



Reference: E1/1/4/2
CIRCULAR: 5/2013

TO ALL MAYORS, MUNICIPAL MANAGERS AND CHIEF TOWN PLANNERS

SECTION 14(2) OF THE LAND USE PLANNING ORDINANCE, 1985 (ORDINANCE 15 OF 1985) (LUPO)

1. In a previous circular, dated 6 September 2012 (Circular 19/2012), municipalities were informed that:
 - 1.1 the validity period for unexercised use rights in terms of section 14(2) of LUPO would expire on 30 June 2013; and
 - 1.2 the extension of the expiry date for article 14(2) is not being contemplated.
2. Municipalities were therefore requested to:
 - 2.1 where relevant, timeously inform affected property owners that the validity period for unexercised use right is running out; and
 - 2.2 provide this Department with comments as to the importance of setting up an appeal committee as provided for in Section 14(2) of LUPO, and to specifically state how individual property owners will be influenced, if the validity period is not extended.
3. Paragraph 2 was specifically aimed at determining whether or not your municipality would be affected in anyway by Article 14(2), in view of the fact that it is not applicable to all municipalities.
4. In response to the circular, queries were received from 5 individuals and 1 municipalities. One municipality requested the composition of the appeal committee, but did not elaborate on why this was necessary. A letter was recently received from SAGI requesting that the date should be extended until such time as the new planning act is promulgated, but again no motivation for this request was provided.

5. In this regard it is important to note that Section 14(2) makes provision for the Minister to establish an appeals committee. In terms of Section 14(2), this committee needs to be established before 30 June 2013. It is the responsibility of the property owner to submit an appeal to the appeal committee. The latter will decide whether the property owner has suffered or will suffer loss. Although it remains the responsibility of the owner to adhere to the requirements of the law, it is important for municipalities to remember that they have a responsibility to maintain a zoning scheme in their areas of jurisdiction. Consequently it is assumed that municipalities know which property owners will be impacted on by Section 14 (2).
- 6 This Department sent the previous circular to all Municipalities in the Province as well as to over 1000 people on our departmental database. The database does not only comprise of individuals from various disciplines within the development arena, but also includes members of SAPOA. Despite the fact that the onus remains on the land owner to submit an application to the appeal committee, it is essential that owners are informed of the implications of the provisions of this section no longer applying.
- 7 In order to make the necessary internal administrative arrangements to deal with the lapsing of use rights, municipalities are requested to please inform the Department of the following:
 - 7.1 whether or not the municipality is affected by the provisions of Section 14(2) (not all municipalities are affected);
 - 7.2 what steps have been taken to make the relevant property owners aware that the validity of their unexercised use rights is due to expire on 30 June 2013;
 - 7.3 whether or not the affected owners have been specifically informed about the provisions of Section 14(2).
8. Municipalities are requested to please provide the information referred to above to Chrizelle Kriel at Chrizelle.Kriel@westerncape.gov.za or fax: 021 483 4527 by no later than 31 May 2013.
- 9 Any individual property owner's or their consultant's who would like to request than an appeal committee be established, as provided for in terms of Section 14(2), must include a motivation as to why they think they have suffered or will suffer loss as a result of the lapsing of their former rights. All correspondence must be sent to Chrizelle Kriel at Chrizelle.Kriel@westerncape.gov.za or fax's 021 483 4527, by no later than **15 June 2013**.



HEAD OF DEPARTMENT

Date: 26 March 2013

Postscript: The previous Circular 4/2012: ZONING SCHEMES IN TERMS OF THE DRAFT WESTERN CAPE LAND USE PLANNING BILL, was sent out to all Mayors, Municipal Managers and Chief Town Planners.