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Dear Client / Geagte Kliënt

Newsletter

Subdivision and Rezoning of your land / Hoe verlening van Opsie waarde toevoeg.

'n Jare-lange vriend, wie op 'n groot erf in 'n prestige deel van die Kaap woon, vertel dat hy voortdurend deur ontwikkelaars en agente verpes word om ontwikkelings-regte te bekom vir die eiendom. Die vriend het natuurlik 'n buitengewone en ietwat onrealistiese prys in gedagte, want hy het gehoor wat ander eienaars al vir hul eiendomme in daardie area gekry het. Hy soek advies.

The interested parties are of course apprehensive about buying the land outright, but they are prepared to conclude some type of an agreement to obtain rights to acquire the land, on the condition that sufficient security is provided, to ensure that they will not be at risk with planning costs but have no real claim to the land when the rights are granted.



Vir die vriend sou so 'n reëling natuurlik beteken dat die beplannings-potensiaal verweselik word sonder dat hy die koste daarvan sal moet dra en ook nie opgeskeep sal wees met die administratiewe uitdagings wat met 'n hersonering en onderverdeling aansoek gepaard gaan nie.

For landowners that find themselves in a similar situation it would be best to engage a strategy that would be advantageous for both landowner and the prospective developer. A landowner should be vigilant against so called development agreements where the developer merely tries to gain control over the property with the intention of passing such right on to a third party against payment of an opportunity fee.

Grondeienaars word aangeraai om slegs deur 'n prokureur te werk indien daar sodanige belangstelling in hul grond is. Dit sal verseker dat die meeste risiko's grotendeels uitgeskakel word en prokureurs, wat spesialiseer in eiendomsreg, is gewoonlik deeglik bewus van met watter ontwikkelaars 'n ooreenkoms aangegaan kan word, met wie daar met groot omsigtigheid onderhandel moet word en wie selfs liefs vermy moet word.

One of the better legal structures to employ under such circumstances is an Option Agreement that gives the developer the option (known as a "call option") to purchase the land (usually at an agreed sum, or at a future market related price, as determined by a third party less certain pre-agreed deductions upon very specific terms) which affords the option holder the ability to acquire the development right for the property, without the risk that they will be compelled to acquire a parcel of land without the benefit of planning. Entering into an Option Agreement normally also benefits a landowner as it can realise a higher than normal price for their land without having to put forward their own funds in obtaining the rights.

Indien kontantvloei belangrik is vir die grondeenaar, kan hy in die gepaste omstandighede altyd die betaling van 'n opsie-geld onderhandel. Hierdie opsie-geld sal gewoonlik betaalbaar wees as 'n vaste bedrag by verlening van die opsie, of teen 'n onbepaalde bedrag betaalbaar in vaste maandelikse paaieimente, vanaf verlening van die Opsie, totdat die eiendom oorgedra is nadat die Opsie uitgeoefen word. Wanneer die Opsie uitgeoefen word, word die opsie-geld gewoonlik teen die verkoopprys afgespeel terwyl dit deur die ontwikkelaar verbeur word, indien die Opsie nie uitgeoefen word teen die ooreengekome sperdatum nie.

The developer can apply for planning permission once the option agreement has been signed, knowing that if the planning application is unsuccessful, it will not be obliged to proceed to purchase the plot of land, but that if planning rights are granted and produces a viable scheme, they have the ability to acquire the land on terms already fixed with the land owner.

Indien dit vir die ontwikkelaar belangrik is, sou die partye die opsie-ooreenkoms afdwingbaar kon maak teen derde partye, deur dit by wyse van 'n notariële kontrak as 'n verbod op vervreemding teen die titelakte van die eiendom te laat aanteken. Dit sal natuurlik addisionele koste meebring, insluitende koste vir toestemming daartoe, deur die verbandnemer, maar die gemoedsrus wat dit meebring behoort vir die ontwikkelaar van groot waarde te wees.

Call options are useful to landowners as they can put forward their land for development without having to go through the complexities and costs involved with obtaining planning permission. The added benefit to landowners is that the price payable for the land under the option is usually based on the site being a viable development site, and therefore the owner will benefit from a higher price reflective of the true planning potential.

Kontak enige van ons aktebesorgers indien jy meer in die verband wou verneem of enige ander eiendom verwante vrae het.

Groete / Greetings!

Hennie, Eberhard & Cheryl-Anne | Directors



Your Heart, Your Will & Choosing Your Minor Child's Guardian

"My husband and I have 3 minor children. The age difference between the oldest and youngest is 10 years. As parents, we know that our 2 teenage boys can function independently, but what about our 6-year-old daughter? We are concerned about who will look after our 6-year-old in the event of my husband and I passing away at the same time?"

In preparation of Last Wills and Testaments, the emphasis is typically on the disposition of property. However, selecting guardians to care for your minor children and nominating them in your Last Will and Testament is just as, if not more, important. After all, most parents will undoubtedly regard their children as their biggest assets.

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Sal 'n Huurkontrak wat verstryk het vanself op 'n maand-tot-maand basis voortduur? Teen watter huurbedrag?

Wat gebeur wanneer jou vaste termyn huurkontrak verstryk het, sonder dat 'n verlenging ooreengekom is? Bestaan daar in so 'n geval nog enigsins 'n huurkontrak? Indien wel, watter bepalinge en voorwaardes is van toepassing? Watter huurbedrag is betaalbaar?

Ons kyk na die antwoorde op hierdie vrae met verwysing na die Wet op Huurbehuising. Ons kyk ook na 'n onlangse uitspraak van die Hooggeregshof waar 'n verhuurder skadevergoeding van 'n voormalige huurder geëis het. Die verhuurder het op 'n mondelinge ooreenkoms met die huurder gesteun, ingevolge waarvan die huurbedrag na verstryking van die huurtermyn ingevolge die skriftelike huurooreenkoms verhoog sou word.

Ons sluit af met 'n paar gedagtes oor wat jou huurooreenkoms moet bepaal oor verstryking van die huurtermyn, en met 'n algemene waarskuwing om mondelinge huurooreenkomste eerder te vermy.



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Employees: Your New Rights to Paternity and Parental Leave

The concept of "maternity leave" has been around in our law for a long time, and the journey towards extending the concept to employees other than mothers has been a long one, marked latterly by much delay and confusion over implementation of new legislation addressing the issue.

Last year in particular employers and employees were left scratching their heads over questions such as: When will fathers and same-sex partners be entitled to parental leave? What about adoptive parents and commissioning parents in a surrogacy agreement? Is there a right to paid leave, or just to unpaid leave? And if unpaid, what if anything can employees claim from the Unemployment Insurance Fund (UIF)?

Now at long last we have the answers. Read on for the details...

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Meld Jou Padongeluk aan met 'n Aanlyn Aanmeldingsdiens

Padongelukke is traumaties, of dit nou jou skuld was of nie. Selfs geringe botsings bring 'n aantal probleme mee – paneelkloppers, sleepvoertuie, skok en verwyte, hope papierwerk, die verkryging van 'n Botsingsverslagnommer vir die versekeraars...

Hierdie laaste punt is altyd 'n groot addisionele stresfaktor. Dit behels 'n besoek aan die plaaslike polisiestasie (wat waarskynlik nie 'n plesierige ervaring gaan wees nie) en nog meer papierwerk.

Nie meer nie – die proses is nou effens makliker met die nuwe aanlyn aanmeldingsdiens van NaTIS (die Nasionale Verkeersinligtingstelsel) beskikbaar op hul webwerf [hier](#). Die indiening van die aanlyn verslag is regsbindend. Dit kan egter net gebruik word vir "geringe skade" botsings, en nie in gevalle waar iemand beseer is of gesterf het nie. Neem ook kennis van die tydsbeperking – "Alle botsings moet binne 24



uur of die volgende werksdag aangemeld word. (Nie-werksdae is Saterdag, Sondag en Openbare Vakansiedae).”

Verkry dringend jou prokureur se hulp indien dit meer as slegs 'n geringe botsing is!

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