

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

Case No. 12994/21

In the matter between:

OBSERVATORY CIVIC ASSOCIATION First Applicant

**GORINGHAICONA KHOI KHOIN
INDIGENOUS TRADITIONAL COUNCIL** Second Applicant

and

**TRUSTEES FOR THE TIME BEING OF
LIESBEEK LEISURE PROPERTIES TRUST** First Respondent

HERITAGE WESTERN CAPE Second Respondent

CITY OF CAPE TOWN Third Respondent

**THE DIRECTOR: DEVELOPMENT MANAGEMENT
(REGION 1), LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS & DEVELOPMENT PLANNING, WESTERN
CAPE PROVINCIAL GOVERNMENT** Fourth Respondent

**THE MINISTER FOR LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS & DEVELOPMENT
PLANNING, WESTERN CAPE PROVINCIAL GOVERNMENT** Fifth Respondent

**CHAIRPERSON OF THE MUNICIPAL PLANNING
TRIBUNAL OF THE CITY OF CAPE TOWN** Sixth Respondent

EXECUTIVE MAYOR, CITY OF CAPE TOWN Seventh Respondent

WESTERN CAPE FIRST NATIONS COLLECTIVE Eighth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

RUDEWAAN ARENDSE,

RA

C.S

do hereby make oath and declare as follows:

1. I am a social anthropologist and hold a BA Honours degree in Social Anthropology from the University of Cape Town (1990). A copy of my *curriculum vitae* forms part of Annexure "JA9.2", attached to the first respondent's answering affidavit.
2. Unless the context indicates otherwise, the facts deposed to in this affidavit are within my personal knowledge and are, to the best of my belief, both true and accurate.
3. I have 31 years' experience in the field of social anthropology. My key area of expertise is the culture and heritage of indigenous people and, more specifically, the social heritage and intangible heritage of South African First Nations, the Khoi-San.
4. I have read the founding affidavit filed by the applicants and deposed to by Prof. Leslie London dated 1 August 2021, as well as the accompanying affidavits of Mr. T Jenkins, Ms. B O'Donoghue and Ms. D Prins-Solani.
5. I have also read the first respondent's answering affidavit deposed to by Mr. Jody Aufrichtig dated 24 August 2021 and confirm that, subject to the correction at paragraph 9 below, the contents of his affidavit are true and correct insofar as it pertains to me.
6. In particular, I confirm that I authored the River Club First Nations Report dated November 2019 (River Club First Nations Report), as well as an earlier report for the Western Cape Government Department of Transport and Public Works (DTPW) referred to in the answering papers, namely the Two Rivers

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Urban Park First Nations Report. I confirm that I undertook the work described in these reports and that the statements in the answering affidavit regarding the aforesaid reports and their findings are accurate.

7. In particular –

7.1. I deny the applicants' allegations that the River Club First Nations Report was tainted by any lack of independence on my part. Moreover, for the reasons already detailed in the answering affidavit, I stand by the findings of the report and reject any allegation that it failed adequately to assess the intangible heritage of the River Club site, or that the reports "denigrate" and "distort" the history of the Goringhaicona.

7.2. I deny the allegations at R: 730, para. 52 and confirm that I observed all ethical requirements and protocols with regard to privacy, anonymity, confidentiality, and protection of First Nation participants in the project, as articulated by, *inter alia*, Anthropology Southern Africa (the professional association for social anthropologists living and working in Southern Africa) and the Association of Social Anthropologists of the UK and the Commonwealth (ASA). In particular, I say that Mr. Jenkins participated in the TRUP First Nations report voluntarily and by informed consent, which did not require any particular written or signed form, as alleged. Mr. Jenkins' interview was one of nine interviews which informed that report. During that process, neither Mr. Jenkins nor the second applicants expressed any ethical concerns regarding the TRUP First Nations report.

RA

C.S

7.3. I deny the allegations at R: 733, para 59 and confirm that I cited the contents of the TRUP First Nations Report insofar as it constitutes a public document and in a manner which observed the relevant ethical protocols and requirements as aforesaid.

8. Finally, as to paragraph 257 of the answering affidavit, I note that I was appointed by the LLPT.


RUDEWAAN ARENDSE

I certify that:

The deponent acknowledged to me that:

1. He knows and understands the contents of this declaration;
2. He has no objection to taking the prescribed oath;
3. He considers the prescribed oath binding on his conscience.

The deponent thereafter uttered the words: "I swear that the contents of this declaration is true and correct, so help me God".

The deponent signed the declaration in my presence at the address set out hereunder on this the 10 day of **SEPTEMBER 2021**.


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COMMISSIONER OF OATHS

Full names: C.S. Akey
 Capacity: Constable
 Address: 60 Imam Sheron
road
Claremont

