



an agency of the
Department of Arts and Culture

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South African Heritage Resources Agency - Pretoria Office | 432 Paul Kruger Street | Pretoria

SITE INSPECTION REPORT: FARM ZEESFONTEIN 27 IR, EASTLANDS PROPERTIES (PTY) LTD

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HERITAGE INSPECTORATE UNIT

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Introduction

Section 36 subsection 3(b) of National Heritage Resources Act (NHRA) 25 of 1999 states that no person may destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 Years which is situated outside a formal cemetery administered by a local authority without a permit issued by SAHRA or a provincial heritage resources authority. In section 36 (5), it is stated that SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection 3(b) unless it is satisfied that the applicant has, in accordance with regulations made by responsible heritage resources authority - (a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and (b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.

According to section 36 (6), any person who in the course of development or any other activity discovers the location of graves, the existence of which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority – (a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this ACT or is of significance to any community.

In early March 2016, SAHRA received a claim that there was a development happening at a site on portion 121 of farm Zesfontein 27 I.R. located North of Bredell Extension 11, along Politician Road. The site is found at the following GPS co-ordinates: 26°03'30, 60" S and 28°19'53, 63" E. It is situated within the area of jurisdiction of the Benoni Service Delivery Centre of the Ekurhuleni Metropolitan Municipality (SDC). It is situated about 4.5km east of the R21 and about 9km



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northeast of the O.R. Tambo International Airport. At the moment, the site is being developed into a retirement village.

Background

On the 31st of March 2016, SAHRA officials conducted a site inspection on Farm Zesfontein 27 IR, Eastland's Properties (Pty) Ltd in Ekurhuleni. This was done in response to a complaint that Eastland's Properties (Pty) Ltd is building roads on top of graves, some of which could be older than 60 Years.

This portion of Farm Zesfontein 27 IR previously belonged to Kerels Family Trust. In 2006, Eastland's Properties (Pty) Ltd purchased the land with an aim to develop it into a hotel for the 2010 World Cup, however the development was delayed. According to the defendant, the graves were not mentioned during the purchase. However, when they were eventually discovered, a specialist at Ekurhuleni Municipality was consulted. In response to the consultation about the discovery of graves, provincial heritage specialist visited the site in 2011. It was mentioned that there are Minutes documented concerning the matter. Upon discovery, 238 graves were found, 13 of them were identified while 225 were unidentified graves.

The defendant claims a notice about the discovery and relocations of the graves was published in newspapers but no family member availed themselves for the actual relocations. The complainant claims that the families used to visit the graves before the land was sold and some of them came after the graves were relocated and reported to him that the graves are not there any longer. Even so, it seems none of the family members has come forth to complain about the relocations.



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Purpose of the site inspection

The purpose of the visit was to establish whether there has been contravention of section 36 of the NHRA and to see if there are traces of the graves that the complainant claim to have been destroyed.

Assessment and findings

During the site inspections, we discovered some headstones of the relocated graves. The defendant gave us documentation showing the previous graves location and how many they were. According to him, none of the graves were older than 60 years when exhumed. However, the complainant claims that some of the graves were older than 60 years when relocated. The EIA conducted at the site does not include the HIA report and does not acknowledge that the site had graves prior to the development.



Picture 1: The estate wall and the development site.



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Picture 2: The Headstones of relocated Graves.

Recommendations

- More information will be needed about the graves in order for SAHRA officials to come up with an unbiased decision concerning the case.
- SAHRA officials have to liaise with Ekurhuleni Municipality to get a clear insight on what transpired when there were consultations relating to the graves exhumations.
- SAHRA also need to find out from the Municipality, how many graves were there and if the families were indeed consulted before the exhumation and what method was used.



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Conclusion

Sahra is awaiting a detailed document from the defendant that will have all relevant information about the graves (both identified and non-identified graves). This information will help SAHRA to decide whether this case is worth pursuing or not. If it happens that none of the graves were older than 60 years when exhumed, the case will be closed. However, if there were older than 60 years, legal action will be taken against the defendant. Hence SAHRA Heritage Inspectorate Unit will hand over the case to the legal department.