



IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN
SITTING AS AN EQUALITY COURT

Case No. EC 09 / 2016

In the matter between:

SOCIAL JUSTICE COALITION	First Applicant
THOBEKA EUNICE BOBOTYANA	Second Applicant
LINDELA BEBI	Third Applicant
NOSIPHELELE MSESIWE	Fourth Applicant
NOBATHEMBU SEPLANI	Fifth Applicant
NOLIZWE MANELI	Sixth Applicant
and	
CITY OF CAPE TOWN	Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE THAT the Applicants intend to make application to this Honourable Court on a date to be determined by the Registrar, for orders in the following terms:

1. It is declared that the City of Cape Town ("the City") unfairly discriminates in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 ("the Equality Act") in the provision of sanitation services to the

Second to Sixth Applicants and the residents of CT Section and Enkanini informal settlements in Khayelitsha, Cape Town (“the persons concerned”) in the following respects:

- 1.1. The City provides inferior sanitation services to the persons concerned, who are overwhelmingly black persons, compared with those of other racial groups;
 - 1.2. The City denies access to equitable, decent, adequate and safe sanitation services to the persons concerned on the grounds of race, and fails to take steps to reasonably and equitably accommodate the needs of the persons concerned for decent, adequate and safe sanitation services.
 - 1.3. The City provides inferior sanitation services to the persons concerned on the basis of their socio-economic status and location, which causes and perpetuates systemic disadvantage, undermines their human dignity, and adversely affects their equal enjoyment of rights in a serious manner;
2. It is declared that the City unfairly discriminates against the persons concerned through not having taken reasonable steps to plan and implement the provision of permanent sanitation facilities where this is reasonably practicable.
 3. It is declared that the City of Cape Town (“the City”) unfairly discriminates in terms of the Promotion of Equality and Prevention of Unfair Discrimination

Act 4 of 2000 (“the Equality Act”) in the provision of sanitation services to residents of informal settlements in Cape Town in the following respects:

- 3.1. The City provides inferior sanitation services to such persons, who are overwhelmingly black persons, compared with those of other racial groups;
 - 3.2. The City denies access to equitable, decent, adequate and safe sanitation services to such persons on the grounds of race, and fails to take steps to reasonably and equitably accommodate the needs of such persons for decent, adequate and safe sanitation services.
 - 3.3. The City provides inferior sanitation services to such persons on the basis of their socio-economic status and location, which causes and perpetuates systemic disadvantage, undermines their human dignity, and adversely affects their equal enjoyment of rights in a serious manner;
4. It is declared that the City unfairly discriminates against the residents of informal settlements in Cape Town through not having taken reasonable steps to plan and implement the provision of permanent sanitation facilities where this is reasonably practicable.
 5. The City is ordered, within three months of the date of this order:
 - 5.1. to prepare and make available to the Applicants and the residents of Enkanini and CT Section, a plan for the provision of permanent sanitation facilities in those areas of Enkanini and CT Section where

this is reasonably practicable, indicating what steps will be taken, where they will be taken, and when they will be taken;

- 5.2. to take reasonable measures to implement that plan; and
- 5.3. to file a report under oath, with this Court, addressing the matters referred to in paragraph 5.1 above.

6. The City is ordered, within twelve months of the date of this order, to deliver a report under oath to this Court:

- 6.1. stating what steps it intends to take towards eradicating the use of chemical, container and portable flush toilets as the means of providing sanitation services to informal settlements in Cape Town, and when and where it will take such steps; and
- 6.2. to the extent that it contends that it is not reasonably practicable to take such steps in particular areas of informal settlement in Khayelitsha, identifying the areas concerned, stating the reasons why it is not reasonable to provide permanent sanitation services in each such area, and stating what steps, if any, the City will take to address the reasons why it is not reasonably practicable to take such steps in each such area.

7. The Applicants may deliver their commentary under oath:

- 7.1. on the report referred to in paragraph 5, within one month of the delivery thereof.

- 7.2. on the report referred to in paragraph 6, within three months of the delivery thereof.
- 8. The City may deliver its reply under oath to the Applicants' commentary in terms of paragraphs 7.1 and 7.2, within one month of the delivery thereof.
- 9. The Applicants are granted leave to approach this Court on these papers, supplemented as the circumstances may require, for further relief.
- 10. Directing the First Respondent to pay the Applicants' costs.
- 11. Granting the applicants further and/or alternative relief.

TAKE NOTICE THAT the affidavits of the Applicants, **CONRAD BABERTON** and **CHRISTOPHER JAY KRUUSE** are used in support of the relief sought.

TAKE FURTHER NOTICE THAT the Applicants have appointed the **NDIFUNA UKWAZI LAW CENTRE**, Office 302, 47 On Strand, Strand Street, Cape Town, as the address at which they will accept notice and service of all process in these proceedings.

Kindly place the matter on the roll accordingly.

DATED AT CAPE TOWN ON THIS THE 8th **DAY OF SEPTEMBER**
2016.

NDIFUNA UKWAZI LAW CENTRE
PER:



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AND TO: CITY OF CAPE TOWN
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