

**PROPOSED RESOLUTION
TO BE PASSED AT A MEMBERS' MEETING
OF THE BRANDWACHT AAN RIVIER HOME OWNERS' ASSOCIATION
HELD AT DOORNBOSCH HALL, STELLENBOSCH
ON 26 NOVEMBER 2013**

WHEREAS:

1. It is intended that the sales levy, as dealt with in Paragraph 9 of the Constitution of Brandwacht aan Rivier Home Owners' Association ("the Constitution"), shall also be payable in cases where a member who is a VAT vendor for purposes of the sale of an erf/erven in the development sells such erf/erven.

2. The wording of paragraph.9.1 of the Constitution, which reads as follows:

"9.1 Every member shall be liable to pay to the Association a special levy ("the sales levy") in respect of any transaction for which transfer duty is payable in terms of the Transfer Duty Act, No 40 of 1949, of an amount equal to 1% (one percent) of the amount on which such transfer duty is payable."

does not deal with sales of erven where no Transfer Duty is payable.

3. In order to avoid future uncertainty regarding the payment of the sales levy, it is agreed that this paragraph 9.1 of the Constitution, be amplifies and amended.

THEREFORE IT IS RESOLVED THAT paragraph 9.1 of the Constitution be deleted and replaced with the following paragraph:

"9.1 Every –

- (a) registered owner of an erf (which shall include, but not limited to a natural person, trust, company of close corporation), or where erf is owned by more than one registered owner, all the registered owners of the erf jointly and severally;

(b) shareholder of a company owning an erf;

(c) member of a close corporation owning a erf; or

(d) beneficiary of a trust owning an erf,

who has sold or otherwise alienated –

(aa) the erf;

(bb) his or her shareholder's interest;

(cc) his or her member's interest or

(dd) his or her beneficial interest in the trust.

shall, before transfer thereof, to pay to the Association a sales levy equal to 1% (one percent) of the value of the erf or shareholder's interest or member's interest or beneficial interest, as the case may be ("the sales levy")

For purposes of this paragraph 9.1, "value" means –

- (i) in cases where transfer duty is payable on the transaction, the amount on which the transfer duty is payable;
- (ii) in cases where the transaction is subject to value added tax, the amount on which such tax is payable; and
- (iii) in all other cases; the value of the erf or of the interest which has been alienated.

Unless otherwise agreed between the party concerned and the Association, the "value" of the erf or the interest for purposes of (iii) above shall -

- 9.1.1 in the case of an arms' length transaction, be the amount of the consideration payable in respect of the transaction; or
- 9.1.2 in any other case, be the market value of the erf or the interest as determined by a professional valuer or a professional associate valuer registered in terms of the Property Valuers Profession Act No. 47 of 2000, appointed by the Association."