



# NEWSFLASH

## MOSSSEL BAY GOLF ESTATE

### HOME OWNERS ASSOCIATION NPC

Association incorporated under section 21 of the Companies Act 1973 (as amended)  
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## BACKGROUND TO THE RENEWAL OF THE CO-OPERATION AGREEMENT

Dear Homeowners,

The Mossel Bay Golf Club, established in 1905, began with just 55 members. Originally located 6.4 km west of town, the course was relocated in 1923 when the Municipality made a new site available just 1.2 km south of town. The new grass course was developed, and the first competition was held in 1926, with the new clubhouse officially opening in 1928.

In 1997, the vision of creating a premier golf estate was initiated when Ininside Investments (Pty) Ltd, led by Mr. Urs Windholz, entered into negotiations with the Municipality. At the time:

- The Municipality owned the land leased to the Mossel Bay Golf Club at a nominal rate, with approximately 20 years remaining on the lease.
- The Developer aimed to create a residential golf estate around the existing course and to invest in upgrading the course and clubhouse.
- The Municipality agreed to sell Erf 2001 (excluding the golf course) to the Developer, enabling this vision to materialise.

### Key Provisions of the 1997 Agreement of Sale:

- The Municipality committed to rezoning the land to allow 300 residential stands and 80 townhouses.
- The Developer agreed not to expand beyond this without the Municipality and Club's consent.
- A commitment was made to upgrade the course and clubhouse, investing R1.25 million.
- The developer agreed that HOA levies would include an everlasting (**ad infinitum**) contribution to the Golf Club, starting at R80 and escalating in line with levy increases.
- A new 99-year lease would be entered into between the Club and the Municipality, ensuring continuity and clarity on land use.

### **Establishment of the First Notarial Lease Agreement (1999):**

A formal notarial lease was signed between the Municipality, the Mossel Bay Golf Club, and the newly formed HOA. Key provisions included:

- The Golf Club shall pay the Municipality a nominal annual rental of R10.
- Inclusion of two Municipal representatives on the Club's Finance and Management Committees.
- Usage of land restricted to golf and related recreational purposes.
- The HOA is recognised as a stakeholder, with rights to intervene should the Golf Club cease operations.
- The Club committed to maintaining the grounds in a manner acceptable to the Municipality and the HOA.

### **First Co-Operation Agreement (2010–2020):**

This agreement, signed by the HOA and the Club in June 2010 (excluding the Municipality), further clarified mutual expectations and benefits:

- HOA members were granted a three-day golf membership benefit.
- Annual contributions by the HOA to the Club were established, with an agreed escalation linked to CPIX.
- Governance and oversight mechanisms were implemented, including HOA representation on the Club Board and performance evaluations.
- Responsibilities for shared security and maintenance of access routes were defined.

### **Challenges and Legal Position:**

Despite the clear legal and moral basis for the agreement, tensions grew between 2015 and 2019. Misunderstandings and differing expectations arose among:

- Property owners not utilising the golf facilities,
- Estate residents who were also Club members,
- Club members who resided outside the estate.

Doubts were raised regarding the legality of the agreements, with some suggesting unilateral withdrawal by the HOA. Legal opinions from several firms—including senior counsel—consistently found the agreements binding, with the HOA having a moral and contractual duty to contribute to the Club. Notably, Advocate Pieter Conradie SC advised that both parties should negotiate in good faith, recognising their shared interest in the estate's success.

### **Municipal Mediation and the Second Co-Operation Agreement (2020–2025):**

Due to the deteriorating relationship, the Municipality intervened in 2020 at the request of both parties. A mediation team of five was appointed, including two representatives each from the Club, the HOA, and the Mayor. The result was a new agreement, signed with retrospective effect from 1 July 2020, formally including the municipality for the first time.

Key terms included:

- Monthly contribution of R125 per HOA member, escalating by 4% annually.
- HOA representation on the Club Board with full voting rights.
- A Loyalty Club Card for every HOA member, providing benefits equivalent to Club members.
- Mutual transparency on budget planning and capital improvements.

### **Current Renewal Process (2025–2030):**

Following constructive engagement of all three parties, all three parties believe it's in the best interest to assess the option of extending the agreement for another five years, until 30 June 2030. The same core terms will be retained, with minor amendments being drafted to safeguard the HOA's future rights. The Municipality's legal department is busy reviewing the contents.

The updated monthly contribution of R152.08 per member reflects the standard 4% annual increase. It is worth noting that the initial R80 contribution, if escalated annually at the average 5% HOA levy rate over 28 years, would equate to approximately R313.61, underscoring the fairness of the current rate.

### **Conclusion and Next Steps:**

After carefully reviewing the historical agreements, legal guidance, input from the Municipality, and the Golf Club, the board has engaged to consider the renewal once the municipality's legal department provides feedback on the renewal of the Co-Operation Agreement. We will now seek your support in an upcoming SGM that will soon be scheduled to proceed with signing this agreement. Your endorsement is vital. It not only reflects unity within our community but also allows the HOA to represent your interests effectively in this tripartite partnership.

Should you have any questions or wish to review the information, documentation or agreements in detail, please contact Status Mark.

Kind regards,  
HOA Board