

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NUMBER: 22164/2010

DATE: 23 AUGUST 2010

5 In the matter between:

LOGIVEST 35 (PTY) LIMITED Applicant

and

THE CHAIRPERSON OF THE BID ADJUDICATION

COMMITTEE OF THE BITOU MUNICIPALITY

10 **AND OTHERS** Respondents

J U D G M E N T

Application for Leave to Appeal

15 **VELDHUIZEN, J:**

Whilst on circuit in the Eastern Circuit Local Division, sitting at George, I heard an application by the applicant, Logivest 35 (Pty) Limited, praying that a bid which was awarded to one of the respondents by the second respondent, be set aside and that the bid be awarded to the applicant.

After considering the matter I granted an order reviewing and setting aside the decision of the first respondent taken on 27 October 2010 to award the tender for the leasing of the

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22164/2010

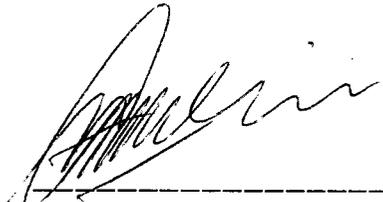
municipal property known as Lookout Deck Restaurant, Plettenberg Bay, to the third respondent and I made a costs order following that. The effect of the order is that the second respondent again had to call for tenders and would be obliged
5 to follow the procedures contained in its policy document.

Today there is before me an application for leave to appeal against this order. It is submitted firstly that the court did not have the power to effectively order that the process should be
10 started afresh, that is the process of calling for tenders for the lease of the property. It is also submitted that, on the interpretation which I gave to the advertisement calling for tenders, I should in fact have awarded the tender to the applicant.

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In my view there is a reasonable prospect that another court may come to a different conclusion to the one which I arrived at and accordingly the application for leave to appeal is granted, and leave to appeal is granted to the applicant to the
20 appeal to the Full Bench of this Division. Costs of this application will be costs in the appeal.

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VELDHUIZEN, J

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