apologise for the misunderstanding of me as proxy holder.

Regards Graham

LA BELLA VITA WINE ESTATE PROPERTY OWNERS' ASSOCIATION

Constituted in terms of section 29 of the Land Use Planning Ordinance, No. 15 of 1985

(**“Association”**)

NOTICE OF SPECIAL GENERAL MEETING OF THE MEMBERS

NOTICE IS HEREBY GIVEN to the members of the Association that a special general meeting of the Association shall take place at the Entrance Security Office of La Bella Vita Wine Estate on Friday 17th February 2022 at 15H00 to consider, and if deemed fit, approve the matters set out hereunder.

ATTENDANCE VIA ELECTRONIC COMMUNICATION: Microsoft Teams / Zoom video conferencing facilities are available for members who wish to attend the meeting virtually. The Microsoft Teams / Zoom video link will be made available to members on request by email to ghindle@nuworld.co.za.

PURPOSE OF MEETING

The purpose of the special general meeting is to transact the business as set out in the Agenda annexed as **Annexure A** hereto.

PROXIES

1. Members entitled to attend and vote at the special general meeting may appoint a proxy to attend, speak and, vote at the meeting in their stead. A proxy need not be a member of the Association.
2. A form of proxy, which sets out the relevant instructions for its completion, is enclosed with this Notice for the use by any member who wishes to be represented by proxy at the meeting.
3. The proxy forms, duly completed and signed, must be deposited at the office of the Association at any time before the time appointed for the commencement of the meeting.
4. If the member is a company, the proxy may be signed by the chairperson of the board of directors of that company or by its secretary. If the member is an association of persons, the proxy may be signed by the secretary thereof.

ATTENDANCE AND QUORUM

In terms of clause 18 of the constitution of the Association, a special general meeting of the members may not begin, and no business may be transacted thereat, unless (i) members representing at least 50% of the total votes of all members of the Association entitled to vote are present at the meeting, in person or by proxy, and (ii) not less than 3 members are personally present at the meeting.

RESOLUTIONS AND VOTING

1. All resolutions tabled at the special general meeting may be passed with or without modification.

2. Each member present at the meeting, in person or proxy, is entitled to exercise **one vote** for each Unit Erf registered in its name. If an Erf Unit is registered in the name of more than one person, then all such co-owners shall jointly have one **vote**.
3. Resolutions put to the vote at the meeting shall be decided on a **show of hands**, unless a poll is demanded by any member entitled to vote at the meeting.
4. Every resolution, and every amendment of a resolution, proposed for adoption by the meeting shall be **seconded** at the meeting. If not so seconded, the resolution shall be deemed not to have been proposed.
5. An ordinary resolution of the members shall be carried on a simple majority of all the votes cast thereon, and an abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, the chairperson of the meeting shall be entitled to a casting vote in addition to his or her deliberative vote.
6. A special resolution of the members shall be passed on the affirmative vote of not less than three fourths of the total members present, in person or by proxy, at the quorate meeting.

ANNEXURES TO THIS NOTICE

Annexure A: Agenda

Annexure B: Loan Agreement – sent out with SGM Notice 27th January 2023

Annexure C: Form of Proxy

BY ORDER OF:

Full name: G R HINDLE

Date: 31ST JANUARY 2023

AGENDA

Constitution of Meeting

1. Welcome
2. Attendances, Proxies and Apologies
3. Quorum
4. Meeting Duly Constituted

Resolutions

Special Resolution 1

RESOLVED THAT all defects, if any, in the giving of notice and/or the convening the Special General Meeting of the Association be and are hereby ratified.

The reason for Special Resolution 1 is to ratify any defects pertaining to the calling of this Special General Meeting by the members of the Association, instead of the Trustee Committee.

Special Resolution 2

RESOLVED THAT the Association shall acquire for nominal value and take transfer of Portions 60, 61 and 63 of Farm Simonsvlei No. 791, Paarl Division, Western Cape Province, from Fundeals Sixteen (Pty) Ltd (in liquidation).

The reason for Special Resolution 2 is to authorise the acquisition by the Association of the private open spaces of La Bella Vita Wine Estate from the former developer of the Estate.

Special Resolution 3

RESOLVED THAT the Association may enter into and implement a loan agreement with Andre van der Westhuizen (or his duly appointed nominee), on the terms set out in the draft loan agreement circulated to members as Annexure B to the Notice convening the Special General Meeting, in terms whereof Andre van der Westhuizen or his nominee advances a loan to the Association for purposes of funding the following costs on behalf of the Association:

- (a) the costs of reinstating the registration of Fundeals Sixteen (Pty) Ltd;
- (b) the transfer costs necessary to procure the registration of Portions 60, 61 and 63 of Farm Simonsvlei No. 791 ("the common properties"), into the name of the Association;
- (c) the legal costs associated with the advice given and services rendered by Bowmans Attorneys to the liquidators of Fundeals Sixteen (Pty) Ltd concerning the reinstatement of Fundeals Sixteen (Pty) Ltd and the transfer of the common properties;
- (d) the legal costs associated with the advice given and services to be rendered to Andre van der Westhuizen by Hayes Incorporated with regard to the reinstatement of Fundeals Sixteen (Pty) Ltd, the preparation of the loan agreement between the Association and Andre van der Westhuizen (or his nominee) and the transfer of the common property.

The reason for Special Resolution 3 is to authorise the conclusion of a loan agreement between the Association and Andre van der Westhuizen (or his nominee) for purposes of funding the costs necessary to facilitate the Association's acquisition of the private open spaces of La Bella Vita Wine Estate, including the reinstatement of Fundeals Sixteen (Pty) Ltd, which was deregistered by the Companies and Intellectual Property Commission, and the legal costs incurred by the liquidators of Fundeals Sixteen (Pty) Ltd in relation thereto.

Special Resolution 4

RESOLVED THAT the Trustee Committee of the Association is authorised and directed to raise a special levy on the members of the Association in an amount sufficient to fund the repayment by the Association of the loan advanced by Andre van der Westhuizen (or his nominee) in accordance with the terms of the loan agreement referred to in Special Resolution 3.

The reason for Special Resolution 4 is to authorise the imposition of a special levy for the purposes of funding the Association's repayment of the loan advanced to the Association by Andre van der Westhuizen (or his nominee).

Ordinary Resolution 1

RESOLVED THAT Mark Sonik be and is hereby authorised to sign all transfer documents on behalf of the Association and to do all such things as may be necessary or requisite to give effect to the transfer of Portions 60, 61 and 63 of Farm Simonsvlei No. 791 to the Association, and all such acts taken by Mark Sonik for this purpose be and are hereby approved and ratified.

The reason for Ordinary Resolution 1 is to appoint Mark Sonik as the authorised signatory of the Association for purposes of executing the transfer documents required to effect the transfer of the private open spaces of La Bella Vita Wine Estate to the Association.

Ordinary Resolution 2

RESOLVED THAT Mark Sonik be and is hereby authorised to sign the loan agreement between the Association and Andre van der Westhuizen (or his nominee) referred to in Special Resolution 3, on behalf of the Association and to do all such things as may be necessary or requisite to give effect to and implement the said loan agreement, and all such acts taken by Mark Sonik for this purpose be and are hereby approved and ratified.

The reason for Ordinary Resolution 2 is to appoint Mark Sonik as the authorised signatory of the Association for purposes of executing and implementing the loan agreement between the Association and Andre van der Westhuizen (or his nominee).

Matters Arising

5. Matters arising
6. Close Meeting

“F”

ANNEXURE C

FORM OF PROXY

To be completed by the members of

LA BELLA VITA WINE ESTATE PROPERTY OWNERS' ASSOCIATION

(“Association”)

I/We _____

(Insert name in block capitals)

of

(insert address in block capitals)

being the registered owner of Erf / Erven Unit/s _____ *(insert description of Erf Units)* in La Bella Vita Wine Estate and accordingly entitled to _____ vote(s) at any general meeting of the members of the Association, hereby appoint

Full name of proxy: _____

Identity number of proxy: _____

as my/our proxy to vote for me/us on my/our behalf at the Special General Meeting of members of the Association to be held on _____ 2023 at ____h00, in respect of the following resolutions, with or without modification:

	Vote in favour of	Vote against	Abstain
SPECIAL RESOLUTION 1 All defects (if any) in the notice convening the Special General Meeting are ratified.			
SPECIAL RESOLUTION 2 The approval of the acquisition by the Association of Portions 60, 61 and 63 of Farm Simonslvei No. 791, Paarl, from Fundeals Sixteen (Pty) Ltd (in liquidation) at nominal value.			

	Vote in favour of	Vote against	Abstain
SPECIAL RESOLUTION 3 The Association is authorised to enter into a loan agreement with its member, Andre van der Westhuizen (or his nominee), for purposes of financing various costs relating to the transfer of Portions 60, 61 and 63 of Farm Simonslvei No. 791 to the Association.			
SPECIAL RESOLUTION 4 The Trustee Committee of the Association is authorised and directed to raise a special levy on members of the Association for the purpose of funding the repayment of the loan referred to in Special Resolution 3			
ORDINARY RESOLUTION 1 Mark Sonik be and is authorised to sign all transfer documents on behalf of the Association to give effect to the transfer of Portions 60, 61 and 63 of Farm Simonslvei No. 791 to the Association.			
ORDINARY RESOLUTION 2 Mark Sonik be and is authorised to sign the loan agreement referred to in Special Resolution 3 on behalf of the Association.			

(Place X in appropriate boxes)

My/our proxy has been instructed to vote in accordance with my / our wishes as indicated by the placing of a cross in the appropriate space above. Unless so instructed, my / our proxy may vote as he/she thinks fit.

Signed at _____ this _____ day of _____ 202____.

Signature/s of Member/s

E-mail address :

Telephone:

Notes to the form of proxy

- A Member entitled to attend and vote at the special general meeting is entitled to appoint a proxy to attend and vote in his stead. A proxy need not be a member of the Association.
- All proxy forms or other instruments of authority must be deposited with the Association at _____ before the time appointed for the commencement of the meeting.