



Hout and About

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The publication of the Residents' Association of Hout Bay
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Photo courtesy of Anthony Allen, The Aerial Perspective www.aerialphoto.co.za

Gathering point of Protest March Sun 22 Jan 2011 - People assembling around the site of the proposed Toll Plaza with its luxury Office Block H/Q for Entilini /Murray & Roberts

CONTENTS	PAGE
Aerial photo of Chapman's Peak Drive by kind permission of Anthony Allen – The Aerial Perspective www.aerialphoto.co.za . Photo - gathering of protestors where Entilini/Murray & Roberts Luxury Office Block will be built	1
Len's Lines – a message from the Chairperson of RAHB	2
Photos by kind permission of John Wilson member of RAHB & protestor on the march.	3
CRAG's Memorandum to Premier, Helen Zille	7
Letters/e-mails from RAHB Members & Associates	8
Email of support from New School, International School of Georgia	11

Len's Lines

A message from the Chairperson of the Residents' Association of Hout Bay

PROTEST MARCH UP CHAPPIES – Sunday, 22 January 2012

This protest march will go down in history as the most well supported and well organised march ever to take place in Hout Bay. The whole thing was organised by CRAG (Civil Rights Action Group) with Bronwen Lankers-Byrne, together with her colleagues, Sam Pellisier, Jemima Birch and others, taking the lead. The turn-out was overwhelming, as was the full support given to RAHB by the Greater Cape Town Civic Alliance. Ordinary people from all over the City, and further a field, came to march in solidarity, wrote to the press or sent emails and offers of help.

The press, especially the Cape Times, also had a leading role in making the message understood and continuing with this story of the iniquitous multi-million Rand luxury office block Headquarters for Entilini (a company owned by Murray & Roberts)! Other newspapers such as the Mail & Guardian, Die Rapport and Die Burger featured articles covering the story. SABC TV in Morning Live as well as SABC TV2, SABC TV3 and eNews gave live coverage of the protest march on Sunday. This is huge publicity and a massive show to the Provincial Authorities, SanParks and Murray & Roberts (Entilini) that the Public doesn't want this unnecessary luxury Office Block for the Entilini Head Quarters right in the middle of Chapman's Peak Drive on a site incorporating 2100 sq.m of Table Mountain National Park land! Our Attorneys continue to advise us that SanParks cannot de-proclaim the land and hand it over to the Provincial Government of the Western Cape, without parliamentary Legislation to do so. *Any shortcut by SanParks would be unlawful.*

We also firmly believe in the spirit of the law behind NEM:PAA (National Environmental Management: for the Protection of Areas Act) which gives purpose to the South African National Parks, as the Guardian to protect and preserve the land for the public benefit, for the preservation of conservation of the Natural Environment. It is a far stretch of the 'spirit of the Act' to hand over free, gratis and verniet, even one centimetre of this Table Mountain Park land by SANParks to Entilini/ Murray & Roberts for the purposes of a commercial

venture, where they intend to construct their luxury head office. If the proper lawful procedure is not followed, our Attorneys are ready to go to the High Court in order to get an Urgent Interdict to stop the construction of this Office Block. Our next step will be to argue the case that NEM:PAA does not permit such a structure on Chappies.

Minister Robin Carlisle has challenged us to take the matter to Court and we know that his Government and SANParks will defend this action and of course it is taxpayers' money that they will use. So we need to stop this concrete construction on Chappies, where the Tourists come to see the natural beauty on the pass and the surrounds, the luxury office block for Entilini is neither necessary nor desirable. We have had wonderful support in the protest march organised by CRAG, so a big thanks to CRAG.



Photo by John Wilson

Photo shows Keith Fawcett holding up for public display the plans of the luxury office block for Entilini/Murray & Roberts, which clearly overshadows the Toll Plaza.



Photo by John Wilson

Young and old, Protestors came to Chappies from all over Cape Town and Hout Bay to have their say against the inappropriate buildings on Chapman’s Peak Drive and the threat to stop the free ‘Day Pass’ to picnic sites and hiking trails.

The community had understood that infrastructure around the toll plaza would be *only* what was necessary for tolling – and that would certainly not include an ‘office block’!

Also of concern is the reported agreement by Entlini and the Province to discontinue the free ‘Day Pass’ instituted by the previous MEC for Transport and allowing free access to the Chapman’s Peak trail head and the picnic sites.

Minister Carlisle mentioned that this free Day Pass would be maintained but we would like to see this in writing and that such free access will be *in perpetuity*.



Photo by John Wilson

A Hout Bay resident takes the microphone to answer Minister Robin Carlisle who went to great lengths to inform people that due process was carried out. She said that although there was a Public Participation Process (PPP) it was a formality and concerns and comments were effectively ignored. RAHB then appealed to the National Minister of Environment & Tourism and hand delivered this Appeal in Pretoria; again the Appeal fell on deaf ears.

Stop Press Note: Dr David Mabunda, the CEO of SANParks, was invited by CRAG to accept their Memorandum, but declined to attend the Protest March to receive this Memorandum, as he said that it was the responsibility of the Province not SANParks to attend to this matter. Minister Robin Carlisle received the Memorandum on behalf of the Premier and Mr Promario received it on behalf of Murray & Roberts.

Len Swimmer

Chairman, Residents Association of Hout Bay
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Here below is a copy of the Memorandum handed to Minister Robin Carlisle for onward transmission to the Premier, Helen Zille. When phoned this morning by the Cape Times asking if she had anything to say, she responded saying that she was studying the Memorandum.

CIVIL RIGHTS ACTION GROUP (CRAG)
Memorandum handed over on 22 January 2012

This memorandum is for the attention of the Premier of the Western Cape Province. It is presented by the Civil Rights Action Group (CRAG) on the occasion of a march by citizens of South Africa demonstrating their outrage and registering their protest against the Provincial Government, SANParks and Murray and Roberts promoting the construction of a toll plaza and office block on Chapman's Peak Drive within Table Mountain National Park. **The existing plaza is sufficient and we demand that no permanent structure be built on Chapman's Peak Drive.**

Dear Madam Premier,

It is an irrefutable fact that construction of the office block as planned on Chapman's Peak Drive (CPD) would be unlawful. You and your Administration, by permitting that construction to proceed, would undoubtedly be aiding and abetting an illegal act.

The facts of the matter are:

- CPD as a free standing toll road enterprise is not viable.
- The Western Cape Toll Roads Act, 1999 governs only one toll road and that is Chapman's Peak Drive. The act empowers the Minister (Robin Carlisle) to withdraw the notice which originally declared CPD to be a toll road by simply placing another notice in the Provincial Gazette to that effect. A stroke of the pen and it's gone.
- Many years of operating prove what little infrastructure is necessary. The proponents of the toll plaza/office block have not shown why more infrastructure is required than is presently there.
- CPD is within Table Mountain National Park (TMNP) on land owned by SANParks which has the highest level of environmental protection possible.
- The Environmental Impact Assessment (EIA) process did not include public participation on the plans to build within TMNP.
- ALL objections to the original EIA were ignored by authorities concerned.
- The record of decision (ROD) made for the building of the plaza and Control building, is based on an environmental impact study carried out over eight years ago. No account has been taken of changes in the environment and social and economic conditions since then.
- The ROD specifies two toll plazas including an associated control building at Hout Bay. These are satisfactory and already exist.

CRAG's Covering letter to Dr Mabunda of SANParks:

CIVIL RIGHTS ACTION GROUP (CRAG)

22nd January 2012

Dear Dr Mabunda

The memorandum attached is presented by the Civil Rights Action Group (CRAG) on the occasion of a march on 22nd January 2012 by citizens of South Africa demonstrating their outrage and registering their protest against the Provincial Government, SANParks and Murray and Roberts promoting the construction of a toll plaza and office block on Chapman's Peak Drive within Table Mountain National Park

Whilst to memorandum is directed at the Premier of the Western Cape Government it contains issues which are of relevance to SANParks. In particular we draw your attention to the following demand.

We demand that:

- SANParks immediately refuse to reduce any portion of Table Mountain National Park to make land available free of charge to Entilini, a private company, for use in a manner unrelated to the purpose of our National Park.

We look forward to your urgent response.

Bronwen Lankers-Byrne Signed

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Letters/e-mails from our Members & Associates

1. Letter from Mike Dollow

Hello Len ,

Looks like we had a good turn out over the weekend and most of what needed to be said was said. With regard to the original toll road, I was under the distinct impression that in terms of the existing regulations a road could not be tolled unless there was a feasible alternative route . In my view the alternative route of going over the nek does not fall within this definition. In addition the minister made the point that the existing condition of the mountain necessitates a toll road from the maintenance cost viewpoint and that the general body of taxpayers should not be burdened with this. Firstly it was a government appointed by the general body of taxpayers that allowed this damage to take place so they must bear the cost of their mistakes. Also Chapman's peak is a national heritage site and tourist draw which is for the benefit of the country as a whole. The present provincial government must take responsibility for the damage caused by the previously elected provincial government and pay to cancel the toll contract. They should then take on the responsibility for maintenance and do the job properly in order to avoid legal actions for negligence in the future.

I was a little disappointed that no one spoke after the minister since there was a lot of rubbish coming out of his mouth.

I really do think that someone with the most knowledge of the history of this should draft a comprehensive summary of events and distribute to as many as possible.

Regards

Mike

2. Follow- up letter from Mike Dollow

Hi Len ,

I see from this brochure that they had and still have no idea about the pure economics of toll plazas. Roads are only tolled when the revenue justifies it and when there is an existing alternative route. That's two no's so far!

In addition a "world class" toll plaza is only built in situations where either there is exceptionally high toll fee income/traffic volumes. So now that's three no's !

Personally I would rather let the mountain be returned to nature than see it commercialised and scarred in this way.

So give it back to the Koi and as they said yesterday "let the rocks fall! "

Regards

Mike

3. E-mail from Jacorien Rossouw

To: 'Len Swimmer'

Subject: Re: Keep on Walking

Thanks for the pictures. I am so pleased I could assist. It is an eventful and very busy time for you. I do not know how you keep your cool with folks the like of Carlisle.

The crowds came from far and wide to show their support. And Chappies co-operated and assisted in an uncanny way- cloaked itself in mist and threw shadows over the crowds stopping the heat wave of many days until the Protest March was over and the people were back. I still marvel about this, as I see it, wondrous event. The People Spoke but I thought the Mountain Spoke out loud and clear too and smiled upon us. It does not want the Plaza. Just keep walking, Len....yes, like Johnny Walker!

Regards

Jacorien

4 E-mail from Len Pothier

Hello Len,

First of all, congratulations on a very successful march. I reckoned about 3,000 attendees.

The matter has not yet reached the stage of going to court and I think that Helen Zille is going to have to take a very serious decision --- even to the point of over-riding her MEC on his stand.

However the point I wish to bring to your attention may (hopefully) bring all the argument to a halt and should be brought to the attention of whatever Advocate is instructed. Indeed, if given quietly to Helen Zille, it may be the very way out for her.

There is a legal maxim which states ---- "Conventio privatorum non potest publico juri derogare" which translates as "An agreement of private persons cannot derogate from public right."

Given that the proposed site for the office block lies within the Table Mountain Reserve and is therefore "sacred" and untouchable land, the SANPARK crowd, who are merely custodians of that Reserve, do not have the right to alienate a square inch of it to anyone. Indeed their stance on the Hospital Bend matter was quite correct.

Hence, to coin another legal phrase, any further discussion in pursuit of Entilini's goals is "Contra bonos mores" or "Against good morals."

It could even be argued on this basis that the positioning of the booms and related structures is unacceptable and for all of Mr Carlisle's bluster, the original agreement made between the Province and Entilini was illegal from the start and should be scrapped.

Carlisle will yelp in dismay at that suggestion, citing huge resulting compensation, but if the taking of toll fees illegally from the public cannot be undone by giving back that money to each motorist, then Entilini can go off to lick their wounds by offsetting that income against their investment in their so-called upgrading of the road. In any event, no one is ever guaranteed a return on venture capital and in this case they ploughed money into a non-starter.

Tough.

Call on me if I can help in any way.

Regards,

Len.

Email of support from New School, International School of Georgia

To whom it may concern,

My name is Nolene Rice and I grew up in Hout Bay. I am a teacher and am currently teaching in the Republic of Georgia. (South of Russia)

When I heard about the situation with Chapman's Peak, I knew I needed to bring it up with my students.

My grade 7 Language Arts class decided to make a poster to show their support for the Protest which will take place this weekend.

We here at New School, International School of Georgia stand behind the residents of Hout Bay, and the greater Cape Town area and are outraged by the possibility of this building.

Part of the International Baccalaureate program is to be aware of International causes and problems. This class has definitely shown that they are internationally minded.

Please find attached a picture of the Grade 7 class and the poster they made.

I think it would be great to publish to show there is worldwide support!

If you would like any more information from us, let me know.

Kind Regards

Nolene Rice, and the Grade 7 English class.



Gr.7 English Students at New School Georgia support the preservation of Chapman's Peak

To know what's going on in Hout Bay, why not join the Residents' Association? Join today – here's how:-

Contact us via email on rahb@houtbay.org.za and a membership form will be promptly sent to you.
