Isithasiselo D

UMKHANDLUDOLOBHA WASETSHWANE: UMTHETHO KAMASIPALA WEZIMAKETHE ZASETSHWANE

Injongo yalo Mthetho kaMasipala weziMakethe zaseTshwane kuwukuhlinzeka uMkhandludolobha waseTshwane ngezinyathelo zomthetho mayelana nenkambiso yemicimbi yokusebenza, yebhizinisi kanye naleyo evama ukwenzeka eziMakethe zaseTshwane.

ISANDULELO

LAPHO uMthethosisekelo, wethula ngokuhlanganyela noHulumeni waseKhaya: uMthetho weziNhlelo zikaMasipala (*Municipal Systems Act*), uHulumeni waseKhaya: uMthetho weZakhiwo zikaMasipala, uHulumeni waseKhaya (*Municipal Structures Act*, *the Local Government*): uMthetho wokuSingathwa kweZimali (*Municipal Finance Management Act*) kanye nezinye izingxenye ezehlukene zomthetho, uvivisa uMkhandludolobha ukuba ufake ekusebenzeni uhlinzeke ngemisebenzi yezimakethe ezikhiqiza imifino nezithelo okusandakukhiwa;

NALAPHO uMthethosisekelo uyalela uhulumeni wasekhaya ukuba uthuthuke uphinde ubhekane nalokho okubalulekile okusohlwini oluphezulu ekuhlinzekweni kwemisebenzi eNingizimu Afrika ubuye uthuthukise ukusebenza kahle kwezezimali kanye nezomnotho;

NALAPHO kunezidingo sokuhlinzeka uhulumeni wasekhaya ngokufinyelela imithombo yezimali eyenele ukuze ukwazi ukwenza imisebenzi yezentuthuko;

NALAPHO kunzima komasipala ekufezeni izinjongo zabo zomthethosisekelo kanye nokuqeda imithetho yobandlululo yakudala;

NALAPHO kusemqoka ukuba omasipala basebenzise amandla abo emphakathini owenza izinto ngokusobala kanye nangokwentando yeningi kube kubhekelwe okuphatha umasipala ngendlela enhle, imigomo yokuzibophezela nokwenza izinto ngokungafihlekile kanye nemigomo yohlelo lwe-Batho Pele;

UMKHANDLUDOLOBHA WASETSHWANE UZOFAKA EKUSEBENZENI LO MTHETHO KAMASIPALA WEZIMAKETHE WASETSHWANE OKULELI BHUKWANA.

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1. Izincazelo

Kulo mthetho kamasipala, ngaphandle kokuthi indikimba isho okunye, lawa magama alandelayo azoba nezincazelo ezingezansi:

"UMthetho" kusho i-Agricultural Produce Agents Act, 1992 (Act 12 of 1992), njengoba wachitshiyelwa;

"umkhiqizo wezolimo" usho leso siqeshana esicaciswe kuNgxenye A yeSejuli 1 nakunoma yisiphi isiqeshana esifakwe ngokulandela isigaba 1(2) soMthetho;

"ukuchithwa" kusho ukuchithwa ngokuhambisana nesigaba 62 somthetho i-City Systems Act;

"ibhange" kusho inkampani kahulumeni ebhaliswe njengebhange Act, 1990 ngokuhambisana nomthetho wezamaBhange i- (Act 94 wonyaka ka- 1990);

"umthengi" kusho noma ngumuphi umuntu onekhadi labathengi elikhishwe ngabaphethe izimakethe kanye nalabo abathenga umkhiqizo wezolimo emakethe;

"umthuthi" kusho umuntu oziqashile oqashelwa ukuthutha umkhiqizo wezolimo emakethe;

"imvume yokuthutha" kusho imvume ekhishwe yiMenenja yoMkhandludolobha ngokuhambisana nesigaba 25(2);

"IMenenja yoMkhandludolobha" lisho umuntu oqokelwe ukuba yilokho nguMkhandludolobha waseTshwane, noma lowo muntu oqokwe ngumuntu ogunyazwe nguwo;

"umthumeli" kusho umqashi-zisebenzi noma umnikazi, okuthi ngaleso sikhathi kuthunyelwa umkhiqizo wezolimo ku-ejenti yemakethe kube wuye otshatha ubungozi nencithakalo yomkhiqizo wezolimo;

"UMthethosisekelo" kusho uMthethosisekelo waseNingizimu Afrika, wangonyaka ka-1996;

"UMkhandludolobha waseTshwane" lisho uMkhandludolobha kaMasipala waseTshwane, owasungulwa yi-General Notice 6770 kushicilelo lwe-*Provincial Gazette Extraordinary* 141 lonyaka ka- 1 Okthoba 2000 ngokuhambisana nomthetho i-City Structures Act, kanye nokuhambisana nalokho okwamenyezelwa ngokusemthethweni okwalandela kwalokhu;

"UMkhandlu" kusho uMkhandlu weDolobha laseTshwane;

"uhlelo lwesikweledu" kusho i-akhawunti evunywe yiMenenja yoMkhandludolobha eyenza ukuba umnikazi we-akhawunti akwazi ukuthenga umkhiqizo wezolimo emakethe ngesikweledu;

"indawo eqokiwe" kusho indawo elawulwa njengoba kunqunywe yiMenenja yoMkhandludolobha ngezikhathi ezinqunyiwe lapho umthumeli ezomemezela umkhiqizo wezolimo ozothunyelwa eMakethe yaseTshwane;

"ukuthengiswa ngqo " kusho ukuthengiswa ngqo komkhiqizo wezolimo emagcekeni emakethe phakathi komthumeli womkhiqizo wezolimo kanye nomthengisi wewolisela noma wesitolo;

"izindleko" kusho izindleko, inkokhelo noma imali yokuthelela impahla ebizwa nguMkhandludolobha waseTshwane ngokuhambisana nomthetho i-City Systems Act ngokuya ngokusebenza noma ngomsebenzi wedolobha;

"isitifiketi sesikhwama sokuvikela abaqashi ekuwisweni ngabasebenzi (*fidelity fund certificate*)" kusho i-fidelity fund certificate esikhishwe ngokuhambisana nesigaba soMthetho16 ;

"ukuthengisa ngaphakathi emakethe" kusho ukuthengisa okuphelela ngaphakathi emakethe phakathi kwe-ejenti yemakethe kanye noma ngumuphi umuntu;

"imakethe" kusho iMakethe yaseTshwane yoMkhandludolobha waseTshwane;

"ukuphathwa kwemakethe" kusho iqembu kwezokulawula eliqokwe ngokufanele elibhekele ukuphathwa kwemakethe egameni loMkhandludolobha waseTshwane;

"i-ejenti yemakethe" kusho njengoba ichaziwe i-ejenti esigabeni soku-1 soMthetho evunyelwe nguMkhandludolobha waseTshwane ukuba iqhube ibhizinisi ngaphakathi emakethe;

"ilayisense ye-ejenti yemakethe" isho ilayisense ye-ejenti yemakethe ekhishwe ngokuhambisana nesigaba 11(3) somthetho kamasipala;

"ngaphakathi emakethe" kusho indawo esehholo lemakethe esemagcekeni emakethe ebekelwe ukuthengisa okwenziwa ngama-ejenti kuphela;

"ihholo lasemakethe" kusho leyo ndawo esemakethe ebekwe ngenhloso yokubukisa nokuthengisa umkhiqizo wezolimo;

"amagceke emakethe" kusho leso sakhiwo esingasuki esisemgwaqeni i-DF Malan Drive, ePretoria West, ibuye ifake phakathi noma yisiphi isakhiwo noma amagceke aqokwe nguMkhandludolobha waseTshwane ngenhloso yokuqhubela kuwo ibhizinisi yezilimo eziqedwa kukhiwa noma ukuqhuba elinye ibhizinisi noma amabhizinisi okungabalulekile kuleyo ndawo;

"umkhiqizo wemakethe" kusho –

(a) mayelana nama-ejenti ezimakethe, nomkhiqizo wezolimo; kanye

(b) nokumayelana namawoliseli kanye nezitolo, umkhiqizo wezolimo kanye nalokho noma umkhiqizo ovunywe ngokubhalwe phansi yiMenenja yoMkhandludolobha, okungukuthi lokho noma umkhiqizo kuzothengiswa emegcekeni ezimakethe;

"UMthetho weZakhiwo zikaMasipala (Municipal Structures Act)" kusho uHulumeni baseKhaya: i-Municipal Structures Act, 1998 (uMthetho wama-117 wonyaka ka-1998), njengoba wachitshiyelwa;

"UMthetho weziNhlelo zikaMasipala (Municipal Systems Act)" usho uHulumeni waseKhaya: i-Municipal Systems Act, 2000 (uMthetho 32 wonyaka 2000), njengoba wachitshiyelwa;

"okokusebenza" kusho imoto noma umshini ohamba ngebhethri, ngegesi noma ngophethiloli, kubuye kufake phakathi –

(a) ingolovane enomshini wokuphakamisa nokwehlisa impahla (ifokhlifthi);

(b) umshini wokucoca noma wokuhlanza;

(c) umshini wokugcina/wokulonda impahla isesimeni esihle;

"umuntu" kusho umuntu wendalo kufaka phakathi noma yikuphi kwezomthetho okukwaziswa ngumthetho;

"umninisitolo" kusho umuntu ngaphandle kwe-ejenti yemakethe okuwukuthi unesivumelwane sezinga lomsebenzi noma unanoma yisiphi isivumelwane - esikhona phakathi kwakhe noMkhandludolobha waseTshwane sokwenza umsebenzi ofana nebhizinisi emagcekeni ezimakethe zaseTshwane;

"idokodo lokuthengisa" kusho idokodo elikhishwe mayelana nesigaba 19(4);

"imvume yokuthengisa" kusho imvume ekhishwe mayelana nesigaba 13(3);

"umthengisi" kusho umuntu onemvume yokuthengisa ekhishwe yiMenenja yoMkhandludolobha kanye nesitifiketi sesikhwama sokuvikela abaqashi ekuwisweni ngabasebenzi (*fidelity fund certificate*) **esikhishwe nguMkhandlu Wama-ejenti Kwezokukhiqiza Ezolimo** (*Agricultural Produce Agents Council)* okuhambisana noMthetho, futhi owenza ibhizinisi ngaphakathi emakethe;

"isithuthi" kusho noma yini okungumshini ongashayelwa, okufaka phakathi kodwa okungagcini ngebhayisikili, olwenzelwe ukuthutha abantu kanye/noma izimpahla, kanye nokufaka phakathi nanoma yikuphi okunye okusetshenziswa ngenhloso yokwenza umsebenzi emakethe kodwa ngaphandle kweyunithi yokusebenza; kanye

"iwolisela" kusho umuntu ngaphandle kwe-ejenti yemakethe okuwukuthi unesivumelwane sezinga lomsebenzi noma unanoma yisiphi isivumelwane - esikhona phakathi kwakhe noMkhandludolobha waseTshwane sokwenza umsebenzi ofana nebhizinisi lokuthengisa impahla eningi emagcekeni ezimakethe zaseTshwane, inqobo nje uma engathengiseli ekhawuntini njengomphakathi.

2. Ubulili

Kulo mthetho kamasipala okuqondiswe kubulili obuthile kusuke kufaka phakathi bobubili ubulili kanye nanoma yikuphi (okungaba ngumuntu, noma

yinkampani) okunelungelo lezomthetho kanti futhi okungaphansi kwezibophezelo.

3. Izinsuku namahora emakethe

(1) Imakethe kumele ivule ngezinsuku kanye nangamahora abekwe yiMenenja yoMkhandludolobha.

(2) Ngokuya ngesigatshana somthetho (3), ukuthengisela ngaphakathi emakethe kumele kwenziwe kuphela ngalawo mahora abekwe yiMenenja yoMkhandludolobha.

(3) Ukuthengisela ngaphakathi emakethe kungenziwa kuphela emva kokuba kutholwe imvume kuMenenja yoMkhandludolobha ngalawo mahora okuthengisa ashiwo esigatshaneni (2).

(4) I-ejenti yemakethe ingathengisa umkhiqizo wezolimo ngaphandle kokuthengisela ngaphakathi emakethe kuphela emva kokuthola imvume kuqala kuMenenja yoMkhandlu, inqobo nje uma lowo mkhiqizo wezolimo ufakwa njengesitokwe ohlelweni lwemakethe, emva kokuba idokodo elivumelekile lokuthengisa lwenzelwe leyo ejenti ukuba ithengise ngalo, okunye futhi okudlula lapho inqobo nje uma uMkhandludolobha waseTshwane ekhokhelwe leyomali eshiwo ngokuhambisana nesigaba 20 sokuthengisa ngezansi.

4. Ukuba sengcupheni kwenzuzo nencithakalo

Ukuba sengcupheni kwenzuzo nencithakalo bomkhiqizo wezolimo olethwe emagcekeni emakethe kumele kutshathwe ngumthumeli ngaso sonke isikhathi. Akukho okushiwo kulesi sigatshana okuzokwenza ukuba ama-ejenti angasolwa uma engazibhekeli izibopho zalo mthetho kamasipala, yinqobo nje uma iMenenja yoMkhandludolobha iba negunya lokuvuma ngendlela ebona ngayo noma yisiphi isibizo esingadluli izi-R100 000,00 futhi yenze inkokhelo yesibizo; okudlula lapho uma leso sibizo sidlula kulesi samba sizobe sesithunyelwa kuMkhandlu ukuba sicutshungulwe.

5. Ukulawula nokuba sengcupheni komkhiqizo wezolimo

(1) Noma yimuphi umkhiqizo wezolimo ozothengiswa, ngaphambi kokuba ulethwe ngaphakathi emakethe, kumele ubhaliswe –

(a) noMkhandludolobha waseTshwane ngendlela kanye nesimo esidingwa yiMenenja yoMkhandludolobha; kanye

(b) naleyo-ejenti yemakethe okuwukuthi lowo mkhiqizo wezolimo uthunyelwe kuwo ngendlela okubekwe ngayo endinyaneni engaphansi kwendima yesi- (4) ngezansi.

(2) Lowo mkhiqizo ongeniswa emagcekeni lemakethe kanti ongeke uthengiselwe ngaphakathi emakethe kumele uvezwe obala futhi ubhaliswe ngendlela ehambisana nesigatshana (1), uma uhluleka ukwenza lokho abaphathi bemakethe kungenzeka ukuba bangawuvumeli lo mkhiqizo wezolimo babuye bawuvimbele ukuba ungeniswe emagcekeni emakethe.

(3) Ngesikhathi esisodwa naleso sokubhalisa njengoba kushiwo esigatshaneni (1), eminye imininingwane ngalowo mkhiqizo wezolimo olethwa ngumthumeli kumele kunikezelwe ngayo kuleyo ndawo eqokiwe njengoba kudingeka ngaleso sikhathi esiyobe sibekwe abaphathi bemakethe.

(4) Uma umkhiqizo wezolimo uthunyelwe ku-ejenti yemakethe, i-ejenti yemakethe kumele yenze lokhu okulandelayo –

(a) ngesikhathi ithola umkhiqizo wezolimo, kumele isayine iresidi elivumayo ukuthi iwutholile umkhiqizo wezolimo ibuye icacise usuku nesikhathi eyiwuthole ngaso;

(b) unikeze inombolo lokho okuthunyelwe, elungiswe ngokuhambisana nemininingwane edingekayo esigatshaneni (3), bese unikezela ngobufakazi kubaphathi bemakethe;

(c) ngaphandle kokuchitha isikhathi yenze wonke amalungiselelo adingekayo okwehlisa kanye nokubeka umkhiqizo wezolimo endaweni noma endaweni ebiyelwe ayinikeziwe mayelana nomkhiqizo wezolimo; kanye

(d) nokuzibophezela kumthumeli mayelana nenani lomkhiqizo wezolimo elicacisiwe kulokho okubhalwe phansi okudingekayo.

(5) Uma kukhona umuntu ohlulekayo noma ongafuni ukuhambisana nemibandela yesigatshana (1) noma isigatshana (3), iMenenja yoMkhandludolobha

ingawenqaba umkhiqizo wezolimo noma iwuvimbele ukuba ungeniswe emagcekeni emakethe.

(6) Imibandela yesigatshana (3) kanye (4) ayisebenzi kulowo mkhiqizo wezolimo okuqondiswe kuwo esigatshaneni (2) nasesigabeni 5.

6. Ukupakisha, ukunqwabela ndawonye kanye nokubukisa ngemikhiqizo wezolimo

I-ejenti yemakethe kumele yenelise iMenenja yoMkhandludolobha ngalokhu okulandelayo –

(a) yenze umbukiso osobala, ibeke iphinde ibeke ngokunqwabelana yonke imikhiqizo yezolimo eyitholile, ngaphandle kwaleyo egcinwe ezindlini ezibandisayo ezishiwo esigabeni 7, ngaphakathi emakethe ngendlela yokudala indawo enobunono nenempilo kanye nephephile;

(b) ngesikhathi sokuvala ukudayisa kwazinsuku zonke, bukisa ubuye uyinqwabele ndawonye yonke imikhiqizo yezolimo njengoba kushiwo endimeni (a) ngaphezulu.

7. Ukuwugcina ubanda nokuwuvuthiswa

(1) UMkhandludolobha waseTshwane ungenza lokhu okulandelayo ngendlela okubona ngayo iMenenja yoMkhandludolobha –

(a) ungasungula, ufake izinto zokusebenza uphinde usebenzise okokuwugcina ubanda kanye namakamelo okuwuvuthiswa emagcekeni emakethe; uphinde

(b) ukhokhise intela, njengokunquma koMkhandlu ngazikhathi, ngokusebenzisa okokuwugcina ubanda kanye namakamelo okuwuvuthiswa.

(2) Noma ngubani osebenzisa yinoma yikuphi okokuwugcina ubanda noma ikamelo lokuwuvuthisa njengoba kushiwo esigatshaneni (1) noma okunye koMkhandludolobha waseTshwane emagcekeni eziMakethe zaseTshwane, uzobe ekwenza lokho ngokuzibeka engcupheni ngokwakhe, kanti uMkhandludolobha waseTshwane uzobe engenacala ngokulahleka noma ngokumosheka, ngqo noma okungekho ngqo, okuzokwenzeka kulowo muntu, ngaphandle uma iMenenja yoMkhandludolobha igunyaziwe ngokuvuma ngendlela eyobona ngayo noma yisiphi isibizo ngokuhambisana nemibandela yesigaba 4 mayelana nalokhu kulahlekelwa noma ukumoshakalelwa okudalwe yilokhu –

(a) noma yikuphi ukuphazamiseka noma ukwehluleka kokuhlinzekwa ngogesi; noma

(b) noma yikuphi ukuphazamiseka noma ukwehluleka kwemishini noma kwezinto zokusebenza; noma

(c) noma yisiphi isenzo noma iphutha lomsebenzi woMkhandludolobha waseTshwane ekwenzeni umsebenzi wakhe.

8. Ukuwulonda

(1) Akekho umuntu ongagcina noma ashiye noma yimuphi umkhiqizo wezolimo, impahla noma into yanoma luhlobo luni ngaphakathi noma eduze kwamagceke emakethe ngaphandle kokuthola imvume ebhalwe phansi kaMenenja yoMkhandludolobha.

(2) Akekho umuntu ongagcina noma ashiye noma yimuphi umkhiqizo wezolimo, impahla noma into yanoma luhlobo luni emakemelweni nakunoma yiziphi izinto ezinhlinzekwa nguMkhandludolobha waseTshwane emagcekeni ezimakethe.

(3) Noma ngumuphi umuntu ohluleka ukuhambisana nemibandela esesigatshaneni (1) noma (2), kanti engayilandeli neminye imibandela yalo mthetho kamasipala, uzomele ukuba akhokhele uMkhandludolobha waseTshwane imali yokulonda ezonqunywa nguMkhandlu ngazikhathi.

9. Umkhiqizo wezolimo onganakwe ngumuntu

(1) Uma iMenenja yoMkhandludolobha, ngokuya ngezizathu ezizwakalayo, isola ukuthi noma muphi umkhiqizo wezolimo oshiywe emagcekeni emakethe ubunganakwe muntu, ingakhipha umyalelo wokuthi lowo mkhiqizo wezolimo –

(a) uthengiswe uma usesimeni futhi ukulungele ukudliwa noma ukusetshenziswa ngabantu; noma

(b) ukhishwe uphinde ushatshalaliswe uma ungekho esimeni futhi ungakulungele ukudliwa noma ukusetshenziswa ngabantu.

(2) Uma lowo mkhiqizo wezolimo onganakwe ngumuntu –

(a) uthengiswa, uMkhandludolobha uzokhokha leyo mali ethengiswe ngayo, okuyimali engaphansi kwaleyo enqunywe nguMkhandlu ngazikhathi, kulowo muntu okumele akhokhelwe yona, uma aziwa;

(b) ukhishwa ushatshalaliswa, uMkhandludolobha waseTshwane uzokhokhisa leyo mali, enqunywe nguMkhandlu ngazikhathi, lowo muntu ovele washiya umkhiqizo wezolimo unganakiwe, uma aziwa;

(c) uthengiswa kodwa lowo muntu okumele athole imali othengiswe ngayo engaziwa, leyo mali ethengiswe ngawo izofakwa e-akhawuntini ye-trust ye-ejenti yemakethe leyo ekade ilawula umkhiqizo kafushane nje ngaphambi kokushiywa unganakwe muntu noma, uma kungakwazeki ukuba kutholakale leyo ejenti ekade ilawula lowo mkhiqizo ngaphambi nje kokuba ushiywe unganakwe muntu, leyo mali ethengiswe ngayo izofakwa e-akhawuntini eseceleni yemakethe okuqondiswe kuyo esigabeni 79(14)(a) esimiselweni sohulumeni wendawo (Local Government Ordinance, 1939 (Ordinance 17 of 1939)), ngenhloso yokuba isetshenziswe njengoba kuchaziwe kulesi sigaba.

10. Umkhiqizo wezolimo ongakulungele ukudliwa ngabantu

(1) Uma iMenenja yoMkhandludolobha inezizathu ezizwakalayo ekholelwa ekutheni –

(a) noma yimuphi umkhiqizo wezolimo othengiselwa ngaphakathi emakethe uyagulisa noma awukho esimeni noma awukulungele ukudliwa ngabantu, uzowukhipha ngokushesha awushabalalise lowo mkhiqizo wezolimo;

(b) lokho okumumatha umkhiqizo wezolimo kungenzeka ukuba kube yikho okonakalisa umkhiqizo wezolimo, uma kuwumumethe, noma-ke kumumethe noma yimuphi umkhiqizo wezolimo, uzokukhipha akushabalalise lokho kokumumatha kanye nomkhiqizo wezolimo okuwumumethe.

11. Ama-ejenti emakethe nabasebenzi bawo

(1) akekho ovunyelwe ukwenza ibhizinisi njenge-ejenti yemakethe emakethe ngaphandle kokuba abe nalokhu okulandelayo –

(a) Isitifiketi sesikhwama sokuvikela abaqashi ekuwisweni ngabasebenzi (fidelity fund certificate); kanye

(b) nelayisense ye-ejenti yemakethe.

(2) Ukufaka isicelo selayisense se-ejenti yemakethe kumele kwenziwe kulelo fomu elilungele lokho elitholakala emahhovisi abaphethe imakethe esemagcekeni emakethe, okuyifomu okumele ukuba –

(a) iphelekezelwe yimali yokufaka isicelo enqunywe nguMkhandlu ngazikhathi kanye neminye imininingwane namabhukwana afunekayo aphawuliwe efomini; ibe

(b) seyithunyelwa ngeposi noma ilethwe kwabaphethe imakethe kulelo kheli elibekiwe efomini.

(3) Ilayisensi ye-ejenti yemakethe ingakhishwa yiMenenja yoMkhandludolobha kulowo ofake isicelo uma –

(a) ngokubona kweMenenja yemakethe, isasekhona indawo eyanele ngaphakathi emakethe yokuba lowo ofake isicelo akwazi ukuqhuba ibhizinisi lakhe;

(b) lowo ofake isicelo enelisa iMenenja yoMkhandludolobha ngalokhu okulandelayo –

(i) ungumuntu ozokwazi, onekhono kanti futhi kuyilowo okulungele ukuqhuba ibhizinisi le-ejenti yemakethe kanti futhi uyahlangabezana nemibandela yoMthetho kanye nayo yonke imithetho mayelana nama-ejenti ezimakethe; kanti

(ii) lowo ofake isicelo noma abaqondisi bakhe, amalungu noma abambisene nabo ebhizinisini, nanoma ngasiphi isimo, akumele abe neqhaza alibambile ngqo noma kungekho ngqo kunoma yiliphi elinye ibhizinisi nanoma yimuphi umuntu onikezwe ilayisensi ye-ejenti yemakethe; kanye nokuthi

(c) lowo ofake isicelo, ngesikhathi esinqunywe yiMenenja yoMkhandludolobha, kumele anikezele uMkhandludolobha waseTshwane ngesibambiso esanelisa iMenenja yoMkhandludolobha salelo nani elinqunywe yiMenenja yoMkhandludolobha ngenhloso yokuba lowo ofake isicelo akwazi ukukhokhela noma yiziphi izindleko, izinkokhelo noma idiphozithi yanoma yiluphi uhlobo, okungafuneka ukuba kukhokhelwe uMkhandludolobha waseTshwane, uma nje –

(i) UMkhandlu ngazikhathi unquma inani lelo i-ejenti yemakethe elinikezwa isibambiso kumele lenyuke, uma kunjalo iMenenja yoMkhandludolobha izokwazisa i-ejenti yemakethe ngokubhalwe phansi mayelana nenani elinyukile; kanti

(ii) i-ejenti yemakethe izonikezela ngesibambiso esengeziwe kuMkhandludolobha waseTshwane zingakapheli izinsuku ezingama-30 kusukela ngosuku okuphume ngaso isaziso njengoba kushiwo esigatshaneni (i), okuwukuthi isibambiso esengeziwe kumele sibe ngumehluko phakathi kwenani lalelo elenyusiwe kanye nalelo lesibambiso esanikezelwa ngaphambilini kanti futhi, ngokweneliseka kweMenenja yoMkhandludolobha, kumele sikhokhwe ngemali noma ngesheke eliqinekiswe yibhange noma kube kokubili okuyimali kanye nesheke eliqinekiswe yibhange.

(4) Uma iMenenja yoMkhandludolobha icabanga ukuthi lowo ofake isicelo akahlangabezani noma nakuphi okukodwa noma okungaphezu kokukodwa kwalokho okubekiwe esigatshaneni (3), izokwenqaba ukukhipha ilayisense ye-ejenti yemakethe kulowo ofake isicelo bese yazisa lowo ofake isicelo

ngokumbhalela mayelana nokwenqaba. Uma lowo ofake isicelo ecela ukuba anikezwe izizathu ezibhalwe phansi mayelana nokwenqaba, iMenenja yoMkhandludolobha izonikezela ngalezi zizathu zingakapheli izinsuku ezingama-30.

(5) Imenenja yoMkhandludolobha ingayihoxisa ilayisensi ye-ejenti yoMkhandludolobha –

(a) (i) uma isitifiketi sesikhwama sokuvikela abaqashi ekuwisweni ngabasebenzi (fidelity fund certificate) sesiphelelwe yisikhathi, sihoxisiwe noma simisiwe ngokuhambisana nesigaba 16 soMthetho;

(ii) lapho i-ejenti yemakethe iyinkampani, ewuhlobo lwaleyo nkampani lapho amalunga akhona kungamele ukuba eqe kwayi-10 *(close corporation)* noma ewuhlobo lokubambisana ngophathini *(partnership)*, kube noshintsho ezabelweni zenkampani noma ubulungu be-*close corporation* noma ababambisene enkampanini yokubambisana ngaphandle kokuba i-ejenti yemakethe ithole imvume ebhalwe phansi yeMenenja yoMkhandludolobha kuqala mayelana noshintsho;

(iii) lapho omunye noma eminye imibandela engaphezu kowodwa wesigaba 15(2), nesigaba 24(a) kuya ku- (e), 24(f)(ii) kanye nesi-24(g) kanye nezigatshana (3)(b)(ii) okuhlangatshezwana nayo;

(iv) lapho i-ejenti yemakethe ingena ebudlelwaneni bebhizinisi noma ithola ukubamba iqhaza, ngqo noma ngokungekho ngqo ebhizinisini, okungalimaza, kone, noma kungenise kubeke engcupheni inzuzo yemakethe; noma

(b) lapho iMenenja yoMkhandludolobha enquma ukuhoxisa ilayisensi le-ejenti yemakethe ye-ejenti yemakethe, kuleso simo izokwazisa i-ejenti yemakethe ngokubhalwe phansi mayelana nesinqumo sayo. I-ejenti yemakethe ehoxiselwe ilayisensi ye-ejenti yemakethe kumele, ngokuhambisana nemibandela yesigaba 36, ngaphandle kokuchitha isikhathi iyeke ukuqhuba ibhizinisi njenge-ejenti yemakethe ngaphandle uma ifake isicelo sangaphakathi sokubuyekezwa kwesinqumo njengoba kubekiwe esigabeni 62 somthetho wezinhlelo zikamasipala (Municipal Systems Act, 2000), uma kunjalo okungenza ukuba, ngokuya ngemibandela enqunywe yiMenenja yoMkhandludolobha, iqhubeke nokwenza ibhizinisi kuze kube yilapho seyazisiwe ngomphumela wesicelo sokubuyekezwa kwesinqumo.

12. Ukuziphelela kwelayisensi ye-ejenti yemakethe

Ilayisensi ye-ejenti yemakethe akuxoxiswana ngayo noma ayinakho ukudluliselwa kanti isikhathi sayo siyaziphelela kanti akuphoqiwe uma –

(a) lapho umuntu odaliwe, eshona noma ifa lakhe lishona ezimalini;

(b) lapho i-ejenti yemakethe iyinkampani noma iyi-*close corporation* esibekwe ngaphansi kohlelo lokuchithwa okwesikhashana noma esibekwe ezingeni lokugcina lokuchithwa.

13. Abathengisi

(1) Akekho umuntu ozoqhuba ibhizinisi ngaphakathi emakethe ngaphandle kokuthi unemvume yokuthengisa ekhishwe yiMenenja yoMkhandludolobha .

(2) Ukufakwa kwesicelo semvume yokuthengisa kumele senziwe i-ejenti yemakethe egameni lomthengisi efomini elenzelwe lokho elitholakala emehhovisi okuphatha izimakethe ezisemagcekeni ezimakethe, le fomu kumele –

(a) ihambisane nenkokhelo yokufaka isicelo inani layo elinqunywe nguMkhandlu ngazikhathi kanye neminye imininingwane kanye namabhukwana afanele njengoba kubekiwe efomini; kanti

(b) kumele athunyelwe ngeposi noma alethwe kuMenenja yoMkhandludolobha kulelo kheli elibhalwe efomini.

(3) Imvume yokuthengisa ingakhishwa kuphela kulowo ofake isicelo uma enelisa iMenenja yoMkhandludolobha ngalokhu –

(a) uma eqashwe yi-ejenti yemakethe enelayisensi; kanye nokuthi

(b) ukulungele, unekhono futhi ukufanele ukuqhuba ibhizinisi njengomthengisi ngaphakathi emakethe.

(4) Uma iMenenja yoMkhandludolobha ibona ukuthi lowo ofake isicelo akahlangabezani nowodwa noma nemibandela engaphezu kweyodwa

yesigatshana (3), uzokwenqaba ukukhipha imvume yokuthengisa kulowo ofake isicelo kanti uzobe esemazisa ngokumbhalela mayelana nokwenqaba kwakhe amnike nezizathu zalokho.

14. Ukuhoxisa imvume yokuthengisa

(1) Imvume yokuthengisa akuxoxiswana ngayo noma angeke yakwazi ukuthi ingadluliselwa komunye. IMenenja yoMkhandludolobha izohoxisa imvume yokuthengisa yomthengisi –

(a) lapho umthengisi engasaqashiwe yi-ejenti yemakethe okuyiyo enelayisensi ye-ejenti yemakethe ngokuya ngemibandela yesigaba 11(3);

(b) lapho noma yimuphi owodwa umbandela noma imibandela engaphezu kowodwa yesigaba 13(3)(b) ingalandelangwa;

(c) lapho umuntu othengisayo engalandeli imibandela yesigaba 15(2), nesigaba 24(a) kuya ku- (e) noma isigaba 24(f)(ii) noma 24(g) kuya ku-(h).

(2) Uma iMenenja yoMkhandludolobha inquma ukuhoxisa imvume yokuthengisa yomthengisi, izokwazisa i-ejenti yemakethe ngokubhalwe phansi mayelana nesinqumo sayo. Lowo mthengisi okuhoxiswe imvume yokuthengisa yakhe kumele, ngokuhambisana nesigaba 36, ngokushesha ayeke ukuqhuba ibhizinisi njengomthengisi ngaphandle kokuthi ufake isicelo sangaphakathi sokubuyekezwa kwesinqumo njengoba kubekiwe esigabeni 62 somthetho obizwa i-*Municipal Systems Act, 2000,* uma kunjalo okungenza ukuba,

ngokuhambisana nemibandela ebekwe yiMenenja yoMkhandludolobha, aqhubeke nokwenza ibhizinisi aze aziswe ngomphumela wesikhalazo sakhe.

15. I-ejenti yemakethe kanye nokuthengiswa ngaphakathi

(1) I-ejenti yemakethe kumele ahambise ibhizinisi lakhe ngokuhambisana nemibandela, imigomo kanye nemithetho engaphansi kwalo Mthetho, imibandela yalo mthetho kamasipala kanye nanoma yiziphi izinqubomgomo , izinyathelo nezenzo zoMkhandludolobha waseTshwane okungachitshiyelwa ngazikhathi kanti okuqukethwe ezincwadini nakulezo zincwadi ezijikelezayo zabaphathi bezimakethe.

(2) I-ejenti yemakethe izoqhuba ibhizinisi lakhe –

(a) ngaphakathi emakethe, ngokuhambisana nemibandela yesigaba 3(4), uma nje ngaso sonke isikhathi umkhiqizo wezolimo uthengiswa i-ejenti yezolimo ufakiwe ohlelweni olusemthethweni labaphathi bezimakethe; futhi

(b) nangokuthola ikhomishini kuphela kanti akumele ukuba azibandakanye kunoma yikuphi ukuthengisa ngqo kungenjalo ngaphandle ngesikhundla sakhe njenge-ejenti yemakethe.

(3) Lapho iqhuba ibhizinisi layo, i-ejenti yemakethe kumele avumele kuphela abathengisi ukuba bathengisele ngaphakathi emakethe.

16. Izingubo zokuzivikela nezenkampani

(1) I-ejenti yemakethe kumele –

(a) ngokuhambisana nomthetho wezokuphepha nezempilo emsebenzini i-*Occupational Health and Safety Act, 1993 (Act 85 of 1993),* ihlinzeke abasebenzi bayo ngezingubo zokuphepha; futhi

(b) aqinisekise ukuthi lezo zingubo zokuphepha ziyahambisana nenqubomgomo efanele yoMkhandludolobha waseTshwane.

(2) I-ejenti yemakethe ayizukuvumela noma yibaphi abasebenzi bakhe ukuba basebenze eMakethe yaseTshwane ngaphandle kokuthi lowo msebenzi ugqoke izingubo zokuphepha njengoba kushiwo esigatshaneni (1).

17. Uphawu lwe-ejenti yemakethe

I-ejenti yemakethe kumele ngezindleko zakhe –

(a) imise ibhodi lophawu emnyango lwehhovisi elikulo, lelo bhodi lophawu kumele kube yilelo elivunywe yiMenenja yoMkhandludolobha kanti kumele libe negama lebhizinisi le-ejenti;

(b) igcine ibhodi lisesimeni esihle; ibuye

(c) ibeke igama lebhizinisi ehholo lemakethe ngendlela eyamukelwe ngokubhalwe phansi yiMenenja yoMkhandludolobha.

18. Ukuthengisa ngaphakathi

(1) Abantu okumele babe lapho kuthengiswa khona ngaphakathi kumele kube ngumthengi kanye nomthumeli waleyo ejenti yemakethe; uMkhandludolobha waseTshwane angeke uzibandakanye ekuthengiseleni ngaphakathi noma nanoma yingayiphi indlela atheswe icala lokungagcwalisekwa kwemigomo nemibandela yokuthengisela ngaphakathi.

(2) Uma umkhiqizo wezolimo ongaphakathi emakethe uthengiswa –

(a) ngokuya ngesisindo, kumele kube umkhiqizo wezolimo okalwe ngaphandle kokugoqwa, kanti kungumsebenzi we-ejenti yemakethe ukukuqinisekisa lokho, ngaphambi kokuba umkhiqizo wezolimo uthengiswe, isisindo somkhiqizo wezolimo ungagoqiwe kumele sibonakale –

(i) emkhiqizweni wezolimo; kanye

(ii) nakulokho okuqukethe uma lowo mkhiqizo wezolimo uqukethwe yilokho kokuqukatha; kanye

(b) nangesampula, lowo mkhiqizo wezolimo omningi kumele uhambisane mayelana nezinga lesampula lalowo mkhiqizo wezolimo osembukisweni, kanti leyo ejenti ngumsebenzi wayo ukuqinisekisa ukuthi noma yiyiphi isampula yomkhiqizo wezolimo osembukisweni liyahambisana nezinga yomkhiqizo wezolimo omningi.

(3) IMenenja yoMkhandludolobha inelungelo kodwa ayiphoqiwe –

(a) ukuthatha amanyathelo ngokubona kufanele ukuba enze njalo ngenhloso yokuqinisekisa ukuthi imibandela yalesi sigaba noma nanoma yimiphi imibandela yalo mthetho kamasipala iyalandelwa; kanti

(b) ukuvimbela umkhiqizo kamasipala ukuba uthengiselwe ngaphakathi uma kukhona imibandela yalo mthetho kamasipala ongalandelwa.

(4) Umkhiqizo wezolimo ongaphakathi emakethe ungathengiswa kuphela kulowo mthengi onekhadi lokuthenga elisemthethweni elikhishwe ngabaphethe imakethe.

(5) Ngesikhathi kuthengwa ngaphakathi emakethe, umthengi kumele anike leyo ejenti yemakethe ikhadi lakhe lokuthenga ngaphandle kokuchitha isikhathi, yona ezobe isirekhoda imininingwane yokuthengisa ngendlela enqunywe yiMenenja yoMkhandludolobha ngazikhathi.

19. Ukukhokha

(1) Umthengi wanoma yimuphi umkhiqizo wezolimo kumele, emuva nje kwentengiso, akhokhe inani lentengiso yokuthenga ngemali kuMkhandludolobha waseTshwane ngendlela edingwa nguMkhandludolobha waseTshwane.

(2) Uma umthengi womkhiqizo wezolimo ekwazi ukuthenga ngokusebenzisa uhlelo lokuthenga ngesikweledu oluhambisana nemibandela yezezimali noma oluhambisana nezinye izinqubomgomo zezimali noma indlela uMkhandludolobha asebenza ngayo, inkokhelo yemali yentengo,

kuMkhandludolobha waseTshwane ingashintsha ngenxa noma uma ekhipha ikhadi labathengi okuqondiswe kulo esigabeni 18 (4) no (5).

(3) (a) IMenenja yoMkhandludolobha anganikezela ngohlelo lokuthenga ngesikweledu kumthengi uma nje umthengi enikezela, ngokwezindleko zomthengi, ngesiqinisekiso sebhange noma sikakheshi waleyo mali enqunywe yiMenenja yoMkhandludolobha bese ekhokha imali yentengiso ngalezi zikhathi –

(i) ngaphambi kwe-11:45 ngosuku olulandela usuku lokuthenga;

(ii) ngaphambi kwe-11:45 ngoLwesibili olulandelayo uma kuthengwe ngoMgqibelo; noma

(iii) ngaphambi kwe-11:45 ngosuku olulandelayo oluphakathi neviki uma kuthengwe ngosuku olwandulela iholide lomphakathi.

(b) Noma kunjalo imibandela yesigatshana (3)(a), iMenenja yoMkhandludolobha, kuleso nakuleso sicelo esifakiwe esibhalwe phansi somthengi, anganika umthengi isikhathi eseluliwe sokukhokhela inani lentengo, uma nje leso selulo sihambisana nemibandela nemigomo ebekiwe kunqubomgomo yokulawula izikweledu zoMkhandludolobha waseTshwane.

(4) Emva kokukhokhelwa kwenani lentengo yomkhiqizo wezolimo sekwenziwe noma uhlelo lokuthenga ngesikweledu sekunikeziwe, uMkhandludolobha kumele ukuba akhiphe idokodo lokuthengisa kumthengi, okuwukuthi lelo

dokodo kumele kube ngeliqukethe lolo lwazi kanye nemininingwane enquywe yiMenenja yoMkhandludolobha ngazikhathi.

(5) Uma kwenzeka ukuba uMkhandludolobha waseTshwane unikezela ngohlelo lwesikweledu kumthengi ngenhloso yokuba athenge umkhiqizo wezolimo, uMkhandludolobha waseTshwane, ngesikhathi esisodwa senkokhelo njengoba kubekiwe esigabeni 20(2) ngezansi, uzofaka imali e-akhawuntini ye-trust yaleyo e-jenti yemakethe ebhekele ukuthengisa inani lemali elilingana nenani lesikweledu anikezelwe sona, kanti uMkhandludolobha waseTshwane uzoba nelungelo khona lapho ukuthola inani elikhokhiwe esibambisweni esinikwe iMenenja yoMkhandludolobha ngokuhambisana nesigatshana (3) sesigaba 19.

20. Ikhomishini yentengiso

(1) Umthumeli nguyena okumele akhokhele uMkhandludolobha waseTshwane leyo mali enqunywe nguMkhandlu ngazikhathi ngaleyo naleyo ntengiso yangaphakathi ayenzile.

(2) UMkhandludolobha waseTshwane uzothatha leyo mali okubhekiswe kuyo esigatshaneni (1) enanini lentengo futhi uzokhokhela ibhalansi yemali okuthengwe ngayo ngaphakathi emakethe ku-ejenti yemakethe obekuyiyo ebhekele ukuthengisa ngaphakathi emakethe, izinsuku ezimbili eziphakathi nesonto zingakapheli ezilandela lolo suku okuthengwe ngalo.

21. Ukulandwa nokususwa komkhiqizo wezolimo

(1) Ngokuhambisana nemibandela yesigatshana (2), umthengi kumele alande futhi abuye aqoqe noma enze ukuba kulandwe kubuywe kuqoqwe yonke

imikhiqizo yezolimo ayithengile, esikhathini esemukelekayo emva kokuthengwa komkhiqizo wezolimo, ngaphandle uma iMenenja yoMkhandludolobha ibona ukuthi ingamnikeza isikhathi eseluliwe sokulanda noma sokuqoqa umkhiqizo wezolimo.

(2) Akekho umthengi noma lowo ammele ozosusa noma yimuphi umkhiqizo wezolimo ngaphakathi emakethe ngaphandle kokuthi –

(a) unalo idokodo lokuthengisa elisemthethweni okuqondiswe kulo esigatsheni 19(4) mayelana nomkhiqizo wezolimo; noma

(b) kunemvume ekhishwe yiMenenja yoMkhandlu yokususa umkhiqizo wezolimo.

22. Umthengi ohluleka ukukhokha

(1) Uma umthengi ehluleka ukunikezela ngekhadi lomthengi noma ehluleka ukwenza inkokhelo yenani lentengo yomkhiqizo wezolimo othengiwe, iMenenja yoMkhandludolobha ingayalela ukuba lowo mkhiqizo wezolimo uphindwe uthengiswe ngendlela abona kufanele ngayo nangendlela okufuneka ngayo .

(2) Umthengi okuqondiswe kuye esigatshaneni (1) nguye okumele athwale izindleko zoMkhandludolobha waseTshwane mayelana nenkokhelo yencithakalo yemali elahlekele uMkhandludolobha waseTshwane ngenxa yokuphinde athengise umkhiqizo wezolimo, kanti futhi iMenenja yoMkhandludolobha unelungelo lokumisa ikhadi lokuthenga lomthengi kuze kufike leso sikhathi lapho yonke imali evela kumthengi seyitholakele.

23. Umbango phakathi komthengi kanye ne-ejenti yemakethe

Uma kukhona umbango wanoma wuluphi uhlobo mayelana nomkhiqizo, ukuthengiswa noma ukuphathwa kwawo phakathi komthengi ne-ejenti yemakethe, noma yimuphi phakathi kwalabo bantu oyingxenye yombango angathumela isikhalo wakhe kuMenenja yoMkhandludolobha, ozozama ukuwuxazulula. Uma kukhona phakathi kwalaba bantu onganelisekile mayelana nalokho okunconywe yiMenenja yoMkhandludolobha, lowo muntu angaphoqelela amalungelo akhe ngokumangalela omunye enkantolo.

24. Izibophezelo ze-ejenti yemakethe

I-ejenti yemakethe kumele yenze lezi zibophezelo ezilandelayo:

(a) I-ejenti yemakethe akumele ukuba ithole noma yiyiphi imali noma inkokhelo ephuma kumthengi.

(b) I-ejenti yemakethe akumele ukuba ivumele umthengi ukuba asuse umkhiqizo wezolimo osuthengiwe ngaphakathi emakethe ngaphandle kokuthi umthengi unalo idokodo lokuthenga umkhiqizo wezolimo elihambisana nesigaba 19(4).

(d) I-ejenti yemakethe akumele ithengise noma yimuphi umkhiqizo wezolimo ongaphakathi kwalokho okuqukathayo okungahambisani naleyo micikilisho ebekwe yiMenenja yoMkhandludolobha.

(e) I-ejenti yemakethe kumele ukuba inikezele ngomkhiqizo wezolimo ovumelana nalowo othengwe umthengi mayelana nekhwalithi, isisindo, izinga, inhlobo kanye nalokho kokuqukatha kwalowo mkhiqizo wezolimo.

(f) I-ejenti yiyo ezibophezela kumthengi uma –

(i) umkhiqizo wezolimo onikezelwe yi-ejenti uhlukile kunalowo othengwe ngumthengi mayelana nobuningi, isisindo, ikhwalithi, izinga, inhlobo kanye nalokho kokuqukatha mayelana nalowo mkhiqizo; noma

(ii) mayelana nomkhiqizo wezolimo othengwe ngenxa yesampula, umkhiqizo wezolimo onikezwe yi-ejenti yemakethe uhlukile kunalowo oyisampula.

(g) I-ejenti yemakethe akumele ukuba ithenge, noma ivumele abasebenzi bayo ukuba bathenge, noma yimuphi umkhiqizo wezolimo ngaphakathi emakethe ngenhloso yokuwuthengisa futhi noma ukuhweba ngawo ngenhloso yokufaka imali e-akhawuntini yakhe.

(h) I-ejenti yemakethe noma nanoma yibaphi abasebenzi abavunyelwe, ngenhloso yokuzisebenzisela bona noma yokuzidlela bona, ukuthenga noma yimuphi umkhiqizo wezolimo ngaphakathi emakethe ngenani elingaphansi kwalelo okuthengiswe ngalo umkhiqizo wezolimo ngaphakathi emakethe ngalolo suku.

(i) I-ejenti yemakethe kumele ikuqinisekise ukuthi abathengisi bayo bayayilandela imibandela yalesi sigaba kanye naleyo yesigaba 15(2).

25. **Izithuthi**

(1) Akekho umuntu ovunyelwe ukuqhuba ibhizinisi lokuthutha emagcekeni emakethe ngaphandle kokuthi ubhaliswe yiMenenja yoMkhandludolobha njengomthuthi futhi ebe enayo imvume yokuthutha.

(2) Imvume yomthuthi ikhishwa kuphela kumuntu uma elethe ubufakazi bokuzazisa nangasemuva kokukhokha idiphozithi ayobuyiselwa yona futhi enqunywe nguMkhandlu ngazikhathi kuMenenja yoMkhandludolobha.

(3) Umthuthi kumele kuthi ngaso sonke isikhathi agqoke lokho okumbonisayo kanye nalezo zingubo ezinikezwa abathuthi ababhalisile yiMenenja yoMkhandludolobha kanti kumele ukuba azigcine ehlanzekile kanye nezingubo zakhe zihlanzeke.

(4) Umthuthi akavunyelwe ukwenza lokhu okulandelayo –

(a) uma ngabe akathuthi ngaleso sikhathi, akavunyelwe ukungena kunoma yiyiphi ingxenye yamagceke emakethe ngaphandle kwendawo ebiyelwe noma enye indawo ebekelwe abathuthi yiMenenja yoMkhandludolobha; kanye

(b) nokuthi ahambe efuna amakhasimende ngokumemeza noma ngokulandela umthengi ngokunesicefe.

26. Amabhala

(1) UMkhandludolobha waseTshwane anganikezela ngebhala kumthuthi kuphela uma ngabe –

(a) egqoke izingubo ezishiwo esigabeni 25(3);

(b) enemvume esemthethweni yokuthutha; kanye

(c) nokuthi uyikhokhile idiphozithi ayobuye abuyiselwe yona kulabo abaphethe imakethe ngenhloso yokuthola ibhala, okuwukuthi kuleyo mali yediphozithi eyobe inqunywe nguMkhandlu kuzokhishwa eyokulisebenzisa.

(2) (a) Umthuthi kumele ngaso sonke isikhathi aphathe iresidi yediphozithi eshiwo esigatshaneni (1)(c) futhi kumele akwazi ukulikhipha iresidi uma ecelwa yiMenenja yoMkhandludolobha.

(b) Umthuthi akumele ukuba adudule amabhala amabili noma yingasiphi isikhathi.

(c) Umthuthi kumele asebenzise kuphela lelo bhala alinikezelwe nguMkhandludolobha waseTshwane.

(d) Umthuthi nguye onesibopho sokusebenzisa ibhala anikezwe lona ngokuphephile.

(e) Umthuthi kumele enze isiqinisekiso sokuthi lelo bhala anikezwe lona lisetshenziswa ngendlela yokugwema ukumosheka ngenxa yobudedengu noma ngamabomu.

(f) Umthuthi akumele ukuba aphinde aqashise ngebhala komunye umuntu.

27. Ukuhoxiswa kwemvume yomthuthi

(1) Imvume yomthuthi akuxoxiswana ngayo noma ayidluliselwa komunye umuntu. IMenenja yoMkhandludolobha ingayihoxisa imvume yomthuthi uma umthuthi –

(a) ehluleka ukuhambisana nanoma yimuphi umbandela noma imibandela yesigaba 26(1)(a) no (b) noma isigaba 26(2);

(b) ehluleka ukukhokha idiphozithi eshiwo esigabeni 26(1)(c); noma

(c) esebenzisa ibhala ngendlela leyo engalimaza umuntu noma impahla.

(2) Uma uMkhandludolobha ekwazi ukuhoxisa imvume yomthuthi, uzokwazisa umthuthi ngokubhalwe phansi mayelana nesinqumo sakhe. Lowo mthuthi imvume yakhe ehoxisiwe angeke abuyiselwe idiphozithi yakhe eshiwo ezigabeni 25(2) no 26(1)(c) kanti kumele, ngokuhambisana nemibandela yesigaba 36, ayeke ukuqhuba ibhizinisi lokuthutha khona manjalo ngaphandle kokuthi uma efake isicelo sangaphakathi sokubuyekezwa kwesinqumo njengoba kushiwo esigabeni 62 somthetho i-Municipal Systems Act, 2000,

uma kunjalo, ngokuhambisana nemibandela enqunywe yiMenenja yoMkhandludolobha, uzoqhubeka nokuqhuba ibhizinisi aze aziswe ngomphumela wesicelo sokubuyekeza isinqumo.

28. Ukuthwala icala ngabathuthi

(1) Umthuthi uhlinzeka ngemisebenzi yakhe ngokuzibeka yena engcupheni, kanti uMkhandludolobha waseTshwane angeke ulithwale icala lanoma yikuphi ukulahlekelwa noma ukumoshakalelwa komthuthi, kungaba ukumoshakalewa okwenzeka emntwini noma empahleni, okungumphumela wemisebenzi yomthuthi.

(2) UMkhandludolobha waseTshwane angeke alithwale icala mayelana nanoma okukabani noma nanoma yikuphi ukulahlekelwa noma ukumosheka, noma yingabe kumuntu noma empahleni, okudalwe umthuthi ngesikhathi eqhubeka nomsebenzi wakhe wokuhlinzeka ngemisebenzi yokuthutha.

29. Amabhala kanye nezinqodlana kwangasese

Noma yimuphi umuntu kumele afake isicelo kuMenenja yoMkhandludolobha ukuba avunyelwe ukusebenzisa ibhala okungelakhe emagcekeni emakethe, leso sicelo singeke sabanjwa noma sibambezeleke ngaphandle kwesizathu. IMenenja yoMkhandludolobha uzokwazisa lowo muntu ngokubhalwe phansi mayelana nesinqumo sayo, kanti uma imvume inikezelwe, leyo mvume ebhalwe phansi kumele ngaso sonke isikhathi iphathwe yilowo muntu ngesikhathi esemagcekeni emakethe.

30. Izimoto, izithuthuthu namabhayisikili

(1) Ngaphandle kwalokho kokusebenza, akekho umuntu ovunyelwe ukuqhuba ibhizinisi ngemoto ngaphakathi emakethe, ngaphandle kwezizathu ezimayelana nempilo noma nokukhubazeka okwenza angakwazi ukuzihambela ngaphandle kokusebenzisa imoto.

(2) Akekho umuntu okumele aqhube ibhizinisi ngemoto ngaphandle kokuthola imvume ebhalwe phansi kuqala kuMenenja yoMkhandludolobha futhi ehambisana nemibandela enqunywe yiMenenja yoMkhandludolobha.

(3) Umuntu osicelo sakhe esicutshungulwe esigatshaneni (2) enikwe sona kumele alandele imibandela, uma ikhona, uma ehluleka iMenenja yoMkhandludolobha inelungelo lokuhoxisa imvume.

31. Imithetho kanye nemigomo yemakethe

Akekho umuntu ongenza lokhu okulandelayo –

(a) ongasebenzela noma ahwebele noma kukuliphi ihhovisi, indawo, isiza noma enye indawo esemagcekeni emakethe ngaphandle –

(i) kokuthola imvume ebhalwe phansi kuqala kuMenenja yoMkhandludolobha ngokuhambisana nemibandela yenqubomgomo eyamukelwe yoMkhandludolobha waseTshwane; kanye

(ii) nokuthi ukhokhele ngaphambili irenti noma inkokhelo esemthethweni ayikweleda ihhovisi, indawo, isiza noma noma yiyiphi indawo esemagcekeni emakethe;

(b) ongathenga noma athengise noma yimuphi umkhiqizo wezolimo, awugcine njengoba kushiwo kulo mthetho kamasipala;

(c) okhele umlilo emagcekeni emakethe ngaphandle kwemvume yeMenenja yoMkhandludolobha;

(d) ame noma ancike kunoma yimuphi umkhiqizo wezolimo osemagcekeni emakethe;

(e) ajikijele into kunoma yimuphi umuntu noma empahleni emagcekeni emakethe;

(f) athintathinte noma yimuphi umkhiqizo wezolimo noma okokuqukatha, noma asuse ilebuli kunoma yimuphi umkhiqizo wezolimo noma lokho kokuqukatha lowo mkhiqizo;

(g) ongadala ukuvimbela kokuhamba noma umonakalo ohlelweni lokuhambisa indle noma amanzi ezikhukhula emagcekeni emakethe;

(h) ukugeza, ukucwecwa, ukupakisha, ukubeka ngononina, ukuhlela noma ukuhlanza imikhiqizo yezolimo noma kukuphi ngaphandle kwaleyo ndawo eqokelwe lokho esemagcekeni emakethe ngaphandle kokuthola kuqala imvume ebhalwe phansi kuMenenja yoMkhandludolobha;

(i) ahluphe noma akhathaze noma yimuphi umuntu emagcekeni emakethe;

(j) ahluphe ngokwenza izinto noma ngebhizinisi noma abe yisicefe kunoma yimuphi omunye umuntu emagcekeni emakethe;

(k) angene noma ahlale emagcekeni emakethe sekuvaliwe ngaphandle kwemvume ebhalwe phansi yeMenenja yoMkhandludolobha;

(l) ukuhluleka noma ukwenqaba ukulandela imiyalelo enikezelwa yiMenenja yoMkhandludolobha ukuba asuse into emagcekeni emakethe noma ayibeke kwenye indawo emagcekeni emakethe;

(m) ukuthimisa, ukuzulazula noma ukusebenzisa ulimi lokwesabisa, olunenhlamba, oluhlambalazayo noma oluqosheme noma adale ukuphazamiseka emagcekeni emakethe;

(n) ukuza edle amanzi amaponjwana noma isidakamizwa esozelisayo noma ukuphuza utshwala emagcekeni emakethe, ngaphandle kwalawo magceke anelayisensi yokuthengisa ngotshwala;

(o) ukumosha noma ukonakalisa noma yiyiphi impahla noma isakhiwo emagcekeni emakethe;

(p) ukulahla noma yimaphi amakhasi, amahlamvu emifino, udodi noma yiziphi ezinye izibi emagcekeni emakethe ngaphandle kokulahlela kuleyo migqomo efanele ehlinzekiwe;

(q) ukuhlupha noma ukuvimbela noma yimuphi umsebenzi woMkhandludolobha waseTshwane ekwenzeni imisebenzi yakhe;

(r) ukuhamba uthengisa, uthilaza noma ucela emagcekeni emakethe;

(s) ukususa noma yimuphi udodi, inkunkuma noma umkhiqizo wezolimo olahliwe ngaphandle kwemvume ebhalwe phansi yeMenenja yoMkhandludolobha;

(t) ukupheka noma ukwenza noma yisiphi isiphuzo ngaphandle kokukwenzela lokho ezindaweni eziqokelwe lokho emagcekeni emakethe; kanye

(u) nokuza noma nasiphi isilwane emagcekeni emakethe ngaphandle kokuthola imvume ebhalwe phansi kuqala kuMenenja yoMkhandludolobha.

32. Abezitolo nabamawulisela

UMkhandludolobha waseTshwane unelungelo lokubekela eceleni noma yiyiphi ingxenye emagcekeni emakethe ngenhloso yokuvulela ibhizinisi labezitolo kanye nelabamawulisela ukuqhuba ibhizinisi lemikhiqizo yezolimo futhi kumele, mayelana nalokho, ungene ezivumelwaneni nalabo bezitolo nabamawulisela mayelana nemibandela yokungena esivumelwaneni nabezitolo nabamawulisela lapho beqashiselwa itafula, indawo yokuthengisela noma indawo, noma yikuphi phakathi kwalokhu, uma nje abezitolo noma iwulisela, noma yimuphi phakathi kwabo –

(a) beqhuba ibhizinisi kuleyo ngxenye yegceke emakethe abanikwe yona ngokuya ngemibandela yesivumelwane sokuqashiselwa;

(b) bethengisa kuphela leyo mikhiqizo yezolimo ebhalwe esivumelwaneni sokuqashiselwa; kanye

(c) nokuthi abanalo ilungelo lokuthengisela ngaphakathi emakethe.

33. Ukubhekisa okuthunyelwe kumawulisela

(a) Ngokuhambisana nemibandela yesigaba 5(2), ayikho iwulisela engathengisa umkhiqizo wezolimo emagcekeni emakethe ngaphandle kwalowo othengwe ngaphakathi emakethe.

(b) Iwulisela ingathengisa, ngokuthola kuqala imvume ebhalwe phansi kuMenenja yoMkhadludolobha, umkhiqizo wezolimo othunyelwe kuye ngqo ovela kumthumeli, ngaphandle kokuthi inkokhelo eshiwo esigabeni 20(1), kungakhokhelwa ngayo intela, inani layo elibalwe ngesilinganiso senani lezimakethe ngalowo mkhiqizo wezolimo ngalolo suku noma ngokunqunywe iMenenja yoMkhandludolobha ngazikhathi.

34. Amandla eMenenja yoMkhandludolobha

IMenenja yoMkhandludolobha inelungelo lokwenza lokhu okulandelayo –

(a) ukuhlola noma yimuphi umkhiqizo wezolimo, noma yiyiphi into esemagcekeni emakethe;

(b) lokuvimbela noma yimuphi umkhiqizo wezolimo ukuba uphume emagcekeni emakethe uma ikholelwa futhi inezizathu zokuthi noma yimuphi umuntu uhlulekile ukulandela imibandela yesigaba 18(4) noma (5) noma yesigaba 19;

(c) uma isola futhi inezizathu zokuthi noma yimuphi umkhiqizo wezolimo othengiswayo webiwe, iyakuvimbela ukuthengiswa kwalowo mkhiqizo ize yeneliseke mayelana nokuthi ngubani umnikazi womkhiqizo;

(d) mayelana nezibalo noma nezinye izinjongo zezomthetho, ingacela noma yikuphi okubhalwe phansi noma imininingwane ehlobene nanoma yiyiphi ingxenye yokuthengiswa komkhiqizo wezolimo emagcekeni emakethe, uma kwenzeka lokhu lowo muntu okucelwa kuye kumele ayinike lokho okubhalwe phansi noma imininingwane ngokungachithi isikhathi;

(e) ingayalela noma yimuphi umuntu obeke noma yimuphi umkhiqizo wezolimo noma yini emagcekeni emakethe ephazamisa noma evimbayo, ukuba asuse lowo mkhiqizo wezolimo noma leyo nto;

(f) ukuvimbela ukuhlanza, ukuxetshulwa noma ukucwecwa komkhiqizo wezolimo emagcekeni emakethe noma kunoma yiyiphi ingxenye yamagceke emakethe; kanye

(g) nokukhipha imiyalelo ebona ifanele, ngenhloso yokuqinisekisa ukusebenza kahle ngekhono kanye nokusebenza okuyikho kwemakethe kanye nokuphepha nesimo sempilo esihle nokweneliseka kwawo wonke umuntu, le miyalelo ingabhalwa esazisweni noma

ezazisweni ezingabekwa ebhodini lesaziso noma lezaziso ezindaweni ezibonakalayo emagcekeni emakethe, kanti kumele ukuba zithotshelwe zilandelwe yiwo wonke umuntu ongena emagcekeni emakethe.

35. Ukuthengiselwa kwabasebenzi boMkhandludolobha waseTshwane

Akekho umsebenzi woMkhandludolobha waseTshwane osebenza emakethe noma obandakanyeka ngenye indlela emakethe onelungelo lokuthenga noma yimuphi umkhiqizo wezolimo, ngaphandle kokuthi uyosetshenziswa noma uyodliwa nguye, ngaphandle uma inani lentengiso lomkhiqizo wezolimo othengelwe ukuba uyosetshenziswa noma uyodliwa yilowo msebenzi, alikho ngaphansi kwalelo nani obekuthengiswa ngalo lowo mkhiqizo ngaphakathi emakethe ngalolo suku.

36. Inkokhelo

Inkokhelo ekhokhelwa uMkhandludolobha waseTshwane ngokuhambisana nalo mthetho kamasipala kuzobe kuyileyo nkokhelo eyanqunywa nguMkhandludolobha waseTshwane ngazikhathi.

37. Izikhalo

(1) Noma yimuphi umuntu ofake isikhalo mayelana nesinqumo seMenenja yoMkhandludolobha esenziwe ngokuhambisana nalo mthetho kamasipala angafaka isicelo sokubuyekezwa kwaleso sinqumo ngokulandela imibandela yesigaba 62 somthetho we-Local Government: Municipal Systems Act, 2000,

okuyimibandela esebenza ngezinguquko ezifanele (*mutatis mutandis)* mayelana nesikhalo.

(2) Ngesikhathi kusalindwe umphumela wezikhalo esisacutshungulwa esigatshaneni (1) –

(a) i-ejenti yemakethe okuqondiswe kuyo esigabeni 11(5)(b) inelungelo lokuqhubeka nokwenza ibhizinisi njenge-ejenti yemakethe;

(b) umthengisi okuqondiswe kuye esigabeni 14(2) unelungelo lokwenza ibhizinisi njengomthengisi; kanye

(c) nomthuthi okuqondiswe kuye esigabeni 27(2) unelungelo lokuqhubeka nebhizinisi njengomthuthi.

38. Ukukhululwa ekwethesweni icala

Noma yimuphi umuntu ongena emagcekeni emakethe ukwenza lokhu ngokuzibeka yena engcupheni, uMkhandludolobha waseTshwane nanoma yibaphi abasebenzi bawo angeke betheswe icala lanoma yikuphi ukulahlekelwa noma ukumosheka kumuntu noma empahleni yakhe okungumphumela wesenzo noma sobudedengu boMkhandludolobha noma abasebenzi bakhe ekwenzeni umsebenzi wabo ngaphandle kokuthi bawenze ngokunganaki.

39. Amacala nezinhlawulo

(1) Noma ngumuphi umuntu owenza lokhu okulandelayo –

(a) ohluleka ukulandela noma ophikisana nemibandela, nemigomo, nemikhawulo noma nemiyalo yelayisensi, yemvume, yokuvumeleka, noma igunya elikhishiwe noma elinikezelwe kuye ngaphansi kwalo mthetho kamasipala;

(b) owephula noma ohluleka ukulandela noma ngabe yimuphi umbandela noma umyalelo okhishiwe noma isidingo ngaphansi kwalo mthetho kamasipala; noma

(c) owephula noma ohluleka ukulandela noma yimuphi umbandela walo mthetho kamasipala

unecala.

(2) Noma yimuphi umuntu olahlwe yicala ngaphansi kwalo mthetho kungenzeka agwetshwe isikhathi esingekho ngaphezu kweminyaka emithathu noma akhokhiswe izi-R60 000 noma kokubili njengoba kuyonqunywa yinkantolo yomthetho ngokuhambisana nomthetho wezinhlawulo i-Adjustment of Fines Act, 1991 (Act 101 of 1991), noma kokubili ukugwetshwa nenhlawulo.

40. Ukuchithwa koMthetho kaMasipala weziMakethe wasePitoli

UMthetho kaMasipala weziMakethe wasePitoli owashicilelwa ngaphansi komthetho Administrator's Notice 208 wangomhlaka 24 Mashi 1965, njengoba wachitshiyelwa, uyachithwa.