



Policy
on
Alienation of Immovable Property

DOCUMENT REF:	ALIENATION OF IMMOVABLE PROPERTY POLICY
VERSION NO:	1
PREPARED BY:	MASHOTJA MF
DATE COMPILED:	MAY 2018
REVIEWED BY:	RAMOGALE MW
DATE REVIEWED:	MAY 2018
APPROVED BY:	COUNCIL
DATE APPROVED:	28 MAY 2018
EFFECTIVE DATE:	01 JULY 2018

1. PURPOSE

1.1. This policy aims to:

- a) Provide for uniform procedures and processes to be applied and complied with in the process of alienation of immovable municipal property within Molemole area of Jurisdiction.
- b) Promote Investment and Sustainable Development therein.
- c) Promote Integrated Sustainable Human Settlements therein
- d) Ensure compliance with the applicable legislation, regulations and ordinances;
- e) Ensure fairness, equitable, transparency, cost effectiveness and competitiveness;
- f) Ensure speedy availability of land to developers and the residents;
- g) Ensure that Historically Disadvantaged Individuals are economically empowered;
- h) Ensure that a racial composition of property ownership is substantially changed;

2. VALUES TO BE ACHIEVED BY THE POLICY

- a) Income generation
- b) Empowerment of the Historically Disadvantaged Individual's
- c) Further the aims and objectives of the Spatial Development Framework (SDF) and the Land Use Scheme of the Municipality

3. GENERAL CONDITIONS OF ALIENATION

- a) All costs including, town planning costs, transfer costs, internal engineering service must be paid by the purchaser.

- b) All processes for sale/lease of council owned land must comply with the provisions of Section 79(18) of the Local Government Ordinance, 17 of 1939, and any amendments thereto read together with section 14 of Municipal Finance Management Act, any relevant regulations promulgated there-under.

- c) Development of transferred/ leased properties commence within a period of three years from date of transfer/lease,

- d) such development must have building plans approved by the local authority in terms of the national building regulation and building standards Act, 1977 .

- e) In an event where there are no Bulk services, development period stated in (c) will be calculated from the date of completion of installation of such services.

- f) Any advertisement or media publication for the alienation of land should be made in terms of section 21 of the Municipal Systems Act 32 of 2000 and be accompanied by the declaration of the Preferential Procurement Policy Framework Act, no 5/2000.

- g) In the event where more than one application for the alienation of Council land is received and such application has been made by any Historically Disadvantaged Individual (HDI) (such person as contemplated in the Preferential Procurement Policy Framework Act, No 5/2000), the application of such Historically Disadvantaged Individual shall, provided the application complies in every respect with the Council's policy and/or guidelines and/or requirements relating to bids and/or deeds of sale, enjoy preferential consideration on the same point scoring basis for HDI's as contained in regulations promulgated in terms of section 5 of the Act .

(vi) Public Tender

(vii) By leasing the asset for a short/long term by means of a lease agreement.

4.2. The highest acceptable tender/Bid will be considered when Council's assets are disposed.

4.3. The decision to dispose of immovable property is reserved for the Council.

4.4. When alienating immovable property, the Council may from time to time by way of the resolution determine the following:

(a) The criteria and conditions in terms of which such property will be alienated.

(b) The percentage/s in terms of which the stands will be reserved for the previously disadvantaged communities.

(c) If there is a need for automatic rescission of Council Resolution should the applicant fail to accept the Council Resolution alienating the immovable property to the applicant within 60 (sixty) days from the date of Council Resolution.

5. Procedure for Sale

5.1. Residential Erven

(a) Residential erven should be advertised for sale in accordance with Section 79 (18) of the Local Government Ordinance, 17 of 1939 as amended, read with Section 21 of the Municipal Systems Act 32 of 2000, as amended together with the Municipal Finance Management Act 56 of 2003 and the Council's Supply Chain Management Policy; and

(b) Sold on a first come first served basis to natural adult persons over the counter and persons with full purchase price will be given first preference.

5.2. Business / Industrial Erven

- h) All bid documents are to contain a clause stating that it is an express term of the bid that such bids will only be regarded as valid and binding on the parties once a Deed of Sale, has been duly signed by the bidder and the Council.
- i) The Deed of Sale will only be signed on payment of 100% (or upon the delivery of an acceptable guarantees) within (7) seven days after the award by the Bid Adjudication Committee or the Council.
- j) Market related prices of all properties to be determined by a person registered in terms of Property Valuers Profession Act (No. 47 of 2000).
- k) All proposed development of building work would be subjected to the submission and approval of building plans in terms of National Building Regulation And Building Standards Act , 1977 (Act 103 of 1977) at the cost of the purchaser

4. Methods of Disposal

4.1. The disposal of immovable property must be by one of the following methods:

- (i) Transferring the asset to another Organ of State in terms of a provision of the Municipal Finance Management Act and incidental regulation enabling the transfer of assets.
- (ii) Transferring the asset to another Organ of State at market related value or, when appropriate for a lesser amount or free of charge;
- (iii) Selling the asset;
- (iv) Donating the asset.
- (v) Public auction.

- (a) Industrial/ Business Erven will be sold either by public bidding process or auction at a market related price.
- (b) The property may not be sold or subdivided until it has been developed with a permanent structure within 36 months of the signing of the deed of sale.
- (c) The property may only be subdivided after the full purchase price has been paid and it has been confirmed by the Technical Services Department that the necessary services are in place and to the satisfaction of the Municipality.
- (d) The Erven sold as above may not be transferred to a third party within 10 years from the date of transfer unless if council resolve otherwise.
- (e) *Where feasible and upon advice by national and provincial treasury Public Private Partnership arrangement can be explored as required in terms of the applicable MFMA Regulations.*

5.3. Church Erven

- (a) Due to the high demand for church erven the alienation thereof will be done by way of a public bidding process unless Council resolved otherwise.
- (b) When the deed of sale for the church erf is concluded, the following conditions shall be made applicable:
 - (i) No Dwelling unit(s) may be erected on a church stand unless if the dwelling unit will only be used as a house for the minister of the church.
 - (ii) No rezoning and subdivision of the church erf shall be allowed at any stage.
- (c) The following documents should be submitted to the Municipality for the alienation of a church erf:
 - (i) Constitution of the church/similar establishment document;
 - (ii) Six months bank statements of the church;
 - (iii) Proof of registration Non-profit organisation by the church with the Department of Social Development;
 - (iv) Proof that the church has been in existence in Molemole Municipality for more than 36 months; and

- (v) Proof that the church has a membership of not less than 300 persons and more for a period of thirty six months.

5.4. Park Erven

- (a) If council deems it necessary to alienate park erven, permanent park closure procedure must be conducted as prescribed in the Local Government Ordinance 17 of 1939 and any other applicable legislation
- (b) The procedure mentioned in (a) above must give Council an indication of the following:
 - (i) The locality and size of the park area in question;
 - (ii) The soil conditions prevailing in the park;
 - (iii) The locality of any flood lines on and/or near the park;
 - (iv) The status of the park in terms of being developed with recreational facilities;
 - (v) Whether the park is used as access to other land used;
 - (vi) Possible future plans to develop the park as a recreational facility;
 - (vii) Possible value of the park as a recreational facility in terms of locality and size;
 - (viii) Sufficiency of park areas within the area where the park is located;
 - (ix) The possibility of servicing the park if developed with another use;
 - (x) Consideration should be given to existing green belt concepts and any planned green belt concepts;
 - (xi) The ecological status of the area in question as well as the environmental impact of any such developments, should they take place, should also be considered;
 - (xii) The natural biodiversity that occurs or may occur naturally in the park; and
 - (xiii) Any historical significance that could be associated with certain areas.

- (c) The sale of green space must be avoided and only considered in the interest of the community and where the community will be benefited.

6. UNSOLICITED BID

- (a) If Council decides to consider an unsolicited bid the decision must be made public in accordance with Section 113 of the Municipal Finance Management Act and Section 21A of the Municipal Systems Act, together with –
 - (i) reasons as to why the bid should not be open to other competitors;
 - (ii) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (iii) in case where a private person or organization identified the Council's product or service and make an offer for Council's land, council may or may not guarantee that such person/organization that the land will be alienated to him as unsolicited bid.

7. RENTAL PROPERTY

- 7.1. All immovable property must be let at market related rates except when the public interest or plight of the poor demands otherwise. Whereby, Council shall upon consideration of all incidental factors, determine the rates payable other than the Market related.
- 7.2. The rental amount for the letting of immovable property must be annually reviewed in line with applicable legislation.
- 7.3. With respect to the short term lease agreement exceeding 3 years, the Section 33 of the MFMA must be complied with if the lease agreement has financial obligations for the Council, for example loan agreement.
- 7.4. The long terms lease agreement shall be concluded between the Municipality and the third party/parties, wherein such agreement comply with the Municipal Finance Management Act. The lease agreement entered into pursuant to the Council's resolution shall incorporate the conditions of approval.

7.5. All proposed agreements of lease shall be subject to the following terms and conditions:

- (a) The **PROPERTY** is to be fenced by the **LESSEE** at his/her own cost.
- (b) That all electrical cable and connection costs will be for the account of the applicant.
- (c) The **LESSEE** shall enter into a consumer agreement with the Council and shall pay the necessary deposits on signing of this consumer agreement. Services rendered in terms of this consumer agreement shall be paid monthly by the **LESSEE** in accordance with the tariffs as determined from time to time and as promulgated in terms of the Council's By-Laws and Section 80(B) of the Local Government Ordinance No. 17 of 1939. Assessment Rates and Service Levies shall be payable by the **LESSEE** from the date of commencement of the lease agreement.
- (d) No permanent structure(s) may be erected on the **PROPERTY** without council approval.
- (e) The **LESSEE** shall be responsible for maintenance of the **PROPERTY** at own costs.
- (f) The **LESSEE** shall be obliged to comply with all statutory provisions including By-Laws, LUMS, SPLUMA and Regulations applicable to the use exercised on the **PROPERTY**.
- (g) Should the **PROPERTY** not be utilized by the **LESSEE** within the period of 6 months from the date of the resolution, the lease contract shall automatically come to an end and the **PROPERTY** shall revert back to **COUNCIL**.

8. Donations

8.1. The Municipality's property shall be donated to the third/parties based on the Council's resolution. The deed of donation entered into pursuant to the Council's resolution shall incorporate the conditions of approval.

8.2. The donor and the donee shall sign a service level agreement stipulating the conditions of donation.

9. Exchange

9.1. Where exchange takes place, the general conditions are to be included in the title deed and no transaction without prior written consent of the Municipality shall be allowed.

10. Incentives to the previously disadvantaged individuals

10.1. That a 20% discount be granted to Previously Disadvantaged Individuals (PDI's) and Close Corporations or private companies where more than 50% of the interest or shares are held by PDI's provided that if the individual or company to whom the discount was granted wish to sell the property within a period of 5 years or if the interest or shareholding in a company to whom the discount was granted changes to such an extent that more than 50% is no longer held by the PDI's within a period of 5 years, the discount should be refunded to Council.

10.2. That the condition referred to in (a) above be registered in the Title Deed of the property and that it may not be cancelled without the prior written approval of the Council.

11. Sale/ Donation to Charitable Organizations

11.1. Sale to third parties are not allowed at all, should the purchaser not need property anymore, the property will revert back to Council to be made available to either similar body/ies.

12. Unregistered and Registered Erven as well as Land/Property under Floodline.

12.1. The alienation of land/property under the floodline shall take place only after Council has considered the Engineers report submitted in the application on measures taken to prevent flooding.

12.2. That the Municipality be indemnified in writing against any claim for damage that might occur due to flooding of any portion of the property situated below the flood line.

13. Scope of Application

- 13.1. The Policy is applicable to all persons and/or Organizations applying to lease and/or purchase Municipal Immovable Property (Land).
- 13.2. All the Municipal Officials and Councillors tasked with the Administrative and Oversight responsibilities of the application and enforcement of the Policy.
- 13.3. All the provisions of this Policy shall be binding and enforceable in accordance with the incidental Legislation.
- 13.4. No Municipal Immovable Property (Land) shall be disposed outside this Policy.

14. Delegation

The Council *may delegate* a committee responsible for alienation of municipal land in accordance with applicable legislation.

15. Implementation Date

- 15.1. The Policy shall be implemented and enforceable effective immediately upon Final approval by Council.

16. Amendments

- 16.1. Any content of this Policy shall be amended by Resolution of Council.

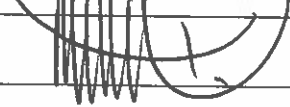
17. Short Title of the Policy

- 17.1. This policy is called the Molemole Municipality: Alienation of Immovable Property Policy.

18. COMMENCEMENT

Council resolves in terms of Sec 111 of the Local Government Municipal Finance Management Act (Act No. 56 of 2003), to adopt the Alienation of Immovable Property Policy of Molemole Local Municipality as per council resolution number _____

This Policy takes effect on the **01st July 2018**

Signature:	
Initials and Surname:	Paya ME
Designation:	Mayor
Council Resolution Number:	06/07.13 / 28/05/18
Council Date:	28 May 2018