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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL COUNCIL OF PROVINCES

QUESTION FOR WRITTEN REPLY

QUESTION NO. 47

Mr G Michalakis (Free State: DA) to ask the Minister of Trade, Industry and Competition:

Whether, in view of the three properties that are bonded to and on the asset register of the Industrial Development Corporation which were previously owned by the now insolvent and deceased estate of a certain company (details furnished), any steps are being taken to (a) safeguard such properties from vandalism and value decreases, (b) sell such properties to prevent further losses and (c) prevent criminal activities against neighbouring properties that are perpetrated by occupants of such properties; if not, why not in each case; if so, what are the relevant details? CW48E

REPLY:

The Industrial Development Corporation (IDC) has furnished me with the attached response to the question.

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IDC REF: Nothando Biyela/II

28 February 2024

Honourable Minister Ebrahim Patel

Department of Trade, Industry and Competition
The DTIC Campus
Block A 3rd Floor
77 Meintjies Street
Sunnyside
Pretoria

Attention: Minister Ebrahim Patel
Cc: Busisiwe Mabuza (Chairperson)

Dear Honourable Minister Ebrahim Patel

**RE: QUESTIONS POSED BY MR G MICHALAKIS (FREE STATE: DA)
IN RE – BETHLEHEM QUALITY SANDS (PTY) LTD**

1. Background

Bethlehem Quality Sands (Pty) Ltd ("BQS") was registered in December 2015 with the intention of establishing a sand mining operation which would be located five (5) kilometres outside the town of Bethlehem in the Free State Province which flows into the Saulspoortdam. BQS was founded by the Late Mr H van der Merwe.

2. The parties who stand liable for the obligations of BQS are Mr H van der Merwe (deceased) and the Tweeloopvlei Trust IT 563/13 ("the Trust"). Mr van der Merwe met his demise on 26 December 2019. His heirs have not reported his estate to the Master of the High Court to date as they claim that the estate is insolvent.

Industrial Development Corporation of South Africa Limited Reg.No. 1940/014201/06
Directors: B A Mabuza (Chairperson), D A Jarvis (Acting Chief Executive Officer), P Mthethwa, L I Bethlehem,
N P Mnxasana, B Dames, N D B Orleyn, R M Godsell, Dr S Magwentshu-Rensburg, A Kriel
Group Company Secretary: M Kganedi

Judgement

3. On 18 March 2020, the IDC obtained a court order allowing it to take control of the property, sell the property in order to recover the money loaned to BQS. The Remainder of Portions 4 & 6 of the farm Rendezvous 1491 and farm Asrivier 1437 ("the property") which the IDC holds a Surety First Ranking Mortgage Bond was also declared executable. The property was judicially attached and put up for auction by the Sheriff as per the Uniform Court Rules.

Auction

4. The auction was set down for 28 April 2021. On 21 May 2021, IDC's erstwhile attorneys advised that:
 - 4.1. The judgement debtor's heirs did not report the estate to the Master of High Court in Bloemfontein to lodge a claim against the deceased estate;
 - 4.2. The Sheriff was required to obtain consent from the Master of High Court in order to protect innocent third-party buyers; and
 - 4.3. IDC was further advised that it is a legal requirement to obtain the Master of the High Courts Certificate in order to pass transfer.
5. The Sheriff scheduled a further auction for **24 August 2021**, which auction was cancelled by the Sheriff as he did not have sufficient time to advertise the property. After the Sheriff failed to set down a further auction after numerous requests from IDC's attorney, a complaint was lodged with the Sheriff's Board in January 2022.

Subsequent to the complaint, the Sheriff set a provisional date for 12 April 2022. On **12 April 2022** the sale did not proceed despite all preparations made and finalised by the IDC's attorneys. Again, the reason for the auction not proceeding was the Sheriff's error as he failed to publish (post) the notice of the auction in Bethlehem Magistrate Court as required by the rules. The Sheriff then immediately allocated a new date on **07 June 2022**.

The auction on 7 June 2022 proceeded as scheduled but failed to obtain any reasonable offers. A bid of R125,000.00 was received and rejected as it was considerably below the IDC forced sale value determined by the IDC's valuers.

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The IDC has received private offers to purchase from individuals ranging from R800,000 to R5,5 million.

The challenge in accepting or considering those offers is that the IDC does not have the locus standi to sell the immovable property through private treaty as the property has been judicially attached and can only be disposed of in a sheriff auction process. The aim is to obtain the best return for the IDC.

The Trustees of the Tweeloopvlei Trust have been very uncooperative, as well as the heirs (reporting the Estate) as they could consent to the sale. The IDC requested meetings with the parties who rejected same. As such, a process to sequestrate the Trust is underway. A Trustee using the powers conferred by the Insolvency Act will have greater powers to control the process and obtain a better return for all creditors and interested parties.

6. **Question.1.**

When assessing the damage that was already on the property, it was the teams view that no security should be appointed. The IDC proceeded to expedite the sale of the property.

Question. 2.

A Sheriff's Auction was convened on 7 June 2022, resulting in one offer of R125,000.00 which was considerably lower than the forced sale value.

The IDC was engaging with potential purchasers who were offering to purchase the property at R2,5million - R5million but the property is currently under judicial attachment and at this instance can only be sold via the Sheriff's auction. None of the potential purchasers have attended the auctions even when informed of same. The IDC has also attempted to obtain assistance to expedite this process from the Trustee of the Tweeloopvlei Trust and heirs without success.

Question.3.

The IDC as a creditor has taken all legal steps in order to sell the property. As stated above, the IDC on numerous occasions sought a meeting with the Trustee of the Tweeloopvlei Trust, who is the mortgagor and who is obligated in terms of the

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mortgage bond to secure and maintain the property to resolve this issue, however they rejected such meeting. The Trustee and heirs are in a position to assist in expediting the sale of the asset to the benefit of all creditors.

Yours sincerely

A handwritten signature in cursive script that reads "David Jarvis". The signature is written in black ink and is positioned above a horizontal line.

David Jarvis
Interim Chief Executive Officer

-END-