

Dear Owners

NOTICE OF SPECIAL GENERAL MEETING TO BE HELD AT DOORNBOSCH, STELLENBOSCH ON TUESDAY, 15 JANUARY 2019, AT 17:30

The Purpose of this letter

This letter is addressed to all members of the Brandwacht aan Rivier Home Owners' Association ("HOA") with the express purpose of giving notice of a Special General Meeting ("the Meeting") in terms of clause 46.1 of the Estate's Constitution. The Meeting will take place at 17:30 on Tuesday, 15 January 2019 at the usual venue, being Doornbosch just off the R44/Strand Road.

Background

As indicated in our letters of 7 December 2018 and 11 December 2018 respectively, it has come to the attention of the Trustee Committee that some owners have advertised their properties on Airbnb.

The popularity of short-term rentals listed on websites like Airbnb and Lekkeslaap where homeowners may list accommodation for rent – including rooms in their homes – which may then be booked online, is growing steadily. The standard used by gated estates such as Brandwacht aan Rivier is that short-term rentals is typically defined as rentals for a period of 90 days or shorter.

Experience has shown that homeowners in gated communities typically hold one of two distinct and opposed points of view on whether or not such short-term rentals should be allowed.

The first point of view

The first point of view is that such short-term rentals should be allowed since homeowners want to generate income through renting out their properties. These owners argue that they are entitled to take advantage of the demand for short-term accommodation, and so reap benefits from their property, which is one of the fundamental rights of ownership. They point out the following advantages to allowing short-term rental:

- Rentals create more income for homeowners;
- Homeowners are more likely to maintain / upgrade their property; and/or
- Rentals generate additional tax revenue, and support the local economy.

The opposing (second) point of view

The opposing point of view is held by those homeowners who point out the potentially adverse impact on neighbours, common spaces, and community living. They point out the following disadvantages to allowing short-term rentals:

- Safety & security concerns;
- Noise infractions and loitering;
- Crowded common areas and parking space;

- Common property damage;
- Increased pressure on the civil services infrastructure; and
- Potential property value decreases due to these disadvantages.

Those homeowners in favour of allowing short-term rentals argue that the potential disadvantages may be adequately addressed by means of appropriate rules since homeowners are, after all, responsible for all activities which take place on their properties. In addition, they may argue that an occupier in terms of a short-term lease will not necessarily cause any more damage or/and disruption than would be the case for an occupier in terms of a long-term lease (which is seemingly accepted universally as being acceptable).

Those homeowners opposed to allowing short-term rentals argue that this is insufficient assurance as short-term occupiers may have left by the time, for example, unbecoming behavior can be brought to the attention of the homeowner concerned and/or the Trustees Committee. They point out that these short-term occupiers have no sense of ownership, in the sense which longer-term occupiers, might have and are thus more unlikely to take note and adhere to the conduct rules which are applicable within the Estate. The effect is that the homeowner concerned and/or the Trustees Committee does not really have a means of enforcing the rules against such short-term occupiers.

There are, of course and perhaps most importantly, questions regarding the security aspects since perfect strangers, which have not been vetted properly or at all, gain access to the Estate.

Additional factors

In addition to the advantages and disadvantages to allowing short-term rentals there are also some legal aspects that must be considered:

- Does the governance documentation of the Home Owners' Association provide for allowing or prohibiting such short-term rentals?
- Does the use of a dwelling in the Estate for short-term rental purposes constitute a business activity as envisaged in the Estate Rules?
- Does the use of a dwelling in the Estate for short-term rental purposes require land-use or other consent under the applicable municipal by-laws?

The Meeting

There are no easy answers to these issues. It is, we would have thought as Trustees, incumbent on HOA, for the benefit of the common good, to take a position in this regard to this matter in order to address the matter sufficiently and satisfactorily going forward.

Accordingly, the Trustees believe that members should be afforded an opportunity to consider, examine and discuss/debate the potential advantages and disadvantages associated with allowing short-term renting within the Estate.

We hereby give formal notice that the Meeting will take place on 15 January 2019 given the seriousness and urgency of the matter. The express purpose of the Meeting will be to afford all members an opportunity to air their views regarding the potential impact which allowing short-term rentals may have on the Estate. Members will, in addition, be requested at the Meeting to vote either for or against the proposed resolution below.

Amending/supplementing the Estate Rules

Irrespective of the decision taken by the members, it may be well necessary to amend or supplement the Estate Rules to reflect and give effect to the decision.

The detail of such amending and/or supplementing of the Estate Rules will not form part of this letter and the members will, as part of the proposed resolution, be asked to give the Trustees the authority to make the necessary changes to the Estate Rules to reflect and give effect to the decision.

The proposed resolution

In order to facilitate the discussion, the Trustees propose the following resolution which will be put to the vote at the Meeting on 15 January 2019:

"No owner of a property within the Brandwacht Aan Rivier Estate may rent his/her/its property for a period of 90 days or less unless prior written permission is given by the Trustee Committee.

The Trustee Committee is hereby authorised to amend and/or supplement the Estate Rules to reflect and give effect to the aforementioned decision in their discretion."

**Trustee Committee
13 December 2018**