

# **HYPROP INVESTMENTS LIMITED (“HYPROP”)**

## **PRESS STATEMENT**

### **ROSEBANK SUNDAY ROOFTOP MARKET RELOCATION**

Hyprop has been and remains involved in litigation with B&B Market Rooftops (Pty) Ltd (“B&B”) regarding the relocation of the Sunday Rooftop Market at Rosebank Mall (“the Mall”). As a result, Hyprop has previously elected not to publicise certain material facts surrounding this matter. However, recent public misrepresentations have necessitated a response with factual clarification set out below:

It has always been Hyprop’s intention to facilitate the relocation of the Sunday Rooftop Market with limited disruption as stated by CEO Pieter Prinsloo in September 2012: “Our shoppers will also be happy to note that both the African Craft Market and the popular Sunday Rooftop Market will continue to operate during construction and will be incorporated into the new development.”

Hyprop remains committed to offering a Sunday market at the Mall, particularly since traders have indicated their willingness to relocate. In addition, it has come to Hyprop’s attention that a significant number of traders have for a number of years been unhappy with B&B’s management of the Sunday Rooftop Market and treatment of the traders, especially in terms of the short notice regarding the closure of the market. Should B&B refrain from its obstructive conduct, Hyprop will include them in future discussions and negotiations related to the Sunday Rooftop Market.

Hyprop has always conducted itself in a lawful manner.

Hyprop proposed a new approximately 8 500m<sup>2</sup> site for the Sunday Rooftop Market entirely covered with an insulated sheet metal roof thereby providing wind and weather protection.

Hyprop began engaging with numerous tenants including B&B in 2009.

Discussions between Hyprop and B&B, which only occupied the parking area once a week, regarding the relocation continued amicably well into 2012, to the extent that traders were informed by B&B of the proposed move to the rooftop. Despite this progress, B&B was not forthcoming in

providing Hyprop with relevant information to facilitate the seamless relocation of the Sunday Rooftop Market to the proposed new premises.

With the redevelopment at risk, Hyprop was forced to invoke its rights in terms of the lease and to formally give notice to B&B of the proposed relocation. B&B rejected this notice and refused to co-operate. Hyprop implored B&B to resume discussions and offered to assist with the proposed relocation. B&B retaliated with a list of unreasonable demands which included a risk premium of R15 million to be paid by Hyprop to B&B and a 3 year rent free period for B&B and the African Craft Market, the latter of which formed no part of the dispute. Hyprop regarded this as a repudiation of the agreement of lease and, as a last resort, cancelled the lease.

B&B proceeded to launch an urgent application to interdict and restrain Hyprop from continuing with its construction. The legal action was referred to arbitration before retired Judge Joffe, who, on 8 March 2013, dismissed B&B's application, confirming that the market must cease trading by 31 March 2013. Hyprop requested B&B to notify their traders of the award and the termination of the lease, which was only done on the afternoon of Friday, 29 March 2013.

Notwithstanding the Arbitrator's Award being in Hyprop's favour, Hyprop pursued options to keep the market operational, attempts which were regrettably rejected by B&B.

On 8 May 2013, B&B advised Hyprop that they were proceeding with the Arbitration Appeal. On 27 June 2013, the Arbitration Appeal was heard and an award was handed down on 30 June 2013. The award does not grant B&B permission to return to the original premises. Due to the lack of clarity of the award, Hyprop is taking the award on review.

### **The Mall redevelopment**

The extensive redevelopment of approximately R920 million currently underway is set to considerably boost economic growth in the Rosebank node and provide shoppers and tenants with a refreshed, world-class shopping facility.

The redevelopment commenced in April 2012 with the implosion of Nedbank Gardens, while formal construction started in September 2012. Completed sections of the Mall will be smoothly phased in from July 2013. The redevelopment will be fully completed in September 2014

and has directly and indirectly generated approximately 1 000 additional permanent jobs.

In addition to adding exciting new retail tenants, the centre will be completely refurbished with new lifts, escalators, ablutions, mall finishes and additional parking.

Rosebank is an integrated urban environment offering visitors a unique 'live, work, play' experience. The new Mall will leverage this to realise major benefits for tenants, shoppers and local residents.

Ends.

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