



KWAZULU-NATAL PROVINCIAL LEGISLATURE

NEGOTIATING MANDATE

TO: HON. AND QIKANI
CHAIRPERSON: SELECT COMMITTEE ON LAND AND ENVIRONMENTAL
AFFAIRS

NAME OF BILL: SPATIAL PLANNING AND LAND USE MANAGEMENT BILL

NUMBER OF BILL: B14B-2012

DATE OF DELIBERATION: THURSDAY, 30 MAY 2013

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Cooperative Governance and Traditional Affairs met today, Thursday, the 30th of May 2013 to consider the Spatial Planning and Land Use Management Bill [B14B-2012].

The following comments and amendments were proposed and considered on the Bill:

(1) To amend the definition of "municipality" as follows:

"municipality" means the municipality as envisaged in section 155(1) of the Constitution, and for the purposes of this Act includes [a municipal department,] the Municipal Council [and the], municipal manager and the Municipal Planning Tribunal, where the context so requires;"

(2) The deletion of clause 28(4) that provides that only a municipal council may amend land use scheme regulations.

(3) The substitution of clause 33 with the following clause:

"Application for land development

33.(1) An application for land development must be submitted to –

(a) a municipality; or

(b) a Municipal Planning Tribunal established by a municipality.

(2) The municipality or Municipal Planning Tribunal must decide the application for land development, unless the Minister has directed that the application must be referred to him or her as contemplated in section 52(5)(b).

(3) The provisions of this section do not detract from any authorisation that is required for an activity in terms of any other law."

(4) Amendment of clause 36 as follows:

"Composition of Municipal Planning Tribunals

36. (1) A Municipal Planning Tribunal must consist of –

(a) officials in the full-time service of the municipality; **[and]**

(b) persons appointed by the Municipal Council who are not municipal officials; **[and]**
or

(c) both officials in the full-time service of the municipality and persons appointed by the Municipal Council, who have knowledge and experience of spatial planning, land use management and land development or the law related thereto."

(5) The deletion of clause 40(2) that requires that at least one member of a Municipal Planning Tribunal that decides an application for land development must be a person who is not a municipal official.

(6) The deletion of the phrase "except any change affecting the scheme regulations in terms of section 25(2) (a)" from clause 41(2) (d).

(7) The insertion of clause 41(2) (f) as follows:

(f) the registration of ownership in the manner contemplated in section 53.

(8) The renaming of clause 51 from **["Internal appeals"]** to **"Appeals"**.

(9) Amendment of clause 51(6) as follows:

"(6) A municipality may, in the place of its executive authority, authorise [a body or institution outside of the municipality or in a manner regulated] that an independent and impartial appeal tribunal established in terms of municipal or provincial legislation, assume the obligations of an appeal authority in terms of this section."

(10) The insertion of clause 51(8) as follows:

(8) Except as contemplated in subsection (6), the provisions of this section do not detract from any right of appeal provided for in any other law.

(11) The substitution of clause 53 with the following clause:

"Registration of ownership in settlements earmarked for persons who are affected by serious adverse social or economic conditions

53.(1) A municipality approve the registration of ownership in a settlement in terms of this section if the settlement is earmarked for settlement by –

(a) destitute persons;

(b) persons that are dependent on state pensions or social grants for their livelihood;

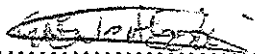
(c) persons who are affected by a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or

- (d) persons who are affected by any other serious adverse social or economic conditions.
- (2) A deed of transfer for the registration of land contemplated in this section must be in the form prescribed for this purpose under the Deeds Registries Act.
- (3) A deed of transfer referred to in subsection (2) must be prepared by-(a) a conveyancer;
- (b) if the owner of the erf is the State, by an official in the public service or other person in the employ of the department designated for the purpose of preparing deeds of transfer by the relevant minister or MEC; or
- (c) if the owner of the erf is a municipality, by a municipal official or other person in the employ of the municipality designated for the purpose of preparing deeds of transfer by the municipal manager.
- (4) A deed of transfer referred to in subsection (2) must be signed by the owner of the erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or an official or person referred to in subsections (3)(b) and (c) in the manner prescribed under the Deeds Registries Act.
- (5) An official or person referred to in subsection (3)(b) and (c) –
- (a) must disclose the fact that the deed of transfer referred to in subsection (2), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, mutatis mutandis, in terms of section 15A (1) and (2) of the Deeds Registries Act, responsibility for the correctness of the facts stated in any such document; and
- (b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.
- (6) A conveyancer, official or person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act.
- (7) The Registrar of Deeds must deal with a deed of transfer and other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act.
- (8) Ownership of the erf shall be transferred on the date of registration by the Registrar of Deeds of a deed of transfer referred to in subsection (2).
- (9) Section 17 (1) and (2) of the Deeds Registries Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section".

(12) The insertion of item (bb) in Schedule 1 as follows:

(bb) Provide for the establishment of independent and impartial municipal or provincial appeal tribunals to hear appeals in terms of this Act or provincial legislation contemplated in this Schedule.

The Committee agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to support the Bill provided that the above comments and proposed amendments are considered and consolidated in the Bill.



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HON GN SWARTBOOI
CHAIRPERSON OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS PORTFOLIO COMMITTEE

30.5.2013

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DATE