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02 May 2006

Government Immovable Asset Management Bill

CBE Comments

Background

The Council for The Built Environment (hereafter referred to as the CBE) was established in terms of Act 43 of 2000. Included in its objectives are:

- Promote and protect the interests of the public in the built environment.
- Promote and maintain a sustainable built and natural environment.
- Promote appropriate standards of health, safety and environmental protection within the built environment.
- Facilitate participation by the built environment professions in integrated developments within the context of national goals.

The Bill

In as much as the CBE is concerned with the quality of the built environment, the CBE welcomes the tabling of this Bill. The CBE is of the opinion that the proper management of immovable property by the State will do much to improve the quality of the built environment, and hence the quality of life of South Africa's people.

Definition

"Immovable Assets" – although the term 'assets' is standard terminology in financial accounting terms, the CBE questions whether the use of this term is appropriate under the circumstances of the Bill.

Assets are commonly described as something that delivers benefits: in terms of the Bill this could be construed to include, for example, all the railway lines in South Africa. However, a reading of the Bill suggests that this is not the intention of the Bill (see particularly Section 19 (c)): the definition of *user* suggests that the immovable asset is something *used* by - as compared to *provided* by – a national or provincial department to *perform its functions*.

Further it speaks of an immovable asset that it *occupies* or intends to occupy, presumably to perform its functions. The 'custodian' of the rail network does not use or occupy the rail network to perform its functions, so that the custodian of the rail network is not expected to

prepare a management plan for millions of railway lines, despite the definition of *immovable asset*.

The Bill, it would appear, addresses State – owned and operated fixed property, i.e. land and the buildings thereon. The question then arises whether it would not be better to describe the Bill in terms of its primary intention, i.e. Immovable Property Management Bill, rather than the broader term 'asset' which then requires the identification of a number of exclusions.

"Performance" – the Bill uses this term frequently (see specifically Section 7 (c)), and it forms a substantial part of the User Management Plan. However, there is no definition of 'performance'. This will most certainly give rise to great confusion and dispute.

Application of Act

It is noted that the Bill applies to all organs of state in the national and provincial spheres of government, excluding public entities. The Bill thereby excludes the local spheres of government, which is the level charged with services delivery in the first instance – note the use of the term *service delivery* in Section 39 (c).

It would seem therefore that applying immovable property management at this tier of government would in effect make a larger contribution to service delivery than at the primary and secondary tiers of government inasmuch as the Bill seeks to advance the department's ability to perform its functions. Excluding this tier of government in the Bill raises the question of the validity of the ultimate purposes of effectiveness versus expediency.

Immovable asset management plan

The CBE is concerned that no reference is made to sequencing in term of Section 6: since the custodian is required to prepare a *user management plan* and the user is required to prepare a *user management plan*, the two parties may well have a different view with regard to the performing of its function and two contradictory management plans may well result. The requirement for two apparently similar plans (in the absence of any clarity of differentiation in the Bill) one wonders why the duplication is required.

It is suggested that this process be simplified in the interests of efficiency and effectiveness. Furthermore, the Bill makes no provision for dispute resolutions: the provision of this mechanism is imperative.

Minimum contents of user immovable asset management plan

The drafting of this section is ambiguous. The paragraph requires that "*a user immovable management plan must consist of at least an immovable asset management plan*". Surely 8(a) can be omitted. Furthermore, section 8(b) will only apply when a new immovable asset is under consideration, therefore it will not form part of every asset management plan. The requirement for *at least* cannot apply.

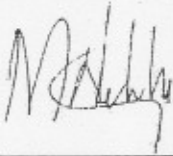
Revision and amendment of immovable asset management

Section 12(1) (a) requires that the user management plan be revised annually: this seems excessive as it presupposes that the plan will require alteration every year. This may not be the circumstance in which case the requirement should be for 'review' and revision as required from time to time. The paragraph applies only to the user management plan and therefore presupposes that the custodian management plan needs no revision even if the user management plan is changed dramatically. This seems to be illogical at the least. Surely there must be some correlation between the states of the two plans.

Conclusion

The CBE welcomes the tabling of the Bill but is of the opinion that greater thought must be given to the practical implications resulting from the drafting of certain provisions in the Bill, in order to achieve higher rates of efficiency and effectiveness with regard to both asset management and service delivery.

For: Council for the Built Environment



Malindi Neluheni, PhD
CHIEF EXECUTIVE OFFICER

Mkhuseli Mbebe - GIAMB Submission

From: "Johan Schoeman" <Schoeman.johan@BuiltCare.co.za>
To: <mmbebe@parliament.gov.za>
Date: 2006/05/04 10:52 AM
Subject: GIAMB Submission

Dear Mkhuseli,

Attached please find the submission we spoke about last week and yesterday for your committee's perusal. I have to apologize for the late submission but due to the fact that two of our key members were at the International Cost Engineering Congress in Slovenia last week it took a bit longer than expected. I hope to meet and discuss it with you next week.

All of the best,

Johan Schoeman
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