

# Player and referee

Conflicting interests and the 2010  
FIFA World Cup™

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# Abbreviations

ANC	African National Congress
BAC	Bid Adjudication Committee
BCM	Buffalo City Municipality
BEC	Bid Evaluation Committee
BEE	Black Economic Empowerment
BKS	Bruinette Kruger Stoffberg
BRT	Bus Rapid Transport
CFU	Caribbean Football Union
DEDEA	Department of Economic Development & Economic Affairs
EAC	Executive Acquisition Committee
ECTB	Eastern Cape Tourism Board
EIA	Environmental Impact Assessment
EPRU	Eastern Province Rugby Union
ExCo	Executive Committee

FIFA	Fédération Internationale de Football Association
GEM	Global Event Management
IMG	International Management Group
IOC	International Olympic Committee
ISL	International Sport and Leisure
JAWOC	Japanese Organising Committee
KFS	Kei Fleet Solutions
KSDM	King Sabata Dalindyebo Municipality
LDM	Letchmiah Daya Mandindi
LOC	Local Organising Committee
NMBM	Nelson Mandela Bay Municipality
NSSA	National Stadium SA
PAIA	Promotion of Access to Information Act
PDA	Protected Disclosures Act
PNM	People's National Movement
PPC	Pretoria Portland Cement
PSC	Public Service Commission
PSL	Premier Soccer League

PTO	Participating Tour Operators
PWC	Price Waterhouse Coopers
RFP	Request For Proposal
SAFA	South African Football Association
SANParks	SA National Parks
TI	Transparency International
UDM	United Democratic Movement
UEFA	Union of European Football Associations
WPRFU	Western Province Rugby Football Union



# 1 Introduction

COLLETTE SCHULZ HERZENBERG

South Africa is host to the 2010 Fédération Internationale de Football Association (FIFA) World Cup™ (referred to hereafter as the ‘World Cup’, the ‘FIFA World Cup’ or the ‘2010 World Cup’).<sup>1</sup> It is the world’s largest media event and second largest sporting event after the Olympic Games. Its uncontested global media reach sets it in a class of its own. While the 2006 World Cup in Germany attracted a television audience of 26,29 billion viewers, the 2010 event is assured of even greater numbers. Its magnitude warrants the title of a ‘mega-event’, a term for a phenomenon that is considered to be a large-scale event with a high profile and global publicity. Mega-events are short-term, one-off events for the host country (such as the Olympic Games in Athens in 2004) and are associated with large-scale economic impacts on that country.<sup>2</sup> World Fairs or expos would also fall into this category of events.

Mega-events are an economic phenomenon.<sup>3</sup> They are considered important vehicles for promoting economic growth and stimulating urban redevelopment as a result of increased tourism, infrastructural improvements and short-term employment.<sup>4</sup> The South African Department of Tourism recently stated that

the economy will benefit significantly from the World Cup, with 2010 visitors expected to spend over R15,6 billion, up from earlier estimates of R8,5 billion.<sup>5</sup> The department's estimates place World Cup visitor numbers at between 330 000 and 450 000 during what is traditionally the low tourist season.<sup>6</sup>

Mega-events tend to generate vigorous debates within host countries about post-event usage and sustainability of related infrastructure and the tangible, measurable economic benefits and outcomes.<sup>7</sup> Mega-events involve the political leadership of a host country and often feed into the strategies, spending priorities and policies of a country's government. Governments are often keen advocates for the impact that these events have, not only on a country's economy, but also on its developmental legacy.<sup>8</sup> Events like the 2010 World Cup act as a marketing opportunity to showcase South Africa to the world. With over 200 countries watching, a successfully hosted event is likely to improve the country's international image, enhance national identity and pride and reduce Afro-pessimism.<sup>9</sup>

Football World Cups are enormously profitable for FIFA. As the events' official, FIFA undertakes to provide the entertainment while the host country and its cities provide all the necessary infrastructure and services.<sup>10</sup> FIFA's costs are paid for by television broadcasting rights, funding from its corporate partners and marketing rights.<sup>11</sup> FIFA stands to make significant profits from the South African event. It is estimated that it will generate an income of between \$3,2 and \$4 billion.<sup>12</sup> Also, all revenues from television (\$2 billion), marketing (\$1 billion), hospitality (\$120 million) and licensing (\$80 million) go to FIFA and its local organising committee.<sup>13</sup> The South African event is projected as the largest of all World Cups thus far, generating more revenue than any other one.<sup>14</sup>

Mega-events, like the FIFA World Cup, often require huge infrastructural development projects. They reflect the global increase in the magnitude and frequency of mega-projects in recent decades. Mega-projects have become central to infrastructural development and are financed by a combination of national governments, international organisations and private capital.<sup>15</sup> Some of the most pronounced infrastructural projects for the 2010 World Cup are the numerous investments in transport infrastructure.<sup>16</sup> Nine billion rand has been spent on improving roads, the Gautrain rapid rail link, airport upgrades and the Bus Rapid Transport (BRT) systems. In addition, R8,4 billion has been dedicated to five newly built stadia and five refurbished ones. The stadia offer a legacy of sports infrastructure and a strong basis for attracting future national and in-

ternational sporting and entertainment events to South Africa. Moreover, these giants stand as a testament to South Africa's innovative architectural abilities.

The business opportunities that stem from the world's biggest sporting event are plentiful. The infrastructure projects generate lucrative construction and other related tendering contracts, which are often financed by host nations and their governments. The FIFA World Cup is thus a catalyst for competition – not only among football stars, but also among the many private and public contenders for the multiple tenders that flow from these highly financed events. There is ample opportunity for corrupt individuals to influence outcomes through bribes, fraud and extortion, thereby increasing the risk of conflicts of interest and, ultimately, corruption.

Before we consider how conflicts of interest might arise in the context of a mega-event like the World Cup, it is appropriate to define what we mean by this term. A 'conflict of interest' is regarded as a situation in which a public official or entity has a private interest that may improperly influence, or appear to influence, a public decision. It can be thought of as an inconsistency, clash or conflict between the duties of a public official or entity and their private interests.<sup>17</sup> When conflicts of interest are not identified and regulated they can lead to corruption, which is a situation that is generally understood as the use of public money and goods for private gain. Influence peddling, nepotism, favoritism, bribes, kickbacks and extortion all involve conflicts of interest.<sup>18</sup> However, conflicts of interest should not be conflated with corrupt or unethical behaviour. A conflict of interest is a *situation*, not an *action*, and a public official may find him or herself in a conflict of interest situation without actually behaving corruptly. In other words, the concept of conflict of interest does not refer to actual wrongdoing, but rather to the *potential* to engage in wrongdoing.<sup>19</sup>

This monograph explores a range of conflict of interest situations in the context of the 2010 World Cup. The analogy captured in the title refers to different actors finding themselves in the position of being simultaneously 'player' and 'referee' over key decisions about, for example, tenders or stadia location. In other words, fair play should preside both on the field and off.

Three factors make large construction projects vulnerable to conflicts of interest situations and corruption. First, the sheer financial magnitude and scope of public-funded infrastructure projects is a factor likely to generate ethical conundrums.<sup>20</sup> The South African government committed itself to the investment of billions of rands in infrastructure, logistics, communications and security

to ensure a successful World Cup. The funding arrangements for the World Cup are complex and problematic for several reasons. Separating out national government costs from others (such as host city, local and provincial government budgets) is difficult. Further, one must distinguish between financing that is directly related to the tournament and that which would have occurred anyway, but which has been expedited for the event. Also, cost escalations since the initial Bid Book budgets and requested 2006 budgets have made the tracking of budgets more challenging.<sup>21</sup> Nevertheless, an overview of budget allocation and spending, shown below, offers some idea of the vast amounts of money involved. The government’s total contribution to infrastructure and stadiums stands at R17,4 billion. Of this R9 billion will go towards transport and supporting infrastructure while R8,4 billion will pay for building five new stadia and upgrading another five.<sup>22</sup>

However, it is not only World Cup infrastructure projects that will receive funding. The national budget also provides for non-infrastructure projects such as sports and recreation programmes, arts and culture programmes, policing and emergency medical services. Funding from the national government will be supplemented by contributions from provincial government, local government and other partners.<sup>23</sup>

**Table 1:** Budget allocation towards hosting the 2010 World Cup

Project	Amount (descending order)
Transport	R9 billion
Stadiums	R8,4 billion
Organising committee	R3,2 billion
FIFA	R3,1 billion
Information communication technology	R2,5 billion
Ports of entry	R1,573 billion
Safety and security	R666 million
Broadcasting	R400 million
Legacy projects	R337 million
Arts and culture-related projects	R150 million
Training of volunteers	R25 million
Community mobilisation	R17 million

*Source: Based on State of the Public Service Report 2009: The state of readiness of the public service for 2010 and beyond, Public Service Commission.<sup>25</sup>*

In the 2010 Annual Budget Speech presented to Parliament, the Finance Minister, Pravin Gordhan, pointed out:

The 2010 FIFA World Cup is expected to contribute about 0,5 percent of GDP growth in 2010. To date, government has spent about R33 billion in preparation for the tournament.<sup>24</sup>

Transparency International (TI) argues that the concealment of corruption is directly related to the size of these highly financed projects, in that bribes and inflated claims are more easily hidden in larger projects.<sup>26</sup> In addition, the uniqueness of many large-scale projects, such as one-off mega sporting events, often means that rates for labour, materials and equipment vary according to a specific market demand. As a result costs are often difficult to compare, making it even easier to inflate costs and hide bribes.<sup>27</sup>

The South African Public Service Commission (PSC), tasked with promoting an effective, efficient and ethical public sector, noted in its 2009 *State of the Public Service Report* that the massive resources involved in hosting the World Cup as well as an abundance of business opportunities ‘bring with them increased risks for corrupt administrative practices as some officials and members of the public try to benefit through unethical means’.<sup>28</sup> The report continues:

In the context of the FIFA World Cup, opportunities for government tenders abound ... The pressure to award tenders unethically is a serious risk considering research findings which show that corruption in the private sector is particularly prevalent when companies compete for contracts from other companies or government.<sup>29</sup>

An equally worrying observation made by the PSC in the same report relates to the poor annual financial disclosure compliance rates by senior public servants in departments such as Public Works and Trade and Industry, which are involved in big programmes and tenders for the 2010 World Cup.<sup>30</sup> The PSC rightly argue that their lack of 100 per cent compliance puts these departments at risk regarding potentially corrupt practices.<sup>31</sup>

A second factor that exposes mega-events to conflicts of interest situations concern the time parameters to which host countries and their partners are subject. In a few short years the government must ensure its obligations are met and related spending is expedited according to a tight schedule, as demanded by FIFA’s stringent requirements.<sup>32</sup> Accomplishing the job on time is key. In addition, the infrequency of large-scale projects also generates a sense of urgency

for companies whose immediate future may depend on a single project. As time becomes a disproportionate measure of performance, it creates opportunities for corrupt officials and business people to argue that we cannot afford the ‘luxury’ of oversight – and very soon contracts are awarded to companies who are ‘known’ and can be ‘trusted’. Jobs for pals may follow.<sup>33</sup>

These challenges are compounded by a third factor – the nature of the construction industry, which is notoriously corrupt. Transparency International’s *Bribe Payers Index 2002* captured the dishonest reputation of the construction industry when it identified the public works and construction sector as the most corrupt worldwide.<sup>34</sup> Estimates of the amount lost globally to corruption in infrastructure procurement lie at US\$3,200 billion per year.<sup>35</sup>

Consider the complex contractual structure – construction projects normally have a large number of participants linked together in a complex contractual web.<sup>36</sup> The project owner, (the South African government in the case of the World Cup), contracts the whole project to a handful of main contractors. The main contractor then sub-contracts key parts of the project to major sub-contractors. Those sub-contractors may in turn sub-sub-contract parts of their work to other companies, who, in turn, purchase equipment and materials from suppliers. Each link has its own contractual documentation and there may be in excess of a thousand contractual links.

This complex web-like interaction makes oversight very difficult and facilitates corruption, particularly bribery, extortion and fraud. Each link provides the opportunity for someone to pay a bribe in return for an award of the relevant contract or certifying the work done or for fraud (collusion, price fixing or inflated claims).<sup>37</sup> With literally hundreds of contract services for each stadium and linkages that are too difficult to keep track of it becomes easier for public sector employees to discreetly award contracts to their own companies or those of friends and family.

Moreover, corruption in construction projects can occur at multiple stages – during the provision and management of the financing for a project or during project execution, including the tendering and construction phases.<sup>38</sup>

Consider these observations in the South African context where the Auditor-General’s office found a significant overlap between public life and private business interests. A total of 1 678 executive members and senior managers, spread across national and provincial government departments, were identified as directors or members in companies and close corporations.<sup>39</sup> In addition,

50 223 ordinary civil servants were identified as directors and/or members of companies.<sup>40</sup> Moreover, the majority of government departments did not have systems in place to control conflicts of interest.<sup>41</sup> These situations create a huge potential for conflict of interest situations to arise, providing many opportunities for public officials to award state tenders and procurement deals to private companies in which they, or their fellow employees, hold financial or other interests. Similar concerns led the Institute for Security Studies' Corruption and Governance Programme to warn in 2005 that the 2010 World Cup was in danger of becoming a prime target for corruption, especially through tender fraud.<sup>42</sup>

The potential for conflicts of interest and corruption does not end there. Contractors may establish cartels, where a group of companies collectively attempts to limit competition by controlling the production and distribution of a product or service and thus its price. In 2008, the South African Competition Commission launched an investigation into cartel activities in the construction sector, looking specifically at the allocation of multibillion rand tenders for the construction of football stadiums across the country, amid concerns about the substantial cost escalations in each of the awarded tenders.<sup>43</sup> The companies probed were Murray & Roberts, Group Five, Grinaker-LTA, Wilson Bayly Holmes-Ovcon, Basil Read, Stefanutti Stocks, BAM International and Bouygues Construction.<sup>44</sup> There seem to have been very little in the form of competitive bids from the major construction companies.<sup>45</sup>

The Competition Commission also suspected a steel 'price fixing' cartel: companies in the steel sector had allegedly colluded to inflate prices of all inputs by at least 20 per cent. Since steel products are critical in the infrastructure sector, the alleged misconduct was said to affect the allocation of work and the cost of major construction projects in the country. The rising costs of steel were therefore suspected to be responsible for the increasing costs of many infrastructure projects, including the 2010 World Cup stadia and related projects such as the Gautrain.<sup>46</sup> The Competition Commission continues to investigate this cartel and an outcome is expected in 2010.<sup>47</sup>

Mega-projects are made more complex by the multitude of implementing institutions that are involved. The sheer scale of the World Cup means almost every government department is involved.<sup>48</sup> In addition, the Local Organising Committee (LOC) brings together the South African Football Association (SAFA), government, business and labour.<sup>49</sup> The Host Cities Forum is a joint government and LOC structure that manages host cities' preparations and com-

mitments.<sup>50</sup> Moreover, the three levels of government (national, provincial and local) are all involved with their own budgets, structures and responsibilities. Further, within host cities a complex project management structure is in place involving the city councils and mayoral committees, 2010 sub-committees and project teams with their own units that oversee coordination, technical issues and operations.<sup>51</sup> Political oversight of public spending appears to be spread across multiple government institutions and at multiple levels of government.

Without significant public financing, construction projects like World Cup stadia could not be built. Yet, the combination of high levels of corruption in the construction sector, the magnitude of the project's financing budgets and tight deadlines make a mega sporting event, like the 2010 World Cup, a likely candidate for unethical activities. As Transparency International state in their report on *Preventing Corruption on Construction Projects*:

The complex contractual structure, the diversity of skills, different project phases, the large size, uniqueness and complexity of projects, the concealment of some items of work by other items, the lack of transparency in the industry, and the extent of government involvement all contribute to an environment in which bribery and fraud can be difficult to prevent and detect.<sup>52</sup>

These concerns are not hypothetical, nor are they unique to South Africa. When the semi-final of the 2006 World Cup in Germany was played in the Munich Allianz stadium, many commentators glossed over the fact that the president of the hosting club and his son had been accused (and in the latter case convicted) of receiving bribes worth over R30 million in exchange for contracts linked to revamping the venue in preparation for the Word Cup (see box insert).

### **Stadium corruption affair<sup>53</sup>**

Since March 2004 a corruption affair relating to the Allianz stadium in Munich has occupied the football world and German courts. On 9 March of that year, Karl-Heinz Wildmoser Sr., president of the TSV 1860 München, along with his son, Karl-Heinz Wildmoser Jr., who was chief executive officer of Allianz Arena München Stadion GmbH, were charged, along with two other people, with corruption in connection with the

award of arena construction contracts and were taken into custody. On 12 March Wildmoser Sr. struck a plea bargain and was released. Wildmoser Jr. was charged on 23 August 2004 with fraud, corruption and tax evasion. The allegation was that he had awarded the construction contract at an inflated price, provided the Austrian builder Alpine with inside information that enabled it to win the contract and in return received €2,8 million. On 13 May 2005 Wildmoser Jr. was convicted and sentenced by a Munich court to four and a half years in prison. He was released on bail pending his appeal. The Federal Court of Justice rejected the appeal in August 2006.

Conflicts of interest situations in relation to the World Cup are not limited to host countries. FIFA, the official organisers of the World Cup, has long been plagued by allegations of lack of transparency and corruption. In 2006 British investigative reporter Andrew Jennings book *Foul! The Secret World of FIFA: Bribes, Vote-Rigging and Ticket Scandals* (Harper Collins) rocked the football world by outlining serious allegations of greed, nepotism and corruption that include scandals involving vote-rigging, cash-for-contracts and dodgy ticket sales – all of which allegedly involve, and benefit, FIFA officials.

In 2009, FIFA once again came under the international spotlight for unethical conduct with the scalping (buying and selling) of 2010 World Cup tickets by its own members.<sup>54</sup> Allegations of this illicit activity are reminiscent of past World Cups, which experienced the selling on of tickets by FIFA officials.<sup>55</sup> A recent example was Botswana's Ismail Bhamjee, a FIFA executive committee member, who admitted selling 12 tickets at three times the original price at the World Cup in Germany.<sup>56</sup> FIFA has since introduced a revised Code of Ethics for officials and formed an ethics committee. The British press, however, recently had this to say about the committee:

Conceived as a fig-leaf against the torrent of misconduct allegations against FIFA members, Blatter rendered the committee toothless by preventing any substantial allegations from being heard.<sup>57</sup>

Conflicts of interest and mega-events can also be explored along a different dimension. Consider the contesting interests of different actors. For example,

the corporate interests of the organisers, FIFA and the ‘public interest’ of a host nation might generate conflicts of interest. Such a situation may arise when FIFA, which profits from the mega-event, is in a powerful position to advocate for decisions that maximise its own marketing and profitability. Yet, if the outcomes are detrimental to the project’s financial sustainability and the host country’s developmental legacy, it inherently conflicts with the public interest. In this instance FIFA is both player and referee – being heavily involved in the direction of the host nations development legacy but also set to make significant profits from the same decisions.

After all, FIFA’s primary aim is to maximise its public profile and its members’ profits. The host country’s objective is to hold a successful event. More importantly, its government seeks to use the mega-event to the public’s greatest advantage by maximising long-term developmental and legacy objectives while minimising the cost to the public purse. As the 2009 PSC report argued, any assessment of public value from investing in the World Cup must be drawn from a long-term perspective to ensure that the public goods invested in the event ‘add momentum to the socio-economic development of the country’ long after the event is over.<sup>58</sup> If, however, the long-term public interest is sacrificed for short-term profits, a conflict of interests presents itself. Yet, according to Citibank’s researchers, a recent impact assessment of the sporting event on South Africa’s domestic economy suggests that FIFA, the monopoly organiser, is the major beneficiary while South Africa, the host nation, ‘carries a disproportionate share of the cost burden’.<sup>59</sup>

Since South Africa won the bid to host the World Cup in 2006, debates have raged about the benefits to the wider public body over a number of developmental, social, labour-related and economic issues. One such issue relates to the choice of stadium location. Appropriate venues for refurbished or newly built stadia were to be identified based on accessibility and long-term benefits to the wider community. As early as 2004 a joint meeting of the portfolio committees in national parliament on sport and recreation, and provincial and local government, acknowledged that ‘FIFA required that facilities be placed in areas of greatest support where use was guaranteed over a long period to avoid “white elephants”’.<sup>60</sup> Yet, as preparations unfolded, it became apparent that the chosen locations for stadia were not necessarily the best placed to serve the community from financial, environmental or social and sporting perspectives. As Pillay et al explain, in the case of Cape Town, the city wanted to construct a new stadium

in the suburb of Athlone, believing that it would contribute to the development of that part of Cape Town.<sup>61</sup> Yet ‘FIFA strong-armed Cape Town and central government to construct a stadium for which there is no demonstrable need other than its location, which shows the city to its best advantage.’<sup>62</sup>

The overarching concern is that Cape Town’s Green Point stadium will become financially unviable after the World Cup. Its future sustainability remains uncertain. Indeed, there are indications that in Japan and South Korea, some of the stadia built to host the 2002 FIFA™ World Cup could not be maintained and used beyond the event, and thus had to be demolished.<sup>63</sup> As overall government spending increased and exceeded expected budget allocations for new stadiums like Green Point, more public resources had to be added to help accommodate the additional costs. Yet local governments (and their taxpayers) tasked with the ongoing maintenance of the stadia are stretched. What of the taxpayer? Eddie Cottle explains:

In 2004, the financial impact report for the South African World Cup bid committee (prepared by Grant Thornton) estimated the cost of infrastructure and stadiums to the taxpayer would be about R2.3 billion. By October 2006 this amount had increased to R8.35 billion. The current estimated costs to the taxpayer of the stadiums and related infrastructure is R17.4 billion.<sup>64</sup>

Some social justice activists have responded to the escalating and exorbitant costs by arguing that taxpayers’ money should be spent on directly assisting with poverty alleviation and providing the most needy communities with sporting facilities.<sup>65</sup>

The cost to the taxpayer of luxury items is a public interest issue – and especially in a developing country like South Africa, where the delivery of basic essential services such as housing, electricity and water by the state remains a daily challenge. As the Public Service Commission states in the 2009 State of the Public Service Report:

A key implication for public administration in this regard is the importance of ensuring that as decisions continue to be made on the allocation of resources, the resources are utilized in a manner that generates public value. Public officials should remember that the resources allocated to the

hosting of the event could have been used for other equally worthy causes which can yield positive spin-offs for the public.<sup>66</sup>

Why should these varied and seemingly unrelated observations about the 2010 World Cup concern us? If mega-events make governments expedite the spending of public funds efficiently and advance much-needed infrastructural projects and other important social services, surely they act as catalysts for economic and social development? If the means can justify the end perhaps it is acceptable to side-step democratic governance and accountability. It may even be tolerable to overlook conflict of interest situations and isolated instances of corruption to ensure the public have ready access to enhanced infrastructure and the country to an enhanced international image. However, the costs of corruption are high. Apart from eroding public trust and a country's global reputation, it can result in more expensive financing and capital and maintenance costs, the misappropriation of funds, or inappropriate financing, unviable and defective or environmentally or socially destructive projects.<sup>67</sup> Preventing corruption in the procurement of these contracts and throughout the duration of the projects can save millions in inappropriately diverted, potentially squandered or looted public funds and help ensure the best quality infrastructure for poor and vulnerable communities in host countries.

Similarly, the 'public interest' tensions raised here are important but perhaps too elusive. Can we ever accurately judge whether different spending decisions or stadia location outcomes would better serve the public interest? Yet, as slippery as they appear, the public interest issues encourage us to explore deeper, more fundamental questions around the 2010 World Cup and mega-events generally. Which public values does FIFA espouse and which private interests does the organisation serve? Do public interest values suitably guide government's decisions on the 2010 World Cup? And, ultimately, whose interests are really being served?

This monograph explores some of the ethical and governance challenges that have been raised in this chapter. It does not aim to present a set of proposals for reform or a set of 'best practice' recommendations. Instead, the objective is to provide readers with an accessible, stimulating and exploratory documentation of some of the more controversial aspects of the 2010 World Cup. Six detailed case studies highlight how the dynamics particular to mega-events can generate

ethical conundrums and complexities that confront current and future policy makers and host nations.

In chapter two Rob Rose explores tendering irregularities surrounding the contracts for Soccer City, the showpiece stadium for the 2010 World Cup in Gauteng. He amasses evidence to show how the City of Johannesburg effectively ceded the profits it will earn from the World Cup to a little-known company called National Stadium SA (NSSA). Rose also highlights other disturbing aspects of the contract, particularly the legitimacy of NSSA's 'empowerment status', which was a key pillar of its tender bid. The chapter points to policy flaws in South Africa's opaque tender system, which mask crucial details of supposedly 'public' tenders, providing fertile ground for serious conflicts of interest to fester.

In chapter three, Eddie Botha and Gcina Ntsaluba examine tendering irregularities in the Eastern Cape. They provide fascinating material alluding to irregularities in the allocation of advertising and branding contracts by the Eastern Cape Tourism Board (ECTB), the suspension of a whistle-blower and accusations of favouritism by losing bidders for a contract awarded by Buffalo City Municipality in East London, for the upgrade of the Absa Stadium. In addition, they explore controversy and allegations of bribery surrounding the construction of Mthatha's stadium, which the King Sabata Dalindyebo Municipality hoped could be used as a base camp or training field by World Cup teams.

Andrew Jennings provides essential reading on the global nature of corruption in FIFA in chapter four. He provides a compelling account of how FIFA is organised to apparently enrich a handful of officials and keep them in what appears to be perpetual power. The absence of transparency and accountability within the organisation is identified as the cultivator of unrestrained nepotism and favouritism. Jennings' work also reminds us of the disproportionate power and leverage FIFA wields over host nations and their governments, manipulating deals and profits in their favour without scrutiny.

In chapter five Rob Rose documents, with precision, potential conflict of interest situations regarding how FIFA awards its lucrative contracts for the World Cup. Rose focuses on two companies, Match Event Services, FIFA's exclusive official accommodation provider to the World Cup, and Match Hospitality, the official provider of exclusive packages to companies. This chapter raises important questions about the lack of scrutiny and transparency of FIFA's contracts,

showing how FIFA appointed both companies to exclusive multi-million dollar contracts without any tender process or transparency. Rose also questions the unprincipled basis for vast profit margins that these companies will reap from the 2010 World Cup for overseas shareholders.

The story of Cape Town's Green Point stadium aptly illustrates the ongoing tension between the public and the private interest. In chapter six Karen Schoonbee and Stefaans Brümmer eloquently explore how Cape Town came to build a new stadium, although the FIFA inspection committee found that it had other suitable options. They closely examine the decision-making process that led to the outcome, providing the factual basis for an argument that national government was structurally conflicted. Instead of it remaining the neutral arbiter of competing interests, including those of FIFA and the public interest, FIFA's interests effectively became those of government. Their conclusion that the least desirable and most expensive option was chosen is carefully supported.

In chapter seven, Sam Sole continues the public interest theme, questioning whether the Moses Mabhida stadium in Durban represents 'an arch of hope' for the city or 'a yoke of debt'. Although the Durban bid started off as one of the more modest proposals in the South African FIFA 2010 Bid Book, the push by the KwaZulu-Natal provincial government for a new stadium meant that the Moses Mabhida stadium became a highly priced legacy project. Sole argues that while there is no evidence of corruption, the benefits of this new stadium are highly concentrated among big construction firms, empowerment regulars and the local political elite. Yet the costs, both current and future, are high, spread wide and disproportionately affect the poorest citizens of the city.

The monograph concludes with reflections on the South African experience, concentrating on several important governance themes that run throughout the monograph. The first theme reflects on the lack of transparency and accountability in mega-event decision-making. Another theme interrogates the link between mega-events and the public interest, while the third questions the role and responsibilities of host governments in mega-events. The final chapter also reflects on the South African context, particularly with attention to tendering practices and the effectiveness of the existing regulatory environment. It also provides broad recommendations to a range of actors interested in strengthening the governance of mega-events.

Finally, it is imperative to note that the contributors in this publication are supporters of South Africa as the hosting nation, and of the beautiful game itself. Long after the final whistle has blown South Africans will continue to confront the ramifications of the 2010 FIFA World Cup. We therefore remain committed to critical enquiry as a means to both serve the public interest and strengthen transparent and accountable governance.

## NOTES

- 1 Each reference to 'World Cup', 'FIFA World Cup', or '2010 World Cup' in the text that follows must be read as a reference to '2010 Fédération Internationale de Football Association (FIFA) World Cup™'. The abbreviations have been adopted purely for the sake of convenience.
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# 2 Soccer City

What it says about the murky world of government tenders

ROB ROSE

## FAST FACTS ON SOCCER CITY

- The stadium cost approximately R3,4 billion to build and upgrade
- It occupies 25 hectares on the east of Soweto.
- It has a seating capacity of 94 000.
- The playing area is 11 232 m<sup>2</sup>.
- 80 000 m<sup>2</sup> of concrete, 9 000 tons of reinforced steel, 7 100 tones of structural roof steel and 11 million bricks were used to construct it.
- It has 228 (mainly corporate) suites, split evenly between two levels.

## INTRODUCTION

Designed as an African calabash and dubbed 'the melting pot', Soccer City is the showpiece stadium for the 2010 FIFA World Cup and is set to host the opening match, six further matches and the final match. With seating for 94 000 specta-

tors and as the biggest stadium on the continent, it is rightly regarded as South Africa's 'national stadium'. It hasn't come cheap, however.

At last count, Soccer City cost R3,4 billion to build and upgrade – funded by taxpayers through the National Treasury. While this was more than the R3,1 billion spent on Durban's new Moses Mabhida Stadium,<sup>1</sup> it remains less than the R4,5 billion spent on Cape Town's Green Point Stadium (see chapter in this publication, *How Cape Town Got Its White Elephant*).<sup>2</sup> But having spent so many tax rands building Soccer City, Johannesburg residents will have understandable expectations that the stadium will be able to provide some return on their investment.

The stadium owner, the City of Johannesburg, apparently shares this expectation. It states in its 2008 annual report that the World Cup 'should be mobilised to ensure a long-term and sustainable benefit to the citizens long after the event is over'.<sup>3</sup>

This assurance that taxpayers will indeed see some tangible economic benefit from the event that cost them so much will provide some comfort, given the extensive debate over the extent to which FIFA parachutes into a host country for the World Cup and extracts the bulk of the profits from the event, leaving mixed feelings in their wake about the benefit of staging the tournament. This appears to be confirmed by the fact that in exchange for using specific stadiums – such as Soccer City or Ellis Park in Johannesburg – for the 2010 World Cup, FIFA has agreed to pay a 'rental' to the stadiums. This is attested to by a contract signed on 13 March 2006 between FIFA, the Local Organising Committee (the LOC, which has been mandated to handle the World Cup organisation on behalf of the South African Football Association, SAFA) and Ellis Park stadium.<sup>4</sup> The contract says the LOC:

shall pay to the stadium authority as rental for the use of the stadium during the exclusive use periods, an amount equal to ten percent of the net ticket revenues in respect of matches and/or events held at the stadium during the competition.<sup>5</sup>

Obviously, the 'net ticket revenues' for the event are dependent on a host of factors, including actual attendance at matches and exchange rate fluctuations on tickets bought overseas.

However, an investigation has revealed that thanks to a curiously shadowy deal, the City of Johannesburg (hereafter the City) has effectively ceded all of the cash it will earn for the World Cup from FIFA to a little-known company established in 2009, called National Stadium SA (NSSA).<sup>6</sup> NSSA was selected by the City on 30 October 2008 as the winning bidder for a ten-year contract to ‘manage’ Soccer City, before and after the World Cup.<sup>7</sup> But besides the fact that the NSSA contract effectively sees the City forego all profit from the World Cup, there are other disturbing aspects of the contract that have serious implications for policymakers.

Foremost among these is that serious questions have emerged about legitimacy of NSSA’s ‘empowerment status’ – which was a key pillar of its tender bid according to all concerned. In this case, only months before the tender application was made, NSSA’s 50 per cent shareholder Global Event Management (GEM) struck a curious deal which saw 26 per cent of its shares transferred to an employee and former security guard, Gladwin Khangale.

This aptly highlights how policy flaws in South Africa’s tender laws help mask crucial details of supposedly ‘public tenders’, providing fertile ground for serious conflicts of interest to fester.

## **TENDER WHEELING-DEALING AT THE CITY OF JOHANNESBURG**

With a substantial R200 billion awarded in state tenders every year<sup>8</sup> – which equals the amount due to be collected from individuals in personal income tax by Treasury in the 2008/2009 year<sup>9</sup> – a successful bid for government business represents a handy pension for the winner. Yet, as many experts have written, the awarding of public tenders is ‘still notoriously opaque’, with tenders being ‘rarely directly accessible’<sup>10</sup> – the result being that irregularities are only exposed after the fact.

An apt case study of the dangers of this opaque system can be found in the awarding of the contract to manage the Soccer City stadium. In February 2008, the City announced an invitation to tender for the ‘general management of the Soccer City stadium, due for completion in April 2009’.<sup>11</sup> The closing date for tender applications was 1 April 2008.

Among the tasks that the winning bidder was to have performed was a plan for the ‘commercial and operational management of the stadium, and stadium

precinct'. The tender invitation called for a 'detailed business plan, which includes management and staffing structure, operational plans, commercial and marketing plans and options for the ownership/management fee structures'.<sup>12</sup> Essentially, the plan was to sign up a stadium manager not only to keep the revamped Soccer City running properly, but also to ensure that after the World Cup, the stadium wouldn't simply become a white elephant unable to justify the R3,4 billion it took to upgrade it for the two-month event.

With no publicity, the City's tender adjudication committee shortlisted three companies, one of which was NSSA. A 'public participation' process then took place from April to July, and the tender review and adjudication process lasted until 24 October 2008.<sup>13</sup>

On 30 October 2008, council minutes say it was resolved that 'the service level agreement between the city and the appointed management company for the management of Soccer City stadium, be approved'.<sup>14</sup> It said the service level agreement had to 'be amended to include a condition regarding the ownership of Soccer City'.<sup>15</sup>

A contract was then negotiated, the upshot being that NSSA signed the deal to manage the stadium for ten years on 20 January 2009. The Soccer City developers officially handed over Soccer City to the City and NSSA in March, and FIFA are then expected to take control from about April to August 2010, before handing back the reins to NSSA.

The choice of NSSA wasn't an uncontroversial decision, even at the time. According to the minutes of that October council meeting, Democratic Alliance councillor Mike Moriarty 'requested that more details be provided to the council in respect of the form and the contents of the public participation process'.<sup>16</sup> Johannesburg Mayor Amos Masondo responded by asking the council to approve the resolution anyway, while pledging that 'reports would, on an ongoing basis, be submitted to council to indicate the progress in this regard'.<sup>17</sup>

However, emphasising the dearth of public communication about the awarding of tenders, news that the Soccer City management tender had been awarded only dribbled out in May 2009. Specialist publication *Engineering News* reported that Global Event Management had been awarded a five-year contract to manage the Soccer City Stadium.<sup>18</sup> Sibongile Mazibuko, the FIFA 2010 executive director in the office of Johannesburg mayor Amos Masondo, was quoted as saying:

We opted for a professional company as opposed to a municipal manager [because] it is a huge investment, and we want to take advantage of the asset.<sup>19</sup>

The fact that it was NSSA – not GEM, as reported by *Engineering News* – that landed the tender, and that it was a ten-year deal, not a five-year contract, underscores the paucity of detail on tenders, even months after the fact.

When contacted by the author, Mazibuko refused to answer any questions on the contract.<sup>20</sup> ‘That’s part of the contract, and I’m not at liberty to discuss that,’ she said. Equally, when it came to the tender process, she refused to reveal any details of who NSSA competed against. ‘We received a number of tenders, – more than three, – but we don’t reveal who contests these tenders,’ she said.<sup>21</sup>

In fact, the public would be none the wiser had the author not been able to lay hands on confidential tender documents and the stadium-use agreement signed between the City and NSSA on 20 January 2009. Those documents reveal that, far from getting a return from the R3,4 billion investment in Soccer City, the City has effectively ceded all the profits they will get from the FIFA World Cup to NSSA.

This underscores the fact that the estimated R17 billion cost of erecting the soccer stadiums for a once-off FIFA event far exceed the benefits, as is cogently argued elsewhere in this publication (see particularly the chapter on Cape Town).

## GIVING AWAY THE CROWN JEWELS

The ‘stadium management agreement’ is the licence that allows NSSA to take control of the management of Soccer City.<sup>22</sup> The interesting part is the payment terms, which spell out a ‘profit share arrangement’ between the company and the City. This deal is divided into two terms: the ‘excluded period’, during which FIFA has control of the stadium, and any other time.<sup>23</sup>

For the period after the World Cup, there is a sliding scale depending on how much profit is actually generated. If Soccer City generates less than R10 million in ‘net profit after tax’, for example, NSSA will pay the City 18 per cent of that amount, while another 5 per cent will go into an ‘employee share trust’, and a further 5 per cent is set aside for ‘stadium-related skills development’. The

remaining cash – 72 per cent of the profit in this case – will go to NSSA and its shareholders.<sup>24</sup>

But what will become of the profits from the FIFA World Cup itself, which was, after all, the reason for spending R3,4 billion on building the stadium in the first place? The contract says, ‘the income to be generated by the stadium in terms of the FIFA agreements shall be deposited into [a] Provisional Account’.<sup>25</sup> This ‘provisional account’ will be set up at a bank by NSSA, and will be run jointly by the company and the City. This FIFA World Cup income will then be used for all pre-World Cup expenditure including ‘staff salaries, the cost of artisans and contractors, maintenance costs, IT expenses, human resources expenses, and NSSA expenses’ – an estimated R30 million.<sup>26</sup>

But it will also be used for ‘all capital expenditure ... after the FIFA World Cup 2010’ and ‘all future unforeseen operating expenditure’ incurred by NSSA. And, if all these expenses come to more than the entire World Cup income, the City even says ‘such shortfall shall be paid by [the City] to NSSA’.<sup>27</sup>

So, in essence, all the cash from the World Cup will go into a bank account jointly controlled by NSSA and used for ‘expenses’ – this despite the commitment that the World Cup should benefit all residents of Johannesburg.

How much money is likely to flow into this ‘provisional account’ from the World Cup? What is the likely value of the 10 per cent of ‘net ticket revenues’ for the World Cup events that FIFA will pay to the City of Johannesburg as rental for the stadium? A letter from the City’s Mazibuko to Investec Bank in May 2009 confirmed that Soccer City ticket sales during the FIFA World Cup were expected to amount to R1 544 728 185.<sup>28</sup> This is based on various assumptions, with ticket prices ranging from \$20 each for the group matches (but only 10 per cent of the tickets are sold through this channel) to \$900 each for tickets to the final (half of the available tickets are sold at this price).<sup>29</sup>

The letter implied that by May 2009, the City was likely to be paid R154 472 818 as ‘rental’ by FIFA – money that it appears will go straight into the ‘provisional account’. Since May, the currency has strengthened considerably from around R8.30 to the US dollar to around R7.30 at the time of writing. In an interview with the author, NSSA CEO, Jacques Grobbelaar, says he now expects the FIFA revenue to the stadium to be in the order of R128 million.<sup>30</sup>

This isn’t small change for NSSA SA, and the question remains: why did the City agree to cede the crown jewels (in the form of the World Cup profit) to the ‘management company’? While a return of R128 million on the stadium cost

would not come close to matching the construction costs, it would at least go some way to meeting the promise that the event should benefit all citizens in an economic sense.

### WHO IS NATIONAL STADIUM SA?

- The company that landed the contract to manage Soccer City for the next ten years is as anonymous as it comes.
- It was incorporated in late 2008 as a 50/50 joint venture between Global Event Management (GEM), and Intelligent Venue Solutions SA (IVS).
- Both cite impressive CVs. GEM claims to have been in business for 23 years, providing security services and acting as a stadium consultant on the Angola Stadium and Wembley Stadium UK. Its big contracts include a R100 million management contract for the Ellis Park stadium.
- GEM is 74 per cent controlled by the Diligence Group, while Gladwin Khangale is listed as a 26 per cent empowerment shareholder (see discussion below).
- IVS, which appears to have only been incorporated in January 2008, boasts that it acted as a consultant on the Millenium Stadium in Cardiff. Its shareholders consist of four individuals: Mark Ransom, Russell Stephens, Barry Pollen and Andrew Moss.

### ‘A BLANK CHEQUE’

Mike Moriarty, the former Democratic Alliance councillor for Johannesburg who now sits in the Gauteng legislature, says his party opposed the resolution to appoint NSSA for exactly this reason.<sup>31</sup> ‘What we saw and what was drafted appeared to be a wholesale ceding of rights for very little benefit. The City was effectively giving away a blank cheque,’ he says. Moriarty says the council weren’t told of the benefits for the City and there was no financial information attached. ‘The only response we had to our questions was that the City had done their homework, and they were getting something for nothing. But we couldn’t see what that “something” was,’ he says.<sup>32</sup>

Moriarty says there would be three reasons for doing a deal that on the face of it doesn't look reasonable at all: either it was simply the wrong decision, or it was a masterstroke based on some unknown fact, or there was some underhand reason for doing it. 'Here, the City argued that by doing this deal, they don't carry any of the operational risk or costs,' he says.<sup>33</sup>

But there are a number of problems with this reasoning. First, while it is true that some stadia have proven a big drain – the Johannesburg Athletics Stadium being the prime example – Soccer City is projected to make a net profit. According to NSSA's projections in its tender bid, Soccer City will make a R60 million net profit during 2010.<sup>34</sup> This will be almost entirely attributable to the World Cup as net profits will rocket from R1,4 million in April to a R23,8 million net profit during June and R23,9 million during July.<sup>35</sup> This net profit drops in 2011 and 2012 to R10,3 million each, primarily because 'game income', which includes ticket sales, falls from R49,5 million in 2010 to R2,5 million afterwards.<sup>36</sup> But even at the outset, all expectations were that a sizeable profit could be made.

Grobbelaar, however, says these profit projections 'are outdated', and that all the World Cup income will go into the 'provisional account' anyway to be used for capital expenditure and unforeseen expenses.<sup>37</sup> But the point is, it appears there is money to be made for a savvy operator, which distinguishes Soccer City from Cape Town, where there are serious question marks over the economic viability of the Green Point Stadium in the longer term.

Second, the 'management contract' with NSSA shows that the City certainly does bear some of the risk. It contains a full page of 'obligations' on the City, including to 'take out and maintain insurance in respect of the stadium and its assets against the risks to which they are ordinarily subject'.<sup>38</sup>

Third, the City also appeared to have signed a collateral agreement with Investec bank on 6 May 2006 under which it agreed to pay 'any amounts owing or incurred by [National Stadium] to you, providing that the amounts recoverable hereunder shall not exceed R130 million'.<sup>39</sup> This 'security agreement', signed by Mazibuko and due to expire in January 2011, was meant to help NSSA raise 'bridging finance' to complete the building of the stadium.

Quite whether this security agreement was implemented is uncertain, because Grobbelaar said that 'no agreement has been signed [with] Investec Bank by either party'.<sup>40</sup> He says that 'in executing finance options, NSSA confirmed the terms of engagement (as stipulated in the Stadium Management

Agreement) with Investec'.<sup>41</sup> Either way, this illustrates that the City not only ceded its World Cup profit: it wasn't shy of taking on obligations, either.

As Steven Levitt argues convincingly in his book *Freakonomics*, if there is behaviour that seems out of the ordinary, there is usually an incentive scheme behind it somewhere.<sup>42</sup> So a possible inference is that City officials who decided to cede the World Cup profits were incentivised to do so. It stands to reason that if those officials were incentivised to keep the World Cup profit, they would have found some way to do that. Instead, a reasonable inference is that the incentive for the City officials was primarily to cut a deal to reduce financial risk for the council, rather than to seek the highest return on investment. This would raise serious questions, considering that officials carry a public responsibility to improve the socio-economic status of their constituency, and not simply surrender taxpayers' cash to projects of dubious long-term value.

When asked about her incentive structure, Mazibuko told the author that she receives only a set salary and no bonus.<sup>43</sup> The City's annual report reveals that Mazibuko is on a 'fixed-term contract' and there are specific 'performance agreements' in place for her. However, it does not elaborate on these performance targets.<sup>44</sup> Either way, this case study suggests government needs to consider the unintended consequences of incentivising public servants simply to avoid risk, especially if municipalities are seeking to become financially independent entities able to provide a return on taxpayer money. Further transparency of public servants' incentive structure would be welcomed, as it would throw new light on the motivation behind government decisions.

## WEIGHING UP THE QUID PRO QUO

Grobbelaar, CEO of NSSA, says one of the reasons why the City chose this option is because it was worried the stadium might end up as an expensive white elephant with no practical use after the World Cup.<sup>45</sup> 'It could turn out to be a huge political embarrassment if a R3 billion stadium ends up not being used. So part of the criteria for the tender was to create a legacy for the stadium,' he says.

Grobbelaar says the City agreed to this deal because it had learnt some nasty lessons from the Johannesburg Athletics Stadium, which was built in 1994, but which has steadily degenerated into disrepair.<sup>46</sup> 'The City quite rightly looked at this example, realised they weren't in the stadium management business them-

selves, so looked for the expertise of companies that do know how to manage stadiums, so that they didn't end up throwing away even more money,' he says.<sup>47</sup>

This is a justifiable concern, given the poor prospect of Cape Town's Green Point stadium being used for anything of economic value after the two-month World Cup. But equally, this scenario is highly dependant on the actual stadium concerned. As the business plan and profit estimates for Soccer City spell out, there are real expectations that this stadium will be soundly profitable.

As part of its plan, NSSA plans to organise a number of money-spinning events at Soccer City, which will be rebranded after the World Cup as 'National Stadium'. This includes international rugby matches, a series of exhibition matches involving teams like Manchester United, A-list musicians using the stadium as a concert venue, and local Premier Soccer League teams using it as a base.

Grobbelaar is also adamant that NSSA won't simply Hoover up all the cash from the World Cup.<sup>48</sup> 'The perception is that all this money from the World Cup will go to NSSA. But we won't get that money. At this stage, that R128 million will go into the provisional account,' he says.<sup>49</sup> That cash, according to Grobbelaar, will be used to finish the construction of the stadium. This includes putting in place audio-visual equipment, erecting press facilities, finishing building the suites and painting the walls.

At this stage, he estimates that these capital expenses could suck up another R75 million, which leaves about R53 million 'unaccounted for'.<sup>50</sup> Grobbelaar says this 'balance' is 'clearly dedicated to any other extraordinary operational expenditure, maintenance and unforeseen expenses' for the next eight years.

If after eight years (when NSSA's contract expires) there is still R40 million in that provisional account, this carries over and will remain in the account for the next management company. So the money will stay in that account.<sup>51</sup>

Grobbelaar stresses that this is a fair arrangement: his company does not receive any grant or monthly 'management fee', but is taking control on a 'pure financial risk' basis.

However, if the money from the World Cup is to be used to cover other expenses over the duration of the management contract that would otherwise be for NSSA's account – which seems to be the case – then the company is clearly benefitting from the World Cup cash. Grobbelaar argues that one of the reasons for this odd financial structure is that the construction company hired to build Soccer City was not contracted

to provide a 'finished product', so a method needed to be found to finance the completion.<sup>52</sup> 'The City was very clever in ensuring that it didn't lean further on taxpayers' money because it will use the FIFA World Cup money to complete the stadium, and for ongoing maintenance,' he says.<sup>53</sup>

He says that, with 94 000 seats being built at Soccer City for R3 billion, construction costs work out to R31 914 per seat (it's actually more, considering the stadium will cost R3,4 billion). Grobbelaar argues that this is far cheaper than Cape Town's R4,5 billion Green Point stadium which works out to R83 636 per seat. 'Sure, the City may not now get the FIFA World Cup money which is used to complete the stadium. But which is the better option for taxpayers ultimately?' he asks rhetorically.<sup>54</sup>

Hank Ferreira, another director of NSSA, says 'one of the reasons we were successful [in the tender bid] is that we took a lot of the risk ourselves, like putting down the guarantees for the City ... They do get a profit share, but the majority of the risk was taken by NSSA,'<sup>55</sup> he says.

But the City, along with the host cities for the nine other World Cup stadiums, were initially allocated R7,62 billion by National Treasury, spread over four years, to build the stadia.<sup>56</sup> This cost escalated, and according to National Treasury's latest 2009 budget, government was to have contributed R11,5 billion to building the stadia. When you include the contributions from host cities and provinces, estimates are that total government spending exceeded R17 billion. What happened to that cash, and how come World Cup proceeds will now be used to pay back debt?

'Well, the stadium was well over budget and (in some cases) the specifications in place weren't in the contracts,' says Ferreira.<sup>57</sup> For example, he says the original construction contracts included no clauses obliging contractors to build dividing walls in the kitchens in the suites.

So the underlying question is: to what extent did the City 'compromise' on the NSSA contract in order to get more cash to complete the stadium? After all, it looks very much like NSSA performed a 'favour' for the City. It therefore appears that the City's inability to raise more finance to complete the stadium meant it was pushed into a situation where it had to cede its World Cup profits to NSSA, which would then apply for a bridging loan itself. This then allowed the City to comply with its FIFA obligations to hand over the completed stadium for the World Cup.

However, Grobbelaar is adamant that the City ‘did not compromise on any deal’.<sup>58</sup>

The FIFA agreement said the City would only get the ticket money towards the end of 2010, so we obtained a bridging facility to help them out. We anticipated that it would be easy to obtain the money, but it turned out to be extremely difficult.<sup>59</sup>

However, he would not reveal where this cash ultimately came from, citing only ‘private funders’.<sup>60</sup>

But it is no secret that the rapidly expanding costs of Soccer City have put pressure on a council that is under pressure to deliver basic services and which ended its 2008/2009 financial year with a R510 million operating deficit.<sup>61</sup> A report tabled in the Council in September 2009 showed that the City asked department heads to slash their capital spending budget by R670 million and their operating budgets by R477 million to free up funds.<sup>62</sup> Of this R1,1 billion, R800 million will be channelled to meet the extra costs of Soccer City. On this issue, eThekweni’s deputy mayor Logie Naidoo was quoted by *The Times* newspaper as saying the extra 2010 costs ‘will certainly affect service delivery’.<sup>63</sup>

Ferreira, however, says the ‘bridging finance’ amounted to R120 million, and fixed ‘the host city’s problem’.<sup>64</sup>

The NSSA facilitated that loan of R120 million, and that money will be used to [pay] the capital items. Once the host city receives all that money [from FIFA towards the end of 2010], then they repay that loan.<sup>65</sup>

This, however, appears to raise a clear conflict of interest. Though Grobbelaar praises the City for being ‘clever’ in structuring the deal, the question is: to what extent did the City’s need for some other party to raise cash on its behalf see it compromise on the stadium management contract, foregoing cash that would otherwise accrue to taxpayers?

## TENDER SECRETS

Would such a deal structure have been acceptable to South Africans, had they known of it before the City signed the contract? It’s impossible to say, because

the reality is that the public had no idea that Johannesburg residents wouldn't see a cent of the World Cup money, nor were they aware of the terms of NSSA's deal.

Don Forbes, a Johannesburg city councillor representing the Democratic Alliance, says the murky details of NSSA's appointment illustrates the vacuum of knowledge around supposedly public tenders:

We as councillors don't have access to the details of specific tenders. We have to ask for that – such as what were the merits, or the return for the council – but often we don't get that information.<sup>66</sup>

When it came to National Stadium, 'we still don't know what the details of that contract were: does it give you the right to sub-contract, for example'.<sup>67</sup>

The bottom line, as Moriarty told his council colleagues at that October meeting, is that there was insufficient information available for the public-appointed nominees to assess whether this really was the best option for citizens.

There are similar concerns mounting about the poor transparency over the management contract of the Green Point Stadium in Cape Town. In this case, a management consortium including Sail and the French company Stade de France have negotiated a deal under which they will pay the City of Cape Town 30 per cent of the stadium's net profit less municipal rates.<sup>68</sup> But if the stadium fails to turn a profit, the City of Cape Town will only be paid one Rand per year. Retired engineer Ralph Malan said the project has 'been bedevilled from the start by official deception of the public'.<sup>69</sup> *The Daily Telegraph* wrote that the 'extraordinary terms of the deal, which so heavily favour the operating company, have raised suspicions that the City of Cape Town was outmanoeuvred by the consortium's lawyers'.<sup>70</sup> NSSA's Grobbelaar cites the Cape Town case as an example of how risky it is for a company to take full control of a stadium, given potential losses.<sup>71</sup> But the NSSA case study succinctly encapsulates the real problem: a dearth of information about public tenders.

Ironically, this situation has been exacerbated by amendments to the Municipal Finance Management Act (MFMA) in 2004, which were meant to fix corruption and dodgy tenders. Prior to that, city councillors were part of tender committees that assessed all tenders of R1 million and above. Partly to address the conflict of interest entailed in party members squabbling for access to tenders, the MFMA placed the adjudication of tenders within the ambit of

City officials.<sup>72</sup> This is fine in theory, but in practice, it hindered the ability of opposition party councillors to challenge aspects of tenders that they now don't get sight of.

Evaluation and acquisitions committees staffed by City officials now have the final say on tenders.<sup>73</sup> Disclosure simply involves releasing a report to councillors at either three- or six-monthly intervals reporting their decisions. 'What we now cannot see are the details of the job being tendered for, who the competing bidders were, and ultimately why a bidder was chosen,' Moriarty says.<sup>74</sup>

This is a nasty unintended consequence of the MFMA, which was meant to improve governance at local government level, – not add another cloak of secrecy onto multi-million Rand decisions. Fitzgerald Ramabua, the deputy director for committees in the City of Johannesburg, defends the process. 'Look, when the tenders are closed, all the bids and values are read out publicly. It will say, "Joe Soap put in a bid of R5", for example,' he says.<sup>75</sup> Ramabua says a losing bidder can approach the municipality to request reasons why it was rejected, and members of the public can use the Promotion of Access to Information Act to ask for details of tenders:

But the information submitted is confidential, and we will not give information about other bidders unless compelled to under the Access to Information Act.<sup>76</sup>

The problem is few people know about – or even use – these legal avenues to prise out information. For example, the MFMA makes provision for a 'tender ombudsman' to exercise oversight, whom losing bidders can approach. However, Ramabua confirms that 'no one has followed that route' in the City of Johannesburg.<sup>77</sup> In fact, the City of Johannesburg hasn't even appointed an ombudsman yet.

But Ramabua rejects the implication that, as a consequence, decisions are often made arbitrarily, pointing out that the bid specification and bid adjudication committees include experts – such as lawyers and engineers – employed by the City.

Grobbelaar, who has entered about 20 tenders, also believes the current MFMA regime does provide sufficient transparency:

There is a public participation process, and tenders are lodged so that in ten years time, a tender committee can dig up past tenders to investigate someone's history.<sup>78</sup>

But the absence of politicians in the tender adjudication process, he believes, helps remove the suspicion of fraud or influence.

The 'public process' allows the public to see the actual contract and pose any questions to the tendering parties, but hardly anyone does. In this case, for example, there were no questions or challenges to NSSA's tender – despite some rather pressing concerns.

The theory and the practice of the 2004 MFMA amendment are clearly at odds. As the *Financial Mail* pointed out, if the officials who are now in charge of adjudicating tenders owe their positions to a political party, then this MFMA amendment won't fix anything.<sup>79</sup> In fact, the unintended consequence is *less* transparency on tenders, with often-vociferous opposition parties now joining the public in the gallery of the blind. Opposition parties, after all, are incentivised to scrutinise and challenge decisions made by the ruling party, contributing to a healthy democracy. Public officials, however, are only incentivised to look after their jobs, and if they're lucky, get a bonus at the end of the year.

## 'MY HAND IS HEAVY'

In a case like NSSA and the Soccer City management deal, the opaque tendering system means there are more questions than answers. But in other cases this lack of transparency allows for blatant corruption. This is how 49-year-old Johannesburg businessman and former CEO of Great African Seating, Vivian Lottering, tells it.<sup>80</sup>

In 2007, Lottering's company was asked to submit a tender for the seating at Soccer City, which his company valued at R45 million:

We were very confident because it was pretty much our product specified in the tender request. We did an excellent presentation to the adjudicators and our product and price was very competitive.<sup>81</sup>

But soon after, Lottering says, he and his partner got a phone call from a man whose identity he still refuses to reveal who attempted to solicit a bribe:

He said to us, ‘the job is yours, but my hand is heavy’. So I asked what it would cost him to move his pen. He told us R2 million, but I said there was no way I could afford that.<sup>82</sup>

The following Monday, Lottering’s Great African Seating got a letter saying that its bid had been turned down.

Lottering says he was bitter, and approached various members of the SAFA and other forums without luck. ‘The feeling I got from speaking to various people is that the World Cup comes around just once, so now is the time for people to cash in using whatever means they can,’ he says.<sup>83</sup> An unhappy post-script is that, partly because of its failure to win the World Cup contract, Great Africa Seating went into liquidation in 2008.<sup>84</sup>

Public access to all the tenders would allow for questions to be asked when the best tender is rejected, which would contribute to exposing decisions made for the wrong reasons.

Is there any justifiable reason for keeping tender documents confidential? When it comes to tenders, the City’s supply chain management says ‘all information designed and prepared for the city is proprietary’ and ‘all supplier information shall be treated as confidential’.<sup>85</sup> As a token concession to proper disclosure, it adds that ‘to ensure transparency, fairness and to restrict abuse, the City must publicly advertise the requirement to allow other interested parties to submit bids’.<sup>86</sup>

But Dr Danny Titus, former chair of the South African chapter of Transparency International, believes there is no reason to keep tender information confidential.<sup>87</sup> ‘There is no justification at all. Here and there, you could argue a case of proprietary information, but not in general, given the money involved and importance to the country,’ he says.<sup>88</sup> Titus first raised concerns about the poor transparency in 2010 World Cup tenders two years ago. ‘We spoke to the Local Organising Committee, who were very open with us. But they said that the cities themselves had jurisdiction over the stadiums, so that’s where the problems lies,’ he says.<sup>89</sup>

Titus’ fears were confirmed by the preliminary findings of a probe by the Competition Commission into construction companies colluding on tenders

for the World Cup. In July 2009, the Competition Commission announced that it was investigating illegal price-fixing by companies involved in building World Cup stadia – including Murray & Roberts, Group Five, Wilson Bayly Holmes Ovcon, Basil Read and Stefanutti Stocks.<sup>90</sup>

Construction costs for the stadia had ballooned far higher than expectations. The Competition Commission was concerned that there ‘seemed to have been very little in the form of competitive bids from the major players’.<sup>91</sup> Essentially, it suspected that tenders were ‘divvied up’, with firm A agreeing to tender only for the Cape Town stadium, for example, and firm B agreeing to tender for Soccer City. Competition Commissioner Shan Ramburuth was quoted by news agency Reuters as saying ‘We have good grounds (to believe) this has happened, and we are investigating.’<sup>92</sup>

Two months later, the Competition Commission confirmed it had received ‘several applications for corporate leniency from construction companies for collusive practices’ – essentially a plea bargain under which a company’s fine is reduced in exchange for testifying against other offenders.<sup>93</sup> The Commission said its ‘preliminary investigations’ indicated there may be ‘widespread collusion in the construction industry’, including fixing margins for tenders and then ‘compensating losing bidders’.<sup>94</sup> Other illegal behaviour included allocating tenders through the use of score cards, and colluding by submitting blatantly uncompetitive bids.

Though Murray & Roberts fumed about these claims, denying any ‘wide spread and prevalent collusion’, it later issued a strange statement.<sup>95</sup>

Murray & Roberts does not deny that in isolated instances, individuals in the Group have acted fraudulently in what can be construed as collusive behaviour. This is the independent action of individuals for personal gain. The Group has forensically investigated all its operations in the context of Competition Law and where such isolated irregularities have been found, it has engaged with and placed leniency markers with the Competition Commission.<sup>96</sup>

Then in November 2009, cement maker Pretoria Portland Cement (PPC) confessed to ‘historical market-sharing arrangements with other cement producers in the late 1990s’<sup>97</sup> – essentially reaching deals with competitors to divide up

jobs. CEO Paul Stuver claimed to be ‘shocked and disappointed’ by this revelation, but the Competition Commission probe continues.

Though PPC’s admission that the deal was struck in the late 1990s implies this was before any World Cup contracts were awarded, the Competition Commission said the agreement was ‘implemented up until this year’.<sup>98</sup>

Importantly, these events confirm that the concerns about corrupt deals being struck under cover of darkness thanks to an opaque tender system are not simply academic issues. We may never know how many of the World Cup stadium construction deals sapped excessive amounts of taxpayers’ money precisely because of this problem.

## **THE PROBLEM OF BLACK EMPOWERMENT AND TENDERS**

Another indictment of the tender system, illustrated by the NSSA management contract case study, relates to the policy of black economic empowerment (BEE).

As happens with many government tenders, NSSA believed it important to highlight their BEE credentials in making their tender bid to Johannesburg. This is standard practice.

The City’s supply chain management policy, which seeks to implement the 2003 Broad-Based Black Economic Empowerment Act, sets out its commitment to use its ‘buying power as leverage to ensure effective implementation of broad based Black economic empowerment objectives’.<sup>99</sup> That policy makes it pretty clear that the odds of getting a tender accepted depend partly on black ownership and involvement in a company. However, when contacted, City personnel told the author that there is ‘no specific requirement’ for BEE, but ‘you should attach your BEE certificate to an application’.<sup>100</sup>

Nonetheless, the pressure to be able to claim acceptable empowerment status has led to some bizarre cases of ‘fronting’ – companies tying up artificial deals to transfer shares to so-called ‘black partners’ for minimal value. These cases don’t only include small companies operating below the radar, either.

In 2007, for example, the JSE-listed transport company Super Group was drawn into a fronting fracas when Kei Fleet Solutions (KFS) took it to court claiming it had been used as a front to help Super Group’s Eastern Cape FleetAfrica unit land a R731 million five-year contract to handle the government

fleet.<sup>101</sup> KFS director Mkululi Pakade said in a 2007 affidavit that his company had been ‘disregarded as a meaningful and active business partner in FleetAfrica Eastern Cape (despite owning 26 per cent), with the result that KFS finds itself in a position where it operates as a front to meet BEE requirements’.<sup>102</sup>

This pressure on companies bidding for tenders provides fertile ground for irregularities and tender-rigging to occur. Combine that with the poor transparency around details of public tenders, and many companies feel they have licence to do artificial ‘share transfer deals’ where black people end up as the owners of large chunks of shares without having paid market value.

In the case of the Soccer City management tender, NSSA also felt compelled to include extensive documents elaborating on its empowerment status. According to the Department of Trade and Industry, government will recognise a ‘level four contributor’ as 100 per cent compliant with BEE rules. The top level – ‘level one contributors’ – get 135 per cent recognition. In practice, this means that those companies that buy from a ‘level one’ contributor get a 35 per cent advantage over a firm that buys from a ‘level four’ contributor.

In the tender documents, GEM provided a certificate from BEE-SEESA, which confirmed it was a ‘level four contributor, with a score between 65 per cent and 75 per cent’.<sup>103</sup> This was partly based on the fact that, while 74 per cent of its shares are held by Diligence Holdings, the other 26 per cent are owned by a previously disadvantaged individual, Gladwin Khangale. IVS-SA also provided a certificate from Empowerdex confirming it too was a ‘level four contributor’ with recognition for buying from black-owned companies.

In this case, empowerment credentials were necessary. In an interview, the City’s Mazibuko said that empowerment had been ‘an important part’ in deciding to award the tender to NSSA.<sup>104</sup> She said this was ‘in line with the city’s policy on black economic empowerment’.<sup>105</sup> According to a diagram presented by NSSA, Khangale still owns 26 per cent of his shares in GEM.

Yet, there are some worrying elements to NSSA’s ‘empowerment credentials’, which highlight how some firms could feel coerced into doing sham black empowerment deals in order to win tenders. The first factor to arouse suspicions is that the 42-year-old Khangale was appointed as a director of GEM only on 1 October 2007 – a few months before the invitation to tender was announced. A letter sent by secretarial company Actasec Services CC on 2 November records that it would ‘like to confirm that the transfer of 26 shares to MG Khangale was

processed with effect from 1 October 2007, and that Mr Khangale now holds a 26 per cent shareholding in the company'.<sup>106</sup>

However, a breakdown of responsibilities, filed with the tender documents, records that while Khangale owns 26 per cent of the company and supposedly spends 100 per cent of his time at GEM, he has no financial responsibility for signing of loans, cheques, surety, acquisitions or any major contracts. Nor does he have the power to hire or fire anyone. In the tender documents, it lists Khangale's management responsibility as 'supervision of office personnel' and 'supervision of field/production activities'. This limitation on the responsibilities of a major shareholder and executive is a red light.

Another red light is that records at the Companies and Intellectual Property Registration Office list Khangale's address as '7105 Mahlangu Street' in Heidelberg. In a later meeting with the author, Khangale confirms that he still stays at that address. However, Mahlangu Street is in Ratanda, a low-income township area west of Heidelberg, where residents typically have little disposable income, let alone the funds to be dealing in stock of large companies.

The author went to meet Khangale at GEM's offices at the Nasrec exhibition centre next to Soccer City, but he was jittery and said 'I don't think I can disclose anything'.<sup>107</sup> He confirmed that he owned the shares at one stage, but said he no longer owned them. But when asked what happened that led to him disposing of the shares, Khangale clammed up, saying 'I can't explain that to you ... there's some confidentiality on that'.<sup>108</sup>

He was equally evasive when asked why a 26 per cent shareholder had no rights to take any decision, referring all questions to GEM Managing Director, Hank Ferreira. He also appeared too scared to even confirm that he was still a director of GEM.

More alarmingly, Khangale's version of events contrasts with the official version. Hank Ferreira, the MD of GEM and a director of NSSA, says Khangale 'is still a shareholder ... The shares are still issued. Nothing has changed per our tender bid'.<sup>109</sup>

However, it turns out that Khangale has not yet parted with a cent for that 26 per cent. Ferreira says a valuation was done which put the value of that 26 per cent at around R100 000.<sup>110</sup> 'He bought those shares from the other shareholders ... at this stage there is a deferred payment plan,' he says. Ferreira also stated that once the company becomes 'profitable and dividends are paid', then Khangale

must start paying back that R100 000. He says Khangale has full rights to a 26 per cent dividend, however.<sup>111</sup>

When the author put it to Ferreira that it was quite a coincidence that Khangale pops up as a 26 per cent shareholder shortly before a major tender, Ferreira denied this.<sup>112</sup> 'He was a shareholder long before we decided to get involved in the tender. The shares were transferred, I think, more than a year before the transaction, so it had nothing to do with the tender,' he says.<sup>113</sup> In fact, the shares were transferred four months before the tender was announced, according to the letter from Actasec.

Jacques Grobbelaar, CEO of NSSA, says Khangale made a presentation to the GEM board 'long before the joint venture [with IVS-SA to form National Stadium] was even formed, or we even knew of a tender going out'.<sup>114</sup> But again, there are contrasting stories. Initially, Grobbelaar says 'there was a portion of those shares not paid for', but later agrees with Ferreira's version that no payment was made.<sup>115</sup> Grobbelaar says he 'cannot remember' the exact sum that Khangale was meant to pay for the shares.<sup>116</sup>

But when asked why a 26 per cent shareholder has no real power to hire or fire employees, or even sign the company cheques, Ferreira answered that 'once the shares are fully paid up, that will definitely change ... He is an HR manager being trained for bigger things. He is one of the members who moved through the ranks. As the skills levels pick up, changes will be made'.<sup>117</sup>

In fact, it turns out that Khangale joined GEM as a security guard in 2001. He then became a guard supervisor, before becoming an HR executive. According to Ferreira, he was 'pulled through the ranks, and put through our in-house training'. But Grobbelaar denies that this is window dressing in any form.<sup>118</sup> 'I get frustrated when people refer to so-called window dressing, and I invite anyone to come and investigate the minute book because there's a path of issuing the shares,' he says.<sup>119</sup>

Grobbelaar says this was a 'private share transaction' anyway.<sup>120</sup> 'You've got to report on the facts. My service manager in NSSA is John Motsoneng, who joined 17 years ago. If I wanted to do window dressing, I would have done it with John. But I didn't do that because he wasn't in a position to buy the shares and had a different career path,' he says.<sup>121</sup> Grobbelaar says that in any event, only 10 per cent of the ultimate 'score' that companies are awarded under the Department of Trade and Industry's broad-based BEE scorecard is given for black ownership.

Though Khangale's position as an empowerment shareholder raises the most serious questions, there are other issues about how NSSA represented itself. Although the tender documents say the 'empowered share trust' will hold up to 15 per cent of NSSA's shares, Ferreira says this has yet to happen.<sup>122</sup> 'Soccer City is still in the construction stage and hasn't been handed over to the management company. Once it is, the trust and all those things will be finalised, and profits paid into the trust,' he says.<sup>123</sup>

Grobbelaar attests to this:

The Stadium is not operational ... the trust, the policies and rules thereto, the election of trustees and shareholders agreements will be commissioned once the Stadium becomes operational.<sup>124</sup>

But when these things are taken together, a serious question remains over the legitimacy of NSSA's empowerment credentials. The 2003 Broad-Based Black Economic Empowerment Act says the goal of the empowerment rules are to 'promote economic transformation in order to enable meaningful participation of black people in the economy', while affecting a real change in the 'racial composition of ownership and management structures'. Equally, the codes of good practice for black empowerment highlight the key principle that 'substance takes precedence over legal form'.<sup>125</sup>

At the very least, the fact that a former security guard who lives in a low-income township obtained 26 per cent of a company set to make millions of rand from Soccer City without paying a cent, and in which he doesn't have the authority to even sign cheques, appears on the face of it to fly in the face of the spirit and principles of BEE.

## CONCLUSION

The two Soccer City issues analysed in this report – the flawed black empowerment credentials, and the cession of the World Cup profits to a single company – highlight one throbbing public policy matter in need of urgent redress. The increasingly opaque nature of public tenders, as demonstrated in this report, severely undermines the other institutions dedicated to exposing conflicts of interest and ensuring sound governance.

Had full details of the NSSA contract been publicly revealed, it would have empowered publicly appointed office bearers and the media to ask the right questions. As it is, the public debate on state tenders is necessarily uninformed. Citizens with a stake in how their tax money is spent are consigned to flailing around in the dark when they have concerns about tenders.

Moriarty believes that government can still ‘open up’ the tender process to public scrutiny within the existing regime, without allowing politicians to take the actual decisions:

The Executive Acquisition Committee (EAC), which consists of unelected City officials, operates behind closed doors. I believe the EAC can still make the decision, but it can be publicly deliberated, and councillors can ask questions.<sup>126</sup>

Under this model, there would be a ‘spectators’ gallery’ in which the public could also participate in the deliberations – if not the final decision.

There are already moves to introduce this greater transparency into the Cape Town municipality, and it seems a method that could be applied to all levels of local government.

When it comes to the Soccer City management contract, it seems the City is now locked into a ten-year deal with NSSA regardless. Unlike Green Point, the odds are good that Soccer City will not become a white elephant, provided NSSA’s business plan works. Either way, South Africans who contributed R3,4 billion to building the stadium will see none of the gate proceeds from the World Cup and only a small portion of any profit made by NSSA at the stadium for the next decade.

The City of Johannesburg is well aware of its obligations as host of the World Cup final. Its annual report says the way it manages the event ‘will define local and international perceptions of whether it is a successful World Cup or not’.<sup>127</sup> Similarly, the way government addresses the problem of murky state tenders will define whether South Africa allows undisclosed conflicts of interest to fester, or is serious about fighting corruption.

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# 3 Tendering irregularities in the Eastern Cape

EDDIE BOTHA AND GCINA NTSALUBA

## **Fast facts about the Nelson Mandela Bay Stadium<sup>1</sup>**

- The stadium cost approximately R2,065 billion to build.
- The stadium seats 45 000 in addition to 4 000 extra seats which will be temporarily installed for the World Cup.
- Floor area is 55 000 m<sup>2</sup>, 1 015 rooms, 54 kiosks, 24 offices, 264 flood-lights, 35 loud speakers, 64 turnstiles and two scoreboards.
- The stadium is approximately 40 m high with six levels on the western side in addition to five on each of the north, south and east stands.
- There are two big viewing screens and two conference rooms, accommodating 200 people.
- It has four wheelchair ramps, 74 toilet blocks and 32 colour-coded turnstile gates.
- There are 23 private boxes; 22 more are planned, including two bars.
- Energy efficiency is a key element and includes energy-saving designs, the building management system and temperature control.

- The playing field (pitch) is natural grass, with the outer and surrounding areas consisting of artificial turf.
- Eight games have been scheduled to play at the Nelson Mandela Bay multi-purpose stadium including the losers' round to decide the third-place finisher.

## INTRODUCTION

It is a tribute to Port Elizabeth that the Nelson Mandela Bay Stadium was the first of the 2010 World Cup mega structures across the country to be completed on time. However, for soccer supporters it must have bordered on sacrilege that, more than a year before the world's most popular sport kicked off on African soil, the stadium hosted a warm up rugby match between the visiting British and Ireland Lions team and a coastal side on 16 June 2008. The first soccer match – the Vodacom Challenge soccer match between Orlando Pirates and Kaizer Chiefs – took place a month later, on 23 July.

As the 2010 frenzy increased across the province, it became clear that other seshows, not directly involved with the actual construction of the Nelson Mandela Bay Stadium, would play a part to keep up the province's less than squeaky clean image. Whereas the authors could find no substantiated incidences of conflicts of interest or corruption surrounding the construction of the Nelson Mandela Bay Stadium, of major concern was the allocation of advertising and branding contracts by the Eastern Cape Tourism Board (ECTB) with a view to promote the industry during World Cup 2010. A senior ECTB official and whistle-blower was immediately suspended after it was alleged that he had leaked information to the authors. In November 2009, seven months after being suspended, he had yet to face a disciplinary hearing.

More drama was to follow when unhappiness over the appointment of an advertising company by the ECTB also resulted in accusations of irregular tendering activities by a local firm of attorneys representing one of the losing bidders. At one stage the provincial economic affairs department, under which tourism falls, also placed a moratorium on advertising spending for 2010.

A similar situation occurred in East London, where accusations of favouritism were made by losing bidders when the Buffalo City Municipality (BCM) awarded a contract to a firm of architects for the upgrade of the Absa Stadium, which it hoped would be used as a training camp.

But the first real allegations of corruption surfaced in Mthatha. Isolated from other big centres, the capital of the erstwhile Transkei is not really on the 2010 map, other than in the hope that it may attract one of the visiting teams to use its stadium as a base camp. But it was rather the off-the-field antics, centering on the construction tender, which attracted local attention.

## THE NELSON MANDELA BAY STADIUM

To have the stadium built took some hard bargaining, according to Nelson Mandela Bay's municipal manager, Graham Richards.<sup>2</sup> The winning tender of the Grinaker-LTA/Interbeton/Ibhayi joint venture was subject to certain conditions, one being the lowering of the price. Although Richards and the contractor wouldn't disclose the tender price, Richards revealed that the National Treasury awarded Nelson Mandela Bay Municipality (NMBM) a R1,375 billion grant, or 70 per cent of the total cost. A further R222 million (20 per cent) was received by the provincial government, while the municipality was responsible for R99 million (or 10 per cent of the total costs), placing the total amount at an initial R1,692 billion. But bargaining efforts by the municipality for a discount on the construction tender price did not help. The final costs are now estimated to have spiralled to R2,065 billion, creating a shortfall of over R300 million, which will be charged to the municipality's account.

Local governments, in terms of the Constitution, are obligated and have a legal duty, to promote economic social development such as services. The objective of local government is to create sustainable communities and deliver cost-effective services and to eliminate inequities, and build infrastructural development. While Richards pointed out that the municipality has, over time, contributed substantial amounts of its own money to focus on the poor, it was unclear how the building of the stadium would impact on the municipality's capacity to continue prioritising its pro-poor spending. He stated that:

[the building of the stadium] will impact adversely on our ability to spend on infrastructure over the next 15 years. My view is that unless national government finds ways to mitigate this effect it will definitely impact negatively and my other colleagues agree.<sup>3</sup>

It is probably too early to say how the costs of the stadium will affect ratepayers. But officials agree that it will make an impact. The money that is needed must come from somewhere. Either government chips in ... or else the ratepayers will feel the crunch.

The allocation of a tender to build the stadium to Grinaker-LTA/Interbeton/Ibhayi immediately resulted in some negative publicity when Port Elizabeth's *The Herald* newspaper<sup>4</sup> reported that a group of wealthy Eastern Cape businessmen, including Mkuseli Jack, former Finance MEC Enoch Godongwana (now a national Cabinet member) and Mthatha entrepreneur Thembelani Nodada, were among the subcontractors linked to the preferred bidder to build the stadium. The newspaper said the three were part of Ibhayi Construction, which is one of the subcontractors linked to Grinaker-LTA/Interbeton/Ibhayi joint venture. It said it was believed that Ibhayi Construction has a 30 per cent stake in the project.

It does not seem, however, as if there were any conflicts of interest with regards to the awarding of contracts for the building of the stadium. According to Contracts Director and Project Director Mark Bicknell of Grinaker-LTA, the main contractor for the construction and engineering of the multi-purpose stadium, subcontractors were chosen by the main contractor in terms of a mutual agreement with the municipality that it would not interfere in the building of the stadium.<sup>5</sup> Bicknell said the agreement entailed taking over the stadium precinct and the main contractors making their own appointments, without any interference from the municipality. The selection or appointment of subcontractors was thus largely based on preference by the main contractor.

## THE ADVERTISING TENDERS

Observers often suppose that the business of World Cup preparation centres on the stadiums. However, a variety of other business opportunities arise in other economic areas, such as advertising and accommodation. Of particular interest in the Eastern Cape has been the competition for advertising tenders. The province is one of the poorest in South Africa, so it was to be expected that local advertising companies would put up a fight for a slice of the lucrative advertising pie that the World Cup would offer. It was no exception when the ECTB awarded its two advertising and branding contracts. The drama of what was to come was already evident in early March 2009, when the investigations editor of East London's *Daily Dispatch* received a letter from an anonymous source

within the ECTB, which included minutes of the ECTB adjudication committee. The document outlined various allegations about so-called maladministration and mismanagement within the institution.<sup>6</sup>

According to the minutes of a meeting by the Tender Evaluation Committee, which was held on 2 December 2008 in the ECTB boardroom, tenders for the 'branding contract' were adjudicated. Present at the meeting were acting chief financial officer Les Martin, destination marketing manager Eddie Marafane, acting information systems manager Kaligna Gopar, procurement officer Laurene Matroos and destination marketing trade relations consultant Susan Wilson.

Bids for the branding contract were received from six companies: Boomtown, Dumisa Investments, Hip Hop Media, Hands On Marketing, Futa Communications and Intengu.

It was decided that the Preferential Procurement Framework should be followed and that the tender points should reflect the value of the tender. As the tender price was expected to be more than R500 000 the 90/10 principle was applied. According to the advertisement for tenders, which appeared in the *Daily Dispatch* and *The Herald* on 18 November 2008, the points allocated for the tender (out of a total of 100) were 30 for price, 25 for relevant experience, 35 for comprehensiveness and 10 for BEE compliancy.

During the evaluation Eddie Marafane, the marketing manager, stated that one of the bidders, Hands On Marketing, had been a friend of his and signed the declaration form accordingly. An overview of results of the evaluation process shows that scoring for the top three was as follows:

	Hip Hop Media	Intengu	Boomtown
Price	30,00	14,82	17,33
Experience (ave.)	15,60	17,20	19,00
Comprehensiveness (ave.)	20,60	22,80	24,80
BEE	8,40	10,00	1,00

*Source: Compiled by author based on figures sourced from minutes of the ECTB adjudication committee meeting and made available to the author by an anonymous source.*

Hip Hop received the most points (87,50), followed by Itengu with 80,22 and Boomtown with 78,33.

The minutes, which were signed by Martin, recommended that 'tenders be considered for adjudication in order of scoring with Hip Hop Media being

the highest'. The committee also concluded that all tenders were 'fairly evaluated without bias or favour and the adjudication of the tenders should be done knowing that the presentation of results is sound'.<sup>7</sup>

But that was not to be. Surprisingly, Boomtown was awarded the tender despite ranking third in terms of its point score. How did this decision emerge? According to an anonymous source at the ECTB, chief executive Zola Tshefu arranged for a special advertising pitch following the 2 December meeting, which fell outside the original advertisement and terms of reference of the tender.<sup>8</sup> It was also alleged that during this meeting Tshefu, who chaired the meeting on 15 December 2008, declared her relationship with two Port Elizabeth-based agencies, Dumisa Media and Boomtown, but did not recuse herself.

Tshefu later said that there was no need for her to recuse herself:

Everyone knows everyone in this province. If someone declares a relationship with a company, which could influence that person's decision, then that person should recuse him or herself. I know Boomtown but do not have that kind of relationship with them.<sup>9</sup>

Potentially dubious processes and outcomes also characterised the second tender process. On 19 November 2008 the Tender Evaluation Committee met in the ECTB boardroom to evaluate the tender for the advertising agency. Present were Les Martin, destination management manager Fezeka Mlungu, Kaligna Gopar, Eddie Marafane, Laurene Matroos, Veliswa Mhlapo from communications and Vuyelwa Mantyi, who is responsible for 2010 projects.

Martin declared a conflict of interest, indicating that he had a good friend who had submitted a tender.<sup>10</sup>

Bids for the tender, which were advertised in the *Daily Dispatch* and *The Herald* on 1 September 2008, were received from Phenyso, Di Stap, SMG Africa, Sondlo Kropp, Siyathetha, Buchule, Phulo Media, Intengu, Boomtown, Hip Hop Media, Dumisa Media, Umso, Soul Juice, and MJ Communications.

After a number of meetings the committee scored the tenders as follows:

1. Hip Hop Media
2. SMG Africa
3. Di Stap
4. Boomtown
5. Intengu

However, Dumisa Media, which scored the sixth highest points, was awarded the tender.

Following this, on 2 April 2009, attorney Nico du Plessis of the East London based firm, Velile Tinto & Associates, which represented Hip Hop Media, wrote to Tshefu to request access to the ECTB reports which lead to the awarding of the tender.<sup>11</sup>

Du Plessis requested that in terms of the Promotion of Access to Information Act 2 of 2000, all the reports and minutes, which are held by the Specification Committee, the Evaluation Committee, the Adjudication Committee, and the ECTB supply chain management policy, be made available to his offices before close of business on 8 April 2009, 'failing which we will proceed with legal action to obtain same'.<sup>12</sup>

Du Plessis later said that the matter was settled when the board awarded Hip Hop Media a side service tender.<sup>13</sup> This demonstrates an example of the precarious position in which some businesses that depend on government contracts find themselves. Instead of fighting the validity of the tender award, Hip Hop Media obviously decided that in the long term it would be better to be satisfied with the crumbs.

In a bid to shed light on these two developments, the *Daily Dispatch* contacted the ECTB's chief executive, Zola Tshefu. On 29 April 2009 Tshefu denied any irregularities in the awarding of a tender to the advertising company.<sup>14</sup> She added that 'The ECTB is however involved in a dispute with one of the parties, who were appointed in terms of the tender'.<sup>15</sup>

In reply to specific questions posed by the *Daily Dispatch*, Tshefu replied as follows:<sup>16</sup>

Q: Did you override the 2 December 2008 recommendation of the adjudication (where tenders for the 'Branding Contract' were adjudicated)?

A: *No, a new process was followed thereafter which involved presentations by shortlisted bidders in order to make an appointment.*

Q: Is it true that Hip Hop has been consulting with its lawyers regarding the issue?

A: *Yes our respective lawyers are dealing with the dispute.*

Q: Is it true that you have on occasion during an adjudication meeting, which you chaired, declared a relationship with Boomtown and Dumisa Media, but failed to recuse yourself?

A: No, I have no relationship with both Boomtown and Dumisa, I merely declared that Boomtown was a service provider in my previous employment and that whilst at the same agency I had been exposed to Dumisa. At each bid committee meeting members are required to make declarations to ensure transparency and this declaration was made in that light.

A day after the *Dispatch* contacted Tshefu, and following her response, she suspended, with immediate effect, the ECTB human resources manager, Noel van Wyk, allegedly for speaking to a third party. Evidently, she suspected that he had leaked the information. In another email to the *Dispatch* on 28 May 2009 Tshefu wrote: 'It is true that the ECTB HR Manager has been suspended, however I am not at liberty to divulge the charges as the disciplinary process against him is still underway and must be confidential at this stage.'<sup>17</sup> She promised to release details of Van Wyk's suspension once due process had been concluded. In a telephone interview Tshefu<sup>18</sup> admitted that she suspected Van Wyk of having been the whistle-blower. She also confirmed that Van Wyk had resigned.

On 19 February 2009, Mendo Dukada, acting accounting officer of the Eastern Cape Department of Economic Development & Economic Affairs (DEDEA) wrote to Tshefu.<sup>19</sup> Dukada, who had recently been appointed to that position, said it was part of her responsibility to maintain and execute appropriate measures to ensure that transfers (between the DEDEA and public entities attached to it) were utilised in line with the department's strategic objectives.

Dukada requested a report from Tshefu on:

- Her understanding of approved 2010 projects to be implemented by the ECTB
- A description of the projects and the budgets associated with them
- A detailed performance report associated with each project
- Tshefu's understanding of total transfers to the ECTB from the department for the specific purpose of the 2010 projects
- Business trips undertaken locally and internationally against the 2010 budget
- Tenders – a report on projects Tshefu intended to outsource as well as their value ('I would welcome that you provide us with a sense of any external disputes in relations with these tenders')
- ECTB's plans for the 2009/2010 financial year on 2010 projects.

To gain an understanding of and regularise the department's approach to the 2010 projects, she also placed a moratorium on all further expenditure and approvals of financial commitments on the 2010 projects pending the outcome of a meeting between her and Tshefu.

Dukada, who has since moved to the provincial Treasury Department, said<sup>20</sup> that she could not remember the correspondence. However Van Wyk was adamant<sup>21</sup> that the moratorium on expenditure was directly related to the tender processes.

Tshefu maintains that there was nothing irregular about the tender processes. She said<sup>22</sup> that Dukada's concerns had been discussed with her and the various political heads of the economic development department and that the moratorium had been lifted at the end of March 2009.

It is, however, strange that the acting Head of the Department would take such drastic action over the 2010 financial expenditure of the ECTB if she did not have some concerns that needed to be allayed. Tshefu's immediate response to queries about the tender processes – the suspension of Van Wyk – is at the least evidence that any questions asked about the tender processes touched a raw nerve.

Although Tshefu had no basis to accuse Van Wyk of being the whistleblower, his suspension for allegedly talking to a third party (it can reasonable be assumed that Tshefu had the dreaded Fourth Estate in mind), illustrates that often whistle-blowers in government or parastatal circles cannot expect protection from their peers for leaking such information, especially not to the media.

## THE BUFFALO CITY TENDER

An almost similar situation played itself out when the BCM awarded a tender to NOA/THM/ATB/Carifro, a consultancy group, for the upgrading of the Absa Stadium in East London as a possible training camp for overseas soccer teams.

NOA/THM/ATB/Carifro's tender of R3 851 700 was the highest of the seven tenders submitted. The other companies to tender were Ilitha Consulting Consortium (R1 735 080), IDC/HRN/BKS Consortium (R2 222 222), Point Architects Consortium (R2 239 476), Impendulo Design Architects Consortium (R2 449 208), Gideon Sam & Associates (R3 044 250) and UWP Consulting Consortium (R3 318 449).<sup>23</sup>

As a result of NOA/THM/ATB/Carifro's successful bid, Point Architects' Henning Rasmuss, whose company had been successful in its tender as ar-

chitects for the Cape Town stadium, wrote to BCM's acting procurement and contracts manager on 23 April 2009. He requested that BCM furnish his office with a report 'as to the value of the contract awarded to the winning tenderer, and the basis on which the tender was awarded'.<sup>24</sup> Rasmuss also wrote that he believed the awarded tender came in at an 'excessively higher price than a number of other offers, including ours'. He asked the municipality to provide its reason for this decision and to 'make a full disclosure of all factors affecting your decision-making in this tender'. Rasmuss told the authors on 28 May 2009 that he has had no response from the municipality. This is still the case.<sup>25</sup>

In a similar vein Johann Schoeman of the East London-based Impendulo Design Architects wrote to BCM acting municipal manager Nonceba Mbali-Majeng on 23 April 2009.<sup>26</sup> Schoeman complained that the results of the awarded bid had not been made public. He asked that BCM clarify the award of the bid, issue his company with a copy of the Bid Evaluation Report and inform all bidders of the official results.

On 12 May, Schoeman, not having received a response from the municipality, wrote again to Mbali-Majeng, whose supply chain management department denied ever having seen Schoeman's letter, despite proof that the hand-delivered letter had been signed for.

However, in response to a query lodged by the *Daily Dispatch* on 28 May 2009, the BCM forwarded the newspaper a letter, dated 11 May, which it said had been mailed to Schoeman.<sup>27</sup>

In the letter, signed by N Ncunyana, director of engineering services, it was pointed out that the bidder's amount for the successful tender, NOA/THM/ATB/Carifro, a joint venture, was recorded as R3 851 700 when the tenders were opened. The letter continues:

However, the tenderer on 9 March 2009 reported that the amount that was read and recorded was incorrect. The tenderer stated that his proper tender figure was R2 812 441 and upon further perusal of the bid document it was established that the figure of R3 851 700 was not the professional fees offer but rather the estimated cost for electrical and mechanical works.<sup>28</sup>

Ncunyana also wrote that NOA/THM/ATB/Carifro had submitted a letter to the municipality in which it stated its correct tender amount.

Two architects, who were present during the opening of the tender documents, expressed their concerns about the procedures that were followed during the tender.<sup>29</sup> They said the tender amounts were read out from a specific page in the submitted pages. Their arguments follow:

There could not have been a mistake on BCM's side. The official while reading the tender amounts looked carefully in each document for the correct page and amount. It is highly questionable that the tenderer corresponded with BCM after the opening without the other tenderers being notified of this before they were appointed. In fact, it was in the tender document [stipulated] that no tenderer may communicate with any official. If they do, they will be disqualified. This should have been conveyed in a meeting to all tenderers, upon which the other tenderers could have objected.<sup>30</sup>

The architects also argued that the tender report had been withheld from them. Furthermore, the municipality had failed to correctly apply the correct criteria as stipulated by the Public Finance Management Act. They argued:

The Public Finance Management Act interpretation by BCM is wrong. The fact is that this tender falls within the 90/10 tender principle, 90 for price and experience and 10 for PDI/HDI, [previously and historically disadvantaged individuals]. Tenderers had been disqualified – without [the BCM] looking at price and experience – if they did not have enough PDI/HDI points in their architects' company. This is not within the rules of the PFMA. You may not put more weight on the 10% to disqualify a tenderer.<sup>31</sup>

The architects said there was no mention made by BCM at the compulsory meeting for bidders (consultants) that an architectural firm's PDI/HDI component will be a determining factor in the disqualification of a bidder. 'In fact the criteria mentioned was: experience and a valid tax clearance certificate. This with my experience is the only document that allows an organ of the state to disqualify a tenderer,' said one of the losing bidders.<sup>32</sup>

NOA/THM/ATB/Carifro<sup>33</sup> is a joint venture between Carifro Consulting Engineers, whose members are David Frost, Michele Rivarola and Likayaletu Liyeza Nkonki, and NOA Architects, which was formed in 1997 and is 57 per

cent HDI owned. Its directors are Sindile Ngonyama, Innocent Okpanum and Tim Coleman. The two remaining partners are THM Engineers E L CC and quantity surveyor Arthur T Bisiwe.

Interestingly, prior to the BCM tender, Bisiwe had been in partnership with quantity surveyor Willem van Niekerk. Their company, Bisiwe Van Niekerk, had been involved for almost five years with contractual work for the Border Rugby Union,<sup>34</sup> which rents the Absa Stadium from the municipality. In September 2008 Bisiwe split with Van Niekerk and formed his own company, which joined forces with the NOA/THM/ATB/Carifro joint venture which, with the highest tender price (at least in its original submission), became the successful bidder for the stadium's upgrade. Van Niekerk, on the other hand, joined the unsuccessful Impendulo Design Architects Consortium bid team.

## **MTHATHA'S UNSOLICITED BRIBE**

If ample newspaper clippings about corruption across South African cities are any indication, Mthatha is a likely location for bribes. Sadly, the city lived up to its image when tenders went out for the construction of the Mthatha Stadium.

As with upgrading of the Absa Stadium in East London, Mthatha's King Sabata Dalindyebo Municipality (KSDM) hoped that its stadium could be used, if successfully negotiated with World Cup teams, as a base camp or training field. However, progress with the construction of the Mthatha Stadium has been marred by a number of issues and it looks highly unlikely that the stadium will be completed in time for 2010.

From the beginning the construction of Mthatha's stadium was fraught with controversy. The first obstacle came when the Eastern Cape provincial government cut the funding it promised the KSDM. The initial budget of R500 million was cut by the Department of Sport, Recreation, Arts and Culture to R120 million.

Then, in 2008, before construction work even started, there were fears that a dispute between a local Mthatha community and the municipality would delay construction work. The Zimbane community lodged a land claim in 1998 for virtually the whole of Mthatha, including the site where the stadium is being built. The matter of restitution was eventually settled out of court. In April 2009 construction work was still at foundation level despite the municipality having ploughed R220 million into its construction.<sup>35</sup> KSDM spokesperson Sonwabo

Mampoza said theft had contributed to delays. Two men later appeared at the Mthatha Magistrate's Court in connection with the theft of construction equipment from the stadium.<sup>36</sup>

Later, KSDM municipal manager Monde Tom instituted an investigation into suspected tender irregularities. Of particular concern were allegations that a bribe had been asked of potential bidders. Tom commissioned East London private investigator, Christian Botha, to investigate the allegations but Botha's report was never tabled in the KSDM council. Tom concluded that the report was 'inconclusive',<sup>37</sup> which sparked a party-political battle within the KSDM council chambers.

It was up to the *Daily Dispatch* to first report that there were serious irregularities in the contract. It reported that East London-based construction company, Rumdel Construction, revealed it had been asked for a R6 million bribe to be awarded the R500 million contract to build the stadium.<sup>38</sup> A second article reported on how the alleged bribe had been repeated in Rumdel's boardroom.<sup>39</sup>

On 10 July 2009 Rumdel's commercial manager in East London, Dean Townsend, who was responsible for the Mthatha Stadium tender, revealed the cloak and dagger background of the alleged bribe.<sup>40</sup> Rumdel had submitted a tender for Phase 2 of the Mthatha Stadium contract in October 2008, to the value of R525 million, after successfully prequalifying for the tender. He stated:

The programme was fast tracked and the project was to commence in November 2008. Various problems were encountered by the professional team in the award process, and we were asked to extend our tender validity on two separate occasions, extending the validity of our tender to the end of February 2009.<sup>41</sup>

On 13 January Townsend received a call from a Mr Masela, who requested a meeting later that afternoon. According to Townsend the caller said that he had been tasked by the KSDM to interview Rumdel about its tender. Townsend and Rumdel MD Gerald Dreyer met with Masela, who was accompanied by another person.

Masela informed us that he had to interview us regarding our capability and how we intended utilizing emerging contractors from the Mthatha

area on the project. He also stated that he was to meet two of the other tenderers, namely Ho Hup that afternoon, and Khumbula Property Services the next day.<sup>42</sup>

Townsend said that Masela asked what Rumdel could do to assist him and his colleagues to swing the contract to their company. ‘We asked him what he meant by this and he replied that he would revert to us in the morning.’<sup>43</sup>

He said Masela contacted him on his cell phone the next day, asking whether Rumdel had considered their request. Townsend asked Masela how they could assist with the development of local emerging contractors. ‘Mr Masela then said that “they require a monetary amount to swing the contract Rumdel’s way”.’<sup>44</sup> When Townsend asked him how much Masela stated that the required amount was R6 million. Townsend replied that Rumdel does not enter into these types of arrangements in order to influence the tender process, but that he would take it up with the MD, which he did. Townsend stated:

I also contacted our non-executive director, Mr Faku Maraqana, who is a well respected businessman with a legal qualification. I asked him to phone Mr Masela in order to identify whom he represented.<sup>45</sup>

Townsend said Maraqana contacted Masela and that the same figure was mentioned, which Maraqana also rejected.

Instructed by his MD, Gerald Dreyer, Townsend then reported the incident to Steven Richter of UWP Engineers in East London, whose company represented the professional team in their communications with Rumdel.

‘Richter asked Dreyer and me to attend a meeting on 16 January with the Directorate of Public Prosecutions to report the incident,’ said Townsend, adding that the meeting was attended by a police captain and superintendent, as well as an independent auditor responsible for reviewing the tender process:<sup>46</sup>

The incident was discussed and Rumdel made it clear that they were concerned about the safety of their staff members who were still working on Phase 1 should any formal charges be laid.<sup>47</sup>

According to Townsend the tender was not awarded due to a lack of funding after the Department of Sport, Recreation, Arts and Culture cut its contribution to the stadium to R120 million.

In May Rumdel submitted a tender prequalification for the revised scope of the tender (approximately R150 million). Townsend said there was an objection to a prequalified tender process for the project, and the tender was subsequently re-advertised as an open tender at the end of May 2009. Rumdel declined to tender, he added.

In his report, private investigator Christian Botha explained that Townsend had furnished him with details of the caller, whom – via cell phone numbers – Botha identified as Xolani Masela. Company searches linked Masela to Daluxolo Mlenzana, a member of the municipality's evaluation and adjudication committee.

The plot thickened when UWP Consulting's Mondli Dlulane told Botha that Mlenzana had earlier approached him to arrange work for one of Masela's companies on the stadium project. It was also revealed by Botha that the relationship between Mlenzana and Masela started in 2006 when both had worked for the Nelson Mandela Metropole.<sup>48</sup>

Despite Tom's earlier statement that the report was 'inconclusive', Mlenzana was suspended, but his disciplinary hearing has been postponed several times as he has pleaded ill health. It will now continue without him, said Tom. The matter is still under police investigation.<sup>49</sup>

Tom said that the contract for the second phase of the stadium has now been awarded to KwaZulu-Natal contractors Stedone Mechanicos Building. Tom is convinced that it will be completed by end of March 2010.

In another twist to the saga the United Democratic Movement (UDM) in the KSDM council attempted to link Tom to R6 million of the contract money, which it said had not been accounted for. On 20 October 2009 UDM caucus leader Wandile Tsipa handed in a motion asking that the allegations be discussed by council.<sup>50</sup> Tsipa insisted<sup>51</sup> that after the last payment had been made to Rumdel for the initial earthworks contract an amount of R6 million had been in surplus. It was this money that was used to offer the bribe to Rumdel for the construction of the stadium tender, he said.

Tom rejected the allegation and confirmed that the UDM motion was never tabled in council.<sup>52</sup>

## WHITE ELEPHANTS?

The big question, however – which has elicited quite a debate already in the Eastern Cape – is whether the money for the construction of the Nelson Mandela Bay and Mthatha stadiums and that for the upgrade of the Absa Stadium in East London has been well spent: are these structures going to be put to good use after the World Cup?

Even at this late stage it remains to be seen whether the Mthatha Stadium will be finished on time. If completed, the Mathatha Stadium would probably host club games in future. Whether spending all that money on such a construction was a good investment is highly debatable. The next municipal budget will tell the story.

The Absa Stadium, earlier known as the Basil Kenyon Stadium, has always been the home ground of the Border rugby team and has on a number of occasions hosted international rugby matches. That will not change and its future is securely cemented in East London.

It is, however, the financial viability of the Nelson Mandela Bay Stadium in Port Elizabeth that will dominate ratepayers' discussions in years to come. Prior to the first World Cup kick-off, the stadium hosted an Open Day which allowed Nelson Mandela Bay residents the opportunity to experience their brand new 2010 stadium first hand, as well as the British and Irish Lions rugby match against a Coastal XV team and a Vodacom Challenge soccer match between Orlando Pirates and Kaizer Chiefs in July 2009.<sup>53</sup>

But to survive financially the stadium will need an anchor tenant. And the issue is not without some controversy. It is clear that Eastern Province Rugby Union (EPRU) president Cheeky Watson sees the new stadium as the future home ground for the Southern Kings, the newly formed rugby franchise, which is set to join the Super XIV annual rugby tournament between the top teams from South Africa, New Zealand and Australia.<sup>54</sup> He insisted however that the newly formed franchise does not want to become the stadium operator.

'We cannot be expected to fill the stadium to capacity,' said Prof Malcolm Figg, financial director of the EPRU.<sup>55</sup> 'We organise rugby but the stadium can't rely solely on rugby for its revenue.'<sup>56</sup>

Writing on his website,<sup>57</sup> former Southern Spears chief executive Tony McKeever, who has since lost this position after the franchise was liquidated following a dispute with SA Rugby, said the financial viability and feasibility

model for the Nelson Mandela Bay Stadium was based on the stadium hosting at least 15 international Super Rugby matches a year starting in 2009.

But he also has a message of gloom. The bad news is that the stadium will cost, as from 7 June 2009 onwards, R178 000 a day to run. 'That is R65 million a year and will escalate at about 10% a year. In five years time the stadium will have cost the Nelson Mandela Bay municipality R400 million.'<sup>58</sup>

McKeever backs the Super Kings franchise to be the anchor tenant and operator of the stadium, despite Watson's reluctance to run the stadium:

It is for the Metro to ensure that the Super Rugby Southern Kings franchise and its infrastructure and Rugby Academy were locked into the Nelson Mandela Bay area and that the stadium becomes the headquarters of professional rugby in the Eastern Cape in a mutually beneficial public-private partnership. Without a Super Rugby franchise in the Eastern Cape, the Nelson Mandela Bay Stadium will die.<sup>59</sup>

## CONCLUSION

Regardless of the sporting outcomes of the 2010 World Cup, hosting such a prestigious event must at least have taught the organisers and those closely connected to the sport's greatest showpiece valuable lessons. The Eastern Cape provides illuminating insights into potentially irregular tendering activities.

In particular are the concerns raised by advertising companies, which felt that they had been done down by the tender process of the ECTB. That the board had to settle with a bidder following its refusal to accept its own adjudication norms is disturbing. In the aftermath of the World Cup the province's Treasury should insist that the board fully explains its actions. In addition, further explanation is required to better understand its reasons for suspending an official whom the board's chief executive regarded as the culprit, when details of the tender somersault reached the ears of the press.

It is also questionable that BCM, despite strong objections by other bidders against the tender procedures that it followed, insisted on its choice of a firm of architects contracted for the upgrade of the Absa Stadium.

Ironically, barely four months later, the same municipality faced the wrath of the Grahamstown High Court over its tender procedures when the court ruled a contract for an R86 million housing project unlawful.<sup>60</sup> In his review

of an earlier ruling, which interdicted Umso Construction from providing the internal engineering services for 2 500 RDP houses to be built in the Duncan Village township, High Court Judge Jos Jones described BCM's handling of the tender process as 'perverse'.

Judge Jones' review followed an application by Mpumalanga Construction, NJV Contractors, Rumdel Construction and WBHO Construction, which claimed that BCM applied 'pre-qualification' criteria, which, it knew, was unlawful for a massive housing project tender. Umso was awarded the contract despite the fact that it bid R15 million more than its closest competitor, Mpumalanga Construction.

It is possible that, had the losing architects bidding for the Absa Stadium upgrade approached the High Court at the time, the municipality's decision to award the contract to NOA/THM/ATB/Carifro may also have been overturned. Hopefully the municipality will in future stick to proper tender procedures.

The behind-the-scenes shenanigans, which pre-empted KSDM's tender for the construction of the Mthatha Stadium, is of a much more serious nature. In this case, at stake are not only lopsided tender procedures or favouritism towards a preferred advertising company, but the possibility of a blatantly criminal act.

The suspension of the official who is suspected of having been involved in the alleged bribe is only a first step. Criminal investigation must be a priority and it presents an ideal opportunity for the province, and specifically Mthatha, to improve its tarnished image.

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# 4 How FIFA corruption empowers global capital

ANDREW JENNINGS

I am disappointed with FIFA. From where I am, it seems that today's FIFA is not the same FIFA that you joined so many years ago. Where were the ethics, morals, honesty? As a child I wanted to become part of FIFA because of FIFA's golden values. Unfortunately, today it seems that that hope is fading fast.<sup>1</sup>

Is this a cry of pain from a lone idealist, wearied by FIFA's institutionalised corruption?

Not at all. It's a contrived letter to a venal senior FIFA official from his venal son, asking Daddy to demolish a roadblock on the route to FIFA's golden treasury in Zurich.

Father and son – and another son – were engaging in an industrial-scale shakedown of a FIFA tournament. They had taken control of most of the lucrative contracts, but bureaucrats in FIFA were obstructing one worth \$2 million – and the son stood to forfeit his commission. So this quaint letter from the son

to the father (they live under the same roof so it may have been handed across the table at breakfast) was designed to increase the pressure to loosen FIFA's purse-strings.

The father, one of FIFA's eight vice-presidents, has gorged himself and his family for the last quarter of a century at the expense of football. We'll never know how much has been diverted to them because of the absence of transparency at Sepp Blatter's FIFA – but we may note that the father has risen from being a poorly paid teacher to become a multi-millionaire, almost all derived from his involvement with FIFA.

This chapter seeks to demonstrate that FIFA's embedded corruption, organised to enrich a handful of officials and keep them in perpetual power, has lurched far beyond the sum of its parts. The unaccountable structure they've installed is honed to deliver the game to the needs of global capitalism – with no checks or restraints. Just cheques.

## COMMERCIAL INTERESTS SHAPE FOOTBALL'S AGENDA

Let's start with a detailed examination of the activities of one senior individual. The toleration and protection he receives from the 'football family' exemplifies the moral rotteness at FIFA. Amoral at home, FIFA, while demanding independence from governments, recognises no problem allowing international commercial interests to intervene and shape the sport's image and agenda.

FIFA's leaders have created an organisation that goes out of its way to avoid financial scrutiny. Indeed the father, above, is deputy chair of FIFA's finance committee and, unless you have been leaked confidential documents, you wouldn't know that this man, when in Zurich, rubberstamps his own requests for money. It's the perfect circle of corruption.

There's no register of senior officials' interests. Staggeringly, FIFA president Blatter gets away with refusing to reveal his earnings, bonuses, expenses and other perks. We are told that disclosure would be 'against custom and practice in Switzerland'.<sup>2</sup> None of the 23 men who are Blatter's Executive Committee (ExCo) seem troubled. Nor do the officials of the 200-plus national associations.

Over the last decade I've investigated as much of FIFA as I can. I've been banned from their premises, events and press conferences since the spring of 2003 following my disclosure of a huge secret bonus that Blatter pays himself.<sup>3</sup>

Because the availability of documentation is haphazard – limited to what sources can pass on without being fingered – it is impossible to know all the arrangements FIFA’s leaders make with each other and the circle of little-known businessmen with whom they make covert deals. But the activities of one senior official – the vice president mentioned above – are so outrageous that considerable quantities of information about his financial dealings have been leaked to me.<sup>4</sup>

## MEET FIFA VICE-PRESIDENT JACK WARNER

The vice-president is Jack Warner, from Trinidad. Warner displays lots of gold jewellery and will be aged 67 when the 2010 World Cup commences. An examination of Warner’s money-making enterprises opens a window onto how Blatter survives as president. Warner controls 35 of the 207 votes at every congress – mostly from statelets in the Caribbean – and so is favoured with a grotesque licence to defraud FIFA, yawn at its ethics code and constantly, through his inflammatory outbursts, bring the organisation into disrepute. He appears to be the original untouchable, accountable to no one.

Warner’s shameless exploitation of FIFA demolishes any possibility of him succeeding to the presidency, but he compensates by chairing the FIFA committees that award and supervise the Under-17 and Under-20 World Championships. This brings him prizes like the milking of 2001, when he steered the Under-17 tournament to his homeland, Trinidad. He appointed himself chair of the local organising committee, created a budget which he approved when it came before FIFA’s finance committee, appointed a compliant CEO and set about distributing the contracts – mostly to himself and his sons’ businesses.<sup>5</sup>

The fast food and beverage contract for all five stadiums went to the restaurant business run by Warner’s son, Daryan. FIFA’s travel office would normally have been expected to supply the tickets for the 500 or so players, officials and support staff for the 15 visiting teams. Not this time. A FIFA circular to all the teams stated:

In accordance with the wishes of Jack Warner, and after agreement with the FIFA president, the travel arrangements for the U17-Tour will be organised by a local organising committee travel agency called Simpaul’s Travel service (a family owned travel agency).<sup>6</sup>

The unnamed family is, of course, the Warners, with Daryan at the helm.

What of Warner's other son, Daryll, who so cherished 'FIFA's golden values'? Warner senior launched an email war against FIFA in Zurich; 'I have seen mortals of less loyalty and service as well as their off-spring enjoy benefits from FIFA,' he complained. (Sadly, he did not name names) He rambled on, 'The FIFA family can only survive and remain intact if its children genuinely believe that there is a place in the House of FIFA for them.'<sup>7</sup> As Daryll's demands increased, his father emailed him, 'Daryll pls advise me specifically what you wish of FIFA Marketing or any other agency or person and I shall use my office to assist.'<sup>8</sup> He did, it worked and Daryll got his \$2 million contract for computer software.<sup>9</sup>

The teams went home and Warner emailed Blatter:

The accounts do show a deficit. On receipt of the same and, in view of the presently orchestrated antagonisms against me through the local and foreign media, including but not limited to Andrew Jennings, I trust that the accounts, when submitted, will remain the business of FIFA only.<sup>10</sup>

How much more money did Warner want? 'I have since checked and rechecked my submission to FIFA and the (deficit) is US\$1,529,723,' he told Blatter. 'I should therefore be grateful if the error could be corrected and we can bring some closure to this matter for which I do thank you in advance.'<sup>11</sup>

FIFA's finance committee (of which Warner himself was vice chairman) agreed and sent him more money.

## THE TICKET RACKETS

FIFA's trade in World Cup tickets is a clandestine industry, a labyrinth of illicit transactions between touts, middlemen, officials at many levels and corporations. FIFA has a monopoly over these scarce resources and when individuals have this level of discretion, corruption is inevitable. Warner's ticketing activities are a direct route into FIFA's heart of darkness.

Warner has two decades of experience touting tickets. His first recorded ticket racket was in 1989 when the USA visited Trinidad for a crucial World Cup qualifying match. The stadium would only hold 29 000 fans – but Warner printed and sold 45 000 tickets. He got away with that.<sup>12</sup>

In 2006 Warner was in ticket trouble again. A local paper revealed that he had diverted the majority of World Cup tickets issued to the Trinidad & Tobago Federation to his Simpaul travel company and, breaching FIFA's rules, was selling them in travel packages.<sup>13</sup>

That exposé had him up before FIFA's earlier version of an ethics committee where, to everybody's surprise, he was roundly admonished for abusing his FIFA position and failing to act with integrity, and was sent for penalty to the ruling ExCo. That was in February 2006.

(Later in 2006 Blatter abolished this fairly toothless committee and replaced it with an even weaker one.)

Warner hurriedly removed himself and his wife from ownership of Simpaul, transferring it to two women with no apparent experience in the travel trade. One was a housewife, the other an animal doctor. When I went to call they drew the curtains and wouldn't answer the door.

When he met the ExCo, Warner said there was no case to answer because he didn't own the company anymore. They agreed. Warner neglected to tell them that his close associate, Pat Modeste, remained company secretary and Daryan, his son, was still running the business.

When I approached Warner in Trinidad with my BBC TV crew and asked him how much profit he was making from dealing in black market tickets for the upcoming World Cup in Germany he replied to me – and the camera – ‘Go fuck yourself’. Then he mounted a public platform and bellowed, ‘No foreigner, particularly a white foreigner, will come to my country and harass me.’ A couple of days later, when we met accidentally at an airport, Warner punched me.<sup>14</sup>

It was only after the tournament in Germany that I discovered why Warner was so abusive. A source slipped me two secret audit reports on Warner's ticketing activities, compiled for FIFA by Ernst & Young.<sup>15</sup>

They revealed that at the time I was trying to interview Warner, the investigators had been in Trinidad trying to get Daryan Warner to discuss how he had acquired 5 400 precious tickets and sold them to tour operators, making an estimated profit of at least £500 000. Daryan dismissed them with the rejoinder that he had done this before and never doubted he would receive the tickets.

My disclosures about this improper trafficking forced Blatter to put the issue on the agenda of the ExCo meeting in September 2006. Afterwards he announced that the Disciplinary Committee would *investigate*. It didn't. Instead the committee's Swiss chairman, Marcel Mathier, who will supervise disciplin-

ary matters at the 2010 tournament, made his own *examination* and decided that Jack Warner had no case to answer and that Daryan should be told not to do it again.

In secret the ExCo ruled that Simpaul must make a donation of €750 000 to a FIFA charity ‘to compensate for the profits it had made through the sale of 2006 World Cup tickets’.<sup>16</sup> Later, also in secret, Blatter argued that this was not a matter to trouble the ExCo with again and persuaded them to leave the collection of the money to ‘be dealt with by the FIFA administration’. FIFA declines to say if the money has been paid.<sup>17</sup>

## ROBBING THE WARRIORS

The Germany World Cup had all the golden values the Warners cherish. When Trinidad’s Soca Warriors qualified, Daryll Warner was given the job of harvesting the income from tickets, TV rights and sponsors. Although his father has no constitutional role at the T&T Federation, he long ago appointed himself ‘special advisor’ and his placemen carry out his instructions.

Daryll banked the money the squad earned; they were promised their share of around £3 million. After the tournament Warner’s accountant, Kenny Rampersad (who services Warner’s private companies and also audits the books of CONCACAF – the Warner-controlled regional confederation of North, Central America and Caribbean Association Football) produced a bundle of numbers. Unfortunately some of the documents had been lost, so the expenses were estimated. If that didn’t smell funny, the next stroke was an unexpected deduction of one third of the money ‘to prepare Trinidad for the World Cup 2010’!<sup>18</sup>

When the Soca Warriors complained, Warner’s officials denounced them as ‘greedy’ and offered £500 a man. Sixteen of the squad consulted lawyers and Warner banned them from playing again for Trinidad. (Without them, Trinidad failed to qualify for World Cup 2010.) The players petitioned FIFA, asking the ethics committee, headed by Lord Sebastian Coe, to intervene. FIFA referred them back to Warner. Apparently it was none of FIFA’s business.

In May 2008 an independent arbitrator in London awarded the players everything they asked for. Warner still refused to pay. The team have taken their case to the Trinidad courts. If the initial judgment is in their favour – Warner

has not presented any witnesses – they will then have to force him to reveal how much money was raised before they can claim their share.

## JACK WARNER'S TV RIGHTS RACKETS

Let me place on record my sincere thanks to you and FIFA for your support and understanding over the last few months. I shall always remain eternally grateful and permanently indebted to you and I do wish to give the assurance that in all our deliberations and actions loyalty to you, to our president Dr Havelange and to the organisation of FIFA itself, shall always be paramount.<sup>19</sup>

That's Jack Warner in 1990, faxing thanks to Blatter (who was FIFA general secretary at the time), and Joao Havelange, who was FIFA's president. They'd been very helpful in arranging his elevation to become president of CONCACAF with its automatic FIFA vice-presidency.

In return for Warner's absolute loyalty, Havelange gave him the television rights for the Caribbean region to that year's World Cup in Italy. The price? One US dollar. Warner immediately resold the rights at an undisclosed profit to local TV companies.<sup>20</sup>

This sweetheart deal ran again in 1994 and 1998 and was revealed in a confidential report produced by FIFA general secretary Michel Zen-Ruffinen on the eve of the 2002 World Cup. Zen-Ruffinen was fired by Blatter soon after.<sup>21</sup>

By 1999 FIFA had handed selling TV rights for 2002 and 2006 to the Swiss marketing company International Sport and Leisure (ISL) who sold them to a Warner rival in Trinidad. Enraged, Warner fired off a letter to Blatter demanding his rights back.

The rival was ousted and Warner again had the TV rights to sell. One of Warner's positions is as president of the Caribbean Football Union (CFU). In December 2001 the CFU (proprietor: FIFA vice-president J Warner) paid \$4 250 000 to JD International (proprietors: FIFA vice-president J. Warner and his son Daryan) for the TV rights to 2002 and 2006. Trinidad football official Harold Taylor (employer: FIFA vice-president J Warner) signed on behalf of the CFU. We are not told how much the Warners profited from reselling these rights.

Two more World Cups loom – and little has changed. The Caribbean rights for the World Cups in 2010 and 2014 have been sold by FIFA (proprietor: FIFA

president S Blatter) to the CFU (proprietor: FIFA vice-president J Warner). They are being sold on by JD International (proprietor: FIFA vice-president J Warner). In February 2007 these rights – permitting screening in 29 countries – were purchased by a Caribbean company for around \$20 million. The FIFA ExCo has to approve every TV rights contract, so all 24 members ought to know about these details.<sup>22</sup>

## HOW BLATTER MADE A FOOL OF SOUTH AFRICA

After 24 years presiding over spectacular corruption at FIFA, Havelange was forced out. Dalliances with the likes of Nigeria's murderous dictator Sani Abacha<sup>23</sup> and his encouraging Japan and Korea to engage in a semi-public war of bribery to secure hosting of the 2002 World Cup eventually brought him down.<sup>24</sup> Enough was enough and at age 82 his fingers were finally prised off the FIFA honey pot. (He kept his FIFA credit card.)

In late 1996 Havelange announced that, as he was convinced that he had fulfilled his mission, he would not run again.<sup>25</sup> Mission? FIFA officials – like the International Olympic Committee (IOC) – like to dress up their activities in semi-sacred verbiage. Blatter claims he 'brings football to the world,' ruling out the possibility that we can play the game without his efforts.<sup>26</sup> Announcing in late 2009 that he intended to run for a further term, Blatter announced, 'I have not yet achieved my mission in football, I need more time.' He added, 'Football is my life.'<sup>27</sup>

Pledging the 2006 World Cup to Africa helped Blatter win the FIFA presidency in 1998. But keeping that promise would likely lose him the position in 2002; Europe wouldn't stand for it. The Union of European Football Association (UEFA), with eight of the votes at the ruling FIFA ExCo (Africa has only four) was adamant the tournament must return to Europe in 2006 and Germany was their preferred candidate.

How could Blatter satisfy two rival continents each controlling around 25 per cent of the votes at the FIFA congress – and the next FIFA presidential election? He continued with public pronouncements that South Africa should host 2006. The political and financial strategy to preserve his presidency began in the background.

As the vote neared in July 2000, the Germans were nervous. And then along came Leo. Television mogul Leo Kirch, based in Munich, stood to increase his fortune if the tournament went to Germany. Suddenly one of his subsidiary

companies took a great interest in some of the FIFA voters. Bayern Munich football club, intimately involved in the Germany bid, lent their support.

Friendly matches were arranged with countries that happened to be homes to some members of FIFA's ExCo – the voters. The contracts, discovered when Leo Kirch's media empire crashed into insolvency in 2002, make intriguing reading. Exceptional payments of up to \$300 000 were made to what were coyly described as 'trust accounts' in return for German TV rights to these massively unimportant games.<sup>28</sup>

In July of 2000, as the FIFA ExCo went into the third and final round of voting in Zurich, the South Africans had every reason to be optimistic. With the promised vote of Oceania region's delegate Charlie Dempsey, the South Africans were confident they could tie 12/12 with the Germans – and Blatter's promised casting vote would clinch it. Then the Germans started cheering. They'd got 12 votes and South Africa only 11. There was one vote missing. Dempsey had disappeared midway through the vote. He couldn't stand the pressure, he whimpered to reporters, when he turned up a day later in Singapore with his golf clubs.<sup>29</sup>

This surprised me and many others. Charlie Dempsey was raised on the toughest streets of Glasgow and it's hard to understand how a few lobbying phone calls turned the poor lamb into such a nervous wreck that for the first time in a long career, he couldn't cast his vote at FIFA.

Was Charlie bribed to walk out and save Blatter's presidency? We don't know. His defenders say it's not believable. Several well-connected German reporters insist he took \$250 000 to vanish.

Two years later, despite Charlie's betrayal of FIFA, Blatter made him an honorary life member, guaranteeing first-class travel, tickets and hospitality at future World Cups. As might be expected, none of his 23 ExCo colleagues uttered a word of criticism of his abandonment of his responsibility to vote. Charlie died in 2008.

## CLOUDS OF ALLEGATIONS

The transaction has . . . enabled the President to communicate a success story to the Finance Committee in Rome ... The President was made aware that he and other executives would become personally liable for losses which are realised after the recognition that FIFA is over-indebted.<sup>30</sup>

So wrote then general secretary Urs Linsi in a confidential memo in mid 2001.

The transaction referred to involved Linsi's pawning of future earnings from sponsors in return for an immediate injection of \$420 million into FIFA's accounts – a process known as 'securitisation'. The new grants of \$250 000 a year to each of the 200-plus national associations, before the new money arrived from the sale of television and marketing rights for 2002 and 2006, had done wonders for Blatter's popularity, but were putting FIFA finances under pressure.<sup>31</sup>

There were fears that pay cheques to the staff might bounce. The world's richest sport was running out of money. Blatter's opponents argued that it was a bad deal and a modest bank loan would have been sufficient to keep FIFA afloat, even if the grants had to be postponed. That couldn't be allowed to happen; Blatter was not going to reveal to the upcoming FIFA congress that their organisation was in financial trouble and had to get a bank loan to sustain the handouts.

The cloud of allegations and innuendo over the relationship between FIFA and the defunct ISL marketing company had provoked bitter exchanges of letters between the Union of European Football Association (UEFA) delegates and their allies in Africa, all circulated to the media and the national associations. It was time for Blatter to stand for re-election. The attacks on his leadership were well-founded and also driven by UEFA resentment over the ways Havelange and Blatter had apparently manipulated the presidential election in 1998.<sup>32</sup>

As if the secrets behind the securitisation were not enough, FIFA's auditors were pointing to mismanagement of FIFA's funds during Blatter's years as general secretary. In a confidential report in 2000, auditors KPMG discovered that Blatter had been taking a relaxed view of the debts owed by the national associations. KPMG revealed that 75 per cent of them were not in good standing with Zurich. That wouldn't harm Blatter's re-election hopes.<sup>33</sup>

The internal battles raged from late 2001 and the dissidents, a majority of the ExCo, demanded the right to establish an internal audit committee. Blatter fought every inch but they prevailed and it was set up in March 2002, chaired by Scotsman David Will. Within weeks his vigorous inquiries were closing in on how Blatter spent his presidential budget. Blatter swiftly shut down the committee. Later it was reinstated, this time in the safe hands of Italian IOC member Franco Carraro.

During the conflict the dissidents laid a complaint with the Zurich prosecutor's office alleging misuse of funds by Blatter. Months later the investigator, Urs

Hubmann, announced the case was closed and Blatter would not be prosecuted. His spokesmen immediately proclaimed that all the allegations were ‘entirely without foundation’.<sup>34</sup>

Mr Hubmann told me a different story:

We cannot say that all the allegations were without foundation. What I say, in two cases, was that I had insufficient evidence to proceed. Under these circumstances I could not see how I could bring a charge. I came to a similar view on a couple of other points in the complaint.<sup>35</sup>

Hubmann added:

I have not concluded that Herr Blatter is innocent. He is innocent of certain things. That is not to say that nothing has happened. It simply means there isn’t sufficient proof.<sup>36</sup>

This verdict was too late. Blatter easily defeated his rival, Africa’s Issa Hayatou, at the FIFA congress on the eve of the tournament.

## MANIPULATING MANDELA

The South Africans fumed after Dempsey’s betrayal. To keep the losers inside Blatter announced that in future the World Cup championship would be rotated through FIFA’s continental members – and that Africa would be first in line. (This policy lasted until Brazil’s ExCo member Ricardo Teixeira got his World Cup for 2014 and was then abandoned).

South Africa had no need to be unduly worried by its rivals for 2010. Libya and Tunisia weren’t credible and Egypt wasn’t ready. Morocco was bidding hard again but they were never going to win. FIFA wouldn’t care about the semi-police state, the repression of dissent and the enduring scandal of the military occupation of Western Sahara. But the fans and the rest of the world would and so Morocco weren’t going to win, despite spending money in all directions.

Astonishingly, South African government minister Essop Pahad raised a taboo subject. ‘If we have to choose between corrupting people and losing, let’s just lose,’ he said. ‘We’re not going to give any money to anyone under the table.’<sup>37</sup> What were the government’s intelligence people telling him? There is no

doubt they were active. It was reported later that none of Africa's four members of the ExCo voted for South Africa.

If Nelson Mandela thought he was in for an easier ride this time, he had not been warned of Jack Warner's cloying demands for face time. Mandela and Desmond Tutu – one really too old to travel, the other ill – were told, bluntly: turn up in Trinidad in April 2004 for Warner photo ops – or forget 2010.<sup>38</sup>

'It's a pity that Nelson Mandela has got caught up in something like this,' said Trinidad & Tobago Prime Minister Patrick Manning. The enforced visit to Trinidad by the two Nobel laureates was being stage-managed by Warner to embarrass his political rivals in the ruling People's National Movement (PNM) government.<sup>39</sup>

Mandela was 'his', said Warner, to organise as he chose. Blatter got in on the act and rushed to Trinidad to share a platform with the octogenarian, Madiba. The public display at a Trinidad stadium didn't last long. 'This is my last trip abroad – I am here to plead,' Mandela said. After 15 minutes he departed to rest in his hotel room. He lasted only seven minutes when put up to speak at a private dinner for which Warner charged £100 a seat.

When Mandela and FW de Klerk arrived in Zurich in the dawn, having flown overnight from South Africa for the vote, Warner was lying in wait. He wanted still more face time because, 'unfortunately, CONCACAF is still undecided'. Shamelessly bringing Mandela to heel – and more photo-ops – Warner concluded, with typical immodesty, 'It's an historic occasion for me. In some ways it will decide the future of one country.'<sup>40</sup>

South Africa won the vote for 2010 and Blatter was stronger than ever.

## KNICKERS TO PHILOSOPHY

'We live in an individualistic and uneven world in which the short term becomes the rule,' the FIFA president's strategist Jerome Champagne told *France Football*. 'It is necessary to restore values like solidarity and universality. I would not be where I am today if I did not share these ideals with Joseph Blatter.'<sup>41</sup>

Which ideals did this former French diplomat have in mind? Maybe he demonstrated them in Zurich's muscular defence of Antigua FA general secretary Chet Greene. Greene was in charge when a considerable portion of a FIFA \$1 million grant was diverted. When local officials asked Zurich where the money had gone, Champagne explained that 'Mr Raymond L Doorgen, a partner at

CAS Hewlett & Co has submitted regularly quarterly statements.<sup>42</sup> So everything was in compliance with FIFA rules. Rashly, Champagne copied his letter to the Hewlett Company.

They responded angrily that Doorgen was never a ‘partner’, only a book-keeper. FIFA had been lied to. Jerome called up the letter he’d sent 24 hours earlier, deleted the word ‘partner’, inserted ‘senior employee’, and sent it off again. Nonetheless, Doorgen rapidly quit the island and eventually, through the determination and perseverance of local officials, Greene’s regime was ousted.<sup>43</sup>

Champagne also appears untroubled by the ways in which FIFA senior officials have rewarded themselves from FIFA funds. Whenever the FIFA president makes a speech or receives an award anywhere outside Switzerland, he pockets \$500 a day. Blatter spends at least 150 days on the road each year and that’s worth \$75 000. In his busier years he can hope to claim as much as \$125 000 on top of his salary and other perks – just for going to work, travelling first class, with limos waiting at the airport.

The same \$500 allowance can be claimed by ExCo members and some also make extravagant expenses claims. I was tipped off that, unlike the rest of the business world, they don’t have to provide receipts or any other evidence of their claimed spending. I asked FIFA’s press office to explain.

‘As a matter of principle lack of documentation is not fatal to a proper claim for expenses,’ they told me, ‘provided proper procedures are followed which is FIFA’s practice.’ But how can you have a ‘proper procedure’ without receipts?<sup>44</sup>

The money piles up in special accounts at FIFA headquarters and from time to time is withdrawn in cash and shipped home. When the drug police began cracking down on travellers carrying more than \$10 000 in cash, at least one member began sending girlfriends to Switzerland at FIFA’s expense to carry a share of the money home – in their knickers, it was claimed.<sup>45</sup>

ExCo members are paid an annual \$100 000 ‘honorarium’ and in 2000 Blatter quietly struck a deal with friendly officials in Zurich arranging a minimal 10 per cent tax deduction. There was more good news: FIFA would pay the tax! As it does on Blatter’s earnings from world football.

One wonders what ideals the philosophical Jerome Champagne shares with some of Blatter’s ExCo colleagues. Two have been accused in their homelands of stealing money belonging to football. Several are suspected of pocketing kickbacks on FIFA marketing contracts – and one case is documented. Illegal

trading in World Cup tickets is rife. The most senior vice president, Argentina's Julio Grondona, is on record uttering anti-Semitic abuse in a TV interview.

Two years after Joao Havelange took control of FIFA in 1974 he embraced the military junta who'd taken over organising the 1978 World Cup in Argentina. His dalliance with Sani Abacha was a further example of the FIFA's leadership's happiness at conferring legitimacy on abhorrent regimes. His successor is no different in the relentless pursuit of support for his election campaigns.

In late 1999 Blatter toured West Africa, nailing down votes. He visited Monrovia and went out of his way to honour Liberia's president, Charles Taylor, whose son-in-law Edwin Snowe controlled the Liberian football federation. By this time the rest of the world knew about allegations of multiple human rights abuses by Taylor, currently on trial in The Hague.

Taylor shook Blatter's hand warmly, awarding him Liberia's highest honour, the Humane Order of African Redemption. After Taylor was forced from power Edwin Snowe had to get out of Liberia in a hurry and Blatter obliged with a \$50 000 payment for 'study in America' from the poverty-stricken nation's annual grant.<sup>46</sup> When Snowe came back to Liberia he turned his back on sport and his expensive new education, becoming boss of Liberia's Petroleum Refining Company. He's since been indicted for looting it. The UN has placed a travel ban on Snowe, alleging he funded Taylor in exile.

Celebrating FIFA's centennial in 2004 had Blatter touring Uzbekistan, Turkmenistan, Kazakhstan, Kyrgyzstan and Tajikistan, places where people live in fear of poverty, organised crime, arbitrary arrest and torture. Blatter's team saw none of that. They reported, 'every day is a celebration of tolerance through the harmonious coexistence of Islam and Orthodox Christianity, of Turko-Mongols and Slavs'.<sup>47</sup> Similar visits have lent FIFA's support to authoritarian regimes in Sudan, Morocco and Tunisia – indeed anywhere that has a vote.

In April 2009 Blatter revisited Kazakhstan, announcing that he and President Nazarbayev gave their 'full backing to fighting corruption'. Days later Blatter was in Moldova. 'I wish to congratulate you and your party's victory in the recent elections,' he announced, handing over FIFA's Presidential Medal to president Vladimir Voronin.<sup>48</sup> Blatter seemed unperturbed by the murder by riot police of three young men who'd protested massive voter fraud. Blatter's visit may have been the kiss of death because within three months Voronin was ousted.<sup>49</sup>

## MAKING FOOLS OF THE REPORTERS

If the client had big problems with their reputation, the answer was:

powerful strategies ‘to stay out of the media’ and to prepare such briefs, news items and alternative scoops that would divert, detract (*sic*) and de-stabilise imminent media interest.<sup>50</sup>

Enter Blatter’s new spin doctor, employed to counter the damaging reporting that almost overwhelmed Blatter during the bruising battles of 2002. Swiss-Hungarian Peter Hargitay understood the needs of the dirtiest of clients. During the apartheid years he put a gloss on oil-sanctions busting by commodities trader Marc Rich. Before that he spun for Union Carbide, trying to distance themselves from their environmental disaster in Bhopal – and thousands of deaths.

Hargitay, who spent seven months in jail in Miami before acquittal on charges of cocaine trafficking, returned to Switzerland to set up both a private detective agency and his European Consultancy Network, and was soon boasting that he had ‘brought order to the British press’.<sup>51</sup> It mattered because of the global dominance of the English language. Hargitay’s most significant achievement was to arrange a column for Blatter in the Financial Times. This mouthpiece for global capitalism seemed to understand that in the interests of business, FIFA’s image must be improved. Sponsors – later ‘partners’ and now Brands – required clean vehicles for their messages.

Blatter appointed Swiss banker Urs Linsi to replace Michel Zen-Ruffinen. That relationship didn’t last and Linsi was fired with a mind-boggling golden goodbye of eight years salary – £3,6 million. Hargitay briefed credulous reporters that Blatter had known nothing of the deal and might refer it to FIFA’s Ethics Committee. If he did, they have never said anything about it. The newly enriched Linsi has been silent about what he learned when controlling FIFA’s finances.

It was surprising when Blatter appointed Jérôme Valcke as his new chief executive. The Frenchman had been fired as FIFA’s marketing director several months earlier after the disastrous court debacle and payment of \$90 million to discarded sponsors MasterCard. During the hearings in New York Valcke was accused of ‘lying when he testified about his lies’. (American ExCo member

Chuck Blazer fared little better, his testimony being dismissed by the judge as ‘generally without credibility’ and ‘fabricated’.<sup>52</sup>

Blatter and Valcke had clashed years earlier. Valcke was part of a French conglomerate in 2001 conducting due diligence on the wreckage of the insolvent ISL marketing company with a view to taking over its lucrative FIFA contracts. During confidential exchanges Blatter angrily accused Valcke of attempted ‘blackmailing’ and making ‘unacceptable threats’ to ‘certain gentlemen of FIFA’.<sup>53</sup> Neither man will now discuss what gave cause to this outburst.

## WHO DID THE BAGMAN BRIBE?

‘On the advice of my lawyer I have no statement to make . . . These payments were confidential and I must respect that confidentiality.’<sup>54</sup> That was former ISL executive Jean-Marie Weber – forever after known as ‘The Bagman’ – declining in court in Switzerland in March 2008 to name the members of the FIFA leadership who allegedly took bribes from his company in return for awarding contracts worth billions of dollars. Six ISL directors were on trial accused of defrauding creditors for continuing to trade when they knew the company was insolvent. Three were convicted, the others acquitted. During the hearing the three judges raised the issue of the bribes paid to sports leaders, not because it was then illegal in Switzerland but because the money should have gone to creditors.

The evidence was found when liquidators and prosecutors delved into the secret history of ISL. Could Jérôme Valcke have discovered this information seven years earlier? The trial, in Zug, established that a phenomenal \$100 million worth of bribes had been paid in the 1990s.

Former CEO Christoph Malms claimed ISL had no choice but to pay kick-backs. ‘I was told the company would not have existed if it had not made such payments,’ he revealed to the court.<sup>55</sup>

In the 235-page criminal indictment, available to reporters who attended the trial, only one member of FIFA’s ExCo was named. Nicolas Leoz had taken the paltry amount of \$130 000 directly to his bank. But on pages 164–165 of the indictment is a list of offshore companies that investigators asserted are fronts for FIFA executives. Blatter has avoided answering any questions about the scandal and the involvement of Leoz. Señor Leoz has also refrained from comment.

The targeted distribution of brown envelopes at FIFA's 1974 congress in Frankfurt ensured the election of new president Joao Havelange. The cash was provided by Horst Dassler of the Adidas sportswear company who was pioneering buying and selling sports marketing rights.<sup>56</sup>

Dassler and Havelange installed a corruption bonanza unparalleled in world sport. ISL got the exclusive rights to sell the World Cup to sponsors and the public ownership of the game was privatised.

Dassler faced obstruction from FIFA's then general secretary, Helmut Käser. Dassler was determined to prevail; he had Käser hounded from office and Blatter installed in his place. Dassler fixed the elections of new leaders at the IOC and the international track federation and paid more bribes for marketing contracts. Then the bonanza got bigger. The brains in ISL's back rooms calculated that World Cup TV rights were being massively undersold by FIFA. In the mid-1990s FIFA cancelled its deals with public service TV companies. Rival marketing companies geared up to bid. Could ISL hang on to their monopoly?

Sepp, it is very difficult to conclude anything other than there being two sets of rules in operation here ... and your responses to our efforts are merely a cosmetic exercise designed to protect FIFA from future accusations of unfair and improper competitive conduct.<sup>57</sup>

The IMG company, the sports marketing group founded by American Mark McCormack and golf legend Arnold Palmer in 1960, had offered to top any bid. They began by offering a billion dollars for the 2002 World Cup. But Blatter didn't tell IMG that he and Havelange had secretly changed the rules. For the first time they were offering two tournaments – 2002 *and* 2006 – but ISL's rivals weren't told until the last possible moment, meaning all financial calculations would be disrupted.

'There are glaring inconsistencies in your letters to us concerning the basis on which the rights are being made available and such obviously preferential treatment being given to other parties,' wrote IMG executive Eric Drossart.<sup>58</sup>

Several ExCo members were tipped off that something underhand was going on. ISL weren't worried. 'The members of the FIFA Executive Committees can ask questions, but cannot prevent the conclusion of the contract with ISL,' reported Jean-Marie Weber gleefully to the ISL board.<sup>59</sup>

They couldn't, they didn't and Havelange rammed through the choice of ISL. Then it was payback time. The kickbacks soared into million of dollars. Could ISL pay these and survive? Eventually the bribes helped break the company. Meanwhile large sums were moved out of ISL to offshore accounts so that there would always be a bribes fund to dispense. Some went in untraceable cash payments to a senior FIFA official.

## **INFRONT – THE NEW ISL?**

In their final few years ISL occupied a sparkling white office block in the city of Zug. There's a new sports marketing company there now, in the same offices. They are named Infront and they have acquired very similar TV rights from FIFA to those that ISL had.

How did Infront get this super deal? Part of the answer lies in the manipulations of one arm of the McKinsey consulting company. Late in 2000, when insiders like Blatter knew that ISL was doomed, he called in McKinsey's grandly titled European Sports Practice to reorganise FIFA. A budget of more than £2 million was agreed on and invoices were sent direct to Blatter, circumnavigating normal procedures. McKinsey produced straight-faced reports on economies and stricter management – while FIFA officials were laughing their way to FIFA's bank to draw their mostly unaudited grants and sometimes wads of World Cup tickets that never had to be paid for.<sup>60</sup>

The McKinsey team departed, but not forever. When the dust settled over the demise of ISL, McKinsey's Markus Kattner relocated to become FIFA's director of finance. There was also a new CEO of Infront. His name is Philippe Blatter, previously head of McKinsey's European Sports Practice and always nephew to Sepp Blatter. Infront have prospered, not only sharing the sale of World Cup TV rights with FIFA's marketing department but also linking up with the British-based Byrom company, which handles all ticket sales. Together they have a lock on accommodation for 2010.

## **FOOTBALL SEDUCED BY THE BRANDS**

Traditionally the Coca-Cola logo was viewed in the developing world as a symbol of American capitalist exploitation. Not any more. Go to a football

event in the developing world. Odds are that it will be draped in Coke emblems and slogans.

Coca-Cola brings you sport and funding for development. The message is soft, warm and persuasive. Coke brings you football, the Olympic Games, the world track and field championship. Coke is your friend and benefactor.

Sport – and especially football, the most popular of all – became an essential weapon in the creation of new global markets and the penetration of discrete and sometimes resistant national identities. The concept of ‘universal’ highly competitive sports, nurtured in the advanced capitalist nations, was deployed to transcend cultural and regulatory barriers worldwide. Commerce acquired the sports organisations *and* their products to give them legitimacy, diversion and camouflage.

The part-time officials in the federations with incomes outside sport were replaced by full-time compliant creatures, keen to deploy the new concept of ‘marketing rights’. The middlemen – the marketing agencies – covertly laundered the bribes that got sport’s thinking in line with the needs of global brands. ISL was the intermediary created for a two-way traffic: delivering the sports in a form acceptable to capitalism and transmitting the kickbacks to the officials who signed the contracts.

Nothing illegal had happened. They were all moving into an extra-territorial world with little media or regulatory scrutiny, with an unquestioned determination to make profit out of the activity of sport. That profit wasn’t always measured in dollars; influence – hegemony – would become as important. Cultural dominance would safeguard capitalist objectives.

If corruption is defined as the abuse of public office for private gain then, in my opinion, FIFA has created a model of institutionalised global corruption. FIFA exports corruption from Zurich to the world. My analysis of the evidence reveals, in my view, that over three decades, Havelange and Blatter sought out and nurtured corrupt administrators, especially in the developing world.

Legislators and public prosecutors have been cowed by FIFA’s insistence that its affairs may not be meddled in by elected governments. Together with the IOC, FIFA claims ‘autonomy’ for sport with the thin argument that governments must not be permitted to interfere in the ‘independence’ of sports federations. The risible suggestion that these federations, so often tarnished by ballot rigging, corruption and ticket scandals, should be above the law, is accepted by most governments, most of the time.

Whenever a government tires of racketeering by their national officials, there is a threat to suspend the federation. As there are nearly always qualifying games being staged for regional or global tournaments, governments soon back down. Also banned from international competitions are referees and officials, who thus lose match fees.

## FIFA PASSES THE MAFIA TEST

Some critics jest that FIFA is a ‘mafia’. A common definition of organised crime argues it is:

Characterised by a strong and ruthless leader, a hierarchy, a strong code of conduct for its members and, above all, the goal of power and profit. Corrupt police and public officials, attorneys and judicial officers, political leaders and businessmen comprise the protectors.<sup>61</sup>

In my analysis, FIFA ticks those boxes. Havelange and now Blatter exhibit strength and ruthlessness. It is extraordinary that in this huge international organisation you never hear dissent. Blatter claims their Congress is a ‘parliament’ but, with one short-lived exception – the contested presidential election of 2002 – FIFA is essentially an anti-democratic organisation. Not one of thousands of officials at any level ever makes public criticisms of the hierarchy in their own lands or at annual congresses. Not the poor officials of the developing world, nor the ‘fat cats’ of Western Europe.

From the 1970s the international sports federations became the battering ram of expanding capitalism. The brands became the mafia commission, the federations the subservient families, each with their own boss. They delivered highly desirable sport. In return, they were paid. Those who didn’t take bribes squeak that they are clean. Who pays for their luxury lifestyles?

‘Just as sponsors have the responsibility to preserve the integrity of the sport so too you have responsibility and accountability to the sponsor.’<sup>62</sup> This was the chill warning from Coca-Cola vice-president John Hunter, speaking at the IOC Centenary Congress in Paris in 1994 as the brands were tightening their grip.

Blatter was hired by Havelange and Dassler in the 1970s to implement Coke’s plans. He seems never to have forgotten his benefactors – or ‘partners’

as they now have to be called. In September 2009 the entrance to FIFA House was draped with Coca-Cola banners announcing the company's 2010 publicity campaign. Triumphantlly they said, 'Welcome' to the world of football.

## NOTES

- 1 Daryll Warner, letter to Jack Warner, 12 June 2001, copy in possession of the author.
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# 5 F IFA's 'official' suppliers

Shadowy tenders and conflicts  
of interest at Match

**ROB ROSE**

At the ceremony in May 2004 announcing that the 2010 World Cup would be held in South Africa, FIFA supremo Sepp Blatter gushed to a crowd including Nelson Mandela that 'the victor is football, the victor is Africa'.<sup>1</sup>

Had he wished to be accurate, however, Blatter would have lauded the real victor as FIFA and its cozy network of business associates, who have together sucked the marrow out of recent World Cups with far more success than the host countries.

The South African event perpetuates this trend. At the forefront of the queue of FIFA's business associates is a shadowy company called Match Event Services, which has been appointed as FIFA's exclusive official accommodation provider to the World Cup.

While the company officially warns accommodation providers to keep room rates low because tourists are 'sensitive to pricing', an investigation by the

author has confirmed that tourists will have to pay Match 1000 per cent more than they would normally pay for accommodation in certain cases, such as for units at South Africa's Kruger National Park.

Match Event Services is owned entirely by a family-owned UK-registered company called Byrom PLC. The circumstances of its appointment remain cloudy: there was never any public tender for the multi-million rand contract, for example.

Riding on those coat-tails is the closely linked Match Hospitality, which has FIFA's official stamp of approval to provide exclusive hospitality packages to large companies seeking to impress clients at the South African event. Not only does Match Hospitality refuse to disclose its exact shareholding structure, but it has emerged that one of the four shareholders in the company is Infront Sports & Media, a company headed by Philippe Blatter – nephew and godson of the FIFA supremo.

These issues, which raise sharp conflicts of interest questions around how FIFA doles out lucrative contracts for the most-watched sports event globally, will be explored in this chapter, illustrating how Africa will be far from the victor that Blatter claimed it would be thanks to the World Cup.

## WHO IS MATCH?

The two Match entities – Match Event Services AG and Match Hospitality – are theoretically separate entities, but they do share certain shareholders. Match Event Services AG was established in 2007 and is officially mandated to provide 'accommodation, ticketing and information technology for the World Cup'. Until 2008 it was a joint venture between a UK company, Byrom PLC, and Eurotech, which each held 50 per cent.<sup>2</sup> But in 2008, Byrom PLC bought out Eurotech for £92 000, effectively valuing its now-100 per cent share of Match Event Services AG at £184 000.<sup>3</sup>

While the sketchy details of its initial appointment by FIFA will be discussed later, its 'principals' – meaning the Byrom family – have been the official supplier of accommodation to six previous World Cups. They also provided the information technology services at four previous World Cups. For the 2006 World Cup, for example, Byrom PLC held 33 per cent of a German-registered company called Organising Committee Accommodation Bureau GmbH & Co.,

which was the official ‘accommodation office’ for the event. It also ran FIFA’s ticket office.

After the German event, it seems, the Byrom family realised it needed a formalised approach to providing accommodation for FIFA events. So Match Event Services AG, (referred to hereafter as ‘Match’) based in Zug, Switzerland – in the same small town as FIFA – was established by Byrom PLC. Without any tender, it immediately landed the rights to be the official FIFA provider for accommodation, ticketing and information technology.

The second company is Match Hospitality. FIFA announced on 30 October 2007 that Match Hospitality had been picked as FIFA’s ‘hospitality rights holder following a public tender process’.<sup>4</sup> This gave Match Hospitality the right to sell ‘hospitality packages’ globally to large companies under the FIFA Hospitality Programme. Typically, a package includes suite tickets, catering and ‘match day’ service. Match Hospitality is 65 per cent owned by Byrom PLC, with Dentsu, Infront Sports & Media and Bidvest owning the balance.<sup>5</sup>

Quite how much each of the minority shareholders owns of Match Hospitality isn’t clear, as they all cited ‘confidentiality’. For example, Bidvest executive Colin Kretzmann, who is one of Match Hospitality’s directors, refused to reveal how much Bidvest owned of the company, nor would he divulge how much was paid for its shares. ‘I’m not in a position to disclose that ... we’re bound by confidentiality agreements between Match and FIFA,’ he says.<sup>6</sup>

Bidvest and Match Hospitality are very closely linked, however, as Bidvest’s 2008 annual report makes clear. Discussing its purchase of a small share in Match Hospitality, Bidvest says ‘one immediate benefit will be to secure business in support of Match Event Services during the 2009 Confederations Cup’.<sup>7</sup>

Then there is the common shareholding as both companies are controlled by the Byrom family.

But let’s start with Match Event Services, the more well-established of the two companies and the best-known ‘public face’ of the Byrom family.

## **SNAPPING UP THE CREAM OF THE ACCOMMODATION CROP**

Part of Match’s official mandate, according to FIFA, is to ensure accommodation is available to fans ‘at fair prices and reasonable terms’. So, Match has been

scooping up the choice accommodation in South Africa for the World Cup, which it will then sell to fans and FIFA officials for the event.

It has already signed up 80 per cent of the available rooms in South Africa's top hotel chains, including City Lodge, Southern Sun and Protea Hotels. Add to that its portfolio of guest houses and bed-and-breakfasts, and it is accurate to say that Match holds the choice accommodation cards for the event. In all, Match planned to put together a portfolio of 55 000 rooms – not the entire accommodation requirement for the event, but certainly the plum options – and by October 2009 had finalised contracts for 40 000.<sup>8</sup>

By doing this, Match is placed in a position to dictate the prices it will charge to visitors. This obviously was part of FIFA's plan, which was to ensure that greedy local accommodation providers did not fleece foreigners coming to South Africa, thereby devaluing the event.

This seems a noble enough motive, and Match itself speaks of this rationale.

In the documents which it provides to guest houses to contract their accommodation for the World Cup, Match says foreign tourists are 'sensitive to pricing', urging accommodation providers to keep prices low. In fact, Match's '2010 FIFA World Cup SMME (small, medium and micro enterprises) accommodation agreement' stipulates that these guest houses are allowed to charge the rate they 'customarily' levied in June 2007, plus a 16 per cent mark-up.<sup>9</sup>

'As an example, if the 2007 rate for a FIFA World Cup room was R1 000 per night, the net payable FIFA World Cup rate ... will be R1 160 per night,' according to Match's contract.<sup>10</sup> The guest house sells the room to Match, which then on-sells it to tourists as the only company allowed to market itself as FIFA's 'official' accommodation provider.

But this deal did not sit well with some guest houses, who complained in 2008 of 'being bullied' into signing this punishing contract to allow them to 'officially' sell rooms during the World Cup period at rates they felt were artificially low. Months of tension between Match and the tourism industry bubbled over on 3 November 2008, when the CEO of SA Tourism, Moeketsi Mosola, was widely applauded at the National Tourism Conference for publicly taking on Match.

At the conference, Mosola said that Match was simply a tour operator, and 'when Match started to use its powerful position to bully the rest of the industry, we could not be seen as being part of these tactics when we are mandated to serve the entire industry'.<sup>11</sup> 'We said to Match that we want to work with you but

we don't want to see a situation where companies collapse after 2010,' he said.<sup>12</sup> Mosola said Match was asking for rooms 'on unfavourable conditions' and presciently, he asked 'what is the point of the World Cup if there is no advantage for the industry?'<sup>13</sup>

SA Tourism withdrew from the Match advisory council in protest against its strong-arming of the smaller guest houses, and it required the intervention of tourism minister Marthinus van Schalkwyk to smooth over relations between the FIFA agency and the local tourism sector.<sup>14</sup> A few months later, Mosola quit SA Tourism. When contacted for this research report, Mosola said he did not want to revisit the episode.

This episode provides a number of telling insights. One particularly revealing aspect that emerged from the various interviews for this chapter is the huge sensitivity over Match both within government and from tourism agencies like SA Tourism. All appear to go out of their way to avoid ruffling any feathers – and angering FIFA – ahead of the event.

For example, when asked about the hefty profit margins that Match will be extracting from the 2010 World Cup, the Ministry of Tourism prepared a written response for the author saying the issue between Mosola and Match 'was already resolved last year'.<sup>15</sup> Ministry spokeswoman Ronel Bester said:

The questions relating to Match, its shareholding and operational procedures should be taken up with Match and FIFA, as Match is a FIFA contractor and not a South African tour operator.<sup>16</sup>

Nonetheless, this fracas illustrates that the accommodation providers felt exploited by Match, FIFA's chosen agent. Rather than risk the wrath of FIFA – and very aware that the World Cup is here pretty much by Blatter's grace – the authorities have swept this dispute under the carpet.

Some guest houses, however, have chosen not to sign up with Match, but rather to market their accommodation 'unofficially' – a clear sign of their distaste for Match's terms. Wandie Ndala, who runs Wandie's Guest House in Soweto, says he opted against signing with Match 'because we've got our own website, and our rooms are full anyway'.<sup>17</sup> Ndala was equivocal on whether the fee that Match will take was worth it. 'It mustn't be a rip-off. It depends what (Match) does for that fee,' he says.

All of this could be dismissed as simply uppity guest house owners complaining about being prevented from overcharging tourists by FIFA's agent Match, who are scrupulously ensuring visitors get the best deal possible. Unfortunately, that isn't the case.

## A 'REASONABLE MARK-UP'

It turns out that while Match is urging the South Africans to keep prices pegged to 2007 rates so as not to deter visiting fans, it seems this is so that it can keep the cream for itself. This is because the price at which Match is offering the rooms to visitors is at a 30 per cent mark-up on the price it pays the guest houses.

It describes this mark-up as a 'sales margin', and says in the contract 'as an example, if the net payable FIFA World Cup rate (that goes to the guest house owner) is R1 160, ... the FIFA World Cup rate payable by the guest to Match for the applicable room night will be R1 657'.<sup>18</sup>

And it seems guest houses and small tourism businesses aren't the only ones for which this situation will apply. Hotel chains contacted by the author say Match has stipulated that the details of the hotel's contract remain 'confidential'.<sup>19</sup> However, these hotel chains did reveal that Match is also adding on a 30 per cent mark-up to these rooms.

What is apparent, however, is that as with government, the hotel chains are very guarded against making any public statements criticising Match. For example, Southern Sun MD Graham Wood chose his words carefully when he said that Match 'operates as any other tour operator, so they've got to make some money'.<sup>20</sup> A 30 per cent mark-up, he says, 'isn't anything unusual'.<sup>21</sup>

City Lodge CEO Clifford Ross said:

We settled on rates that were market-related, not necessarily European market-related, because what we saw in France and Germany was clear price-gouging.<sup>22</sup>

If anything, it seems the hotel operators have resigned themselves to accepting lower margins in order to make the event successful. Protea Hotel CEO Arthur Gillis said 'anyone who thinks the World Cup is an opportunity to make money is deluding themselves. This is a marketing opportunity, and we should be averse to anyone profiteering from this'.<sup>23</sup>

However, Match does not seem as constrained by such noble motives, and this is nowhere more apparent than in the case of rates offered to visitors to South Africa to stay in the country's supposed national treasure, the Kruger National Park.

## KRUGER PARK: A CASE STUDY OF PRICE GOUGING

A fascinating case study of how Match has been able to leverage its FIFA-sanctioned position to extract a giddy amount of cash from World Cup tourists can be seen in the case of the Kruger National Park.

As part of the 55 000 rooms Match hopes to offer, it has already nailed down 730 'units' at game parks across the country run by SA National Parks (SANParks). This is a savvy commercial step, given how many World Cup visitors are also keen to take in the 'African safari' experience when visiting South Africa. In practice, however, it seems Match has effectively hijacked the plum positions at South Africa's national game reserve.

Essentially, SANParks struck a deal with Match in early 2009, selling it all the available accommodation at the park's three most popular and accessible camps: Skukuza, Pretoriuskop and Berg-en-Dal. As SANParks admits, these are the camps 'close to the periphery and airports'<sup>24</sup> – the prime locations for tourists.

A press release at the time quoted SANParks tourism and marketing director Glenn Phillips as saying that 'if all goes according to plan, the value (of available accommodation) sold to Match per day is in the region of R1,4 million'.<sup>25</sup> For SANParks, this was to bring in R52,5 million, based on two people per unit and including dinner, bed, breakfast and activities.

But Match will levy huge premiums at the Kruger National Park (see table below) compared to what tourists would normally pay – a situation of which most foreign visitors will be blissfully unaware. For example, Match will charge as much as \$4 276 per night (R29 971) for the 16-person Joubert guest house at Pretoriuskop camp – nearly four times the R7 400 which would be charged if the guest house was fully occupied during any other time.<sup>26</sup>

Equally, a six-sleeper bungalow at Berg-en-Dal will cost guests R9,391 per night – nearly five times the R1 736 it would cost normally.<sup>27</sup> Even a four-person safari tent at Skukuza, which would normally cost R550, will cost visitors R5 382 per night during the World Cup, an almost tenfold mark-up.<sup>28</sup> While it would

normally cost R700 per night for a bungalow at Berg-en-Dal, Match will charge \$1 342 per night (R9 391). For some cottages, Match will charge up to \$4 276 per night (R34 000).<sup>29</sup>

**Table 1: Kruger Park prices**

Camp and accommodation	Match price (including dinner, bed, breakfast and daily activity)	SANParks price (excluding food and activity)	Percentage increase by Match (in Rands)
<b>Pretoriuskop</b>			
four-person bungalow	\$845 (R5 915)	R625 for two, R144 per person extra	548
six-person bungalow	\$1 157 (R8 099)	R625 for two, R144 per person extra	574
four-person cottage	\$1 012 (R7 084)	R1 255 for four	464
six-person cottage	\$1 290–\$1 443 (R9 030–R10 101)	R1 255 for four, R248 per person extra	477
five-person hut	\$953 (R6 671)	R320 for two, R96 per person extra	997
six-person hut	\$1 139 (R7 973)	R320 for two, R96 per person extra	1 033
P Joubert guest house for 16	\$4 276 (R29 932)	R2 325 for first four, R426 per person extra	302
<b>Skukuza</b>			
Clarke cottage for four	£911 (R11 560)	R1 240 for four	832
Guest cottage for six	\$1 342 (R9 394)	R1 240 for four, R248 per person extra	441
Safari tent for four	\$769 (R5 382)	R330 for two, R96 per person extra	931
<b>Berg-en-Dal</b>			
Family cottage for six	\$1 342 (R9 391)	R1 240 for four, R248 per person extra	441
Rhino guest house for eight	\$2 129 (R14 905)	R2 325 for four, R426 per person extra	270

*Source: Compiled by author based on figures sourced from FIFA Accommodation Office*

Notes: 1) US\$ amount converted at rate of R7/\$1, as quoted by FIFA Accommodation Office

2) UK sterling converted at rate of R12,69/£1 on 3 September 2009

3) SAN Parks rates as on 3 September 2009

As one would expect, Match has not advertised these rates, which are only available ‘on application’ via email through its booking office. The author has confirmed these rates in numerous emails with the booking office, which was reluctant to reveal much more.

However, the whole scenario has incensed South Africans keen to visit the park during the World Cup period. One family, who traditionally visit the park during July, had their bookings at Skukuza cancelled and their R2 200 deposit returned. Instead, they were offered alternative accommodation at the most northern camp, Punda Maria, in Mozambique.<sup>30</sup> Ernest Smit, one of the family members, raged that ‘it’s unreasonable to expect us to drive that far. I’m sure many people are going to complain about this arrangement. We refuse to accept the situation.’<sup>31</sup>

Discussion forums on the SANParks website rippled with discontent. Asks one person who called himself ‘Scipio’: ‘Who is Match, and who is on board, and who is going to get their pockets lined?’ Someone identified only as ‘Francois’ worked out that tourists are paying above the bar, and asks rhetorically, ‘I wonder if the soccer tourists know they are going to be paying a “little” more than usual.’<sup>32</sup>

This is really the point: tourists do not know this, nor, importantly, are they given the option. Instead, FIFA’s sole-appointed accommodation agent will be making the bulk of the profit from this. And as a final insult, tourists eager to go to Kruger Park now cannot find accommodation over that period unless they go through Match.<sup>33</sup>

But Glenn Phillips denies that there is a monumental price increase, saying Match agreed to only add 30 per cent to the prices over the World Cup period.<sup>34</sup> ‘The fees are slightly higher than normal, because it includes two meals a day and an activity (such as a game drive),’ he says. In a later email to the author, Phillips says the fee also includes ‘conservation fees’, some transport, and a ‘contingency fee to cover additional unforeseen expenses’.<sup>35</sup>

Whether this is sufficient justification is unclear, considering that an English breakfast at the respective restaurants at Berg-en-Dal, Pretoriuskop and Skukuza costs about R55 per person, and dinner for the full buffet ranges between R149 and R165 per person. A game drive at all three camps costs R160 per person for three hours.<sup>36</sup> And the daily conservation fee ranges from R40 per day for South African tourists to R160 per day for foreign tourists.<sup>37</sup> This shows that the dinner, breakfast, ‘activity’ and ‘conservation fee’ costs less than

R550 per person – hardly enough to justify hiking the prices so extravagantly. And the mark-up, it seems, will go to bolster Match’s bottom line.

Again illustrating their sensitivity over the issue, SA’s ministry of tourism deferred all questions on the discontent over Kruger to Match itself.<sup>38</sup> But it pointed out that Match will only cater for about 55 000 rooms, when the country is expecting 450 000 foreign visitors for the World Cup.

Rather obliquely, and without singling out any particular party, spokeswoman Ronel Bester said that overcharging is a serious concern of government. ‘At every one of the five engagements with stakeholders in the tourism industry that Minister van Schalkwyk had over the course of the last six weeks, he reiterated that price-hiking could damage the reputation of our tourism industry.’<sup>39</sup>

## FIFA’S HOSPITALITY TOWARDS MATCH

Match Hospitality – the other part of the business with the exclusive rights to offer ‘hospitality packages’ to soccer games – also looks set to make some serious money.

Unlike Match Event Services, which simply provides tickets and accommodation, the hospitality packages will see the company provide a full-service offer to large companies that want to impress their clients. In its brochures, Match Hospitality says ‘for those who wish to watch the Matches in style, Match Hospitality will meet your every need with luxurious and creative hospitality offerings’.

So, as the only company allowed to offer official hospitality packages under the FIFA banner for suites at the individual stadiums, Match Hospitality will offer a company a ‘premium Match day ticket’, a suite including ‘high-end catering’, a bar service, dedicated parking and transport to and from the games. Its Big Five Series for example, offers private suites to companies for all the important matches – the opening game, the semi-finals and final – as well as all games at the five largest stadiums. With each 36-game Big Five package being sold for \$1,5 million,<sup>40</sup> it is perhaps unsurprising that it had already sold R600 million worth of these packages by October 2009.

Its Final Round series allows customers to pick a group of games towards the end of the event: for example, suite hospitality for the two semi-finals and the final at Soccer City can be bought for \$15 000 per person.<sup>41</sup> These packages are

already sold out.<sup>42</sup> Or buyers can follow the team of their choice, taking in seven matches for \$17 500 per person.

According to FIFA, Match Hospitality paid \$120 million for these 'rights',<sup>43</sup> outbidding other contenders. But considering the soaring sales of the Big Five packages alone, it looks set to recoup its cash and then some.

## WORLD CUP PROFITS TO HEAD TO THE UK

So where does the money go from Match Event Services and Match Hospitality? Well, it turns out that not only will Match take the cream of the World Cup accommodation profit in an event that Sepp Blatter vowed would benefit the citizens of South Africa, but the cash won't stay in this country either.

Like any other company, Match will either declare the profit as dividends to its shareholders, or retain that profit to use elsewhere. By extension, Match's owners – and mainly Byrom PLC – will be the big beneficiaries of the amounts paid by fans for accommodation in South Africa. As discussed earlier, Byrom PLC now owns 100 per cent of Match Event Services, after buying out Eurotech last year. But who exactly is Byrom, and who owns it?

The author obtained Byrom PLC's financial accounts dating back to 1999, and its shareholders' register from the UK Companies House. This shows that the company was registered in Cheadle in Cheshire in the UK in 1991, and it currently has 50 000 shares that are controlled by nine people.<sup>44</sup> Seven are from the Mexican-born Byrom family – the 53-year-old managing director Jaime, his 56-year-old brother Enrique, plus Carol, Harry, Ivy, Robyn and Aracelli – and the other two are Byrom's marketing director, John Parker, and his wife, Ingrid Parker.<sup>45</sup> All the shareholders except Harry Byrom<sup>46</sup> are based in Cheshire in the UK, according to the addresses listed in the shareholders' register.<sup>47</sup>

What this illustrates – and it is something that FIFA and the exceedingly grateful South African hosts have been keen to play down – is that a large chunk of the accommodation and hospitality profit will not stay in South Africa at all. For many South Africans expecting to benefit from the ancillary activities around the World Cup, this will be a nasty shock.

Quite how much money is likely to flow out of South Africa has yet to be determined, as Byrom has diligently avoided this topic. In an initial telephonic interview, Jaime Byrom said he would be 'happy to give you the figures' of expected profit that Match will make from the World Cup.<sup>48</sup> But when asked a

series of difficult questions, Byrom terminated the interview and asked instead for written questions.

In his written reply, he backed down from his earlier commitment to transparency.

Instead, Byrom now said the contract between FIFA and Match is ‘confidential in nature’ and

therefore, it is not appropriate to discuss with you or explain in any detail the sales targets, profit margins and other commercial matters which you are enquiring about.<sup>49</sup>

Byrom said only that Match had ‘met the targets’ of the room rates it anticipated selling.<sup>50</sup>

FIFA also gives nothing away, saying that Match ‘operates on a break-even basis to deliver the accommodation, IT and ticketing operations’.<sup>51</sup> When asked how much profit from the World Cup is estimated would remain in South Africa, FIFA said it couldn’t say.<sup>52</sup> ‘It is impossible to quantify how much profit will be made, as the economic impact of the FIFA World Cup goes beyond the mere staging of the event,’ it said.<sup>53</sup>

The implication from what FIFA says is that Match – and Byrom – won’t be making a bundle of profit from the World Cup. Yet the financials of Byrom PLC show this isn’t exactly true.

## **MORE THAN R100 MILLION PROFIT POSSIBLE FOR BYROM IN 2010**

Byrom’s financials going back to 1999 clearly illustrate that in the year following a FIFA World Cup, there is a spike in its revenues and profits.

The 1999 accounts following the World Cup in France saw Byrom PLC’s revenue climb 19 per cent to £6 662 190 and its pre-tax profit swell 63 per cent to £844 727. Here, Byrom reports that it ‘made significant sales in relation to the football World Cup held in France’.

The 2003 accounts following the World Cup in Japan saw Byrom PLC’s revenue surprisingly drop a marginal 6,8 per cent to £96 142 564, but its pre-tax profit grew a staggering 1 928 per cent to £3 570 564. In the notes, Byrom talks about how it ‘operated as a service company to implement FIFA’s ticketing policy

and to undertake international ticket sales'. It adds that it also 'operated as a service company to implement FIFA's accommodation policy for the event'.<sup>54</sup>

The 2007 accounts following the World Cup in Germany saw Byrom PLC's revenue climb 146 per cent to £41 411 101, and its pre-tax profit grew 272 per cent to £3 061 042. All of this came from FIFA events, with the bulk from operating the Organising Committee Accommodation Office GmbH. It then paid a £1 million dividend to shareholders.

It should be remembered that Byrom owns a number of subsidiaries besides Match – such as logistics consultant Seamos Marketing – which provide services for a number of FIFA events such as the 2008 FIFA Under-20 Women's World Cup held in Chile. But it appears undeniable that the World Cup is indeed a real money-spinner for the company.

While Jaime Byrom won't provide any profit estimates, it seems reasonable to assume that Byrom PLC will be able to record pre-tax profit for the 2010 World Cup at least equalling that which it recorded after the 2006 German event – a healthy R36,5 million.<sup>55</sup>

Of course, it should be remembered that in 2006, Byrom PLC only owned 33 per cent of the Organising Committee Accommodation Bureau GmbH, which organised rooms for the German tournament, so only recorded a third of the profit. Now, having bought out the other 50 per cent of Match, Byrom PLC should see all the profit from the accommodation. Add in the gains from Match Hospitality, and it would seem reasonable to speculate that Byrom PLC could see more than R100 million in profit from the South African World Cup.

This clearly illustrates that the Byrom family has made plenty of profit thanks to FIFA's decision to award it the lucrative contracts. And barring a wholesale cancellation of the event, it should repeat this at the 2010 event. So how exactly did the Byrom family sew up this lucrative franchise? How is it that the family has repeatedly been appointed?

## SHADY APPOINTMENTS

When it came to the appointment of Match as the 'official' accommodation provider, FIFA has confirmed there was no tender at all.

In a background document provided to the author, FIFA says 'the commissioning of Match Event Services was not a public tender but a regular service provider contract'.<sup>56</sup>

Due to their past experience in delivering these very complex FIFA World Cup solutions, FIFA felt Match Event Services was the ideal partner.<sup>57</sup>

So how has this past experience worked for FIFA? Controversially, it seems. Weeks before the 2002 Japan World Cup, the Japanese Organising Committee (JAWOC) set up an emergency task force to probe why 140 000 tickets due to Japanese residents hadn't been printed until the last minute by Byrom's company.<sup>58</sup> In response, Jaime Byrom apologised at the time 'for the inconvenience', and said 'we did not expect as many as 140 000 applications when the last lot of tickets went on sale in Japan towards the end of April'.<sup>59</sup>

The issue of how Byrom landed in such a plum position without any tender is a predictably touchy topic. In 2002, the UK *Telegraph* reported that Blatter 'has been criticised for reportedly awarding Byrom the ticketing contract without putting it out to tender'.<sup>60</sup> At the time, Byrom refused to discuss whether Match was the only company approached. 'All I will say is that you have to remember that there was not an industry out there that FIFA could go to for something like this,' he said.<sup>61</sup>

It must be remembered, however, that Match Event Services AG was only established in 2007, and before that Byrom PLC used other entities to service FIFA's accommodation and ticketing needs. The first mention of Match pops up in Byrom PLC's 2007 accounts. Here, Byrom PLC says:

The group has secured a long-term agreement with FIFA to create and operate a joint venture company Match AG (Switzerland) with a Swiss-registered company Eurotech. Match AG is charged with the task of supplying the accommodation, ticketing and computer solution for the 2010 and 2014 FIFA World Cups.<sup>62</sup>

This is intriguing, not only because it describes the deal as 'long term', but it implies that FIFA was somehow involved in the creation of Match.

The author of this chapter tried repeatedly to ask Jaime Byrom about this, both telephonically and then in 28 detailed questions (see appendix), which he largely dodged. Instead Byrom sent a six-paragraph reply, saying 'I do not propose to go through each of your questions individually', refusing to provide details of the 'confidential' contract with FIFA but confirming that 'you have

correctly identified the directors, shareholders and certain other financial information'.<sup>63</sup>

But after the author published a report on Match and Byrom in the *Sunday Times* discussing the accommodation mark-up and other issues, Byrom was quizzed during an interview on Radio 702 as to how Match was appointed without a proper tender process.<sup>64</sup> He was again evasive:

[Match Event Services] is really a service company; it's not an enterprise you could categorise as entrepreneurial. It's basically delivering services on a cost-plus basis, and certainly as the company that has been servicing FIFA for the last seven World Cups, I think it's fair to say we've been the established service company for FIFA for quite a number of years.<sup>65</sup>

Not only does this fail to answer the question, but as the upheaval over the Japanese tickets in 2002 illustrates, this service hasn't exactly been impeccable either. Byrom largely dismissed the *Sunday Times* report, which he described as 'self-serving', saying 'I don't think it reflects the facts as [the author] found them when he made his round-robin inquiries of people in the industry'.<sup>66</sup>

When asked during the radio interview why he had been reluctant to provide specific details, he excused this by saying:

It didn't take me very long to know that really, the story had already been written and there was no point in me wasting my time talking to this gentleman.<sup>67</sup>

This fits a pattern evident from the initial UK press reports. When pressed as to how Byrom's companies appear to hold the monopoly – and a profitable monopoly at that – over the prime accommodation options for the world's largest sports event, FIFA and Byrom deflect the question, as he did to the *Telegraph* in 2002.

But the importance of understanding FIFA's relationship with Match cannot be overstated, as the discussion about the International Sport & Leisure (ISL) corruption debacle below illustrates. But first, the equally large questions that loom over Match Hospitality's appointment need to be analysed.

## THE CURIOUS CASE OF MATCH HOSPITALITY

FIFA announced on 30 October 2007 that Match Hospitality had been picked as FIFA's 'hospitality rights holder following a public tender process'.<sup>68</sup> At the time, FIFA General Secretary Jérôme Valcke gushed that the 'rights have been awarded to the best bidder, recognising the world's biggest hospitality rights property'.<sup>69</sup> FIFA later told the author that Match Hospitality paid \$120 million for the contract, 'and the whole operation is managed ... at their own financial risk'.<sup>70</sup>

But quite who the other bidders were in this supposedly 'transparent process' remains a closely guarded secret. FIFA is particularly sensitive to these sorts of questions, and like Byrom, refused to respond to detailed questions.<sup>71</sup> They included a request for details of the supposedly 'public tender' documents, questions about how Match Services was appointed by FIFA, and how FIFA handled the conflict of interest around Philippe Blatter (see appendix 2).

The FIFA South Africa media team responded:

Having reviewed your questions below, it seems that your agenda on the story is set. However if you are truly interested in exploring FIFA's activities, its financial structures and its relationship with the various service providers, including Match Event Services, we are more than happy to set-up an interview with FIFA's secretary-general Jerome Valcke when he is next in South Africa.<sup>72</sup>

FIFA added that it would appreciate 'more time to answer such long enquiries'. The author responded that if the inability to reply was because of time pressure, FIFA could take longer over the query if it needed to do so.<sup>73</sup> FIFA then replied that Valcke wasn't available any more and so 'we stick to the general comment for the moment'.<sup>74</sup>

## INFRONT: 'WE SEE NO CONFLICT OF INTEREST'

But there are conflicts of interest aplenty with Match, liberally spiced with dark accusations of nepotism. In part, this is because one of Match Hospitality's four shareholders is Infront Sports and Media AG – a company headed by Philippe Blatter, nephew of FIFA's Sepp Blatter. Philippe Blatter was appointed as presi-

dent and CEO of Infront in December 2005, after an 11-year stint at management consulting firm McKinsey Sports Practice.

In response to questions from the author, Infront spokesman Jörg Polzer protested that his company was a ‘minority shareholder’ with a stake of less than 10 per cent in Match Hospitality.<sup>75</sup> But like the other investors, Infront said ‘it has been agreed between the parties involved that the precise shareholding structure of the company is not disclosed’.<sup>76</sup> Again, no reason is given for this curious lack of transparency.

When asked how Infront handled the conflict of interest involved in FIFA deciding the Match Hospitality tender when its CEO was related to the head of FIFA, Polzer said ‘we do not see this as a conflict of interest’.<sup>77</sup>

The bidding process was entirely handled by the management of Match Hospitality AG [and] as a minority shareholder, we have not been involved in the negotiations with FIFA [or] the operational business.<sup>78</sup>

Polzer also said the insinuation that Philippe Blatter would personally benefit from Match Hospitality’s profits was ‘completely incorrect’, as he is not a private shareholder in the company.

During the Radio 702 interview after the *Sunday Times* article, Jaime Byrom also put forward this view:

What [the *Sunday Times*] did not share is that Infront is a small shareholder of Match Hospitality. The person in question, Philippe Blatter, is not really a shareholder of Infront, so how he managed to connect Match Hospitality to personal gain on behalf of the Blatter family, is just not correct.<sup>79</sup>

But this does not tell the whole story. Though Infront does not publish annual reports confirming its shareholders, it seems highly likely that Philippe Blatter is a shareholder – and so will benefit personally from Match Hospitality’s activities.

This is because when it was formed in 2003, Infront said its shareholders were Robert Louis-Dreyfus (the former head of Adidas), JACOBS AG, Overlook Management BV, Martin Steinmeyer and the Infront management team. When Blatter joined in 2005, it would have been standard practice for him to be given

shares in the company, to be consistent with other management personnel who had shares in the company.<sup>80</sup>

This suggests that far from Infront's denials, Sepp Blatter's nephew will most certainly benefit from the 2010 World Cup in numerous ways. This will not only be through Infront's profits thanks to the media rights, but also as a likely shareholder of Match Hospitality.

But this isn't the first time that questions have been raised over Philippe Blatter's commercial links to FIFA. When he was at McKinsey, the sports practice he headed also billed FIFA large amounts of money for consulting on various matters, from administrative organisation to planning FIFA congresses. At the time, McKinsey's monthly fees from FIFA ranged from 420 000 Swiss Francs to 760 000 Francs.<sup>81</sup>

In 2002, none other than FIFA General Secretary Michel Zen-Ruffinen blew the whistle on this apparent nepotism, claiming in a report to the organisation that Blatter steered \$7 million worth of business to McKinsey precisely because Philippe Blatter headed the European sports practice.<sup>82</sup> Sepp Blatter retorted that all the business was bid out competitively – a standard response when he is questioned about related-party contracts. Nonetheless, Blatter's denials didn't exactly shake the conviction that FIFA is an institution well-steeped in the tradition of providing jobs for mates.

But the exact circumstances that led to Infront getting its tentacles into the commercial aspects of the FIFA World Cup remain hazy. Though Infront is only six years old, it has already made millions thanks to being appointed as FIFA's exclusive partner to sell broadcast rights for the 2002 and 2006 World Cups.

For this year's event in South Africa, Infront says its role has changed to 'valued service provider'<sup>83</sup> after it was announced on 13 February 2006 that it had been awarded the contract as 'host broadcaster'. Then on 17 March 2006, FIFA said a joint venture between Infront and Japanese advertising firm Dentsu had won the tender to sell the Asian broadcasting rights for the 2010 and 2014 events.<sup>84</sup> Sepp Blatter gushed that this deal gave FIFA 'the best of both worlds, [including maintaining] the continuity of its relationship with Infront'.<sup>85</sup>

But quite how Infront popped up as FIFA's exclusive distributor of broadcast and marketing rights is an intriguing story in itself, intricately linked to the most sordid episode in FIFA's history: the collapse of corruption-ridden International Sport and Leisure (ISL).

## LESSONS ABOUT TRANSPARENCY IN SPORT FROM THE INTERNATIONAL SPORT AND LEISURE COLLAPSE

ISL held the marketing rights for the FIFA World Cup for nearly two decades. Set up in 1983 by FIFA ‘to handle merchandising rights and the rights to stadium advertising’,<sup>86</sup> it held something of a monopoly on those rights, as well as broadcasting rights for the Olympic Games and the Athletics World Championships.

In 1996, ISL won with a bid of \$1.45 billion for ‘complete marketing and sponsorship rights’ to FIFA events, despite a larger \$1.6 billion bid from Mark McCormack’s International Management Group (IMG).<sup>87</sup>

The speculation was that FIFA’s then-supremo, Brazilian Joao Havelange, opted for ISL primarily because, as a *quid pro quo*, ISL was meant to lobby for Havelange’s supporter, Sepp Blatter, to be the next FIFA president.<sup>88</sup> Blatter was elected president in 1998.

But the next few years were less rosy for ISL. Poor handling of its cash flow meant that on 21 May 2001, it was declared bankrupt and was \$300 million in debt.<sup>89</sup> FIFA itself lost around \$30 million on ISL’s collapse, according to Blatter.<sup>90</sup>

After ISL collapsed, the media rights were taken over by Kirchmedia. But when Kirchmedia also hit financial trouble in 2002, its Kirchsport arm separated from the company and took the rights to the 2002 and 2006 World Cup with it.<sup>91</sup> After a management buyout, Kirchsport was then rebranded as Infront Sports and Marketing – a shareholder in Match Hospitality.<sup>92</sup>

While Infront appears to be the spiritual reincarnation of ISL, the soap opera that followed ISL’s collapse provided alarming insights into how sports rights are awarded.

In 2002, FIFA lodged a criminal complaint against ISL over \$22 million which went ‘missing’. This amount was meant to be FIFA’s cut for ISL on-selling the TV rights to TV-Globo. Surprisingly, FIFA then tried to withdraw the complaint in 2004, but it was too late. Investigating magistrate Thomas Hildbrand said he’d found numerous incidents of financial crimes, so in 2007, six ISL officials went on trial for embezzling £45 million meant for FIFA, including former ISL chairman, Jean Marie Weber.

The resulting criminal trial in July 2008 shattered many conceptions of FIFA and the supposedly clean business of sport. Not only did it uncover £66 million in alleged *schmiergeld* (kickbacks) that ISL paid to various sports officials – like

the £89 000 allegedly paid to Paraguayan FIFA executive committee member Nicolas Leoz<sup>93</sup> – but it provided eye-opening insights into the way the sports marketing business works.

Former ISL CEO Christoph Malms testified that after joining ISL he discovered it was built on bribes: ‘I was told the company would not have existed if it had not made such payments.’<sup>94</sup> Former ISL finance boss Hans-Juerg Schmid said, ‘If we hadn’t made the payments, the other parties wouldn’t have signed the contracts’.<sup>95</sup>

In the end only three relatively minor convictions were obtained against the six officials, with most bribery charges being swept away after their defence lawyers produced a letter written by FIFA’s former finance director Urs Linsi that showed FIFA knew the money was missing.<sup>96</sup> According to the *Telegraph*, the letter recorded that ‘it was a higher-level decision within FIFA not to put too much pressure on ISL’.<sup>97</sup>

FIFA were badly scalded by the trial, which suggested that, contrary to its current practice of diligently avoiding illumination, it needed to be far more transparent if it wanted to shake off the reputation of a nepotistic and corrupt organisation.

Unfortunately, the trend has been in the opposite direction. For example, Blatter specifically fought against efforts to throw light on FIFA’s dealing with ISL, shutting down an Independent Audit Committee probe into FIFA’s finances in April 2002 on the pretext of leaks to the press.<sup>98</sup>

It was this sort of campaign against transparency that leads commentators to allege that FIFA is ‘so mired in corruption that it cannot see anything wrong with its dealings, and [it] will stoop to any depths to prevent the true picture emerging’.<sup>99</sup>

## SCRUTINY NEEDED OF FIFA’S ANCILLARY CONTRACTS

The ISL debacle shows that the devil lies in the web of ancillary contracts that FIFA controls, as these contracts provide the real conduit through which money flows to the Swiss organisation.

As Blatter says in FIFA’s financial report, the football organisation makes most of its money by selling television and marketing rights for the World Cup.<sup>100</sup> This has worked out well for the organisation, even during non-World Cup years, as it has recorded a profit for every year since at least 2003. In 2008,

despite a wider liquidity crunch in the financial world that saw global banks make record losses, FIFA made a \$184 million profit.<sup>101</sup>

For the 2010 World Cup, revenue generated through ‘sale of rights’ between 2007 and 2010 amounted to \$3.2 billion, according to documents provided to the author. This was made up of \$2 billion for TV rights (63 per cent of the total), with \$1 billion for the marketing rights, \$120 million for the hospitality rights, and \$80 million for licencing.<sup>102</sup> World Cup sponsors, like beer brand Budweiser and cellular firm MTN, also pay FIFA a fee but this is included in the marketing rights.

Unlike the 2006 event, where Infront handled the sale of broadcasting rights, FIFA has decided to largely do this task itself for the 2010 event. However, as mentioned earlier, a joint venture between Infront and Dentsu still has the exclusive FIFA contract to sell the broadcasting rights in Asia for the South African World Cup and the 2014 event.

It is the lucrative contracts for these rights signed with third parties that ought to be closely monitored by governance pundits for signs of conflicts of interest. After all, the revelations of how these rights were divvied up to ISL based upon apparent perverse incentives leaves an unfortunate cloud of suspicion over any deal struck with the likes of Infront and Match. When the companies themselves insist on keeping details secret – and when family members are involved – the need for full transparency is all the more pressing.

## CONCLUSION

FIFA has many questions to answer, especially in light of the opaque way in which some contractors, like Match, are appointed to exclusive multi-million dollar contracts without any tender process being followed.

The questions are especially pointed in the case of Match Hospitality, given the conflict of interest entailed in having a nephew of the FIFA president heading one of the four shareholders awarded the exclusive contract. The veil of secrecy over Match Hospitality’s shareholding and lack of transparency over the supposedly ‘public tender’ for these hospitality rights will only fuel suspicions of foul play, especially given the nasty revelations about the way rights are awarded that emerged in the 2008 ISL bribery trial.

Far greater scrutiny of FIFA’s supplier contracts is long overdue. Of course, it is a tricky situation for the South African government: hosting the World Cup

necessitated getting in bed with FIFA. Under the terms of its deal with FIFA, it had little leverage (or stomach) to ask the sort of questions about FIFA's suppliers that it would have done had this been anything other than a once-in-a-lifetime event for South Africa.

But for future global sports events for which South Africa bids, such as the Olympics, a little less naivety is necessary. Greater attention should be focused on examining the pre-contracted suppliers for conflicts of interest, to get a truer sense of the real economic gains for the country than was obtained for the 2010 World Cup.

After all, as this analysis makes clear, it is those suppliers, like Match, that will skim the cream off the 2010 World Cup and whisk these profits overseas to its shareholders. In some cases, as with the Kruger Park, the size of the profit margin appears almost unconscionable.

To this extent, the South African event will be far more a boon to Match and FIFA than it will be for the South Africans providing the hotel rooms and guest houses that will host the actual visitors for the 2010 World Cup.

## APPENDIX 1

### Questions posed to FIFA media department by email, 4 September 2009

1. FIFA talks about the 'public tender' that was won by Match Hospitality for the 2010 World Cup. If this was public, can I have the tender documents, so I can compare the winning bid to the losing bid? If not, how could this be described as a 'public tender'?
2. How was Match Services appointed by FIFA for the accommodation, ticketing etc? Was this also a public tender, and how do I get access to those tender documents?
3. When it came to Match Hospitality, to what extent did the fact that Philippe Blatter (Sepp Blatter's nephew) is the president and CEO of one of Match Hospitality's shareholders, Infront Sports & Media, influence your thinking? How did FIFA address this conflict of interest?
4. a) Were there any limitations on profits that Match could make from the World Cup in terms of the tenders? b) What sort of profit do you expect Match to make from the 2010 World Cup? c) I saw from FIFA's financials that \$40 million was paid to it last year for hospitality rights. Was this from Match, and is this a yearly payment? d) What fee was paid to FIFA by Match Services in exchange for the accommodation and ticketing service that it gets to run?
5. What sort of profit do you expect to be made from the World Cup? FIFA has said the 'best yet', but will it be 10 per cent above Germany, 20 per cent?
6. How much of any profit will remain in South Africa? It seems a large chunk of any profit will be shipped back overseas, benefiting the likes of Byrom PLC (Match's largest shareholder)?

7. From my investigations, it seems Match will be adding on a steep mark-up for the accommodation (30 per cent for the guesthouses, and B&Bs, and more for accommodation at the hotels and things like the Kruger National Park). Does this concern FIFA, considering it has the potential to detract from the event altogether, and is presumably something FIFA wanted to avoid in the first place?

## APPENDIX 2

### Questions posed to Jaime Byrom by email, 31 August 2009

1. On the phone you mentioned that Match has sales targets for the 2010 World Cup which have been met – I think you mentioned \$100 million in sales as a target already met. Is that correct?
2. What are the separate targets for Match Event Services, and Match Hospitality for the entire event? What do you hope to make in revenue for the event?
3. Additionally, you said this would not necessarily all be profit. What would be your costs that need to be taken into account? Would the actual room rate (which I assume that Match pays back to the hotel) be taken off this? Or is the \$100 million after deducting the room rate?
4. What profit margin does Match anticipate earning from the entire FIFA 2010 World Cup?
5. Related to the above question, I notice that by March, \$35 million of a \$42 million facility which Byrom took out with Barclays to finance the World Cup had not been used. How much has it cost Match so far to prepare for the World Cup?
6. What will happen to the profit made from the World Cup? I assume all profit will be taken back to the shareholders of Match, and then Byrom? Is this correct?
7. What was the revenue and profit made from the 2009 Confederations Cup by Match?

### *Questions relating to South African subsidiaries*

8. I have been told that Match Event Services Pty Ltd (registered in South Africa) is 100 per cent owned by Match Hospitality Pty Ltd. But is that right? If not, what is the right structure?
9. You are the only director common to both boards. What is the relationship between Match Event Services and Match Hospitality?
10. Match Event Services wanted to get 55 000 rooms for the World Cup. Have you met that target? If not, why?
11. The way I understand it, Match Event Services has 'reserved' up to 80 per cent of the rooms at top hotels, B&Bs and other accommodation providers, which it then sells at the right time in various allocations. The SA accommodation owner is paid his 2007 discounted rate plus 16 per cent by Match. Match will then add on a 30 per cent fee, and on-sell this to fans. Is this accurate? If so, do you not consider it quite a large margin, considering you have warned that overseas fans are 'sensitive to price'?
12. How else will Match Event Services Pty Ltd make money from the 2010 World Cup?
13. The way I understand it, Match Hospitality Pty Ltd will make money by adding in fees for selling the tickets plus Match-day hospitality. What have the sales been like on that?
14. For Match Hospitality, what is the expected profit margin on its expected sales?
15. You said the tour operator programme only began operating on 1 July, but is already doing well. The way I understand it, Match Event Services Pty Ltd accredits Participating Tour Operators (PTOs) who then sell packages. Is this right? And if so, what fee does Match earn from doing this, or what must the PTOs pay to be part of the official programme?

### ***Fees for the Kruger Park***

16. SANParks signed a deal with Match to buy property in three camps for R52,5 million, or R1,4 million per day. How does this work? Do you on-sell it to fans at the 30 per cent extra? Does that mean, effectively, that if all the camps were booked out, you would make R18,2 million in revenue from this deal?
17. News reports suggest that there are a number of unhappy travellers who were looking to book at the Kruger Park over the World Cup but were unable to, partly because a large number of camps have been taken by Match. Have you heard of this, and is there any way you would be willing to accommodate this?

### ***Corporate structure: Match Event Services***

18. The way I understand it, Byrom PLC owns 100 per cent of Match Services AG now (after buying out Eurotech last year for £92 000, valuing the company at roughly £184 000). There are 50 000 shares in Byrom,
19. The contract awarded to Match Services by FIFA, how was this done? Is this public information, and how can I find out what the terms of this contract were? Was this a public process?
20. From what I can make out, there are 50 000 shares in Byrom, all controlled by nine people – you, Ingrid Parker, John Parker, Enrique Byrom, Carol Byrom, Harry Byrom, Ivy Byrom, Robyn Byrom and Aracelli Byrom. Is that correct? Are there any other shareholders?
21. What does Match Services pay to FIFA for the rights to accommodation, ticketing and computer solutions?

### ***Corporate structure: Match Hospitality***

22. Strangely, Match Hospitality wasn't initially listed under subsidiaries in your annual report, but later in the document, it said that Byrom owns 65 per cent of Match Hospitality AG. Is that correct, or has more been sold since then? What percentage do Dentsu, Infront Sports & Media, and Bidvest hold?

23. FIFA said that Match Hospitality was chosen out of two bidders in a public tender process. If this was public, where can I get details of who the other tendering party was?
24. FIFA's annual report shows that \$40 million was paid to it last year in 'hospitality rights'. Is this an annual fee paid by Match?
25. One of the issues raised is the conflict of interest in that Sepp Blatter's nephew, Philippe Blatter, is the CEO and President of Infront Sports & Media. It seems, then, that the profits made by Match Hospitality, will be going to benefit the Blatter family. How has this conflict of interest been addressed, and how much of a concern was it to you, Byrom PLC?

### *Other general issues*

26. People have already complained about being unable to secure a room for next year's event, as most of them are already booked up by Match. Have you heard these complaints, and how do you respond to them?
27. Match has been accused of being a bully, by SA Tourism last year, by trying to coerce people into signing your contracts. How are relations now with the SA tourism authorities?
28. What else is relevant to getting a handle on Match's position with regard to the World Cup, and the current state of play?

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# 6 Public loss, FIFA's gain

How Cape Town got its 'white elephant'

KAREN SCHOONBEE AND STEFAANS BRÜMMER

## **Fast facts: three stadia, one winner**

- The Green Point Stadium cost approximately R4,5 billion to build.
- It is host to one of the two semi-final games of the 2010 World Cup.
- It has a capacity of 70 000.

**Table 1: Newlands, Athlone and Green Point stadia compared**

	<b>Newlands Stadium: early favourite</b>	<b>Athlone Stadium: worthy contender</b>	<b>Green Point Stadium: winner</b>
<b>Location</b>	Newlands Stadium lies in the heart of the genteel, leafy Southern Suburbs on the slopes of Table Mountain	Athlone Stadium is on Klipfontein Road in Athlone, a Cape Flats suburb with a proud anti-apartheid history	Green Point Stadium nestles between Signal Hill and Table Bay on Green Point Common; near the city centre and touristy V&A Waterfront
<b>Demography<sup>1</sup></b>	Historically white, affluent (3% unemployed, 7% poor, monthly individual income R18 893)	Historically coloured, working class (18% unemployed, 22% poor, monthly individual income R4 718)	Cosmopolitan, affluent (6% unemployed, 12% poor, monthly individual income R16 478)
<b>Key backers</b>	Originally South African Football Association (SAFA), bid committee and FIFA	City of Cape Town, Western Cape Province	Sepp Blatter, FIFA, Local Organising Committee (LOC), the Presidency
<b>In favour</b>	A century of sporting tradition; existing stadium needing relatively minor upgrade; lowest cost solution	Developmental value (would trigger public sector spending in underdeveloped area), legacy value ('home of soccer' in proximity to soccer fan base)	Prime location from tourist and broadcast visuals perspective; 68 000-seat capacity earns city the right to host a World Cup semi-final
<b>Against</b>	No legacy for soccer (a rugby stadium, removed from soccer fan base); no development imperative (established, well-off suburb)	Stadium orientation and seating layout not ideal from broadcast and ticket revenue perspective	R4,5 billion price tag; highly uncertain viability – may be a white elephant

*Source: Compiled by authors based on their observations and opinions of publicly available information.*

## INTRODUCTION

It was FIFA president Sepp Blatter’s first visit to the Mother City, but he knew exactly what he wanted from her.

When Ebrahim Rasool, then premier of the Western Cape, went to see Blatter at the five-star Arabella Sheraton Hotel on 22 November 2005, the visitor complimented Cape Town’s ‘spectacular scenery’, saying the city could be the ‘face’ of 2010 and host one of two semi-final matches. He came to the point:

the city's match venue should be at a brand new Green Point Stadium and not at Newlands Stadium as envisaged when South Africa won the bid to host the 2010 FIFA World Cup 18 months earlier, or Athlone Stadium, favoured by the province and the City of Cape Town (the City) for its developmental potential.

Later that day Blatter met with Thabo Mbeki. What the FIFA president and the country's then president discussed can be inferred from a call Rasool received the next day. Laurine Platzky, the provincial official heading 2010 co-ordination, detailed the events above in an affidavit during a later court dispute over environmental approval for the new stadium. She continued:

On 23 November 2005 the minister in the presidency Mr Essop Pahad telephoned the premier and said that the presidency felt that Cape Town should consider ... Green Point.<sup>2</sup>

These events, confirmed by Rasool in an affidavit,<sup>3</sup> represent the tipping point in a decision set to burden the nation with billions of rands in direct costs that are arguably excessive, and Cape Town with the maintenance of a white elephant for years to come.

This chapter examines the decision-making process that led to this outcome, providing the factual basis for an argument that national government was structurally conflicted. Instead of it remaining the neutral arbiter of competing interests, including those of FIFA, in the public interest, FIFA's interests effectively became those of government.

It is not argued that it was wrong to turn the World Cup into a national priority. But South Africa's interest in staging a successful event and FIFA's interests are not necessarily synonymous. Had government retained more independence, an outcome far less burdensome may have been achieved.

## **THE UNBEARABLE LIGHTNESS OF DECISION MAKING**

After Germany's surprise defeat of South Africa to host the 2006 World Cup, FIFA decided Africa would host the next event.<sup>4</sup> SAFA, a FIFA member association, bid again. It commissioned a voluminous bid book to demonstrate the country's capacity to host the mega-event and convey government guarantees relating to infrastructure, security and the protection of FIFA's commercial rights.<sup>5</sup>

While large claims have been made about benefits flowing from tourism and investment, the bid book grossly underestimated the level of state expenditure required. Total expenses were put at \$405,5 million (about R3 billion at the time), including \$158,5 million (about R1,2 billion) for stadia and related infrastructure upgrades.<sup>6</sup> The latter figure was a fraction of the R4,51 billion that was eventually spent on only one new stadium: Green Point.<sup>7</sup>

## Newlands it is

Be that as it may, the bid book proposed Newlands Stadium, a stately old rugby stadium, as the Cape Town match venue, saying its hundred-year history was ‘perfect preparation for the challenge of hosting first and second round matches in the 2010 FIFA World Cup’.<sup>8</sup> Cape Town was not to stage any match beyond a quarter-final. FIFA required a quarter-final stadium to have a 40 000 spectator capacity and a semi-final stadium a capacity of 60 000, both excluding VIP and media seats.<sup>9</sup> Newlands, the bid book said, had a capacity of 40 000.<sup>10</sup>

Prospective host countries presented their bids to FIFA in Zurich on 30 September 2003.<sup>11</sup> A FIFA inspection group visited South Africa a month later, finding that Newlands would ‘easily be suitable’ if the World Cup ‘were to start on the date of submission of this report’.<sup>12</sup>

The FIFA executive voted on 15 May 2004 to award the 2010 World Cup to South Africa.<sup>13</sup> Newlands was to be the Cape Town venue. But this flew in the face of a programme of the City and the province to upgrade Athlone Stadium as the ‘home of soccer’ in the city and as a prospective World Cup venue.

Athlone Stadium, an existing city-owned football stadium, is located in the historically coloured, working-class suburb of the same name. Athlone is on the Cape Flats, from where the sport derives much of its local support base.

And indeed, it was at Athlone that South Africa’s bid had been officially launched a year before FIFA’s vote, when the stadium hosted Bafana Bafana playing Jamaica on 30 April 2003. The Western Cape’s then sport and recreation MEC, Patrick McKenzie, said in a budget speech after the launch:

We want to establish Cape Town and especially Athlone as soccer city. We are currently in phase one of four phases ... to complete the Athlone Stadium to be ready for the World Cup in 2010.<sup>14</sup>

The investment was significant: the upgrade McKenzie referred to was ultimately allocated R200 million, according to the stadium architects.<sup>15</sup>

Gert Bam, the City's director of sport and recreation, confirms the early commitment to Athlone. Before the bid, he says, there was extensive consultation

around where we should have the base for soccer and have an international venue ... and everybody agreed that it should be Athlone Stadium. And hence we pumped our money into Athlone Stadium.<sup>16</sup>

The opportunity to leverage development of an underdeveloped area – and to do so consistently with the City's integrated development planning – supported the preference, he says. City development priorities included the Klipfontein Corridor, which links the city with the sprawling, impoverished township of Khayelitsha, and upgrading the informal settlements on the N2 freeway. Athlone Stadium abuts Klipfontein Road near these settlements.

Says Bam:

Why we chose Athlone Stadium [was] not just because of football and that, but it would turn the city around, it [would] impact on this tale of two cities.<sup>17</sup>

## Athlone it is

In the months after FIFA awarded the bid to South Africa, Athlone became the formally preferred 2010 venue of the City and the province.

Mike Marsden, the City official responsible for 2010, confirms in an affidavit also lodged in the environmental dispute:

In the period June to December 2004, agreement was reached between the City and province in respect of Athlone Stadium being proposed as the main venue for Cape Town to host a quarter-final match ... The design was further developed so that it could accommodate 45 000 seated spectators for the purpose of hosting World Cup matches.<sup>18</sup>

Marsden says host cities were told that FIFA had agreed to approve proposed stadia early to avoid 'wasteful expenditure on infrastructure that might not meet

FIFA's requirements'.<sup>19</sup> FIFA sent a technical delegation in July 2005. It visited Newlands 'because it was in the bid book' but was then taken to Athlone. 'The then City manager [Wallace Mgoqi] made a presentation which indicated a preference for Athlone.'<sup>20</sup> The FIFA delegation 'indicated that a process would need to be undertaken in order to change the venue from Newlands to Athlone'.<sup>21</sup>

While FIFA was the ultimate arbiter of stadium acceptability, a key intermediary was the LOC, who were effectively FIFA's agent.

FIFA's regulations for the 2010 World Cup state that SAFA is contractually responsible for 'organising, hosting and staging the final competition'.<sup>22</sup> SAFA, in turn, set up the LOC to carry out this mandate. Collectively, SAFA and the LOC are the 'organising association'. The FIFA regulations leave no doubt who is in charge:

The organising association is subject to the supervision and control of FIFA, which has the last word on all matters relevant to the 2010 FIFA World Cup. The decisions of FIFA are final.<sup>23</sup>

From the start, the LOC's board has included directors representing SAFA, business and labour, but also members of the government executive in their official capacities: the ministers of safety and security, communication, transport, sport and recreation, provincial and local government; the minister in the office of the president; and the deputy minister of finance.<sup>24</sup>

Although LOC CEO Danny Jordaan states in his affidavit in the environmental matter that the rationale for this 'inclusive approach' was 'to ensure that there is a co-ordinated effort in the preparation for and implementation' of the tournament, it also gave rise to the anomalous situation of cabinet ministers being part of a body 'subject to the supervision and control of FIFA'.<sup>25</sup>

This arguably led to an abdication of sovereignty and created a structural conflict of interest. FIFA generates its revenue largely from the sale of broadcasting, marketing, hospitality and licensing rights,<sup>26</sup> while the LOC, as will be seen, derives much of its budget from ticket sales. FIFA and the LOC's financial interests are served by having access to state-of-the-art stadia in the 'best' locations to draw the maximum number of visitors and viewers. What happens after the tournament has no direct impact on their finances.

Government, on the other hand, should take the long view, weighing up the costs and benefits, considering factors such as post-World Cup sustainability

of new infrastructure and whether wider development priorities are served. Billions of rands of public money are spent.<sup>27</sup>

The LOC was uncomfortable with Athlone for reasons consistent with its FIFA mandate. Jordaan states unambiguously:

It appeared to the LOC that the proposal to use the Athlone Stadium arose in the context of a desire to ensure certain social improvements for Cape Town as a legacy from the 2010 championship ... By contrast, the critical question for the LOC has always been whether the proposed stadia meet the FIFA requirements. It is that consideration which has informed the LOC's selection of the host cities and match venues.<sup>28</sup>

After City manager Mgoqi had presented Athlone as the preferred venue to the FIFA technical delegation in July 2005, Jordaan balked. This appears from a letter Rasool sent Jordaan the following month. Rasool wrote:

It is clear from what I am able to gather that there is some form of miscommunication between ourselves and the Local Organising Committee. The province and the City of Cape Town have always felt that the development of a dedicated football stadium in Athlone will leave a lasting legacy for generations to come. In addition, the building of the stadium will allow us to leverage much needed transport and other socio-economic developments in the surrounding area ... We are expressing a strong preference in this regard.<sup>29</sup>

FIFA was to send a follow-up delegation in October 2005. In preparation, there were meetings involving the City, province and the LOC.

On 5 September Rasool and then Cape Town mayor Nomaindia Mfeketo met with Jordaan. Rasool was subsequently minuted as saying Jordaan had told them that:

there is general support amongst the LOC, but that they did not think that we had presented the case for Athlone well enough.<sup>30</sup>

Jordaan, he said, had also conveyed an implicit threat: FIFA was considering

allocating five matches to Cape Town ... definitely a downgrading of the status of Cape Town ... FIFA felt that even after upgrading Athlone to a 45 000-seater, most of the seats would be behind the post and that has less value in terms of ticket sales.<sup>31</sup>

On 30 September, members of the provincial cabinet and Cape Town's mayoral committee met. The minutes reflect Rasool saying the purpose was 'to address some of the concerns raised' at the meeting with Jordaan, and that the 'case for Athlone will have to be made'.<sup>32</sup> Rasool also said Newlands would not be a preferred fallback venue: 'Green Point as a possible venue was mentioned by some of the FIFA members on their [previous] visit'.<sup>33</sup>

The meeting resolved that Athlone remain the preferred option 'given the developmental impact it will have' and ordered the preparation of a 'business case for Athlone that speaks to the criteria and requirements of FIFA'. It also ordered that a 'plan B' – Green Point – be investigated, with Newlands 'as our last option'.<sup>34</sup> And so, while the focus was on Athlone, Green Point quietly overtook Newlands, which already had FIFA's thumbs-up.

Barry Standish of the University of Cape Town's Graduate School of Business was hurriedly commissioned to investigate 'plan B'. It was to be ready for a meeting ten days later with the LOC.<sup>35</sup> Standish warned that his work 'was done in a very short space of time without input from Newlands', among other constraints,<sup>36</sup> but it helped bury Newlands.

Standish compared upgrading Newlands or Athlone to 45 000 seats, or building a new stadium at Green Point. He found that Newlands would be the 'least-cost alternative' at R177 million, compared with R482 million for Athlone and R702 million or R946 million for Green Point (depending on whether the latter would have 45 000 or 60 000 seats). But, he said, Newlands would be the 'least desirable' after weighing estimated tourist revenue, contribution to GDP and job creation, and 'social/regeneration' value.<sup>37</sup>

Standish may be criticised *inter alia* for his huge underestimation of construction costs and the inexplicably low tourism benefit he accorded Newlands: R724 million as against R3,72 billion to R5,02 billion for Athlone and Green Point.<sup>38</sup>

On 10 October 2005, a provincial and City delegation headed by Rasool and Mfeketo met with the LOC to finalise the stadium preference to present to FIFA during its impending visit. LOC members present included Jordaan, chair Irvin Khoza, then minister in the presidency Pahad, sport and recreation

minister Arnold Stofile and then deputy finance minister Jabu Moleketi.<sup>39</sup> City and province officials made a presentation which drew heavily on Standish's conclusions.<sup>40</sup>

Gert Bam, the City sport and recreation head, and Rod Solomons, his then provincial counterpart, confirm it was agreed Athlone should be presented to FIFA because of, among other reasons, Green Point's high cost.<sup>41</sup> The decision seemed set, but the LOC back-pedalled. Marsden, the City official responsible for 2010, states:

there were further meetings with the LOC to prepare the City of Cape Town for the FIFA presentation. It became clear in these meetings that the proposed Athlone Stadium would have to be redesigned as the seats behind the goalposts were considered unacceptable by FIFA.<sup>42</sup>

The FIFA delegation, comprising inter alia director of competitions Jim Brown and then marketing director Jérôme Valcke, visited Cape Town on 18 October 2005. Mgoqi made a new presentation proposing Athlone.<sup>43</sup> Afterwards, the FIFA delegation, accompanied by LOC members, inspected the existing athletics stadium at Green Point, which Mgoqi had proposed as a training venue, and Athlone, but they did not inspect Newlands.<sup>44</sup>

Platzky states that it was soon apparent FIFA did not want Athlone.<sup>45</sup> There were technical objections, such as Athlone's many seats behind the goalposts, but the 'best' location argument also featured:

They [FIFA] felt that hosting 2010 at Athlone or Newlands would undersell Cape Town's potential as a world-class venue for major events, tourism and investment. By contrast, they felt, Green Point Common was an ideal venue ... in relatively close proximity to the iconic Table Mountain and with views to Table Mountain and Signal Hill.<sup>46</sup>

From Cape Town, the FIFA delegation left for Kimberley. According to Platzky:

Shortly after they landed in Kimberley Dr Jordaan of the LOC telephoned the premier [Rasool] and told him that the FIFA delegation were not convinced that Athlone should be a match venue and felt that Cape Town was underselling itself.<sup>47</sup>

A month after the FIFA delegation's departure, Blatter himself was in Cape Town, hammering the same point. Platzky again:

On 22 November 2005 the premier went to the Arabella Sheraton Hotel to meet the president of FIFA Mr Sepp Blatter, who was visiting Cape Town for the first time. Mr Blatter had an appointment with the president Mr Thabo Mbeki later that day. Mr Blatter told the premier that he was most impressed by Cape Town's spectacular scenery and felt that it could be the 'face' of 2010. Mr Blatter mentioned Green Point as a wonderful venue for one of the 2010 semi-finals. Mr Blatter added that FIFA had severe misgivings about Athlone because the stadium could not be enlarged to accommodate the 50 000 seats needed for a quarter-final match, which was the best that Newlands could do ... On 23 November 2005 the minister in the presidency Mr Essop Pahad telephoned the premier and said that the presidency felt that Cape Town should consider proposing a semi-final match in a stadium with a capacity of about 65 000 at Green Point.<sup>48</sup>

Solomons, the then provincial sports and recreation head, comments:

[FIFA's director of competitions Brown] was from the beginning not happy with Athlone. So they would've reported to Sepp Blatter. Because it is now clear that South Africa took a position that we were going to go with Athlone, the only person that could intervene here would have been Sepp Blatter, and the only person who he could talk to to overturn that resolution of South Africa would be the president of South Africa.<sup>49</sup>

Blatter's argument was that Cape Town should host matches up to a semi-final rather than quarter-final as planned. Newlands and Athlone, he claimed, could not be upgraded to the 60 000 seats (65 000 including VIP and media) FIFA required for a semi-final. But, says Marsden, the likely cost of building a new stadium at Green Point was considered prohibitive. 'No further steps were therefore taken in this regard.'<sup>50</sup>

Bam recounts that late the following month, December 2005, he was invited per chance to a meeting where Teral Cullen, a former SAFA marketing director then employed by the City to perform 2010 duties, and Rushj Lehutso, the City's then Chief Operations Officer, lobbied for Green Point. 'Teral Cullen was

adamant that the LOC is adamant Athlone Stadium is off the table.’ The initiative went no further at the time, says Bam, apparently as Mfeketo felt she could not support a change without referring it to her mayoral committee.<sup>51</sup>

## Green Point it is

In the end, the venue was switched without any such reference to democratic structures and in a great hurry. Platzky states:

On 21 January 2006 the premier [Rasool] and the executive mayor [Mfeketo] attended a meeting and spoke in a break about FIFA’s and the presidency’s suggestion that the city consider proposing that Green Point be Cape Town’s 2010 venue.<sup>52</sup>

Three days later, Rasool wrote to Mfeketo urging that a team should ‘get to work immediately’ on a presentation demonstrating Green Point’s feasibility and costs. It needed to be ready for a meeting with the LOC and national government three days later.<sup>53</sup>

Marsden states that Cullen and Lehutso delivered the presentation at the Union Buildings on 27 January 2006. It was:

intended to enable national government, as represented by ministers Stofile and Pahad, to decide whether it would endorse FIFA’s desire to have the World Cup stadium located at Green Point.<sup>54</sup>

Platzky states that the meeting agreed that the ‘board pack for the next LOC meeting should contain a proposal from the city for a semi-final stadium at Green Point’.<sup>55</sup> In her version, the formality of the proposal having to come from the City was preserved, even if imposed from above. Marsden maintains that the City:

did not at this meeting participate in any decision relating to the selection of Green Point as the preferred site for the stadium. The decision taken ... was that of national government and it was only subsequently accepted by the city.<sup>56</sup>

To all intents and purposes, the decision in favour of Green Point had been taken. Worth noting is that this decision of ‘national government’ to ‘endorse FIFA’s desire’ was *de facto* a decision of members of the LOC – FIFA’s agent. Marsden, Platzky and Jordaan place Pahad, minister Stofile, Moleketi, Jordaan and an LOC technical and legal team at the meeting.<sup>57</sup> Each of the ministers and deputy minister also served on the LOC.

Nine days later, on 6 February 2006, deputy sport and recreation minister Gert Oosthuizen let the cat out of the bag. At a parliamentary media briefing he gave the list of proposed stadia – including Green Point.<sup>58</sup> Marsden states: ‘At this stage, the City of Cape Town had still not taken a decision that Green Point should be the site for the proposed stadium.’<sup>59</sup>

The following day, Rasool and Mfeketo issued a hurried joint statement:

The Western Cape Provincial Government and City of Cape Town welcome this announcement. Yesterday’s statement concludes months of complex negotiations and discussions on what is best both for the development and future opportunities of the Western Cape and for World Cup 2010 in terms of stadia.<sup>60</sup>

But the City had still not followed due process, which was a requirement, as host cities needed to enter into legal agreements with FIFA. With the LOC piling on the pressure, the municipal election looming on 1 March 2006 presented a gap. On 14 February, states Marsden, Mfeketo received a report from her officials seeking the authority to conclude host-city and stadium-use agreements with FIFA. The following day the LOC wrote, pressing the urgency: FIFA, it said, needed to review the agreements on 16 March and make its final selections. It needed signed copies at least two weeks in advance, while the LOC itself needed them by 22–23 February already.<sup>61</sup>

A day later, on 16 February, Mfeketo approved concluding the host-city and stadium-use agreements, the latter of which fixed the venue as Green Point. This she did without reference to her mayoral committee or council, as council had by then adjourned to allow for election campaigning. According to Marsden:

The council’s standing system of delegations authorised the executive mayor, in consultation with the City manager, to take decisions on behalf of the council or any of its committees.<sup>62</sup>

In other words, this was a case of due process by default.

Mgoqi signed both agreements by 22 February.<sup>63</sup> Thus, Green Point was formally offered to the LOC and FIFA. It was approved by the LOC board on 24 February, states Jordaan, and forwarded to FIFA.<sup>64</sup>

Was the hurry, in the final days of Mfeketo's administration, a deliberate strategem to pass an unpalatable decision? In mitigation, there was indeed a tight timeline. But the impression of date gerrymandering is reinforced by the timing of Blatter's subsequent signing of the host-city and stadium-use agreements.

When the LOC wrote in mid-February pressing urgency, it said FIFA needed to review the agreements on 16 March. In his affidavit, Jordaan gives the same reason: FIFA was to meet on 16 March, when the agreements 'could be considered'.<sup>65</sup> In a press statement, FIFA reported on the outcomes of its executive meeting, held on 16 and 17 March 2006. These included:

The ten venues for the 2010 FIFA World Cup proposed by the South African local organising committee, all of which have signed the required stadium and host city agreements, gained approval from the executive committee.<sup>66</sup>

But an inspection of both agreements shows that Blatter signed at least the Cape Town agreements on 15 March 2006 – the day before the FIFA executive met to consider them.<sup>67</sup> As of that day, Cape Town was legally bound to deliver Green Point to FIFA – and not a moment too soon. That same day, 15 March, the DA's Helen Zille was narrowly elected as mayor, replacing the ANC's Mfeketo.

## FULL CIRCLE TO GREEN POINT

If the reason for Blatter's precipitous signature was an apprehension that Zille would put a spanner in Green Point's works, it was well founded. On 27 March, when Lehutso presented a World Cup update to the new mayoral committee, Zille ordered a temporary halt to contracting for the stadium.<sup>68</sup>

Zille soon commissioned a multidisciplinary study by Bayette Development Consulting and iKapa Enviroplan comparing Green Point with five alternative venues.<sup>69</sup> She explained on Dennis Davis's *You be the Judge*:

I assumed that if we're going to go into something like this, all the studies would be there, all the mathematics would have been done, all the costings and sums would be there. That actually hasn't happened. And I really think that we're going into Green Point because Sepp Blatter says: 'I like Green Point', not because it is the best thing for South Africans.<sup>70</sup>

In July 2006 Zille received the results, the so-called Moolla Report, named after main author Zunaid Moolla.<sup>71</sup> It gave cold comfort to Green Point supporters. For starters, it upped a R1,28 billion construction cost estimate in Cullen and Lehtso's Union Buildings presentation to R3,08 billion for a 68 000-seater stadium (R3,03 billion for a 48 000-seater), making it the most expensive of the six options compared. Athlone came out at R1,95 billion (R1,14 billion for 48 000 seats) and Newlands was cheapest at R1,13 billion (R776 million for 48 000 seats).<sup>72</sup>

When Moolla weighed projected revenue, largely from World Cup visitor spending, against cost, Green Point fared second worst, showing a small surplus on a high-revenue scenario but otherwise in deficit by up to R2,39 billion. Athlone was in deficit only on a low-revenue scenario, while Newlands was consistently in surplus.<sup>73</sup>

When area development need was considered, Athlone ranked second highest. Green Point and Newlands scored lowest. But when this development need was weighed against affordability, Newlands was back, scoring highest alongside Athlone. Green Point came in a distant last. Thus, the study rated Green Point socio-economically the least desirable of all six alternatives and Athlone or Newlands the most desirable.<sup>74</sup>

A second part of the study narrowed the field to Green Point, Newlands and Athlone, as it considered it too late to negotiate land and gain statutory approvals for the other options.<sup>75</sup> And then: Newlands could probably not be upgraded beyond 55 000 seats<sup>76</sup> and FIFA was 'unlikely to approve' a 68 000-seater at Athlone.<sup>77</sup> If Cape Town wanted to host a semi-final, it had to be Green Point.

And a semi-final it had to be. Zille was later quoted as saying:

Whether a threat or not, the provincial and national governments have said that we must host a semi-final or we lose 2010. This is the choice that we face as a council.<sup>78</sup>

In any case, the debate about alternative locations was largely academic after the day that Zille became the mayor and Blatter signed the contracts that bound the City. Zille announced on 20 July 2006 that Green Point would be it – subject to national government paying most of the costs. The City could afford no more than R400 million, she said.<sup>79</sup> Thus, the mayor confirmed the choice of the stadium which her own study said was the most expensive and least desirable.

## THE PRICE OF A MATCH OR THREE

In her announcement, Zille cited Moolla's R3-billion-plus estimate. Rasool, by then a convert, responded in a statement that he was:

delighted and relieved that after weeks of indecision, the City of Cape Town has agreed with FIFA, the LOC and provincial government that Green Point is the best site.

But he added:

The mayor's estimation of costs is premature ... We will cut our suit according to our cloth.<sup>80</sup>

How wrong he was.

In August 2006, Zille was quoted as telling the City council that the national treasury had asked that the price be slashed by 40 per cent, to about R2 billion. This was 'obviously a tall order, because we are convinced that the costings of the conceptual design are accurate'.<sup>81</sup>

On 31 October 2006, the City finalised a business plan to submit to national government.<sup>82</sup> It brought the cost estimate down to R2,49 billion, saying *inter alia* that any 'gratuitous or excessive design features have been avoided'.<sup>83</sup> It asked national government for R2 billion, saying the province would contribute R100 million and the City R400 million – the latter, again, a 'maximum contribution'.<sup>84</sup>

The plan painted a cost-benefit picture as bleak as Moolla's. Green Point, it said, would be R2,2 billion in deficit when cost was measured against largely tourism revenues. But it concluded:

The decision to rebuild the Green Point stadium needs to be a strategic and political decision rather than one that is based on the strict cost benefit analysis. The cost to Cape Town, the country and the continent of not building the stadium in Green Point and taking advantage of this prime position at this time is immeasurable.<sup>85</sup>

Another official document released the same day contradicted the conclusion about wider benefit. The provincial department of environmental affairs and development planning's record of decision in favour of the stadium construction cited an economic assessment, part of the statutory EIA, which noted:

From a national perspective, a new 68 000-seat stadium in Cape Town ... is not a necessity for the country to host the 2010 soccer World Cup and would raise the already high opportunity costs of 2010 ... The larger stadiums are required only at the semi-final stage. Although a semi-final is earmarked for Cape Town, it could be played at stadia ... elsewhere in South Africa.<sup>86</sup>

What remained, it said, was local benefit.

This assertion about local benefit echoed a calculation in the business plan, which pointed out that while the net value (i.e. revenue minus cost) was R2,2 billion in deficit, the City would 'experience a positive' net value if it contributed little enough – 8.4 per cent or less – to the costs.<sup>87</sup> On this line of reasoning, it would matter little that Green Point made no economic sense, as long as it was largely a gift from national government: a city-centric approach.

But the costs ballooned. When the City appointed contractors Murray & Roberts and WBHO in March 2007 after a tender, the approved cost was R2,86 billion.<sup>88</sup> Two years later, in March 2009, only R125 million remained in the kitty, according to a City report justifying extra expenditure.<sup>89</sup>

A further R1,65 billion was needed, it said, consisting inter alia of 'increased sub contract costs' because of an 'overheated construction industry' (R569 million); 'unprecedented increase in escalation indices ... as determined by the Local Organising Committee' (R109 million) and 'complexities in the detailed design and construction of the concrete frame' (R442 million).<sup>90</sup>

The 'overheated construction industry' was presumably in part a function of the World Cup building spree itself, as it raised demand. The R442 million

worth of extra work on the concrete frame was because the detailed design had not been done before the tender was awarded – one assumes because of the haste in which the process was concluded. Once properly done, it was apparent that major extra work was needed to stiffen the structure.<sup>91</sup>

Be that as it may, overnight Green Point Stadium's price tag had escalated to a monumental R4,51 billion.<sup>92</sup>

National government had by then contributed R2,07 billion, with another R936 million approved, bringing its total to just over R3 billion. The province's contribution had doubled to over R200 million. The City had already spent R500 million, and now it allocated a further R708 million.<sup>93</sup> And so, as things stand, the stadium is costing Cape Town's ratepayers R1,21 billion – three times Zille's 'maximum' R400 million. At over a quarter of the R4,51 billion total, the City's contribution is also way over the 8,4 per cent which the business plan had said would be the limit were the stadium to make sense from a city-centric perspective.

With the benefit of a (presumably) final figure, another question can better be answered: What was the cost of the decision, following Blatter's intervention, to build Green Point rather than upgrade Athlone or Newlands?

Much of the rationale for the decision, one has to keep in mind, was that Athlone and Newlands allegedly could not be upgraded to the 65 000-seat minimum that FIFA specified for a semi-final. Green Point has been allocated eight matches, including the promised semi-final.<sup>94</sup> Had Cape Town chosen Newlands it would probably have staged six or seven matches.<sup>95</sup> With Athlone, FIFA may have carried out the threat, above, of reducing Cape Town's share to five matches. So Cape Town has one to three extra matches; a bigger share of the World Cup pie.

But at what cost? The last and most comprehensive comparative study was the Moolla Report, which estimated that upgrading Athlone or Newlands to 48 000-seat FIFA-compliant quarter-final venues would cost R1,14 billion and R776 million respectively – against Green Point's R3,08 billion for 68 000 seats.<sup>96</sup> If the Athlone and Newlands estimates are escalated by the roughly 50 per cent that ultimately took Green Point to R4,51 billion, their upgrades would have cost R1,67 billion and R1,14 billion respectively (see table 1).

**Table 2: The cost of the decision to build Green Point rather than upgrade Newlands or Athlone (Rands million)**

	Moolla estimate	Adjusted estimate	Green Point cost disadvantage
Newlands	776	1 136	3 370
Athlone	1 143	1 674	2 832
Green Point	3 076	4 506	

*Source: Compiled by authors based on information sourced from note 96.*

The staggering cost, in other words, of the decision to ‘buy’ Cape Town one to three extra matches was R2,83 billion (Green Point minus Athlone) or R3,37 billion (Green Point minus Newlands). This is the price of 56 642 or 67 390 low-cost houses at R50 000 each: homes for a quarter of a million people and more.

From a national perspective – arguably correct, as most of the costs are met by taxpayers nationally – it matters little whether those one to three matches were allocated to Cape Town, Durban or Johannesburg.

A second rationale for the decision was Green Point’s location: flanked by the mountain and sea near the touristy V&A Waterfront, it could be the ‘face’ of 2010. And yes, face matters. A 2008 Grant Thornton study claimed the World Cup would attract 487 000 visitors who would spend R8,5 billion, and 3 540 billion cumulative television viewers.<sup>97</sup>

But presumably the best way to leverage this tourist bonanza-cum-mega-marketing opportunity is by staging a safe, efficient, spirited tournament. The same advantage could arguably have been achieved at a fraction of the cost if spent on better organisation, better security or a ‘visit South Africa’ ad campaign targeting the billions of cumulative television viewers (compared to half a million visitors). An ad campaign, in any case, is not subject to the same risk of miserable weather. The World Cup will be staged in June and July, the city’s wettest, coldest months.<sup>98</sup>

Green Point’s R2,83 billion or R3,37 billion extra cost of course will be tempered – or aggravated – by the positive or negative legacy the stadium will leave post-World Cup.

## A WHITE ELEPHANT ...

Two questions are key to the value of Green Point's post-World Cup legacy: Will it fulfil a pre-existing need? And will it be financially viable? There is grave doubt on both counts.

### Necessity

Green Point will be the city's third major stadium after privately owned Newlands, which now has 48 000 seats,<sup>99</sup> and City-owned Athlone, which at the time of writing was in the final stages of being upgraded to a 24 200-seat FIFA-compliant World Cup training venue consistent with its 'home of soccer' status. On completion this will have cost as much R400 million (including the original R200 million upgrade).<sup>100</sup>

Green Point could be deemed necessary were Newlands and Athlone to sell out regularly, meaning extra capacity is needed. But neither the October 2006 business plan nor the contemporaneous EIA economic study gave such comfort. According to the former, football and rugby were 'the key stadium markets'. But local football teams 'typically attract crowds of less than 1 000', with maximum crowds of 'around 15 000' when major opponents were played. Rugby at Newlands averaged about 30 000 spectators.<sup>101</sup>

The EIA economic study said a broad review indicated 'excess capacity ... in all of Cape Town's larger stadia' apart from the old Green Point athletics stadium (a function which the new stadium will not replicate). The new stadium would thus 'potentially risk displacing events away from Cape Town's existing stadia'.<sup>102</sup>

It appears inevitable that with no pressing need in its core market, Green Point's sustainability, if achieved, will be at the expense of Newlands and Athlone. To the extent that Green Point saves itself by taking matches away from them, they will become redundant. If that is the fate of Athlone, local business might ask why a development opportunity had been handed them only to be reallocated to well-off Green Point; Cape Flats soccer fans might ask why they need to travel further to see their favourite teams in action; and ratepayers might ask why up to R400 million was spent to upgrade an uninhabited 'home of soccer'.

## Viability

In September 2009 former deputy finance minister Moleketi (who remained on the LOC) was asked about the sustainability of the World Cup stadia. He was quoted as saying it depended on how they were managed. ‘If we don’t get that right then these facilities will be perpetually subsidised by the ratepayer.’ And conceded: ‘There are a number of people who are – who think we might be in trouble ... I know. I’m trying to be very optimistic here.’<sup>103</sup>

Even before Green Point’s first sod was turned, planners struggled with the question of its post-World Cup viability. The City’s October 2006 business plan envisaged three scenarios:<sup>104</sup>

Base scenario: Green Point hosts ‘special soccer and rugby matches’ (i.e. not Athlone and Newlands’ bread-and-butter matches) and non-sporting events such as music concerts. This results in an operational position ranging between R6 million loss and R1,6 million profit per year between 2011 and 2013.

High scenario: Western Province Rugby, based at Newlands, moves with its matches to Green Point, ‘a purely speculative scenario’. Operational profit ranges about R10 million to R19 million during the same three years.

Low scenario: Only special football matches, but no rugby matches, are staged. Operational loss ranges between about R4,5 million and R5,5 million per year.

This model demonstrated clear operational viability only if Newlands were made redundant and its activities displaced lock, stock and barrel to Green Point. The City commissioned Price Waterhouse Coopers (PWC) to review the figures. Reporting in January 2007, two months before the contract to build the stadium was signed,<sup>105</sup> PWC revised the projections mostly downwards.<sup>106</sup>

Although PWC reconfirmed profitability on the high scenario, it warned that this scenario was ‘unlikely at this stage and should be disregarded’.<sup>107</sup> Unless there was non-core commercialisation – an action arena, offices, hotel or casino were suggested – even the base scenario was ‘highly unlikely’.<sup>108</sup> Failing this, the low scenario – in deficit by R6,3 million to R7,7 million a year – was the most likely.<sup>109</sup> PWC recommended: ‘The usage of the stadium after 2010 should be defined as soon as possible.’<sup>110</sup>

And so, when construction started in March 2007,<sup>111</sup> the City was on notice that Green Point would be clearly in the black only if Newlands were made redundant.

In May 2008 the City issued a tender for a private operator for the stadium. There were only three bids, of which one was regarded as non-compliant. The tender evaluation committee selected a consortium of local sports management company SAIL and French operator Stade de France (SAIL StadeFrance) as winning bidder, among other reasons because it had offered the City ‘a guaranteed minimum income stream and revenue sharing model yet at the same time accepting most of the financial risk’.<sup>112</sup>

An examination of the contracts subsequently negotiated with SAIL StadeFrance suggests the upside was exaggerated and the downside understated. The City was in a weak bargaining position arguably because of the stadium’s doubtful viability.

A first contract appointed SAIL StadeFrance as facility manager between January 2009 and October 2010, i.e., for the lead in and during the World Cup – at a fee of R110,5 million.<sup>113</sup> Although not a recurring expense and perhaps not a measure of viability, it does mean the City’s already very high cost of ownership is raised significantly.

Two subsequent contracts are lease agreements: SAIL StadeFrance hires the stadium and the adjacent urban park as of November 2010 for 30 years, renegotiable after ten years.<sup>114</sup>

Under the stadium lease agreement, SAIL StadeFrance will operate the stadium for its own account. During the initial ten-year period it will pay an annual rental of whichever is higher: R1, or 30 per cent of pre-tax profit less the municipal rates due to the City.<sup>115</sup> On the face of it the City will get less than one third of the upside, but will at least be covered against any burden were the stadium to run at a loss. However:

The City has to insure the stadium at full replacement value.<sup>116</sup> Calculated at 0,08 per cent of R4,51 billion, this is R3,6 million a year.<sup>117</sup>

For each of the first three years the City will allocate R3 million to market the stadium.<sup>118</sup>

The City will ‘use its best endeavours to channel current and future events’ to the stadium.<sup>119</sup> This raises the risk of matches being displaced even from City-owned facilities like Athlone, which would become less viable.

SAIL StadeFrance has to maintain and clean operational elements of the stadium, but this is capped at R5 million per annum. The City will bear any surplus – as well as having to maintain and clean all structural elements in-

cluding the high-tech glass, steel and polyester roof and the fibre, steel and composite-panel façades.<sup>120</sup>

A projection attached to the contract calculates the operational maintenance (for which SAIL Stadelfrance is responsible) at between R3,3 million and R5,5 million a year during the first five years,<sup>121</sup> meaning there is little or no margin before the City will have to pick up the excess above the cap. City 2010 technical director Dave Hugo responds:

Our projections are R5-million, it's what we consider to be reasonable. So we don't expect it to go over that but if it does the City is going to have to contribute, that's the bottom line.<sup>122</sup>

The structural maintenance, for which the City is entirely responsible, arguably holds much greater financial risk. Hugo envisages no immediate impact:

For a structure that size you will have virtually no structural maintenance for the first ten, twenty years ... In thirty, forty years when the roof needs to be replaced, that's an area that we have not even ventured into yet.<sup>123</sup>

A prudent approach requires a portion of revenue to be set aside annually to cover those eventualities. If all elements of the stadium need to be replaced every 100 years on average, a theoretical one per cent of the capital cost needs to be set aside yearly. For a stadium costing R4,51 billion, that would be R45 million a year.

Hugo concedes such expenses remain unbudgeted:

We had to raise the issue of replacement of capital cost with national, and we will continue to raise that with national ... When you get to that magic year which we don't know what it is, when the entire roof has got to be replaced or something like that ... you know what's that going to be and what the impact on your rates will be?<sup>124</sup>

If national comes to the party, taxpayers will pay. If not, ratepayers will. The result: except to the extent that the less than a third of SAIL Stadelfrance's profits payable as rent will make up for it, the stadium will not be viable; it will be a white elephant.

But will SAIL Stadelfrance have profit to share? Rugby great Morné du Plessis of SAIL Stadelfrance says:

The sustainability of the stadium will depend largely on an ‘anchor’ team or teams that can give the stadium ten or twenty events a year ... A supplementary events strategy will be built around this anchor team/teams to ensure another ten-plus major stadium events.<sup>125</sup>

The most desirable anchor, because of its relatively large spectator figures, is Western Province Rugby. But in July 2009 the Western Province Rugby Football Union (WPRFU), its majority shareholder and owner of Newlands Stadium, said in a statement it had decided against moving.

There is no debt on the stadium [Newlands] ... After investigation it was decided that the commercial case as a tenant [at Green Point], presented at the time, was not more beneficial.<sup>126</sup>

WPRFU chief executive Theuns Roodman was subsequently quoted as saying the decision was taken near-unanimously by WPRFU’s member clubs.

If we sold Newlands and knocked it flat, it wouldn’t make sense to spend our capital on leased premises... It’s like taking the profit from selling your house and putting it into someone else’s house.<sup>127</sup>

As Green Point Stadium neared completion, the recruitment of any other anchor team remained uncertain. SAIL Stadelfrance’s Du Plessis was quoted as saying the company was ‘in tentative talks’ with Cape Town’s two Premier Soccer League (PSL) clubs, Ajax and Santos.<sup>128</sup> But the fact of their historically low spectator counts, drawn in any case from areas closer to Athlone Stadium, begs the questions whether they would want to play in a stadium of Green Point’s size, and if they did, whether it would make Green Point viable.

A Grant Thornton analysis underlying the 2006 business plan noted that Ajax, then more popular than Santos, drew a paltry 2 300 to 4 230 spectators on average per match the preceding three years.<sup>129</sup> Ajax, it said, had indicated that it would like to play only matches with an attendance of over 10 000 at Green

Point, as smaller crowds ‘would be unlikely to create a suitable atmosphere’. Only one match per season drew over 10 000 spectators.<sup>130</sup>

And so, it remains to be seen how SAIL Stadelfrance will turn a profit, let alone profit enough to cover the City’s downside. Says Solomons, the former provincial sport and recreation head:

Let me make a prediction ... That thing is going to be a white elephant. That thing is going to be a white elephant because Newlands rugby is not going to move there and soccer unfortunately is never going to attract games where that stadium is going to be full.<sup>131</sup>

### TEAM FIFALOCSAFA 15, TEAM SA -30

Contrary to some perceptions, FIFA and the LOC do not contribute financially to the stadium infrastructure, although the LOC pays host cities a fraction of ticket revenue as ‘rental’.

The stadium-use agreement between Cape Town, FIFA and the LOC promised 10 per cent of net ticket revenue to the City. The City in turn had to build the stadium in accordance with FIFA’s ‘highest applicable technical, security and commercial requirements’.<sup>132</sup>

The stadium is costing R4,51 billion. R1,21 billion is from the City. How much rental does the City get? The LOC projected total net ticket revenue of roughly \$350 million (R2,54 billion at R7,25 to the dollar) in October 2009.<sup>133</sup> Divide this by Green Point’s share of the total supply of match-seats and take 10 per cent of the result, and one has the very rough estimate of R37 million rent – 3 per cent of the City’s expenditure on the stadium, or about a third of the R110,5 million it is paying SAIL Stadelfrance to run it before and during the World Cup.<sup>134</sup>

**Table 3:** Rough estimate of City ticket revenue (Rands million)

National net ticket revenue	Green Point % share	Green Point net ticket revenue	City revenue @ 10%
2 538	14.69%	373	37

*Source: Compiled by authors based on information sourced from note 133.*

A similar situation pertains nationally. The 2009 budget estimated that national government would contribute R11,5 billion to stadium construction.<sup>135</sup> This

excludes provincial and City contributions. If adjusted by the same contributions ratio that is applicable to Green Point, the three tiers of government together are spending R17,25 billion. Now double this to more than R30 billion to include World Cup-specific telecommunications and transport infrastructure, training venues, security, etc.<sup>136</sup> Against this (if the same 10 per cent share as in Cape Town applies), all host cities together will get ticket revenue of roughly R254 million.

## What do FIFA, the LOC and SAFA get?

In a November 2007 interview published on FIFA's website, LOC CEO Jordaan said that FIFA had by then signed 2010 World Cup contracts worth \$3,2 billion (R23,2 billion at R7,25 to the dollar) – the highest yet for a World Cup – and that the figure could grow to between \$3,5 billion and \$4 billion. This was despite 'widely voiced reservations that ... no African country could guarantee that kind of revenue'.<sup>137</sup>

A FIFA spokesperson confirms the \$3,2 billion revenue, saying it derives from the sale of television rights (about \$2 billion), marketing rights (about \$1 billion), hospitality rights and licensing. She says FIFA budgeted to spend \$1,08 billion (R7,83 billion) on the World Cup, including on organisational overheads, television production and prize money, etc.<sup>138</sup>

The result? If FIFA is on budget, the contracts already signed will bag it a staggering \$2,12 billion (R15,37 billion) operational profit for the South African World Cup. If more rights are sold, as Jordaan predicted, it could get significantly more.

The LOC has \$423 million (R3,07 billion) to pay for its own organisational overheads, participating teams' expenses, etc.<sup>139</sup> \$200 million is funded from ticket revenue and the rest directly from FIFA, says LOC CFO Farouk Seedat. Any further ticket revenue – an early estimate is another \$150 million (R1,09 billion) – will be split between FIFA and the LOC. Once the LOC closes its books, any surplus will accrue to SAFA.<sup>140</sup>

Although the LOC is not an ultimate beneficiary, it will have maintained itself in style with perhaps R3,5 billion flowing through its coffers. It will have scored. If even a fraction is left over for SAFA, it will have scored. FIFA, with its R15 billion-plus surplus, will certainly have scored; it can sustain itself until the next World Cup and build reserves. For South Africa, the investment of R30 billion-plus will bring a direct return of a few hundred million rands in

stadium rentals. Whether the vaunted tourist and investment bonanza will make it all worth it only time can tell.

## CONCLUSION

Whether South Africa's mega-investment in the World Cup ultimately pays off remains to be seen. What is clear is that in Cape Town a choice was made for a stadium that will cost in the region of R3 billion more than two alternatives, for which there was no pre-existing need, and which will probably be a white elephant. The public will not only bear the direct costs; it may well have to subsidise the new stadium for a long time to come.

Against Green Point there were Newlands, which would have been the most affordable, and Athlone, which would have provided the best development value. In the end, neither value for money nor development value triumphed.

Bam, the City's sport and recreation director, maintains Athlone would have been the optimal choice:

The opportunity cost is huge; huge because we are spending billions of rands in this area of the city [Green Point] whereas half of that money would have led to a total transformation of the Cape Flats ... that, for me, is the real tragedy, that we have not used this mega event in Cape Town to contribute to development.<sup>141</sup>

## How did this happen?

As the business plan for Green Point admitted, it was a 'strategic and political decision rather than one that is based on [a] strict cost benefit analysis'. But the alleged strategic advantage of Green Point was an idea perpetuated by FIFA and the LOC in the face of opposition from local decision makers.

Where national government got involved it often deferred to the LOC. This was most crucially so when Blatter's intervention set in motion a train of events culminating in a meeting at the Union Buildings where 'national government' – in fact LOC officials and a number of ministers, each who also served on the LOC – effectively made Cape Town's Green Point decision for it.

The LOC was formally a creation of SAFA, together with which it is accountable to FIFA. The LOC tail appears to have wagged the government dog.

It should not have done so. FIFA, the LOC and SAFA's interests are best served by stadia that will attract the maximum number of spectators and television viewers during the tournament.

Significantly it was the LOC and SAFA, whose revenue and potential surplus derive directly from ticket sales, who had the most to gain from a strict compliance with FIFA's minimum stadium-size prescripts. This arguably increased the LOC's enthusiasm as FIFA's enforcer when it came to questions about stadium capacity, which in turn was used as the key argument in favour of Green Point.

Had government balanced the roughly R3 billion extra cost implication against a realistic analysis of the economic benefits and against the background of its own long-term development goals, it may well have concluded that Green Point was an unaffordable luxury. It could have tried to negotiate a stadium-capacity waiver, or it could have dropped the idea of a semi-final for Cape Town altogether. Had it not abdicated decision making to the LOC, where its own ministers were bound by what Jordaan called 'the critical question ... whether the proposed stadia meet the FIFA requirements', the construction of an expensive white elephant may have been averted.

Professor Denver Hendricks, director-general of the national department of sport and recreation between 2000 and 2006 and now a specialist in sport and development at the University of Pretoria, argues that government should have attempted to negotiate

a much more moderate World Cup, an African event ... Remember, the initial estimate for the stadiums was something like R1,8 billion; I think we are closer to R18 billion now ... Did we invest that money wisely? If these buildings in the long run are going to cost you more money to maintain, shouldn't we have built houses and factories and things like that, that could have had longer term benefits for our people and our country?<sup>142</sup>

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# 7 Durban's Moses Mabhida Stadium

Arch of hope or yoke of debt?

SAM SOLE

## Fast facts about Moses Mabhida stadium<sup>1</sup>

- The stadium cost approximately R3,1 billion to build.
- From a distance, the stadium, and its grand centre arch, stands out as an unmistakable silhouette on the Durban skyline. At its highest point, the arch rises 106 m above the pitch.
- The stadium has the capacity to hold 70 000 spectators during the 2010 FIFA World Cup and 54 000 spectators in legacy mode thereafter.
- The Imbizo Place, a public space in the stadium precinct, houses 6 000 m<sup>2</sup> of shops and restaurants. There is also a museum that pays homage to South African sporting legends.
- On the northern side of the stadium, a cable car will take visitors up to the highest point of the arch, where they can disembark and take in views of the city. There is also a 550-step guided adventure walk up to a platform.

- 10 000 m<sup>3</sup> of concrete from the old stadium was crushed and reused in the new stadium.
- 400 tons of steel were recovered in a recycling process.
- There are 1 940 concrete piles under the bowl of the new stadium, which, if put together, would stretch 33 km.

## ON A CLEAR DAY YOU CAN SEE ... THE NEXT BIG DEAL

On a Friday in July 2009, the leaders of eThekweni municipality took the first ride in the R20 million funicular mounted on the 106 m high arch of Durban's new R3,1 billion Moses Mabhida stadium. A newspaper account captured the moment:

Eyes filled with tears, municipal manager Michael Sutcliffe took pictures of the sweeping views while Mayor Obed Mlaba repeatedly clapped his hands above his head, before shouting: 'Durban has done it! Durban has done it!' The head of strategic projects and 2010 planning in the municipality, Julie-May Ellingson, beamed from ear to ear as she quietly surveyed the sprawling city and ocean beneath her.<sup>2</sup>

But the euphoria of elites – who often derive direct advantage from such mega-projects – is belied by a sober assessment of the real economic and social impact of such spending. As the radical local shack-dwellers' organisation, Abahlali baseMjondolo, noted in a tart comment on the newspaper report:

We do not see Sutcliffe weeping when the poor burn, live without proper access to taps, face illegal eviction, are attacked by his police and private security ....<sup>3</sup>

So before we look at Moses Mabhida in more detail, it is worth sketching in some relevant background.

## SOME INCONVENIENT TRUTHS

### The 2010 FIFA World Cup: another ‘arms deal’?

The South African government has a habit of grasping at ambitious projects as a means of promoting economic development – despite the often tenuous evidence of a credible cost/benefit analysis. The Coega port and aluminium smelter, the Pebble Bed Modular Reactor and the decision to take on a risk-sharing role in the development of the Airbus military transport aircraft come to mind. But perhaps the classic example was the 1998 Strategic Defence Procurement package that saw a decision to spend some R30 billion (in 1998 rands) on re-equipping South Africa’s air force and navy.<sup>4</sup>

At a time when budgets were tight and post-apartheid reconstruction a priority, this acquisition was promoted on the basis that promised offsets of R110 billion would ensue.

In fact, the deal caused incalculable institutional damage, the capital costs crowded out funding for the operation and maintenance of the acquisitions – and a shroud of ‘commercial confidentiality’ precluded a proper assessment of offset benefits.<sup>5</sup>

Indications are now that decisions about the arms deal were clouded by corruption, political party interests and a sense of African inferiority that required vanity projects to demonstrate the ability of South Africa to compete with the best.

The drive to win the right to host the FIFA World Cup seems to have been dogged by similar motivations. The promise was repeatedly made that 2010 would be ‘the best World Cup ever’<sup>6</sup> – without analysing the cost of a developing country competing in the mega-event stakes with major economies like Germany or France. Neither was there any real interrogation of the costs and benefits of meeting FIFA’s stringent requirements – or of joining the internal race for ‘legacy projects’, which soon eclipsed South Africa’s modest initial bid. That saw both Cape Town and Durban touting new 70 000-seater stadiums that were not offered in the bid accepted by FIFA in 2004.

But before we consider the journey from a R54 million revamp of Durban’s Kings’ Park Rugby stadium – as presented in the South African bid book – to the expensive white icon that is Moses Mabhida, it is worth looking at the Swiss institution that has helped us along this path.

## The FIFA fiefdom

Most people know FIFA gets a huge income from selling television, sponsorship and advertising rights. FIFA's financial report for 2008 says total revenue was \$957 million in that year. The lion's share of this figure was attributable to the sale of television (\$556 million) and marketing (\$253 million) rights for the World Cup.<sup>7</sup>

According to Danny Jordaan, CEO of the South African Local Organising Committee (LOC), by October 2007 FIFA had signed contracts valued at \$3,2 billion and it was anticipated that this would even increase.<sup>8</sup> But an informal snap survey revealed the misconception that a significant portion of this money flows into the host country to assist in the funding of the event. This is largely incorrect.

FIFA makes almost no contribution to infrastructure costs. For the 2006 event in Germany, Du Plessis and Maennig cite major expenditures by FIFA to include 'payment to 32 participating teams in the form of prize money and compensation for travel and preparation costs (\$340 million).'<sup>9</sup> They quote FIFA's reported costs for the 2006 World Cup as being about \$811,5 million against television and marketing revenue of \$2,77 billion and tickets sales of \$260,5 million which was used to finance a \$260.5 million contribution to the German organising committee. FIFA's 2008 financial report indicates a contribution to the 2010 LOC of \$130 million, which is understood to fund the infrastructure and operations of the LOC.<sup>10</sup>

In June 2008, LOC chief executive Danny Jordaan told a parliamentary briefing that FIFA had given the South African Football Association (SAFA) \$20 million. Half of this had been allocated to the building of the headquarters building and the other half to preparing the team. Jordaan said that all operational expenses, including salaries for LOC members, were paid by FIFA.<sup>11</sup> Arguably, this contributes to FIFA's institutional capture of a body, which, though it includes cabinet ministers and deputy-ministers, is essentially answerable to the football governing body.

It is not clear how many of these FIFA expenses will be clawed back from South African ticket sales to bolster FIFA coffers. The fact that it's hard to find out the size of the direct benefit to the host nation – versus the benefit to FIFA – is not surprising. Richard Tomlinson, Orli Bass and Udesh Pillay, in their

introduction to *Development and Dreams*, quote Horne and Manzenreiter as saying: ‘considerable secrecy and lack of transparency continue to pervade the undemocratic organizations that run mega-events’ and that individuals who challenge the secrecy ‘may become persona non grata’.<sup>12</sup>

There can be no *persona* less *grata* than British journalist Andrew Jennings, who has made a career out of alleging that FIFA, in the words of the Colombia Journalism Review, is ‘a corrupt fiefdom rife with bribes and vote rigging’. Yet Jennings, in his book *Foul! The secret world of FIFA*, provides a compelling portrait of how FIFA president Sepp Blatter has parlayed access to the patronage accruing to the World Cup into almost dynastic control of the world’s largest sporting and media event.<sup>13</sup>

This insight will be relevant when we consider the Moses Mabhida stadium in the context of Durban municipal manager Michael Sutcliffe’s own record – and the centralised and rather secretive way in which the city’s 2010 effort has been managed.

## Mega-events: more dreams than development

While the World Cup is profitable for FIFA and its chosen partners, the same cannot be said for host countries and cities. As Glynn Davies puts it in his contribution to *Development and Dreams*:

Whereas FIFA undertakes to provide the *entertainment*, it is necessary that the host country and, in particular, the host cities provide all the necessary infrastructure and services.<sup>14</sup>

There are significant infrastructure costs for South Africa – in the order of R30 billion and counting<sup>15</sup> – while the promised benefits are debatable, at best. Tomlinson et al write:

Economic projections are invariably erroneous, overestimating the benefits and underestimating the costs, and there is considerable debate regarding whether World Cups benefit or harm the host country’s economy.<sup>16</sup>

In their survey of the literature on the economic impact of mega-events Stan du Plessis and Wolfgang Maennig note:

The majority of these studies suggest that the sporting events or stadiums have little or no significant impact on regional income and/or employment.<sup>17</sup>

This was true even for the highly successful 2006 World Cup in Germany. Du Plessis and Maennig record that even for the hotel and tourism sector, the displacement effects of the World Cup on other forms of tourism meant that national occupancy rates actually declined for the World Cup period.<sup>18</sup>

Spending on mega-events also displaces public spending in other areas – with potentially serious consequences for developing countries. As Pillay and Bass note:

From an economic point of view, the cost of building a new stadium is not best described by the amount of money needed to build the facility but rather the value to society from the same amount of capital spent on the next best public project.<sup>19</sup>

Will building new stadiums in Durban and Cape Town contribute more to the economy than adding capacity to the creaking electricity grid? Privately, it seems that government officials are aware of the risks. Tomlinson quotes three local and international consultants who were undertaking economic modelling for the Treasury as reaching the conclusion that ‘the best we can hope for is that 2010 does not hurt the economy’.<sup>20</sup>

So, having sketched the dark clouds on the horizon, let us then return to how Sutcliffe, Ellingson and Mlaba came to be enjoying the view from the top of the eThekweni municipality’s iconic new arch.

## DURBAN – THE MARCH TO MOSES MABHIDA

### The original bid – and the invisible bid book

What is remarkable about the history of 2010 is how the appropriately modest proposals in the South African bid book became the highly-priced legacy projects exemplified by the new Durban stadium. As Tomlinson points out, the original bid book has by now become almost unavailable.<sup>21</sup> However, a copy seen by the author confirms that the proposal to FIFA was for Durban to host matches, including quarter finals, using King's Park ABSA rugby stadium. It was to be upgraded at a cost of R54 million.

There have been suggestions by the City that the 50 000-seater rugby stadium was not acceptable to FIFA. For instance, the Ezasegagasini municipal news sheet of 24 February 2006 stated:

The new stadium was seen as a 'new tourism product for the city' while the neighbouring ABSA Stadium could not be upgraded because it did not comply with the rules of the bid book.<sup>22</sup>

There is no real evidence suggesting FIFA had any problem with an upgraded ABSA stadium. The official FIFA bid assessment report of April 2004 had this to say:

In the opinion of the Inspection Group, if the 2010 FIFA World Cup were to start on the date of submission of this report, three stadiums in South Africa would easily be suitable for the 2010 FIFA World Cup. They are: Cape Town (Newlands), Johannesburg (Ellis Park) and Durban (King's Park), which have been venues for world events such as the Rugby World Cup.<sup>23</sup>

### The push for a new stadium

In early 2005 the eThekweni Municipality and the Province of KwaZulu-Natal adopted a '2010 and Beyond Strategy' aimed at positioning the city and province as Africa's 'premier sport and tourism destination'.<sup>24</sup> As early as April

2005, Ellingson told a reporter that the Greater King's Park district was going to be turned into a world-class sporting precinct that would include 'a new soccer stadium'.<sup>25</sup> In July 2005, when FIFA inspection teams visited the ABSA stadium again, the official line from Durban mayor Obed Mlaba was that the rugby stadium was still earmarked for Durban's 2010 matches.<sup>26</sup> But by the end of 2005, the lobby for a brand new stadium was in full swing.

A report in Durban's *Sunday Tribune* of 18 December 2005 quoted Ellingson as saying the feasibility of demolishing the old King's Park soccer stadium and building a new one had been 'discussed at a technical level'.<sup>27</sup> According to the report, Ellingson said the cost of upgrading Absa Stadium was between R350 – and R500 million and her unit questioned whether that money would be better spent constructing a new facility. 'There is a lot of work going on behind the scenes, but it is premature to say we will definitely do this or do that.'<sup>28</sup>

Yet it was clear which way officials were pushing: Mlaba was quoted in the same article as saying:

Absa Stadium is a rugby stadium and we need a specialist soccer stadium for 2010 and beyond ... We, as a city, are grateful to Absa Stadium for the way they helped us clinch the right to host the World Cup finals, but they will appreciate that Durban needs a new home for soccer.<sup>29</sup>

Indeed, there was a lot going on 'behind the scenes'.

The City's confidential proposal entitled *Durban, KwaZulu-Natal Beyond 2010 Strategy* appears to have been circulated to decision-makers around this time, though it is undated. It was formally tabled to the municipal executive committee on 21 February 2006.<sup>30</sup> The document makes an unvarnished punt for a new stadium to promote sport tourism, without any analysis of the viability of the proposal. 'A central feature of the strategy is to build a new iconic, world class multi-purpose soccer stadium on the site of the existing King's Park Soccer stadium,' it notes.<sup>31</sup>

Claiming the virtues of what it calls 'event-led development' the document says Durban has a long history of successfully hosting international events, such as rugby, cricket and the A1 Grand Prix, though it provides no assessment of their cost or value to the city.

Beyond 2010, it notes, the strategy would be extended to focus on major sporting events building up to the bids to host the Commonwealth Games and the Olympics.<sup>32</sup>

The document, whose author is not identified, states:

Essentially there is only one option if we are to host a semi-final match. Currently two options have been put forward, but we believe only one is able to meet the requirements of a semi-final for the FIFA World Cup. The first is to upgrade the existing ABSA rugby stadium and the second is to build a new iconic stadium in line with the city and province's broader economic development strategy.<sup>33</sup>

The upgrade option is presented as undesirable. While listing three points in favour of ABSA – its atmosphere, established reputation and tradition of 'after game' entertainment – the document made 12 negative points. They included:

- The cost of upgrading from 52 000 to 70 000 seats – R500 million
- The private ownership of the stadium
- Construction would interrupt usage and add R100 million to the cost
- The stadium was aging: built in 1956, its lifespan was limited.

The report continues:

Finally, an important consideration is that investing in the ABSA stadium is investing in a rugby stadium. This poses challenges to the uses of the stadium post the world cup and the associated costs. For this reason the province and the City have decided to opt for a new stadium on the site of the existing King's Park Soccer Stadium.<sup>34</sup>

The document suggests a new stadium can be built for about R1,6 billion (excluding VAT). It recommends issuing a Request For Proposal (RFP) for a professional consultant team to manage the design and construction. Tenders for construction would follow the selection of consultants. It was realised that Durban alone could not carry the cost of a new stadium, meaning that political and financial buy-in by the province and central government was necessary. 'Given the critical time frames, a final decision is required within three weeks.'<sup>35</sup>

## Fait accompli

The urgency was clearly driven by the fact that the LOC had to put forward final proposals for host stadia ahead of the FIFA executive committee meeting of 17 March 2006.<sup>36</sup> It is likely that the Durban strategy document was prepared for a meeting scheduled for 27 January 2006, to be held at the Presidency in Pretoria, where proposals were presented for both Durban and Cape Town to build new stadia.<sup>37</sup>

Cape Town had come under pressure from FIFA and the Presidency to consider the Green Point option, but in the case of Durban, the initiative seems to have come from the province. The new stadium proposals seem to have been endorsed then and there at the LOC meeting of 27 January. As early as 6 February, Deputy Sports Minister Gert Oosthuizen told parliament that a new stadium, costing R1,6 billion, would be built in Durban as one of five new venues to be built around the country.<sup>38</sup> In a newspaper report, eThekweni Municipal Manager Michael Sutcliffe was quoted as saying:

The upgrading of the existing [ABSA] stadium would cost at least R500-million. It's also already an old stadium and not truly designed as a top soccer venue. When we started looking at the figures we decided to build a new, better facility.<sup>39</sup>

The report quoted Brian van Zyl, CEO of Sharks Rugby, as confirming that Jordaan, as CEO of the LOC, had sent ABSA Stadium a letter on Friday, 3 February, stating that the venue would not be used.<sup>40</sup>

By 19 February, the City had already issued an Expression of Interest Document, calling for bids from consultant consortia to design and oversee the construction of an 'iconic' new multi-purpose soccer stadium.<sup>41</sup> So, when the new stadium proposal was formally put to Durban's municipal executive committee on 21 February, (just ahead of the crucial LOC meeting to finalise host city venues) it was already a *fait accompli*. Predictably, it was approved.

According to the minutes, Sutcliffe was mandated to conclude agreements between eThekweni, the Province of KwaZulu-Natal and national government 'on the respective contributions towards the stadium and related infrastructure as well as for on-going ownership and maintenance'.<sup>42</sup> He was also mandated to sign host city and stadium-use agreements with FIFA, which would commit

the City to supply the new stadium if FIFA accepted the proposal – though the necessary budgets to fund the project were not in place.

Initially it appeared the City believed all the funds for constructing the stadium could be sourced from the National Treasury. The municipal annual report for 2005/2006 noted that:

The objective to ensure that the new stadium will not impose ongoing financial obligations on the ratepayers will be realised by securing funding from National Government for the construction cost.<sup>43</sup>

That was not to be. But before we consider the escalating costs, we should pause to consider the controversies over the selection of the design/consultant consortium.

## FOREGONE CONCLUSIONS?

### Design selection – and muted discontent

The process went pretty much as planned. Submissions of Expression of Interest for the consultant consortium closed by 17 March 2006 and by 3 April six shortlisted bidders were invited to respond to the more detailed Request For Proposal (RFP). They would receive a fee of R1 million, if unsuccessful. The winning bidder would earn a fee of 14 per cent of the project cost (it was later negotiated down to 13 per cent).

There were two significant features of the RFP document. First, it made the unusual demand that bidders might not publish material related to the bid ‘under any circumstances’<sup>44</sup> – which is unusual for an architectural competition. Second, it underlined the seriousness of the R1,6 billion budget limit by noting that consortia would lose half their million rand fee if their design cost exceeded this amount.<sup>45</sup>

The design brief called for an icon that should become ‘a symbol by which Durban becomes known’. The stadium should be an ‘Ode to Africa’, which would ‘welcome ordinary citizens and invite them into the precinct ... We would like to avoid the development of monolithic, intimidating structures.’ Representing Zulu culture was also important, though the stadium should avoid the cliché of a ‘fighting nation’.<sup>46</sup>

Among the bidders were some of the world's top stadium designers: HOK Sport, who designed London's new Wembley stadium, Cox Architects from Australia, and GMP, from Germany. They were to produce 3-D computer images as well as a large-scale model of the design.

On 15 June 2006 the result was announced: it was the Ibhola Lethu consortium, incorporating the German GMP design – boasting an iconic y-shaped steel arch rising 106 m above the pitch and supporting an extensive membrane roof. The construction contract was issued and Durbanites watched the stadium bowl grow and later the canterlevered arch make its slow progression from massive concrete foundations at either end to eventually join in the middle.

While there was occasional media scrutiny of the growing cost, the design attracted no real controversy. But then the citizens of Durban had no idea what the alternatives might have looked like, did they? Dissatisfaction about the blanket of secrecy thrown over the competing proposals – and concern about the true cost of the new 'icon' – rumbled in the local architectural community, a number of whom had been involved in competing consortia. But almost no professionals were willing to go on the record and risk alienating themselves from the city's powerful decision-makers. Only two have spoken up: Don Albert and Paul Mikula.

## An invertebrate beached on our shore

Don Albert is a Fulbright scholar and award-winning young architect. He trained at the University of KwaZulu-Natal but most of his practice is now in Cape Town, which is perhaps why he was willing to be so outspoken about the eThekweni municipality. In a feature published in Durban's *Mercury* newspaper on 15 October 2009, he said:

It is easy to be awestruck by the new Moses Mabida Stadium isn't it? Like a science-fiction invertebrate beached on our shore, it appears to have been bleached by the sun and hollowed out by the wind. An empty shell – albeit pretty – it is frighteningly haunting, and fragile. How often will it ever be filled? ... One knows that the balance sheet of its upkeep will be equally monstrous too, and that rugby will have nothing to do with it, which is a real pity considering the synergy that could have emerged with one of Durban's most bankable activities.<sup>47</sup>

More importantly, Albert regards unresolved questions about the appropriateness of the stadium as emblematic of what he calls the City's 'almost fascist' attitude to planning and public consultation.

What of the so-called competition for the stadium's design? Why has Durban not seen just why this building was chosen out of a shortlist of other equally meritorious schemes? Surely publication and public debate as to all their merits and demerits could have improved the design and defused nay-saying? Does the messy process of buy-in not matter, or, were commitments in fact made far earlier in the game?<sup>48</sup>

Albert points to a number of instances where the City has given the impression of wanting to simply bulldoze its way through public consultation, or avoid it altogether. At least two are tied in to 2010 – the beachfront redevelopment and the attempt to build a shopping mall on the site of the fresh produce Early Morning Market.

Take the Beachfront for example. Here the public has, again, been generally left out of the loop regarding our heritage, our most public of spaces, and most valuable natural resource ... Questionable procurement processes, ludicrous timeframes and scant regard for the public participation required by the Environmental Impact Assessment (EIA) process appear to have been the order of the day ...<sup>49</sup>

In the case of the Early Morning Market, the City had awarded a private developer the rights to demolish the historic building – where produce traders have been operating for a hundred years – and erect a shopping mall in its place. The market is in Warwick junction, where hundreds of thousands of mainly low-income commuters enter or leave the city by train or taxi. The informal street trade, served by a labour-intensive and low-cost supply chain centred on the market, provides a livelihood for thousands of very poor people and provides access to basic foodstuffs at a lower cost than is available at conventional shopping centres.<sup>50</sup>

The City's attempts to force out the traders to build the mall have created a broad coalition of resistance, including traders, the local Legal Resources

Centre, architects and academics. Several court cases are in train – and the battle is far from over. Albert comments:

One wonders why it is so hard for the City to do what is right ... We need to revert to a planning culture of genuine democracy, as opposed to one of foregone conclusions, litigation, crisis management, ‘blacklisting’ and spin.<sup>51</sup>

Sutcliffe’s response to Albert is a terse dismissal: ‘Mr. Albert’s paid editorial contains many incorrect facts and blatant untruths.’<sup>52</sup> Yet the unpleasant suspicion of ‘forgone conclusions’ hangs also over the new stadium – and it was raised, quite early on, by Paul Mikula.

## Fiddled figures – or sour grapes?

Paul Mikula describes himself as an ‘old socialist’. He says: ‘I didn’t want to get involved in the bids – it’s ridiculous to build a new stadium, given our other priorities.’<sup>53</sup> But he’s a prominent local architect and someone with a deep knowledge of Zulu culture and history – so it was not surprising that one shortlisted design team called on him to assist with fine-tuning their proposal. Predictably, perhaps, he thought they had a ‘fabulous project’, based on the concept of a traditional Zulu town or ‘Indlu’ and seeking to make the most of the spectacular location overlooking the Indian ocean. But the R1,6 billion ceiling made the costing very tight: ‘There was no money for extras – ours originally had a museum built in – but we had to take it out.’<sup>54</sup>

Feedback from the presentation to the City’s assessment team was positive and Mikula ignored rumours he had heard that ‘the thing had already been decided’. Following the announcement – and looking at the German-built arch (it was shipped to Durban two sections at a time) – Mikula was sceptical.

When he heard claims from someone in the industry that the Ibholo Lethu design costs had been deliberately understated – the story went that the cost estimate prepared by Ibholo Lethu’s foreign team was considerably higher than the R1,598 billion figure they had eventually presented – Mikula was concerned enough to write to City Manager Mike Sutcliffe to ask him to investigate. This was around the end of 2006: ‘It was not sour grapes,’ he says. ‘I was concerned

as a citizen and a ratepayer.<sup>55</sup> He received an acknowledgement of receipt but no response after that.

Attempts to trace the source of this rumour about the design costs have pointed to international construction consultants Davis Langdon, in London, whose local office in Durban formed part of the Ibhola Lethu consortium. Questions to Alan Willby of their London office went unanswered.

Lead quantity surveyors, Letchmiah Daya Mandindi (LDM), commented:

We are not aware about Davis Langdon in London being unhappy about any aspects of the presentation of the bid in Durban. Davis Langdon are and have been part of the Consortium from inception and have participated accordingly without reservations.<sup>56</sup>

Tim Ter Haar for BKS, the overall project manager, dismissed the claim outright:

No figures were arbitrarily cut. As the head of the consortium bid I was personally involved in the preparation and presentation of the budget. At the competition stage all budget figures were received from the respective engineering disciplines as well as the various QS's working on the project and LDM collated these figures and presented them for my review. It was actually amazing (we were very impressed with ourselves) that when all the budgets were put together that we were in fact so close to the actual budget ceiling value of R1,6 billion. In one of the discussions that I personally had with a representative of Davis Langdon in London, the particular individual did raise the perceived risk that the stadium roof construction would be over budget. This particular individual wanted us to believe that he knows much more about structural engineering than our own specialised structural engineers. It turned out he was 100% wrong and that we did indeed build the roof as anticipated at competition stage approximately within the calculated tonnage of steel ... Davis Langdon in London was never part of the Ibhola Lethu Consortium. They however approached the consortium through their local Durban branch [which was part of the QS team] and requested that we consider their possible involvement. We ... decided that they would not really add any value ...<sup>57</sup>

The City, too, dismisses the claim. In a detailed response, Sutcliffe said the City's own quantity surveyor had assessed the costings:

Mr. Philip Meadowcraft, a City Quantity Surveyor and member of the Internal assessment panel, reviewed the top 3 bids. His comments were that the winning bid may be short by around R100 million because according to the Deputy Head: Architecture, the original estimate of R1.6 billion may not have taken into account that an iconic building was required.<sup>58</sup>

Sutcliffe continues:

He also felt the second best bid was 'Worrying!' and was concerned that they had fudged their figures which could result in nasty surprises down the road. The third bid he felt was light and could possibly have failed properly to account for electrical and air conditioning. Generally he felt the stadium required R100 million more.

Sutcliffe said both the steel and concrete price increased substantially.

Also, and interestingly, the claims made by Ibholo Lethu consortium that their roof design (using an arch) would effect great savings overall have been borne out. For example, Cape Town, who are also building a 70 000-seater stadium have spent more on their roof than ours and over R1 billion in total more on their stadium.

He said he was satisfied the issues raised by Paul Mikula had been 'adequately covered'.

Whilst such matters are potentially serious, at that time a number of other rumours were spread by certain persons in the architecture profession who were clearly upset that they had lost the bid. This is partly understandable as all six consortia provided great bids but there had to be one award. Importantly, none of the losing bidders appealed the decision.<sup>59</sup>

## Unanimous, you say?

Sutcliffe delivers a robust defence of the selection process. He explains that an internal and external panel was established. The internal panel, which he named, comprised key officials from relevant City line departments and was chaired by Ellingson. ‘The internal panel was responsible for the thorough assessment of each of the consortia submissions.’<sup>60</sup>

Sutcliffe said there was also an external panel representing a broad range of professional and relevant disciplines, whom he also named. He said the panels jointly provided a ‘unanimous set of recommendations’ to the Bid Evaluation Committee (BEC).<sup>61</sup> However, it does not appear this is entirely accurate: speaking on condition of anonymity, at least three panellists said they were surprised at, or did not support, the decision to put forward Ibhola Lethu.<sup>62</sup>

The municipality’s BEC comprised council officials, though none, except perhaps head of housing Cogi Pather, had any experience of engineering design or project management and must have taken their cue from the panel recommendations. Sutcliffe said the evaluation committee gave the winning bid 85,55 points out of 100, followed by five bids which scored as follows: 81,95, 78,68, 75,69, 71,89 and 69,75.<sup>63</sup> The score consisted of four elements: quality (iconic statement, buildability, functionality and sustainability), consulting fee, price and empowerment.

The Bid Adjudication Committee (BAC), which sat on June 12, was chaired, as usual, by deputy city manager Derek Naidoo. It duly confirmed the award to Ibhola Lethu. Says Sutcliffe:

Of all the 2010 stadiums, the process adopted by eThekweni Municipality in the delivery of the Moses Mabhida stadium was the most open and transparent. We were the only city that followed a competition process. Six excellent designs, each with their own strengths and challenges, were produced but only one consistently met all of the pre-set criteria.<sup>64</sup>

And yet ... and yet ... Both committees (BEC and BAC) process all the City’s large contract awards. As functionaries without external oversight, they enjoy enormous discretion.

Durban also has a bit of a history. Some key tenders have been awarded based seemingly more on political connections than on performance. And some

of those tenders involved people now in Ibhola Lethu. Coincidence? Standard networking? Maybe, but it invites a closer look.

## WHO BENEFITS? SOME OF THE USUAL SUSPECTS

### The bus boys

Craig Simmer is by all accounts a highly competent traffic engineer – and very much in demand as one of the few such specialists who is not white. No doubt that’s one of the reasons his name comes up quite often in projects around Durban. But some of those schemes have been characterised by the kind of political patronage that critics of Ibhola Lethu complain of (without, it must be said, being able to point to any concrete irregularity). We will deal with three such schemes.

In May 2003 the municipality awarded the contract to take over the city’s bus service to Remant-Alton. From the start the process was dogged by controversy. A week after the award the *Sunday Tribune* revealed that the man who headed the consortium, Jay Singh, was found guilty of bribing a municipal official in 1997 and fined R6 000.<sup>65</sup>

When the newspaper confronted deputy city manager Derek Naidoo, he was adamant the deal would still go through: ‘The issue before the Tender Board was whether they could afford the price or not. The transaction advisor should have done the checks.’ Curiously, the ‘transaction advisor’ from KPMG resigned from his audit firm and went to work for Remant-Alton not long after the award. City manager Michael Sutcliffe told the *Sunday Tribune* at the time: ‘Nothing will affect this deal. This disclosure will have no impact.’<sup>66</sup>

Workers’ representative Brian Robertson told the newspaper:

If you have a criminal record, you can’t get a Professional Driving Permit to drive a bus. Our boss has one. We’re concerned that Alton seems to get many government transport contracts.<sup>67</sup>

The newspaper also discovered that Alton’s legal advisor, Rajan Naidoo, was a disbarred lawyer.<sup>68</sup>

But the Remant-Alton consortium had important backers. Its chair was Dr Diliza Mji, a former ANC provincial treasurer. And in 2005, Simmer was

brought in as a director, together with Lawrence Mazibuko, a former VIP guard to current president Jacob Zuma, as well as Mandla Gcaba, a notorious Durban taxi boss who also happens to be Zuma's nephew.

The company shuffled from one crisis to the next, consuming ever larger council subsidies. In mid-2008 the municipality was forced to buy back the bus fleet, but Remant-Alton continued to act as operator.<sup>69</sup>

By mid-2009, Remant-Alton could not continue. Without a tender process, using emergency provisions, the municipality appointed a new operator, Transnat, to take over. The man behind Transnat? Jacob Zuma's nephew, Mandla Gcaba.

And in September 2009 Singh, through his wife, got another eThekweni Municipality contract – this time a concession to develop the Westville Triangle middle-income housing project, worth about R40 million.<sup>70</sup> Sutcliffe comments:

I am aware that Mr Simmer was a share-holder and director of Remant Alton [from which position he resigned prior to the termination of the contract]. As you are aware RA tendered for and was awarded the contract by a multi-party committee.<sup>71</sup>

## Impilo Entsha

Impilo Entsha is also involved in the municipality's middle-income housing initiative – which identified land owned by the City that could be made available for 'gap market' development. Simmer was again on board as one of five directors. It is a private company, but according to one source: 'Derek Naidoo did a roadshow to promote the company. It was presented as a municipal initiative – he asked big business guys to cough up money for working capital.'<sup>72</sup>

Impilo Entsha won the right to develop one of the land parcels – despite questions about the quality of its bid versus other private-sector proposals. Comments Sutcliffe:

Mr Naidoo confirms that Mr Simmer is together with 55 other business persons and professionals a shareholder of Impilo Entsha. This is a City-endorsed project in line with government policy of initiating and supporting the establishment of Social Housing Institutes. This is the first broad based black empowerment initiative whose primary objective is to

contribute to social housing in the city. We confirm that this is a private entity.<sup>73</sup>

## Dolphin Whisper

Simmer was also a director of an ill-fated company, Dolphin Whisper, involved in a project at the city's upmarket Point Waterfront development – as was his business associate, Vaughan Charles, and Rajan Naidoo, the lawyer involved with Remant-Alton. The project, fronted by Nandi Mandela, granddaughter of the ANC icon, obtained an R85 million loan from the provincial development bank, Ithala.

Prainder Civils, another company linked to Jay Singh of Remant-Alton, started construction. But structural defects led to delays and litigation between Dolphin Whisper and Prainder. Dolphin Whisper was liquidated in 2008 after Ithala called up its loan.<sup>74</sup> In October 2009 it was reported that an investigation was under way at Ithala to determine why bank staff exceeded a loan ceiling of R15 million when they loaned R85 million to Dolphin Whisper.<sup>75</sup>

## Class A Cables

Charles and Mandela were involved in another controversial contract awarded by the City. It was an object lesson to those who challenge the municipality's decisions. In December 2004 Durban awarded a lucrative portion of a R140 million cable tender to Class A Cables. Competitor Themba Ndlazi, whose company won a separate portion of the contract, lodged an appeal with Sutcliffe against the Class A Cables award, claiming his offer was cheaper.

By July Ndlazi had lost patience with the process and went to the media, complaining he was being discriminated against: 'Why must I suffer because my parents are not well known ... because I don't belong to any political organisation?'<sup>76</sup>

In response, Sutcliffe criticised Ndlazi for jumping the gun before the appeal process was finalised and said the City's procurement processes were exemplary. What happened next belied that claim. Sutcliffe simply cancelled the whole deal, including the portion awarded to Ndlazi, which had never been the subject of an appeal.

Ndlazi went to court: Judge Kevin Swain agreed that Sutcliffe was not entitled to act as he did. He ruled the conduct of the appeal authority ‘was unlawful and this should have been apparent ... from the outset’:

Instead of conceding this issue, the merits were contested right up until the eve of the hearing ... the attitude of the first and second respondents [Sutcliffe and the City] unjustifiably prevented the applicant from performing its obligations in terms of the contract ... Such conduct ... is unacceptable.<sup>77</sup>

But it was a pyrrhic victory. The City had used other suppliers in the interim and, Sutcliffe claimed, the City’s requirements had now changed. A new tender would have to be issued.<sup>78</sup>

## What about Ibhola Lethu?

So what has all this to do with the stadium? Well, nothing, according to Mr Simmer. Except that the company where he worked, Iliso Consulting, was one of the consulting firms on the stadium, albeit with less than 5 per cent of the business. It was put to Simmer by the author that the Ibhola Lethu consortium involves a number of individuals with a problematic track record in respect of projects that seem to rely on political connectivity with decision-makers in the city. Mr Simmer was one of those individuals, it was suggested.

Simmer’s response was unequivocal:

I am not the traffic consultant on the Moses Mabhida Stadium. The traffic consultants are Iliso Consulting. I resigned from Iliso in September 2007. With regard to my involvement in the other entities that you mentioned, these are private businesses with no relation to the stadium. Any attempt to create a false link between these will be dealt with in the appropriate manner and I reserve all my rights in this regard.<sup>79</sup>

Which suggests that, while Iliso might be involved, Mr Simmer was not.

Except that one of the questions put to the city had been a request for the list of people who represented Ibhola Lethu when the final bid presentation was done. Sutcliffe’s response was admirably thorough and included providing that

list: it featured one Craig Simmer. When this was pointed out, Simmer confirmed he had attended the bid presentation representing Iliso, though why is rather a mystery as he ‘was not part of the technical bid preparation team and I reiterate that I have no further technical involvement in the stadium’.<sup>80</sup>

Mr Simmer may legitimately claim he is nothing more than an active fish in the small Durban empowerment pond – but, if nothing else, he is guilty of being just a little bit disingenuous.

## Bigger fish

The big boys in Ibhola Lethu are Bruinette Kruger Stoffberg (BKS), a fine old Broederbond firm that grew strong serving the Afrikaner nationalist project under apartheid.<sup>81</sup> In the democratic era, they have adapted well. In 2000 it was reported that Harambee Investment Holdings, a new empowerment group led by former defence minister Joe Modise, had bought a 30 per cent stake in BKS. The new BKS board would have Modise as chairman and it was envisaged the move would lead to ‘more successful bidding for SA’s public sector business’.<sup>82</sup>

After Modise’s death the Harambee consortium was restructured. A company called Bacarac Trading 76 now owns 40 per cent of BKS. According to the firm, the following Bacarac members are directors of the BKS board: George Negota (an attorney who is well connected to the ANC), Jitendra Jeena (Bacarac’s auditor), HK Kessie Naidu (a prominent Durban advocate), Cheryl Maduna (the wife of former minister Penuel Maduna), Peter Wingrove (who worked closely with Penuel at Sasol), and E.D. Magugumela. A trust linked to the family of prominent Eastern Cape businessman Mkhuseleli Jack is also a shareholder.

BKS, together with the German architects GMP, formed the core of three successful design and consulting consortia that bid on new stadia: in Durban, Cape Town and Port Elizabeth.

## The biggest fish: Tokyo Sexwale, Bulelani Ngcuka and the construction giants

The tender for construction quickly injected a dose of realism into the price calculations. The three shortlisted consortia tendered between R1,9 billion and R2,15 billion for the job – excluding the consulting fee. The South African-Italian joint venture, Mavundla/CMC, who were the cheapest, was excluded

based on an assessment of their capacity to perform under the very tight deadlines set by the World Cup. Mavundla went to court, but the real urgency of the project weighed against him and he withdrew.

The City chose the Group 5/WHBO joint venture. Group 5 had as empowerment shareholders both Minister of Human Settlement Tokyo Sexwale's Mvelaphanda group and Ilima Projects, in which the family of Bulelani Ngcuka, (the former head of the National Prosecuting Authority and the husband of the former Deputy President, Phumzile Mlambo-Ngcuka), has an interest.<sup>83</sup>

The established construction firms have done well out of the World Cup – to the extent that the competition authorities have launched an investigation. The firms have all denied any form of collusion or price fixing.<sup>84</sup>

## THE COST

### Business plan – what business plan?

The business case for Moses Mabhida was only prepared in August 2006, after the contractual commitment to FIFA to build a new stadium.<sup>85</sup> The document, prepared by Sue Bannister of the eThekweni Special Projects department, notes that a demand analysis was conducted with specific reference to the need for another stadium in Durban. The following conclusions were drawn:

- There is currently little unfulfilled demand in the city
- Soccer has relatively low attendances
- Rugby is the only successful sport and would need to be included in the new stadium
- The stadium will require anchor tenants<sup>86</sup>

Another study by Grant Thornton mentions that during the 2004/2005 season, the Golden Arrows soccer team, based in Durban, drew maximum attendance of just over 18 000. Average attendance was just over 2 600.<sup>87</sup>

The Bannister document reported that revenue and operating cost estimates had been developed, putting net World Cup revenues at R27 million and post-World Cup revenues at R24,5 million per annum (which included rugby, soccer, athletics and other event revenues as well as suite sales and advertising). Operating costs are estimated at R15 million per annum. Ms Bannister bluntly

concluded that on a capital return measure, ‘the project rate of return is essentially zero percent’.<sup>88</sup>

## Netting the Sharks – or not

Given that rugby was vital to the sustainability of the stadium, it might have been expected the City would bend over backwards to woo the highly successful Sharks Rugby franchise to consider moving from ABSA. Instead, according to a hard-hitting letter from Sharks director Doc Louw, there has been obfuscation and bullying.<sup>89</sup>

Ms Ellingson states that the municipality has ‘gone overboard in trying to assist the Sharks to come across’. This is a gross mis-statement ... Instead of co-operation and transparency, there have been threats (which were not even veiled) of roadblocks after every game (which have become a reality), withdrawal of traffic department support on match days, undercutting of hire charges for the stadium for non-rugby related functions, e.g. concerts, rallies, etc. no guarantees that ABSA Stadium would not be affected by electricity load-shedding on match days even if there was Test or Super 14 final on and more.<sup>90</sup>

Louw says the Sharks have been waiting in some instances, since September 2006, for a response from the municipality on key issues, which would inform their decision, such as:

- Will the Sharks be compensated for the loss in revenue from the naming rights for the stadium and advertising in and around the stadium?
- How will ticket revenue be allocated between the Sharks and the stadium operator?
- Will the Sharks be compensated for the loss of suite rentals as a result of there no longer being suites available?
- Will the Sharks be compensated for the asset it currently has, i.e. the stadium and outer fields all of which are subject to a lease with the municipality which expires in 2056 ... or does the municipality expect the Sharks and KZNRU to merely abandon this asset and move to the new stadium in which their various current income streams are going to be seriously affected?

Louw says the Sharks are still waiting for answers.

## Stadium plus

The stadium itself is only part of a much bigger spending plan set out by the eThekweni municipality. The stadium precinct development plan included:

- A People's Park and Heroes' Walk
- Underground parking
- A pedestrian link from the stadium to the beach
- A new railway station to serve the stadium
- An inner city 'people mover' bus service
- Warwick Junction infrastructure improvements
- Additional staffing resources needed for the 2010 effort
- Beach upgrades<sup>91</sup>

Bannister estimated a total capital spending requirement of R6 billion, of which all but R1 billion was assumed to be sourced from national government. Operating costs for the 2010 project were estimated at R805 million, of which the eThekweni municipality would bear a R430 million share.

Bannister was under no illusions as to the potential strain this spending would put on the City, which was being forced to borrow to fund its existing capital expenditure, even before the largesse of 2010.

Council will have to borrow R2,2 billion over the [three year] period to fund its current capital programme. The cost of borrowing this R2,2 billion ... is already causing a major strain on the operating account ... In addition, the Council has R3,3 billion in outstanding loans which will rise to R5,4 billion at the end of the MTEF period. Accordingly, any further capital expenditure could affect the viability and sustainability of the Council in terms of gearing.<sup>92</sup>

'Arising from the above, it is clear that the Council cannot provide funding towards a new stadium ....'<sup>93</sup>

## So how much are we in for?

It's very hard to say. Sutcliffe gave a figure of R3,1 billion in January 2009.<sup>94</sup> In response to questions in October 2009, he said the final construction cost:

... was estimated to be R2,55 billion (excluding demolition, but including piling, preparatory site work, diaphragm wall, Information and Communication Technology infrastructure, funicular etc.)<sup>95</sup>

This seems to exclude the consulting fees, which might account for the extra R550 million in the January estimate. Government figures put the real expenditure from 2006 to March 2008 at R860 million.<sup>96</sup> Durban's capital budget allocation for 2010 projects in the 2008/2009 year alone was about R2,27 billion.<sup>97</sup>

National government's original allocation of R1,8 billion toward Moses Mabhida has increased, but it is not clear by how much. The original R8,4 billion allocation towards stadium costs countrywide has been increased to R11,3 billion in the latest Medium-Term Expenditure Framework.<sup>98</sup> eThekwin's latest MTEF figures suggest an additional Treasury grant of R465 million for 2009/2010.<sup>99</sup>

Of course, this does not include the transport and other associated infrastructure costs that formed the basis of Durban's R6 billion estimate – though some projects seem to have been downgraded.<sup>100</sup>

## CONCLUSION

### A dream realised – or an expensive distraction?

Sutcliffe has vigorously defended his 2010 team's performance. He writes:

The stadium continues to win awards for its design, technologies, use of steel and concrete and for the incredible teams who drove it. There has been an incredible team driving this project.

At the head of that team from the city's side has been Ms. Julie-May Ellingson and from the ILC consortium side Mr. Tim Te Haar. In all the years I have worked in the municipality I know of no team which has

given the city such commitment, compliance and integrity as they and their teams have done.

The value for money they got in a time when exchange rates, concrete and steel prices went through the ceiling is borne out by the fact that of the three large stadia being built, Durban's Moses Mabhida has got the best values by far.<sup>101</sup>

But, given that we have spent billions, could all this energy and money not have been better directed? A national project to take South African to the forefront of cleaner and more efficient energy sources comes to mind. The R11,3 billion spent on stadiums could have converted more than one million households to solar geysers. As Don Albert notes:

It is easy to find fault in most urban development, and there with surely be successes that the Strategic Projects Unit and their teams will deliver, however ... isn't it time to refocus on what the meaning of 'strategic' really is? There is a crushing need for transportation that works, housing, education, health care and indeed truly sustainable development that the pragmatic likes of Ms. Ellingson could just as easily tackle.<sup>102</sup>

Given that the new stadium was a 'nice to have', not a FIFA requirement, its construction has inevitably displaced other discretionary spending that may have been more truly strategic – such as preparing Durban, as a coastal city, for the impact of climate change and rising sea levels. After all, Durban's beaches are a much more profound symbol of its enduring tourism appeal than a steel arch made in Germany.

Tomlinson argues that 2010 may have profound intangible benefits, in particular decreasing Afro-pessimism and celebrating African culture.<sup>103</sup> But he adds this caution: 'In economic terms, it may well be that 2010 will be to the disadvantage of most South Africans and exacerbate and contribute to inequality, both regionally and within cities.'<sup>104</sup>

Indeed, while there is no evidence of corruption, the benefits of this new stadium are highly concentrated – among big construction firms, empowerment regulars and the local political elite – but the costs, current and future, are spread wide. They will have to be financed through increased service charges

that will touch even the city's poorest. Whatever the true cost, what remains the real tragedy of 2010 is the displacement of huge quantities of scarce time, money, skills and energy for a project that amounts to little more than a month-long television show.

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# 8 Conclusions and recommendations

COLLETTE SCHULZ HERZENBERG

Conflict between public and private interests is recognised as one of the most prevalent challenges at all levels of public life in South Africa. Mega-events, like the 2010 World Cup, provide fertile ground for conflict of interest situations to manifest. The magnitude and uniqueness of the event, the nature of the construction industry, the vast sums of money involved, weak internal institutional oversight and accountability, opaque decision-making and the dearth of publicly available information all contribute to an environment conducive to conflicts of interest and corruption. While the chapters of this monograph each tell their own compelling stories, each case study speaks to a set of common issues. These, in turn, allow for several conclusions and policy recommendations to be drawn from the analyses.

## TRANSPARENCY IN MEGA-EVENT DECISION-MAKING

Mega-events are globally recognised as occasions that typically violate good governance practices, undermining transparency and participation in political and administrative decision-making.<sup>1</sup> Certainly, civil society does not have the same say in this arena of public life as it does in others.<sup>2</sup> The Scandinavians, recognising the governance defects, have coined a term ‘democracy deficit’ in an attempt to describe the lack of transparency and popular involvement in mega-project decision-making.<sup>3</sup> The secretive nature of mega-events was also noted in a recent publication, *Development and Dreams*, which assessed aspects of the 2010 World Cup.<sup>4</sup>

The lack of transparency in the construction industry compounds the problem. The nature of the contractual agreements between the South African government and the corporate sector are largely undisclosed, with little public participation or access to information. Costs are kept secret, even when public money is spent. Commercial confidentiality currently seems to take precedence over public interest. Therefore, publication of financial information and routine inspection of books and records do not normally take place.<sup>5</sup>

Moreover, public access to information on government tenders and government budgetary allocations and spending are particularly challenging. This issue will be explored further.

In addition, the lines of accountability are blurred across multiple actors and institutions at different levels of government, making it difficult to identify to whom the various actors are accountable. An inevitable consequence of winning the right to host a mega-event is considerable pressure on government to deliver the required stadia, infrastructure and other facilities. Given the enormity of this undertaking as well as vast budgets and tight deadlines, it is likely that the usual monitoring and accountability mechanisms and procedures within government for conflicts of interest are strained, inadequate or simply non-existent. And without the necessary checks and balances in the public and private sectors, conflicts of interest and ensuing corruption may go undetected.

## MEGA-EVENT ORGANISERS

Similarly, Horne and Manzenreiter draw attention to the non-transparent nature of mega-event organisers when they state that ‘considerable secrecy and

lack of transparency continue to pervade the undemocratic organisations that run mega-events'.<sup>6</sup> The case study of FIFA by Jennings aptly demonstrates the absence of transparency and accountability within that organisation, as well as various conflicts of interest that permeate the organisation. Again, Rose turns the spotlight on FIFA's official suppliers, Match, illustrating the murky nature of the organisation's tender processes. The extent to which these companies also stand to benefit financially from the 2010 World Cup sits in stark contrast to the high indebtedness of many municipalities as they struggle to meet their financial obligations for stadia and related construction projects.

## MEGA-EVENTS AND THE PUBLIC INTEREST

Seemingly, in the context of mega-events, public and personal interests are in perpetual conflict, often with the former being sacrificed in favour of the latter. The lack of openness and transparency in decision-making compounds the problem by creating positive conditions for narrow, personal interests to trump the broader public interest.

Authors looking at the Cape Town and Durban stadia all identify the location of stadia as an ongoing tension between the public and the private interest. Again, current and future (over)spending is identified as a related and salient public interest issue. The building and future maintenance of stadia in various cities (Durban and Port Elizabeth in particular) are likely to impact on their respective municipalities' capacity to prioritise pro-poor spending and deliver services and infrastructure. In addition, the longer-term financial viability of several stadia remains questionable. Anchor tenants have been difficult to secure in the Cape Town and Port Elizabeth stadia.

Another public interest issue, illuminated in the Soccer City management deal, is the ceding of profits by the respective municipality, in this instance the City of Johannesburg. Despite heavy investments by local taxpayers, they stand to receive little financial return from the hosting of the World Cup in their locality. As such, the costs of erecting soccer stadiums for a once-off event appear to exceed the benefits for local communities.

Finally, the role of mega-event organisers, like FIFA and the LOC, has come under scrutiny since they are in the business of defining 'the public interest'. Undeniably, the public-private dimensions of any mega-event are bound to be complex. However, mega-events are increasingly criticised for their poor per-

formance records in terms of the cost-benefit analyses, social and environmental benefits and public support.<sup>7</sup> The physical and economic scale of many such events is such that whole nations may be affected in both the medium and long term by the success or failure of a single project.<sup>8</sup>

Perhaps it is naive to suggest that a corporate-minded organisation such as FIFA should prioritise the host nation's public interest. Organisers are most likely to regard these events as profit-maximising opportunities first and foremost. Nevertheless, sporting events of this nature are sold as a 'public good' and as development vehicles. And since these values underpin the rationale of the event it becomes imperative that its legacy is judged from that perspective.

## THE ROLE OF THE HOST GOVERNMENT

These observations raise further questions: What is the role and responsibility of host governments in the context of a mega-event? Should governments mediate between conflicting interests? If so, whose interests should they prioritise?

Of course, it is the task of government to ensure a successful event. More importantly, though, democratic governments are mandated by their electorates to ensure that public spending contributes in a meaningful way to that country's development goals. Thus, any substantial public expenditure accompanying once-off mega-events should generate significant and measurable public goods and benefits. Yet the case studies raise a number of associated questions: Was the public purse used most effectively? What of the stadia – will they serve the public interest in the years to come? And, if so, at what expense to the taxpayer?

Ultimately, this issue forces us to consider the power dynamics between the various actors involved. And, on the face of it, governments appear to lack agency vis-à-vis the powerful international and corporate elites that have a financial stake in the game. Power is disproportionately allocated in favour of FIFA and corporate entities to the detriment of host governments and their citizens. Yet, governments are best placed to safeguard the public interest that could be otherwise sacrificed in favour of private interests. But, as Schoonbee and Brümmer argue in their chapter, 'national government was structurally conflicted' and was unable to arbitrate effectively between competing interests.

Their conclusion: had government retained more independence, an outcome far less burdensome may have been achieved.

Moreover, governments themselves are compromised when they are required to do business with certain private entities. As Rose points out in the Match chapter, 'it is a tricky situation for the South African government: hosting the World Cup necessitated getting into bed with FIFA'. However, he continues, future global sports events for which South Africa bids will require a little less naivety. Instead, he argues, government can play a more proactive role by paying greater attention to 'the pre-contracted suppliers for conflicts of interest, to get a truer sense of the real economic gains for the country than was obtained for the 2010 World Cup'.

## **CONFLICTS OF INTEREST AND CORRUPTION IN SOUTH AFRICA**

There is mounting discussion in South Africa's body politic about the increase in conflicts of interest and corruption in the public sphere. Recently, the Auditor-General reported to Parliament that many public servants and their families are doing business with government departments.<sup>9</sup> The government is aware that corruption poses a key governance challenge to its tenure. In President Jacob Zuma's 2009 State of the Nation Address to Parliament, he gave priority to greater accountability of elected and public officials in government. He also tasked government with setting up an inter-ministerial committee on corruption that will examine ways to combat corruption.<sup>10</sup> In the 2009 Budget Speech, the Finance Minister, Pravin Gordhan, was more pointed, stating that there will be a revision of government's procurement and tendering system to ensure greater transparency. Furthermore, government is to adopt a more systematic and integrated approach to rooting out tender fraud and corruption by enlisting multiple institutions such as the South African Revenue Service, the National Prosecuting Authority and the Auditor-General and government departments.<sup>11</sup> The case studies presented here echo many of these concerns and issues. They also contribute rich material and much-needed insight into key conflict of interest situations relating to government tendering processes, black economic empowerment and unequal elite access to state resources.

## Government tenders and procurement

Several case studies highlight the deficiencies of current tendering and procurement practices, particularly in municipal government. The chapters on Soccer City and the Eastern Cape focus on tender contracts in construction and advertising and both are excellent examples of the generalities. They highlight how the awarding of government tenders is often opaque and fraught with irregularities. There is also a dearth of information on government tenders. The public, the media and political parties have little opportunity to monitor and evaluate the terms of the contracts being awarded, the merit of competing bidders and the reasons for a particular outcome or preferred bidder. Moreover, the results of awarded tenders are seldom made public. Information is not easily accessible, and is often treated confidentially. Requests for information about the basis on which tenders were awarded are usually met with silence by municipalities.

These conditions make irregularities very hard to detect. It also leads to allegations of favouritism and even corruption, especially when the least competitive bidders are successful. For instance, the ECTB was accused of maladministration and mismanagement when the least competitive bidder won their advertising and branding contract. Bribes are said to be commonplace in some municipalities. An example is the case of the unsolicited bribe in Mthatha municipality, where it is alleged that a bribe was solicited from a potential bidder. The person soliciting the bribe was linked to the evaluation and adjudication committee, a municipal structure that oversees the tender process.

## Black economic empowerment and tenders

BEE is the governing ANC policy designed to promote black ownership of the economy. BEE credentials are important criteria in tender bids for government contracts. They place an obligation on bidding companies competing for government contracts to demonstrate black ownership, and thus their commitment to broad-based empowerment.

However, as Rose demonstrates in the Soccer City chapter, it has led to cases of ‘fronting’ where companies transfer shares to so-called ‘black partners’ at a minimal value to secure a lucrative state contract. As Rose states, ‘This pressure on companies bidding for tenders provides fertile ground for irregularities and tender-rigging to occur.’ Combined with the generally poor transparency

of tender deals, companies are arguably incentivised to generate deceitful empowerment credentials. The policy has also been criticised for its unintended consequences – namely nepotism, cronyism and the creation of a small, but wealthy, politically connected empowerment elite.

## The protection of whistle-blowers

The suspension of an alleged whistle-blower by the ECTB reflects a wider problem in South Africa of the general lack of protection of whistle-blowers by government departments, despite the existence of legislation for this purpose. The Protected Disclosures Act 26 of 2000 (PDA), is a crucial tool in preventing corruption. Yet its practical implementation has been marred by negative perceptions among citizens about speaking openly and confidently about wrongdoing.<sup>12</sup> The public sector has also been slow to implement whistle-blowing policies.<sup>13</sup> However, there is some evidence of a gradual shift in attitudes towards a more supportive whistle-blowing culture in the country.<sup>14</sup>

## Laws on access to information

The Promotion of Access to Information Act 2 of 2000 (PAIA), is often the public's only legal recourse to access tender-related documentation, but this route is both costly and time-consuming. The Act gives effect to Section 32 of the Constitution and, subject to justifiable limitations, establishes mechanisms or procedures that enable people to obtain access to records of public bodies as swiftly, inexpensively and effortlessly as is reasonably possible. Although enshrined in law, access to information is often notoriously difficult to gain. The procedural difficulties in getting access to information are a major problem.<sup>15</sup>

## Financial disclosure regulations

Of particular concern are financial disclosure requirements for elected and non-elected officials. Despite South Africa's array of extensive and progressive disclosure laws for elected officials, practical implementation varies dramatically across the spheres and levels of government, making monitoring and oversight more difficult.<sup>16</sup> Moreover, institutional support and capacity for disclosure is sorely lacking, especially at the levels of provincial and local gov-

ernment. In addition, weak internal investigatory bodies undermine oversight and the enforcement of sanctions.<sup>17</sup> Finally, the inability of citizens, in some cases, to exercise their right to access the disclosure documents severely curtails transparency and undermines the accountability of public decision-making.<sup>18</sup>

In the public sector, among non-elected officials, the PSC has repeatedly expressed concerns about the low rates of compliance with the financial disclosure framework for senior managers.<sup>19</sup> The PSC observations are of concern and highlight the serious problem of the lack of public accountability in the public service. Mechanisms to ensure oversight and accountability are simply not being used effectively.

## RECOMMENDATIONS FOR POLICY MAKERS

This research provides policy makers with an opportunity to identify weaknesses in South Africa's integrity frameworks and accountability mechanisms. One can also start to reassess the overall integrity of mega-event governance. A set of recommendations follows. They are aimed primarily at South African policy makers. However, they should also be of interest to future hosting nations to the World Cup and event organisers generally. Where potential risk exists, policy makers should regard that as sufficient need for integrity systems to be put in place. We hope that what follows helps policymakers set an agenda for new anti-corruption interventions.

### Government tendering and procurement

Greater transparency is critical. Tendering and procurement processes at all levels of government require far greater levels of transparency and openness. One measure is to allow public access to decision-making and procedural bodies. The use of PAIA should not be regarded as the first option for public access to tender documents and information, but strictly as a last resort. Not only will public access provide scrutiny and help to identify corrupt outcomes, it will also cast greater legitimacy over government decisions. In addition, the Municipal Finance Management Act 56 of 2003 requires revision. At present it does not allow for sufficient multi-party political oversight of municipalities' financial and tendering decisions. A combination of these transparency measures will also assist with monitoring of companies that produce questionable or deceit-

ful empowerment credentials. The City of Cape Town has introduced measures to ensure greater transparency in their tendering practices and this may provide a model for other municipalities and other levels of government to emulate.

## Existing anti-corruption mechanisms

Existing integrity measures, such as disclosure regimes, need to be strengthened and enforced across all government institutions at the three levels of government. Recommendations to extend the disclosure regime to junior civil servants and middle managers in the public sector should be fast-tracked and enforced.<sup>20</sup> Access to information and the protection of whistle-blowers are paramount in the fight against corruption. These values need to be encouraged and entrenched further, particularly in the public sector. South Africa has decent legislation in this regard in the PAIA and PDA. Institutions must implement both laws in an effective way if they are to have a meaningful impact. Where corruption and criminal activities are suspected, investigations should be given the highest priority. It is imperative that government sends clear signals to all public officials and business people that corruption will not be tolerated.

## Enhancing public interest outcomes and the value of public goods

When confronted with an opportunity to host mega-events governments should adopt economic models that base their evaluations of heavily state-financed projects on criteria that prioritise public good and long-term sustainability. Governments may lack the leverage necessary to hold private international organisers to account but can still enforce the principle of the public interest as central to all its decision-making.

With many more mega-events being proposed globally, and much larger ones at that, it is crucial that related infrastructural projects become economically viable and environmentally, socially and ethically sustainable. To achieve this, politicians, policy makers and event organisers must find innovative ways to overcome the twin dilemmas of ethics and effectiveness in performance management. They should instead be regarded as mutually supportive concepts that contribute positively to the governance of mega-events.

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## CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

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