

26778 Land Claim Action Group

CONSTITUTION

AS ADOPTED AT A SPECIAL GENERAL MEETING

HELD ON 21ST OCTOBER 2004

1. NAME

- 1.1. The name of the organisation shall be the 26778 Land Claim Action Group. Hereinafter referred to as the LCAG.
- 1.2. The group is so named as the result of the Government Gazette Notice 26778 of the 17th September 2004 wherein the following ten farms in the Broederstroom area of the North West Province were gazetted in terms of the Restitution of Lands Act 22 of 1994 (as amended):
Broederstroom 481 JQ : Leeuwenkloof 480 JQ : Hartbeeshoek 498 JQ : Welgegund 491 JQ : Weldaba 567 JQ. Petit Mont Rouge 479 JQ : Hartebeeshoek 502 JQ : Kaffirskraal 501 JQ : Oplug Museum 564 JQ : Praetors Ride 562 JQ .

2. PURPOSE OF THE ORGANISATION

The purpose of the LCAG shall be:

- 2.1. To form a representative organisation from the landowning community who own various portions of the farms gazetted in terms of Government Gazette Notice 26778 of the 17th September 2004.
- 2.2. Having formed the organisation elect a representative Committee, The 26778 Land Claim Action Committee, hereinafter referred to as the Committee.
- 2.3. By way of meetings and other agreed mechanisms, mandate this Committee to pursue the Objectives detailed in Section 3, OBJECTIVES, contained in this constitution.

3. OBJECTIVES

The OBJECTIVES of the LCAG shall be:

- 3.1. Object to the Land Claim and in so doing establish the basis of claim, and where necessary and in the context of due process provided for in the Act, determine the validity of the claim. Further to either accept or oppose the claim, and as a result of this decision facilitate due process as envisaged by the Act, and as deemed appropriate by a majority of the members of the LCAG.
- 3.2. Engage Legal Representation and other such expertise as may be necessary in pursuit of the above.
- 3.3. Create a secretariat wherein all Land Owners affected by the claim will have a central information point.
- 3.4. Engage all stakeholders and interested and affected parties (I&AP's), who are not landowners, with a view to proactive engagement whilst informing them of the status of the claim.
- 3.5. Raise the necessary funds to pursue the running of this organisation and to enable pursuit of any process necessary to protect the members' interests.
- 3.6. To do all such other lawful things that are necessary to protect the rights and interests of both the organisation and the members of the LCAG

4. MEMBERSHIP

- 4.1. Any person or entity that owns one or more portions or subdivisions of the four farms as per 1.1 shall be entitled to membership of the LCAG.

- 4.2. It shall be a condition of membership that any member as described above will have registered with LCAG either in person, by post or electronically and further that their membership has been recorded on the register maintained by the LCAG.
- 4.3. The responsibility for ensuring that members' details are recorded on the LCAG register shall be that of the member and not that of LCAG.
- 4.4. Where ownership is not vested in a natural person, these entities may nominate ONE representative per property owned, to act on their behalf. The nomination of the representative shall be in writing. A condition of membership shall be the recording of both the name of the owning entity, and the name of the representative on the LCAG members list.
- 4.5. For the purposes of the founding general meeting condition 4.4 above may be waived, provided that the representative declares their position to the membership registration officials. This shall be the only relaxation of rule 4.4. All members who make use of this waiver are required to formalise membership in terms of rule 4.4 within twenty-one (21) days of the founding general meeting.
- 4.6. Where non-landowners seek membership of the LCAG, the committee shall have the sole right to either accept or reject these applications as they see fit. Where non-land owners are accepted as members, they shall be entitled to participate in all the affairs of the LCAG. However, non-land owning members shall be specifically excluded from voting on any matters of business deemed necessary for the purposes of running the LCAG.
- 4.7. Owners of a business that are formally registered and which operate within the claim area shall be entitled to membership, providing that the owner has NOT registered on account of ownership of land. Business members shall be entitled to participate in all the affairs of the LCAG, and shall have normal voting rights.
- 4.8. Any registered member shall cease to be a member once they are no longer the registered owner of any portion of land found within the four farms identified in the "purpose of organisation" preamble. Where an entity, and not a natural person, is the registered member, representative membership shall cease upon notification by the entity that the representative no longer represents their interests, or that the entity has disposed of their land.

5. Committees and Appointments

- 5.1. At the founding meeting of the LCAG, the members will be required to elect a representative committee. This committee shall comprise eight (8) representatives as follows:
 - 5.1.1. Four general representatives from within the membership.
 - 5.1.2. Four farm representatives, one for each of the farms;
Broederstroom 481 JQ : Leeuwenkloof 480 JQ : Hartbeeshoek 498 JQ : Welgegund 491 JQ (including Weldaba 567 JQ)
- 5.2. The general representatives shall, at the founding meeting, be nominated from the floor. Each nomination will be seconded, and the LCAG shall record these nominations.
 - 5.2.1. Voting shall be by a "show of hands".
 - 5.2.2. Where more than four nominations are received the four nominees who receive the most votes, by a simple majority, shall be elected
- 5.3. Four representatives, one for each farm, shall be voted as follows:
 - 5.3.1. Each farm area will nominate a representative. At the founding general meeting, nominations will be accepted from the floor. Each nomination will be seconded, accepted by the nominee and the LCAG shall record these nominations
 - 5.3.2. Voting shall be by a "show of hands".
 - 5.3.3. Where more than one nomination for each farm is received, the nominee who secures the most votes, by a simple majority, shall be considered the elected representative.

- 5.4. Committee members, with the exception of the Chairman, will automatically retire after one term of office, namely five years.
 - 5.4.1. Committee members will retire in rotation, two of the general and two of the farm representatives retiring at each Annual General Meeting of the LCAG.
 - 5.4.2. At the first Annual General Meeting of the LCAG, following the Founding General Meeting, four of the Committee shall retire, namely two of the general and two of the farm representatives.
 - 5.4.3. The remaining four members shall retire at the second Annual General Meeting of the LCAG.
- 5.5. Once elected, the committee shall from within elect the following office bearers:
 - 5.5.1. A Chairman – who will stand for five years and then automatically retire. Upon retirement, the past Chairman will then automatically remain a committee member for a further term. The past Chairman will be eligible for re-election as the Chairman.
 - 5.5.2. A Vice-Chairman - who will stand for one year and then automatically retire but may be eligible for re-appointment.
 - 5.5.3. A Treasurer who will stand for one year and then automatically retire but may be eligible for re-appointment.
- 5.6. Committee Members and Office Bearers shall not be restricted to the number of terms they serve.
- 5.7. The Committee will appoint a Secretary from either within the Committee or from outside.

6. MEETINGS

- 6.1. The Annual General Meeting of Members shall be held within six months of the financial year-end each year.
- 6.2. At each Annual General Meeting the Committee shall submit a report and an audited income and expenditure account and balance sheet. These documents shall be circulated to all members prior to the Annual General Meeting.
- 6.3. The business to be transacted at any Annual General Meeting shall be:
 - 6.3.1. to read and approve the Minutes of the preceding Annual General Meeting and any Special General Meetings held during the year;
 - 6.3.2. to receive and consider the Committee's Report, the Income and Expenditure Account and Balance Sheet to the 31st August of each year;
 - 6.3.3. to elect a General Committee in terms of the Constitution;
 - 6.3.4. to consider any matters raised by the membership that have been submitted for consideration 30days prior to the Annual General Meeting
 - 6.3.5. to discuss general matters.
- 6.4. Special General Meetings shall be called at any time at the request of the Committee or upon the receipt by the Secretary of a requisition signed by not less than ten (10) Members. Such Special General Meeting shall be called within one (1) month from the date of the decision of the Committee or from the date of the receipt of the requisition by the Secretary.
- 6.5. Notices of the Annual General Meeting or any Special General Meetings showing the business to be transacted thereat shall be given to Members in writing by the Secretary not less than seven (7) days before the dates of such meetings. Non- receipt by a Member of a Notice convening any Meeting shall not invalidate the proceedings of the meeting.
- 6.6. The quorum for any General Meeting shall be twenty-five per centum (25%) of the total Members of the LCAG entitled to vote. If within fifteen (15) minutes of the time fixed for

any General Meeting a quorum is not present, the meeting shall stand adjourned to the same day and time in the week following (and if that day is a Public Holiday then to the next succeeding weekday). At such adjourned meeting the members present shall form a quorum

- 6.7. All resolutions submitted to a General Meeting shall be decided by a show of hands, and in the case of an equality of votes, the Chairman of the Meeting shall have a casting vote in addition to a deliberative vote.
- 6.8. Each Member present at any General Meeting shall be entitled to one vote per property owned. If not able to attend, a specific proxy, in writing, will be accepted by the Secretary 24 hours prior to the meeting.

7. NOMINATIONS FOR COMMITTEE MEMBERS AT ANNUAL GENERAL MEETINGS

Notwithstanding the rules applicable to the founding general meeting, and those rules of process detailed in Section 5, the following rules shall apply to all Annual General Meetings of the LCAG.

- 7.1.1. Nominations of candidates for election to the Committee shall be submitted in writing on a Nomination Form which shall be made available by the Secretary not less than thirty (30) days prior to the date set for the holding of the Annual General Meeting or Special General Meeting called for that purpose. Such Nomination Form shall furnish:
 - 7.1.1.1. the name of the candidate proposed for the General Committee
 - 7.1.1.2. the name and signature of the proposer;
 - 7.1.1.3. the name and signature of the seconder;
 - 7.1.1.4. the name and signatures of not less than ten (10) members.
 - 7.1.1.5. the name and signature of the candidate as signifying acceptance of the nomination.

8. MANAGEMENT AND CONTROL

- 8.1. The control of the LGAC shall be vested in the Committee.
- 8.2. The Committee shall meet at least once a month wherein the general affairs of the LGAC shall be discussed.
- 8.3. A quorum for the Management Meetings shall consist of not less than five (5) members.
- 8.4. The Chairman will chair all Management Meetings. In the absence of the Chairman, the Vice-Chairman shall chair the meeting.
- 8.5. No meeting will occur without either the Chairman or the Vice-Chairman being present.
- 8.6. All resolutions of the Committee shall be considered accepted if carried by a simple majority vote.
- 8.7. Where a split vote occurs, the Chairman of that meeting shall have the casting vote
- 8.8. Any Member of the Committee who absents themselves from three (3) consecutive meetings without authorised leave of absence or other consideration shall be deemed to have vacated their seat, and the Committee may thereupon fill such vacancy by co-opting a Member of the LCAG.
- 8.9. Any Member of the Committee may resign their seat by giving notice thereof in writing to the Secretary, but such resignation shall in no way affect their eligibility for subsequent re-election to the General Committee
- 8.10. The Committee shall ensure that the Hon. Secretary keep a true record of the proceedings of all General Meetings and of all meetings of the Committee. Such minutes or an extract therefrom, signed by the Chairman, shall be received as prima facie evidence of the matter stated in such minutes or extract.
- 8.11. Should the Committee wish to resign en block for any cause whatsoever, it shall be obliged to do so at a Special General Meeting called for that purpose.

9. POWERS OF THE COMMITTEE

Subject to authorisation by the Members in General Meeting, the Committee shall have the power:

- 9.1. To secure the fulfilment of any contracts or engagements entered into by the Committee.
- 9.2. To appoint such attorneys, agents, secretaries, officers, managers, and servants for permanent, temporary or special services as it may think fit, to invest them with such powers as may be expedient, to determine their duties and fix and vary their salaries or emoluments (if any) to require security in such instances and to such amounts as it thinks fit and to suspend or discharge any such persons at its discretion.
- 9.3. In the name of the LCAG, to institute, conduct, defend, compound or abandon any legal proceedings by or against the LCAG or its officers, or otherwise concerning the affairs of the LCAG and also to compound and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the LCAG.
- 9.4. To refer any claim or demand by or against the LCAG to arbitration and to perform or refuse to perform the award.
- 9.5. To make or give receipts, releases and other discharges for monies payable to the LCAG and for the claims and demands of the LCAG. Except where otherwise provided in this Constitution such receipts shall be signed by the Treasurer or some person lawfully acting in the place of such Treasurer.
- 9.6. To open and operate banking account(s) in the name of the LCAG and to draw, accept, endorse, make and execute bills of exchange, cheques and other negotiable instruments connected with the business of the LCAG.
- 9.7. To invest and deal with any monies of the LCAG not immediately required for the purposes of the LCAG upon such securities and on such terms as it may think fit and from time to time vary or realise such investments.
- 9.8. To appoint Sub-Committees for any purposes and to delegate to and to withdraw from such Sub-Committees such powers as the General Committee may deem desirable. The Chairman and Secretary shall ex-officio have the right to attend all meetings of Sub-Committees appointed by the Committee, and the Conveners/Chairpersons of such Sub-Committees shall be obliged to give their timeous advice of any meetings to be held.
- 9.9. To co-opt any member, expert or individual to serve on either the committee or any subcommittee as deemed necessary for the successful running of the LCAG. Co-opted members shall have the right to participate in all meetings but shall only have voting rights as members of any subcommittee.
- 9.10. To fill any casual vacancies on the General Committee from amongst Members of the LCAG during its term of office and until the next Annual General Meeting or Special General Meeting called for that purpose.
- 9.11. To recommend to Members in General Meeting the payment of honoraria.
- 9.12. The Committee shall have the power to call a special general meeting to disband the LCAG. Providing a mandate is received from that meeting, the Committee shall wind up the affairs of the LCAG, and once completed disband the organisation.

10. FINANCE AND SUBSCRIPTIONS

- 10.1. The financial year of the LCAG shall commence on the 1st day of September October in each year.
 - 10.1.1. The Treasures shall be required to present a statement of account detailing income expenditure and a balance sheet at the monthly management meeting.
 - 10.1.2. The Treasures shall, in association with the appointed auditors, present an audited balance sheet annually at the Annual General Meeting.
- 10.2. The Committee shall require each property owner to subscribe on an ad hoc basis subscriptions to the LCAG on the following basis;
 - 10.2.1. The amount required shall be based, where possible, on anticipated expenditure-based for a twelve-month forecast period.

- 10.2.2. The amount required shall be not less than five hundred Rands (R 500.00) per property per annum.
- 10.3. Where necessary the Committee will have the power to raise a subsequent request for subscriptions within each year, providing such subscriptions are for the payment of expenditure incurred in the business of the LCAG.
- 10.4. The Treasurer shall render an account to each member detailing the required subscription, their payment to date and any outstanding sums due.
 - 10.4.1. No interest shall be paid on overdue accounts.
- 10.5. Where a member refuses to honour the required subscription, the Committee may, at their discretion, recommend to the LCAG that the member's membership be terminated.
- 10.6. Where members are not able to meet the required rate of subscription, the Committee may at their discretion, agree to waive all or part of the required subscription. Where waiver has been agreed, that member shall not be prejudiced in any way and shall enjoy all benefits, including the right to vote, normally enjoyed by paid up members.
- 10.7. All subscriptions paid by each member will be recorded against that member's name in the accounts of the LCAG.
- 10.8. Should the LCAG disband; it shall be a provision of the disbanding process that all surplus funds, including those funds realised from the sale of any assets owned by the LCAG, shall be used in the first instance to settle any outstanding debtors, loans, salaries and emoluments. The remaining surpluses shall be returned to the members, pro-rata to their total recorded subscriptions paid in.

11. AUDITORS

- 11.1. The Treasurer shall recommend to the Committee, and the Committee shall appoint a firm of registered accountants to act as auditors for the LCAG.
- 11.2. The Auditors shall be paid within the prescribed tariff of fees as laid down by the Institute of Charter Accountants.
- 11.3. The Auditors shall audit all the financial matters of the LCAG at least annually, and shall present an audit report at each Annual General Meeting.
- 11.4. The Committee may at their discretion dismiss the Auditors with the proviso that this is done on the basis of a recommendation rendered by a Chartered Accountant.
- 11.5. The Committee shall replace those Auditors within fourteen days, and the newly appointed auditors will comply with the requirements of 11.2 and 11.3.

12. LEGAL PROCEEDINGS AND POWERS OF ATTORNEY

- 12.1. All movable property of the LCAG shall be registered in the name of the LCAG.
- 12.2. All actions and legal proceedings instituted by or against the LCAG shall be conducted in the name of the LCAG.
- 12.3. Except as otherwise specifically provided in this Constitution, all powers of attorney and other documents required for the purpose of the LCAG shall be signed in the name of and on behalf of the LCAG by two Members of the Committee, duly authorised thereto by a resolution of the Committee.

13. LIABILITY AND INDEMNITY

- 13.1. All Members of the LCAG, by acceptance of this Constitution, voluntarily accept pro-rata guarantee of the liabilities of the LCAG during the subsistence of their membership.
- 13.2. Every Member of the LCAG, including Members of the Committee or other officers or servants of the LCAG, shall be indemnified by the LCAG in respect of any legal liability devolving upon them for all costs, losses and expenses which they may incur or become

liable for by reason of any act or thing done by them in the discharge of their duties unless caused through their own gross negligence, default, unlawful act, breach of duty or breach of trust.

14. AMENDMENTS TO THE CONSTITUTION

- 14.1. No addition to or amendment of the Constitution may be made except by a two-thirds majority of the Members present at a General Meeting.
- 14.2. At least twenty-one (21) days' written notice must be given to the Secretary of any proposed addition or amendment to the Constitution for inclusion on the Agenda.

15. INTERPRETATION

- 15.1. In the case of doubt as to the meaning or interpretation of any of the clauses in this Constitution, the decision of the General Committee be final and binding, but shall be subject to confirmation at the following Annual General Meeting or Special General Meeting for that purpose.