



Ingwelala Share Block Limited

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Message from the Chairman

Dear Members of Ingwelala

Legal Costs

The two most recent Annual Reports and my Message of 24 April 2014 touched on various legal issues involving Ingwelala in which we have incurred substantial legal costs during the past and current financial years. I felt it prudent to address this topic in more detail in an endeavor to keep you well informed. The advent of the King Code of Governance Principles for South Africa and the new Companies Act effective from 2012 has raised the bar on corporate governance and compliance, inevitably increasing the risk of more litigation. In the four issues dealt with below, the Board felt compelled to take legal action in the first two and has to defend itself and Ingwelala in the third and fourth.

Failed Dams

Immediately after the Dando Flood in January 2012, the Board resolved to oppose the repairing and/or rebuilding of the failed Dams on our immediate neighbour Wilkens' property. This decision was taken in light of the massive damage that these failed Dams had caused to Ingwelala's ecosystems and infrastructure (and for the second time in 15 years), as well as endeavouring to create an open water system that allows for natural biodiversity.

Initially it was hoped that the landowners of the respective failed Dams [Messrs Jan Wilkens; Carina Schmidt; Graskop Saagmeule (Pty) Ltd and Vicrina (Pty) Ltd] would follow the requirements in our National Environmental Management legislation, during which Ingwelala could oppose the repairing and/or rebuilding of the failed Dams. Regrettably this was not the case and our surveillance of the river system indicated that excavations and repair work had already commenced during 2012 soon after the flood without the required authority. In order to prevent this illegal activity from continuing, the Board decided to launch legal action against the landowners during 2012 and the law firm ENS were appointed to represent us.

Our initial legal action proved successful and the landowners ceased reconstruction activity. However, ongoing legal action on our part was required, culminating in them having to apply under the National Environmental Management Act for rectification of reconstruction activity that they undertook without the required authorizations and permits (referred to as a Section 24G application). This was done and unfortunately approved on 28 March 2014 by the then Mpumalanga Provincial Department of Economic Development, Environment and Tourism (MDEDET). This department has subsequently

been changed to the Department of Agriculture, Rural Development, Land and Environmental Affairs. Ingwelala, together with other stakeholders (KNP, UPNRA and Nkorho PNRA but excluding Ndlopfu) has appealed this decision to the Mpumalanga MEC of the newly constituted Department and an outcome is still awaited (there have been some delays due to the General Election and change in Provincial Gov't personnel).

The legal costs incurred on the Failed Dams issue during the current 2013/14 financial year amount to approximately R192,000 and cumulatively to R495,000.

Op Goedehoop Dispute

In 1992 an opportunity arose for Ingwelala Members to purchase a part interest in the farm known as RE of Op Goedehoop. Initially a 25% shareholding was negotiated by Ingwelala which was eventually amended to a 50% shareholding purchased from the Howard Walker Trust. It was stipulated in the sale agreement between Ingwelala and the Howard Walker Trust that shareholders in the farm would not traverse on the old Walker portion which is now owned by a company controlled by Bert Carlin, a non-resident Ingwelala share block part owner. However, no such agreement was ever concluded with the other 25% shareholder, Rodney Thorpe. In March 2010 an exercise was undertaken for security reasons in view of the escalating poaching threat, to ascertain our precise Op Goedehoop borders and whether or not the existing road boundary markers were correctly placed. This was important for security patrol jurisdiction (bearing in mind that Ntomeni Rangers are precluded by some neighbours from patrolling their land) and potential arrests of suspects. We need to know exactly where the boundaries are and on which property an arrest took place and might be legally challenged. On receipt of the surveyors report it became apparent that the road boundary markers were incorrectly placed on the northern boundary of the Ingwelala 50% portion which adjoins both Bert Carlin and Rodney Thorpe's portions, resulting in Ingwelala not accessing the full extent of the 50% portion of the land that it owns, which includes a bird hide and waterhole straddled across the correct boundary line. A number of meetings were then held with Rodney Thorpe to discuss this issue, including the absence of an agreement and possible "gives and takes", but attempts to resolve the matter failed and Rodney Thorpe made it very clear that he was not prepared to grant any indulgences.

Investigations then started as to why Ingwelala Members could not traverse on the 25% portion of Op Goedehoop currently occupied by Rodney Thorpe as well as the remainder of the 50% of the land that belongs to Ingwelala. Rodney Thorpe claimed and believed he has a right to traverse the Ingwelala 50% portion despite not being a shareholder of the Ingwelala 50% portion. Ingwelala sought the same right to traverse Rodney Thorpe's 25% portion as Rodney Thorpe claimed he had to traverse Ingwelala's 50% portion.

Senior Counsel opinion was commissioned and as a result the Board took the decision to proceed by way of litigation to enforce Member's rights to traverse the 25% portion of Op Goedehoop currently occupied by Rodney Thorpe.

The litigation became defended and Rodney Thorpe made allegations in Court papers that even though no written agreement existed, he had entered into a verbal agreement back in 1992 with the Board represented by two specific Board members (who have both subsequently denied this). However, on further Senior Counsel opinion, a decision was taken by the Board to withdraw the application before it went to Court in order to avoid

further potentially high legal costs and because of a technical point raised by Thorpe, namely that the Board had taken too long to try to enforce their rights, i.e. since 1992, and that the fact that Ingwelala did not bring this application earlier indicated, according to Rodney Thorpe's assertions, that Ingwelala had accepted the status quo by its silence.

A number of further meetings were held with Rodney Thorpe and later Bert Carlin in an attempt to amicably resolve Ingwelala's access to the remaining 50% of the land that it owns and not currently accessing (approximately 10 hectares of river frontage on either side of the Hammerkop River on the northern boundary of Ingwelala's 50% portion). During the last meeting they both offered to pay Ingwelala at a fair market rate for the additional hectares in order to maintain the boundaries as they currently are. Before this offer could be considered by the Board, Rodney withdrew their offer to purchase and decided to remain with the status quo.

Ingwelala still seeks to have access to the full 50% of the land area of Op Goedehoop that it owns and is entitled to use, rather than the somewhat lesser area currently being accessed and traversed. In addition, the possibility of formally sub-dividing Op Goedehoop as a permanent solution (but not at Ingwelala's cost), either statutorily or by a tri-partite usage agreement, is continuing to be investigated and Senior Counsel opinion on this aspect has been commissioned.

The legal costs incurred on the Op Goedehoop issue during the current 2013/14 financial year amount to approximately R188,000 and cumulatively to R438,000. These are expensed in the Op Goedehoop books.

Protected Disclosure under s159 of the Companies Act

Subsequent to several interactions between a Member and the Building Committee in regard to the permissible size of a Bungalow, in July 2013 the Chairman received from the Member a disclosure of information in terms of Section 159 (3) of the new Companies Act.

Section 159 provides for the "protection for whistle-blowers" who make in good faith a "protected disclosure" where that Member reasonably believed at the time of the disclosure of the information, that the information showed or tended to show that the Company or a Director has contravened the Companies Act (or several other defined Acts), or failed to comply with a statutory obligation, or endangered health and safety, or unfairly discriminated or which would expose the Company to an actual loss or contingent risk or acted inherently prejudicially to the interest of the Company. The legislation provides that the person properly making such disclosure is indemnified against and has qualified privilege in respect of the disclosure and is immune from any civil, criminal or administrative liability for that disclosure - hence the term "protected disclosure". Please note that this is not a "secret disclosure".

Upon receipt of the formal Memorandum dated 2 July 2013 describing the allegations, and as the allegations were made at some of the Directors and were of a serious nature and there was little or no precedent for the process to be followed especially in the particular circumstances, the Chairman after taking independent legal advice and having had discussions with the Audit Committee, recommended that independent investigators should be appointed. The Directors, following a debate on the matter, formally resolved later in July 2013 to properly and fully investigate the matter using an external legal

investigator, namely Mr P A Watts, a senior attorney of Cape Town law firm Fairbridge Arderne & Lawton Inc.

The Board Resolution of July 2013 appointing the Investigator mandated the Investigator to determine the factual basis of the disclosures with a view to attempting to determine their veracity and any legal effects that would or could result from these disclosures.

Upon the appointment of the Investigator, the Board asked the two Directors mentioned in the Memorandum to step down from their respective portfolios, but not from the Board itself, while the investigation was ongoing. The two Directors voluntarily agreed to this action and were very keen for the matter to be dealt with properly and quickly, as was the entire Board.

The legislation does not provide for “secret” disclosure and no attempt was made to restrict debate, but given the sensitivity of the matter and the reputations of the Directors mentioned in the then unexamined allegations, the Board resolved to conclude the investigation before taking any action. The Investigation has now been concluded and the Board is now in a position to report the matter to Members.

The Complainant’s Memorandum describes a number of circumstances which the Investigator summarised into six complaints and reported as follows:

First Complaint

The Memorandum alleges that a Director had canvassed for building industry related work in conflict with his duties as a member of the Building Committee and “on the face of it”, together with another Director and a member of Management, adjudicated and approved the plans that the Director himself had drafted.

The Investigator found no evidence to support the First Complaint and found that the Director had drafted plans with the full knowledge and prior approval of the Board, none of the plans being adjudicated and approved by the Director himself.

Second Complaint

The Memorandum alleges that a Director had taken a bribe or agreed to take a bribe from an architect, who drew the plans for rebuilding a bungalow.

The Investigator reports that there is no compelling evidence to support the Second Complaint and the Director is entitled to the benefit of the substantial doubt that he agreed to accept or accepted the bribe referred to in the Memorandum.

Third Complaint

The Memorandum describes alleged conflicts of interest by a Director in the execution of Building Committee responsibilities in that the Director had allegedly tried to sell a building product to a unit, whilst being a member of the Building Committee.

The Investigator reports that the Board was informed by the Director in 2012 that he was changing occupations and beginning to draft plans and tender for a building product and consequently felt he should resign from the Board. Not wanting to lose what the Board felt was a valuable resource, the Board made arrangements for a change in the Building Committee responsibility and in sufficient time to preclude any conflict of interest between that Director and the Building Committee responsibilities,

(although there may have been a few immaterial occasions in the transition where strict compliance was not achieved, but not to the detriment of any building approvals or policies).

Fourth Complaint

The Memorandum alleges that a Director was in league with another Director in the above matters.

The Investigator has not upheld the Fourth Complaint. The Report deals at length with the many and various interactions by the parties with a view to the Building Committee correctly enforcing the applicable building regulations while attempting to assist the complainant as best as possible, all without prejudice to anyone's rights.

Fifth and Sixth Complaints

The Memorandum alleges that a Director and his wife (an Environmental Assessment Practitioner) were appointed and paid for work performed for the Company in relation to its Environmental Management Plan and Dando Flood river crossing Environmental Impact Assessment (EIA) in terms of the National Environmental Management Act (NEMA), but in a manner contrary to the statutory obligations for the Environmental Assessment Practitioner to be "independent" of the Director.

The Investigator has determined that there was proper and general agreement to use and pay for the expertise of the Director and his wife (a "related person" in terms of the Companies Act). Whilst fully discussed and agreed at a Board Meeting, this approval was not properly recorded in the Board Meeting minutes. Additionally there was a repeated administrative error in the Ingwelala Financials as well as the lodgement of official EIA documentation for formal compliance with NEMA, which non-compliance has now been remedied, without prejudice to any Ingwelala or NEMA requirements.

The Board had full knowledge but did not adequately minute at the time that a Director's wife was to be relied upon for the required environmental compliance work. The Board was of the opinion that she had the most appropriate qualifications and experience for that kind of assignment. This has subsequently been remedied by a Board minute.

In view of the latest Companies Act and the whistle-blowers provision, it is difficult for a legal firm to estimate on commencement the extent and depth required in an investigation of this sort, particularly when it is complex. The Board was initially advised that the likely legal costs of the investigation would be relatively modest in the order of R30 000 and under the circumstances felt that these legal expenses were justified given the serious nature of the allegations, Ingwelala's best interests and the reputations of the share block and Directors mentioned in the documents. As the investigation progressed, the Board was advised that the original sum might be too little by multiples thereof, but nevertheless allowed the investigation to continue. The final bill sought by the Investigator has ballooned to well beyond that anticipated without the Board being made aware of the dramatic escalation. However, I am pleased to advise that I successfully negotiated with Fairbridge Arderne & Lawton Inc. to seek agreement to a reduced fee.

Prior to the investigation and during 2013, the Board adopted a formal policy on how to engage formally with Ingwelala members for the supply of goods and services and in a manner that reduces the decision to writing, seeks the approval of the Audit Committee where warranted, and generally exposes the opportunity to scrutiny.

In summary, the Board and the affected Directors are pleased that other than some relatively minor non-compliance of an administrative nature, there are no substantive sustainable charges against Ingwelala, and the affected Directors have been individually exonerated.

Lessons learnt include better understanding the variety of new legislation that requires compliance and the technical nature of actions needed to achieve that compliance, the associated costs of compliance, the real risks inherent in non-executive director positions and the importance of good and detailed documentation, financial reporting and minutes.

The legal costs incurred on the s159 issue during the current 2013/14 financial year and cumulatively amount to R387,000.

Public Liability Claim

A High Court Summons was served on Ingwelala last week (Thursday 3 July 2014) by a Guest of a Member who rolled off the Beacon Boma Platform and injured himself 2 years ago whilst sleeping over with a group. The Plaintiff is claiming damages to the tune of R3,25 million. Ingwelala is insured for public liability and has handed the matter over to its Insurers for further action. Members will be updated on any significant developments.

Full disclosure in the Annual Financial Statements

The Audit Committee, together with the Auditors and Management Staff will be conducting the 2013/14 annual audits in due course and as usual, full disclosure of all the legal costs incurred during the period will be fully disclosed to Members. Ingwelala also incurred other operational legal costs during the current 2013/14 financial year amounting to R81,000 (Members Survey and new MOI).

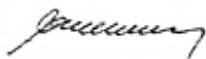
Impact on Ingwelala

Although the legal costs have been mounting in respect of the abovementioned issues and substantial in this current 2013/14 financial year, there is no need for concern as the impact on Ingwelala has been contained. The Management Team has made cost savings in various areas and some planned capital projects have been rescheduled in order to mitigate the legal costs. Currently there will be no need for any special levy to deal with these legal costs.

Thank You

In conclusion, on behalf of the Board, I would like to thank all of you for your continued support of Ingwelala and will be pleased to provide any further insight as required.

Sincerely



Kevin Alborough
Chairman