

**LONGACRES  
COUNTRY AND EQUESTRIAN ESTATE**

**CONSTITUTION  
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**VOLUME 1**



# **LONGACRES COUNTRY AND EQUESTRIAN ESTATE**

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# **LONGACRES COUNTRY ESTATE HOME OWNERS ASSOCIATION**

## **CONSTITUTION**

### **THE ERF 2526 LANGEBAAN**

#### **1. NAME**

The name of the Association is The Erf 2526 Langebaan - Longacres Country Estate Home Owners Association.

#### **2. DEFINITIONS**

In this Constitution and Rules, unless the context indicates contrary:

2.1 "The Association" shall mean The Erf Langebaan - Longacres Country Estate Home Owners Association.

2.2 "The Chairman" shall mean the Chairman of the Association;

2.3 "The Development" shall mean Erf 2526 Langebaan in the Municipality of, Saldanha Bay, Division of Malmesbury and all subdivisions thereof;

2.4 "The Developer" shall mean Charles Banks Development CC;

2.5 "The Lessee" shall mean any person having a lease on any property in the Development;

2.6 "The Member" shall mean a member as defined in Clause 5 hereof;

2.7 "The Person" shall include a Company, a Close Corporation, a Trust, a Partnership or any other Association of persons entitled by law to hold title to immovable property;

2.8 "Registered Owner" shall mean the registered owner from time to time of any erf forming part of the Development;

2.9 "The Rules" shall mean the Initial Rules of the Association and any subsequent Rules made by the Association;

2.10 Words importing the singular number shall include the plural and the converse shall also apply; the masculine gender shall include the feminine and neuter genders and the neuter genders shall include the feminine and masculine genders.

#### **3. HEADNOTES**

The Head notes to the clauses in this Constitution and Rules are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

#### **4. OBJECTS AND POWERS OF THE ASSOCIATION**

The objects of the Association are:

- 4.1 to promote and enforce standards of high quality living in the development in such a way that members may derive the maximum collective benefits there from;
- 4.2 to provide for the control over and the maintenance of buildings, services and amenities forming part of the development, more particularly to enforce certain building regulations in order to maintain a characteristic West Coast "feel"; and the Association shall have the powers to do such acts as are necessary to accomplish these objects and any object implied herein. Without in any way limiting the generality of the foregoing, such powers shall include, but not be limited to the following:
- 4.3 the determination of what constitutes appropriate standards for community living and the maintenance of properties in the development;
- 4.4 the investment and re-investment of monies of the Association not immediately required in such manner as may from time to time be determined;
- 4.5 the operation of banking account with all powers required by such operations;
- 4.6 the making of, entering into and carrying out of contracts or agreements for any of the purposes of the Association;
- 4.7 the employment and payment of agents, servants or any other parties;
- 4.8 the making, amendment and repeal of Rules which shall be binding upon members, lessees of and visitors to the Development as if they form part of this Constitution;
- 4.9 the formation of sub-committees and the delegation of such powers to such sub-committees as the members in general meetings may deem necessary;
- 4.10 the right to sue and defend actions in the name of the Association and to appoint legal representatives for this purpose;
- 4.11 the levying of a subscription payable by members as provided in Clauses 5 and 11.

## **5. MEMBERS**

5.1 The Association shall be organised without capital and membership thereof shall be compulsory for every Registered Owner of an Erf in the Development which membership shall be evidenced by and limited to Registered Ownership in the Deeds Registry in Cape Town of one or more erven in the Development. Upon registration of ownership, membership of the Association shall be automatic and members shall be obliged to comply with the provisions of this Constitution and the Rules of the Association.

No person shall be entitled to cease to be a member of the Association while remaining the Registered Owner of an erf in the Development. A person who is entitled to obtain a Certificate of Registered Title to any erf in the Development shall be deemed to be the registered owner thereof.

5.2 Each member shall be entitled to one vote for each erf owned in the Development. Ownership of an erf in undivided shares shall constitute only one membership, which membership shall be represented by one individual in terms of the provisions of Clause 9 hereof.

5.3 When a member ceases to be the registered owner of an erf in the Development he shall ipso facto cease to be a member. Membership shall be transferred by the registration of a Deed of

Transfer in the Deeds Registry at Cape Town, passing transfer of one or more erven in the Development from the previous member to the new member. A member shall not transfer an erf in the Development unless it is a condition of that transfer that the registration of the transfer of the property into the name of the transferee shall ipso facto constitute the transferee as a member of the Association.

5.4 Every member shall pay an annual subscription to the Association, the amount of which shall be determined in terms of Clause 11 hereof. The subscription so determined shall apply equally to all erven and shall be payable in respect of each erf owned by a member.

5.5 Should any member let any erf owned by him to a lessee, he shall be obliged, and undertakes to ensure that such lessee complies with the provisions of this Constitution and the Rules of the Association. A lessee may become an associate member of the Association by payment of the annual subscription. An associate member shall be entitled to attend meetings of the Association, but shall not be entitled to vote at any of the meetings.

## **6. POWERS**

The Management and Administration of the Association shall be exercised by the members in a General Meeting, provided that the members in the General Meeting shall be entitled to elect a member of the Association to whom the Management and Administration of the Association, including any of its Powers, may be delegated and/or to appoint Managing Agents for this purpose. Any act performed without proper authority by any member, may be ratified and confirmed by the members.

A member who is duly authorised to act on behalf of the Association shall be entitled to be repaid by the Association any reasonable and bona fide expenses incurred by him in connection with and incidental to the performance of his duties.

## **7. CHAIRMAN OF THE ASSOCIATION**

7.1 The Chairman of the Association shall be elected at each Annual General Meeting and he shall remain in office, unless he vacates in terms of the provisions of this Constitution, until the following Annual General Meeting when he shall retire but be eligible for re-election.

7.2 The Chairman shall cease office as such if:-

7.2.1 by notice in writing to the Association he resigns his office;

7.2.2 he is or becomes unsound of mind;

7.2.3 he surrenders his estate as insolvent or his estate is sequestrated;

7.2.4 he is convicted of an offence which involves dishonesty;

7.2.5 he alienates himself from two consecutive General Meetings;

7.2.6 by resolution of 2/3rds of all members of a General Meeting he is removed from office;

7.2.7 his annual subscription becomes delinquent;

7.3 The first Chairman of the Association shall be the nominee of the Developer and he shall remain in office subject to the provisions of this Constitution until the next Annual General Meeting.

## **8. INDEMNITY**

No duly authorised member to whom the whole or any aspects of Management and Administration of the Association has been delegated shall be liable to the Association or to any member thereof or to any other person whomsoever for any act or admission by himself, or by the servants, agents, contractors or employees of the Association.

Such members shall be indemnified by the Association against any loss or damage suffered by him in consequence of any purported liability, provided that such member has, upon the basis of information known to him, or which should reasonably have been known to him, acted in good faith and without gross negligence.

## **9. MEETINGS OF THE ASSOCIATION**

### **9.1 ANNUAL GENERAL MEETINGS:**

Annual General Meetings of members shall be held once in every year at such time and place as the members may agree, but so that no more than 15 months shall be allowed to lapse between any two successive meetings. The business to be done at the Annual General Meeting shall include:

9.1.1 the receipt of a report on the affairs of the Association;

9.1.2 the possible election of a member to carry out the Management and Administration of the Association;

9.1.3 the adoption of the Minutes of the previous Annual General Meeting;

9.1.4 the adoption of the balance sheet and accounts;

9.1.5 the consideration of any resolutions concerning the affairs of the Association of which due notice has been given to all members;

9.1.6 the appointment of Managing Agents or the termination of Managing Agents contracts;

9.1.7 the election of a Chairman;

9.1.8 any other business.

### **9.2 ORDINARY GENERAL MEETINGS:**

Any member may call an Ordinary General Meeting of members.

### **9.3 PRESENCE AT MEETINGS:**

Each member shall be obliged to be present in person or represented by proxy at the Annual General Meeting and at any Ordinary General Meeting, failing which such members shall be deemed to have voted in favour of any resolution passed at such meeting by the remaining members.

### **9.4 NOTICE OF MEETINGS:**

An Annual General Meeting shall be convened on not less than 21 (Twenty One) days notice in

writing. An Ordinary Meeting shall be called by not less than 14 (Fourteen) days notice in writing.

The notice shall be inclusive of the day on which it is given and shall specify the place, the day and the hour of the meeting and the general nature of the matter to be discussed; provided that any meeting shall, notwithstanding that it is called by shorter notice than that specified, be deemed to have been correctly called if it is so agreed by all the members.

#### 9.5 VALIDITY OF MEETING:

The non-receipt of a Notice of the meeting by any person or member entitled to receive such notice, shall not invalidate the proceedings of that meeting, except to the extent that such proceedings have prejudiced, or on the balance of probability would materially prejudice, the financial or proprietary interests of the relevant member who did not receive, nor have received on his behalf, the aforesaid notice.

#### 9.6 QUORUM:

No matters shall be discussed at any meetings unless a quorum is present when a meeting commences. For all purposes, the quorum shall be members present in person or by proxy and be not less than fifteen percent (15%) of a total number of members.

#### 9.7 ADJOURNMENT:

If within half an hour of the time appointed for the holding of a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place and if at such adjourned meeting a quorum is not present within a half an hour from the time appointed for holding the meeting, the members present shall be a quorum. All members of the Association shall be forwarded notice of such adjourned meeting.

#### 9.8 CHAIRING OF MEETINGS:

In the absence of the Chairman of the Association, the members present shall choose a Chairman of the meeting to reside there over. The Chairman of the meeting shall keep or cause to be kept minutes of the meeting.

#### 9.9 VOTES:

At all General Meetings, resolutions put to the vote shall take place by a show of hands. Voting shall take place in accordance with the following positions:

9.9.1 each member present in person shall have one vote for every erf registered in his name;

9.9.2 each person present as proxy for a member shall have one vote for every erf registered in the name of the member for whom he is proxy;

9.9.3 each member and person present as proxy for a member shall indicate clearly how he casts each vote to which he is entitled as aforesaid;

9.9.4 all resolutions shall, except as otherwise provided herein, be by simple majority by those members present in person or proxy at the meeting and voting;

9.9.5 the Chairman of the meeting shall count the votes cast for and against the resolution and shall

declare it carried or lost as the case may be;

9.9.6 a declaration by the Chairman of a result of the voting by show of hands and an entry thereof in the minute book of the Association shall be conclusive evidence of that vote;

9.9.7 the Chairman shall not have the casting vote in addition to his ordinary vote.

#### 9.10 INCAPACITY:

Should any member be declared incapable of managing his own affairs, or a protocol, or insolvent, or in the case of a company placed into liquidation, such member maybe represented by his curator bonus, trustee, or liquidator as the case may be, who shall be entitled to vote on his behalf, either personally or by proxy.

#### 9.11 CO-OWNERSHIP:

If two or more persons are joint registered owners of an erf, then in voting upon any question, the vote of the senior, who tenders a vote either in person or by proxy shall be accepted to the exclusion of votes of the other registered owners of the erf, and for this purpose, seniority shall be determined by the dates of birth of the joint owners as recorded in the Deeds Registry Cape Town. In the event of an erf being jointly owned by a natural person, a Company, Close corporation or Trust, the in such event a natural person shall cast a vote on behalf of such Membership.

#### 9.12 PROXY:

9.12.1 Votes may be given personally or by proxy.

9.12.2 The instrument appointing a proxy shall be in writing in the common form, or any form approved by the Chairman of the Meeting under the hand of the appointer, or his Attorney or Agent duly authorised in writing, or if such appointer is a company or close corporation, under the hand of an officer/member duly authorised on their behalf.

#### 9.13 COMPANIES, CLOSE CORPORATIONS OR OTHER ASSOCIATIONS:

Any Company, Close Corporation, Trust or other Association which is a member of the Association may, by resolution of it's Directors, Members or other governing body, authorise such a person to act as it's representative at any meeting of the Association and the person so authorised shall be entitled to exercise the same powers on behalf of the Company, Close Corporation or Association which he represents as that Company, Close Corporation or Association could exercise if it were an individual member of the Association.

#### 9.14 RESOLUTIONS:

Resolutions may be taken by the Association other than in General Meetings, provided that they are signed by all members or their representatives.

### **10. THE STATUS OF THE ASSOCIATION**

The Association shall be an Association;-

10.1 with legal personality, capable of suing and being sued in it's own name;



10.2 none of those members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association; and

10.3 not for profit, but for the benefit of the Owners and Occupants of immovable property situated in the development;

10.4 with the right to acquire, hold and alienate property both movable and immovable.

## **11. ANNUAL SUBSCRIPTIONS**

11.1 The Association shall be entitled to levy an annual subscription from its members to defray costs of managing and administering the Association and for the purpose of meeting all expenses the Association has incurred or will incur. Such subscription may be fixed and collected annually in advance. A member shall, however, only be obliged to pay a pro rata portion of the Annual Subscription where his membership has been for a portion of a year.

11.2 The Association shall be entitled, at its discretion, to increase the annual subscription from time to time, provided that the increase will not be greater than 20% per annum.

11.3 The Annual Subscription for any year shall become due and payable on the 1st March of the said year.

11.4 The first annual subscription shall be determined by the Developer and become due and payable upon a date determined by him.

11.5 Any amount due by a member by way of an annual subscription shall be due by him to the Association. A member's successor entitled to an erf in the Development shall be liable as from the date upon which he becomes a member pursuant to transfer of that erf, to pay the annual subscription attributable to that erf. No member shall transfer his erf in a Development until the Association has certified that the member has, at the date of transfer, fulfilled all his financial obligations to the Association.

11.6 If the annual subscription of a member is not paid within 90 (Ninety) days of the due date, then such subscription shall become delinquent and the Association may, notwithstanding the provisions in Clause 15, institute legal proceedings against the member for the recovery thereof and the costs of such proceedings (of an attorney/client scale) shall be added to the subscription.

11.7 A member whose subscription is delinquent shall not be entitled to vote at any General Meeting or to serve as a Chairman of the Association until such arrear subscription has been paid.

## **12. ACCOUNTS**

12.1 Proper books of accounts of the Administration and Finances of the Association shall be kept by the Association at the Dom cilium of the Association or such other place or places as decided on by the members in a General Meeting.

12.2 The Chairman of the Association shall cause to be laid before the Association in the Annual General Meeting, books of account, balance sheets and reports of the Association.

## **13. DOM CILIUM**

13.1 For all purposes arising out of the Constitution, including the giving of notices and serving of

legal process, the Association and each member chooses Dom cilium citandi et executandi as follows:

13.1.1 the Association at c/o;

13.1.2 each member, at the erf registered in his name provided a dwelling house has been erected thereon, and in the event of such erf being vacant land, then at the address recorded by the local authority for the purposes of rendering accounts for rates in respect of that erf, provided that the Association or any member may at any time by notice, change his Dom cilium citandi et executandi to some other address, which new address shall be in the Republic of South Africa and shall not be a Post Office Box or Poste Restante; and provided further that such change will become effective only 14 (Fourteen) days after receipt of the notice in question.

13.2 Any notice which may be required to be given in terms of this Constitution may be given by the dispatch with such notice in writing by prepaid registered post, in which event such notice shall be deemed to have been received 14 (Fourteen) days after the posting thereof from any Post Office within the Republic of South Africa. Any notice as aforesaid may also be given by telefax transmission in which case such notice shall be deemed to have been received 7 (Seven) days after transmission thereof.

#### **14. WINDING UP**

The Association may be wound up by a unanimous resolution of all the members in a General Meeting in which event it shall be the duty of the Chairman or a Receiver of Revenue to be appointed by the members in a General Meeting, to convert the Association's assets into cash, pay all the liabilities of the Association and thereafter to distribute the rest to all the members in accordance with the number of erven registered in the name of each member. If, within a period of 4 (Four) months from such distribution, the Chairman or the Receiver is unable to find, locate or trace any member, such member's share shall then be paid to the Guardians Fund of the Master of the Supreme Court at Cape Town.

#### **15. DECISION REQUIRING A TWO THIRDS MAJORITY RESOLUTION OF ALL THE MEMBERS**

Notwithstanding anything in this Constitution to the contrary, but subject however to the provisions of Clause 11 above, any decision of the Association: -

15.1 which would have the effect of amending and repealing any part of this Constitution, or

15.2 which would have the effect of amending or repealing any part of the initial or subsequent rules, or

15.3 which would result in material prejudice to the financial or proprietary interest of any member shall require the unanimous resolution of all the members.

#### **16. ARBITRATION**

In the event of a dispute between any of the members, that dispute shall be resolved by Arbitration. The Arbitrator shall be an independent person agreed upon between the parties and failing agreement, nominated by the Chairman of the Law Society of the Cape of Good Hope. The Arbitrator shall be entitled to resolve the dispute according to what he regards as being just and equitable and in accordance with the spirit and the objects of this Association and he shall therefore not be bound by the strict rule of Law. The decision of the Arbitrator shall be final and binding on the parties.

#### **17. EFFECTIVE DATE**

This Constitution and the Association shall come into operation simultaneously with the registration of the first transfer of any erf in the Development.

#### **18. FINANCIAL YEAR**

The financial year of the Association shall commence on the 1st March in each year and shall end at the end of February of the following year.