



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

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**No. 3157**  
(Extraordinary)

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**CONTENTS • INHOUD***No.**Page  
No.    Gazette  
      No.***GENERAL NOTICE**

94 Case No. 461/2014: In the High Court of South Africa (Eastern Cape Local Division, Port Elizabeth) before the Honourable Mr. Justice, Gqamana (AJ) .....	3	3157
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**GENERAL NOTICE**

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**No. 94****IN THE HIGH COURT OF SOUTH AFRICA  
(EASTERN CAPE LOCAL DIVISION, PORT ELIZABETH)**PORT ELIZABETH, Tuesday, 18<sup>th</sup> of MARCH 2014

BEFORE The Honourable Mr Justice GQAMANA (AJ)

**Case No. 461/2014**In the *ex parte* Application of:**MICHAEL DEVITT HOFMEYR****APPLICANT**

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Having heard Advocate Williams, Counsel for the Applicant, and having read the documents filed of record.**IT IS ORDERED:**

1. That a *rule nisi* do hereby issue calling upon all interested parties to show cause on or before the return date for the hearing of the matter, **TUESDAY, 22 April 2014 at 09:30** or so soon thereafter as the matter may be heard, why an order in the following terms should not be made:

1.1. deleting and amending the restrictive conditions set forth at paragraph 2(d) and 3(d) of the Title Deed number T49352/2001 in respect of the property described therein as Erf 373 Mill Park, in the Nelson Mandela Bay Metropolitan Municipality, Division of Port Elizabeth, Province of the Eastern Cape, (hereinafter referred to as "the property") to wit:

"2. *SUBJECT to the following special conditions contained in the Deed of Transfer T4220/1934 imposed by the Administrator of the Province of the Cape of Good Hope, namely:-*

(d) *That all buildings to be erected on the said lot shall stand back not less than 20 feet from the line of the street or avenue on which the lot abuts. Such space may be used as gardens, but shall not be built upon.*

“3. *SUBJECT to the following special conditions contained in the Deed of Transfer T4220/1934 imposed by the Council of the Municipality of the City of Port Elizabeth, namely:-*

(d) *.....Every building shall be so erected that no part of the building or its verandah, balcony or appurtenance shall be less than 20 feet distant from the boundary line of the said lot where it faces or abuts a road.*”

- 1.2. Authorising the Registrar of Deeds to effect an endorsement of the Deeds of Transfer Number T49352/2001 in accordance with paragraph 1.1 herein above;
2. That the Applicant gives notice of this Application by the service of any *rule nisi* which this Court may grant, be effected:
  - 2.1. Together with this Application, on each of the registered owners of the properties adjacent to the property, by way of Sheriff, being:-
    - 2.1.1. Ms S Blumberg, owner of Erf 374 Mill Park, known as 9 Waverley Drive;
    - 2.1.2. Mrs S Bisdee owner of Erf 371 Mill Park, known as 2 McDonald Drive;
    - 2.1.3. Mr C Harwood, owner of Erf 381 Mill Park, known as 31 Waverley Drive;

2.1.4. Mr D Collins, owner of Erf 389 Mill Park, known as 1 McDonald Drive;

2.1.5. Mr B Bouwer, owner of Erf 1076 Mill Park, known as 10 Wembley Road;

2.1.6. Mr M Marais, owner of Erf 370 Mill Park, known as 4 McDonald Drive;

2.2. on the Nelson Mandela Bay Municipality;

2.3. on the Mill Park, Linkside and environs Civic Association

2.4. by hand:-

2.4.1. on the Premier of the Eastern Cape, care of the office of the State Attorney in Port Elizabeth

2.4.2. on the Registrar of Deeds, Cape Town; and

2.5. and by publication of such *rule nisi* as this Court may grant:

2.5.1. once in the Provincial Gazette of the Province of the Eastern Cape; and

2.5.2. once, in English, in The Herald and in Afrikaans, in "Die Burger (Oos-Kaap)"

And by giving notice in such advertisement, to the effect that the papers relating to this Application may be inspected at the offices of the Applicant's attorneys at Newton Business Centre 311 Cape Road, Suite 101, Mill Park, Port Elizabeth and of the Registrar of this Court, in Bird Street, Central, Port Elizabeth.

BY ORDER OF THE COURT

  
A. ERASMUS (MS)  
pp REGISTRAR

BARNARD ATTORNEYS

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