



Staff circular 004 of 2020

To : All Development Management Staff
From : Cheryl Walters – Director: Development Management
Subject : **Staff circular 004/2020: Prescribed objection and appeal forms**
Date : 3 April 2020

1. Background

- a. The amended City of Cape Town Municipal Planning By-law, 2015 (MPBL) requires that all objections and appeals submitted against land use applications be submitted on prescribed forms. The forms were prescribed on 6 February 2020 and are attached as Annexure A (Objection, comment or representation form) and Annexure B (Appeal form).
- b. The purpose of having prescribed forms is to guide objectors, commentators and appellants to submit objections, comments, representations and appeals which meet the requirements of the MPBL.
- c. The amendments to the relevant sections in the MPBL state:

"Section 90(5): A person who submits an objection, comment or representation must provide on the prescribed form –

- (a) sufficient details of the application for it to be readily identified;
- (b) their full name;
- (c) their address and other contact details and the method by which they may be notified;
- (d) their interest in the application;
- (e) the reason for their objection, comment or representation, including at least –
 - (i) the effect that the application will have on them or the area;
 - (ii) any aspect of the application that is considered to be inconsistent with policy, and how."

"Section 108(1): A person contemplated in subsection (2) and an applicant contemplated in section 103 may appeal to the appeal authority by giving written notice of the appeal and grounds of appeal and by completing and signing the prescribed form."

- d. The templates for a notice to a person, notice in the media and a site notice were updated to now include the requirement that an objection must be on the prescribed form. The decision letter template was also updated to include that an appeal must on the prescribed form.
- e. Auto-acknowledgements on the generic district objection and appeal mailboxes have been amended to state this requirement.

2. Objection, Comment and Representation Form

a. Validity of an objection, comment or representation which is not submitted on the prescribed form

Section 90(6) of the MPBL states that an objection, comment or representation which does not meet the requirements of subsection (5) (which include the requirement that it must be on the prescribed form) may be disregarded.

The departmental position is that a submission which is not on the prescribed form will not be automatically disregarded at this moment in time. This position will be reviewed after six months of implementation having tested the effectiveness of the use of the prescribed forms together with their content.

There is no delegation to staff in terms of section 90(6) as to who may disregard an objection, comment or representation and any objection, comment or representation, submitted in any format, must be forwarded to the applicant to comment thereon and therefore also needs to be addressed in the report to the decision-maker.

The decision-maker will need to make a final ruling on whether an objection, comment or representation is disregarded or not. The report to the decision maker will therefore need to identify any non-compliance to any of the requirements stipulated in section 90 of the MPBL.

If an objection is to be ruled invalid and disregarded by the Municipal Planning Tribunal (MPT), and that is the only objection to the application (or if more than one, all are ruled to be invalid), then the MPT cannot decide thereon and the report must be submitted to the authorised official for a decision. This only applies to the category of applications which can be decided by an authorised official if there is no objections.

If an objection is declared invalid, then no appeal right is to be issued in that case.

b. Availability of the Objection, comment or representation form

The form is uploaded and available for download on the Planning Portal.

A short URL (<http://www.capetown.gov.za/LandUseObjections>) was created and this is included in the templates for a notice to a person, notice in the media and a site notice. Staff need to direct the public to this link should they be requesting the form.

Staff are to be advised that an objector/petitioner may still walk in their objection(s). If this does occur staff should advise the client to complete the form, otherwise it may be disregarded. Assist client at the counter where possible to complete the form.

In terms of petitions (section 91(1)(c)) the authorised representative is to complete the objection form and attached the petition thereto.

3. Appeal Form

a. Validity of an appeal which is not submitted on the prescribed form

In terms of the submission of appeals there is no discretion as to whether the appeal is valid if the prescribed form is not used.

In terms of section 108(4) an appeal is invalid if it does not comply with section 108, which includes the requirement of completing and signing the prescribed form. There is no discretion.

Staff are to be advised that an appellant may still walk in their appeal(s). If this does occur staff should advise the client to complete the form otherwise it will be disregarded. Assist client at the counter where possible to complete the form.

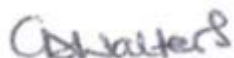
b. Availability of the Appeal form

In terms of the appeal form, most communication should be via email as that's how the objection came in. In these cases, staff should attach the appeal form to the email with the decision letters.

The form is also uploaded and available for download on the Planning Portal. A short URL (<http://www.capetown.gov.za/LandUseAppeals>) was created and this is included in the decision letter template.

Kindly ensure all staff is familiar with and apply the contents of this staff circular consistently.

District Managers and Section Heads can request further information from either: [Richard Walton](#), [Schalk de Jager](#) or [Greg Joubert](#).



Cheryl Walters
Director: Development Management