

Sheriff Return of Service
Notice in term Rule 4 of HIGH Court Rules
Original

Our Ref: H1406/14

Case no:827/2012

Case no:CCT 70/13

To: The REGISTRAR OF THE COURT

JS

BALDEN, VOGEL & VENNOTE INC ATTORNEYS
P.O. BOX 22
HARRISMITH
9880
TEL (058) 622 1035 FAX 058 622 1124
Your VAT No: Account No:
YourRef:

In the FREESTATE HIGH COURT HELD IN BLOEMFONTEIN
In the matter between
THE MINISTER OF RURAL DEVELOPMENT AND LAND REFORMS
And

MALUTI A PHOFUNG MUNICIPALITY
And

MORENA TSHOLO MOPELI

MABOLELA TRADITIONAL COUNCIL

THE UNLAWFULL OCCUPIERS OF THE FARM "BLUEGUMBOSCH 199"

POTENTIAL UNLAWFULL OCCUPIERS OF THE "BLUEGUMBOSCH 199"

1ST APPLICANT

2ND APPLICANT

1ST RESPONDENT

2ND RESPONDENT

3RD RESPONDENT

4TH RESPONDENT

COURT ORDER: EVICTION

On 11/06/2014 at 06:20 – 17:30 Mr. RAPOROTO MOTSIMA dealt with eviction order as follows.

EVICTIONS

I evicted 671 individual unlawful occupiers at BLUEGUMBOSCH 199 FARM from their shacks and houses.

The Sheriff Mr. DJ THATENG explained the nature and contents of court order in the police loudhailer in English and Sesotho and the unlawful occupiers understood.

Most of people removed their structures and few were demolished by ICEBERG SECURITY.
Some people provided their own transport to remove their belongings and others used the ICEBERG SECURITY transport

	Description of fees	Amount R
Deputy Sheriff: Mr. Raporoto Motsima From: Mr. DJ Thateng P.O. Box 14256 Witsieshoek, 9870 Account info for bank deposit/transfers: ABSA Harrismith Sheriff Witsieshoek Acc: 92-7756-6082 E-mail: djthateng@hotmail.co.za Tel: 084 3141 554 Fax: 058 713 1385/086 2765 205 VAT No: NA Issued on: 23/06/2014	Registration	7.00
	Return	25.50
	Service fee	61.00
	Urgency fee	
	Telephone	130.00
	Attending meeting	
	People evicted	11 407
	Time taken	1 199.00
	Travelling fee	140.00
	Copies	15.00
	Delivery fee	0.00
	LETTER	12.50
	fax	21.00
	Postage	18.00
		Sub total
	Plus VAT	0.00
	Total Owning	13 036.50
You may require this account to be taxed and vouched within 90 days of the date of issue.		

Ontvang 29/07/14

11 p 11 80

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MORENA TSHOLO MOPELI

1ST RESPONDENT

MABOLELA TRADITIONAL COUNCIL

2ND RESPONDENT

THE UNLAWFULL OCCUPIERS OF THE FARM "BLUEGUMBOSCH 199"

3RD RESPONDENT

POTENTIAL UNLAWFULL OCCUPIERS OF THE "BLUEGUMBOSCH 199"

4TH RESPONDENT

COURT ORDER: EVICTION

On 11/06/2014 at 06:20 – 17:30 Mr. ELVISTSATSA dealt with eviction order as follows.

EVICTIONS

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The Sheriff Mr.DJ THATENG explained the nature and contents of court order in the police loudhailer in English and Sesotho and the unlawful occupiers understood.

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Some people provided their own transport to remove their belongings and others used the ICEBERG SECURITY transport

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	LETTER	12.50
	fax	21.00
	Postage	18.00
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Our Ref: H1406/17

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And

2ND APPLICANT

MORENA TSHOLO MOPELI

1ST RESPONDENT

MABOLELA TRADITIONAL COUNCIL

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THE UNLAWFULL OCCUPIERS OF THE FARM "BLUEGUMBOSCH 199"

3RD RESPONDENT

POTENTIAL UNLAWFULL OCCUPIERS OF THE "BLUEGUMBOSCH 199"

4TH RESPONDENT

COURT ORDER: EVICTION

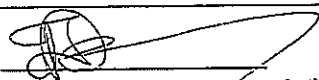
On 11/06/2014 04:35 Mr.DIKOTSI J THATENG attended an urgent stakeholders meeting at PHUTHADITJHABA POLICE STATION.

MEETING ATTENDANCE

The STATION COMMISSIONER COLONEL NTULI requested the SHERIFF Mr.DJ THATENG to meet with FIRST RESPONDENT MORENA TSHOLO MOPELI.

Mr.DJ THATENG reported to in the caucus with the Management of the SECOND APPLICANT, MALUTI A PHOFUNG MUNICIPALITY that MORENA TSHOLO gave him an email from SOUTH AFRICAN HUMAN RIGHTS COMMISSION.

Mr. GAVE ROSSOUW gave meeting feedback that evictions continue as planned.

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	Return	25.50
	Urgency fee	350.00
	Telephone	56.00
	Attending meeting	364.50
	Travelling fee	196.00
	Copies	37.50
	Delivery fee	0.00
	LETTER	25.00
	fax	21.00
	Postage	36.00
	Sub total	0.00
	Plus VAT	0.00
	Total Owing	1 111.00
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Ontvang 29/07/14

"R" 84

Sheriff Return of Service
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POTENTIAL UNLAWFULL OCCUPIERS OF THE "BLUEGUMBOSCH 199"

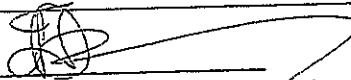
4TH RESPONDENT

COURT ORDER: EVICTION

On 12/06/2014 10:00 Mr. ELVIS TSATSA attended an urgent briefing session meeting at PHUTHADITJHABA POLICE STATION.

MEETING ATTENDANCE

The meeting resolved that evictions was carried in a dignified manner and applauded ALL STAKE HOLDERS who made participated in the evictions. The Sheriff Mr.DJ THATENG could not attend because of flu.

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 Deputy Sheriff: Mr. Dikotsi Thateng From: Mr. DJ Thateng P.O. Box 14256 Witsieshoek, 9870 Account info for bank deposit/transfers: ABSA Harrismith Sheriff Witsieshoek Acc: 92-7756-6082 E-mail: djthateng@hotmail.co.za Tel: 084 3141 554 Fax: 058 713 1385/086 2765 205 VAT No: NA Issued on: 23/06/2014	Registration	7.00
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	Travelling fee	196.00
	Copies	37.50
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	LETTER	25.00
	fax	21.00
	Postage	36.00
	Sub total	0.00
	Plus VAT	0.00
	Total Owning	1 125.00

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Ondang 23/06/14

Mayor says some evic

By: Libuseng Nyaka, Thapelo Molebatsi & Martin Makoni

Maluti-a-Phofung Local Municipality executive mayor Vusi Tshabalala says families evicted from an illegal settlement in QwaQwa had turned down an offer to be moved to council land elsewhere before their shacks were demolished this week.

The municipality claims less than 100 shacks belonging to about 40 families at Bokamoso, QwaQwa, were demolished by the local authority and not the 500 that has been widely reported by the media.

Tshabalala told *The Weekly* yesterday that following a Constitutional Court ruling on May 23, 2012, the families that had illegally settled on council land were offered alternative stands but they turned them down.

He said some people evicted from Bokamoso already had land elsewhere and had only grabbed pieces of land at the illegal settlement because they wanted to build rented accommodation for University of the Free State students studying at the Uniqwa campus in the town.

Tshabalala said it was wrong for people to continue to illegally occupy the land after they were issued with a court order to move.

"The act on its own is wrong - it's against the rule of law," he said in a telephone interview.

"Indeed some of the occupants of the area are poor but most people who had stands there were affluent people who wanted to build accommodation for Uniqwa students," the mayor claimed.

Tshabalala said when the municipality suggested an alternative piece of land for the squatters, some of them turned down the offer because they knew that they would not pass the means test that would be applied by council when allocating the new stands.

Eligible people would have received those new stands free of charge.

The Bokamoso settlers had paid R500 per stand to local chief Morena Mopeli to settle on the illegally acquired piece of land.

Mopeli claimed that the land belonged to his chieftaincy.

Tshabalala said after the evictions, 39 families were found to be in dire need of land and the municipality immediately offered them alternative accommodation.

"We cannot dispose of people like waste hence as a municipality we've taken a decision to house them temporarily until we have allocated them land to live on," he added.

Co-operative governance and traditional affairs (Cogta) MEC Olly Mlamleli blasted the media for reporting on the matter without a clear understanding of what was going on.

"The 500 figure is thumb-sucked by the media

Lise

From: Machela Hleli <machela@map.fs.gov.za>
Sent: 25 November 2014 03:33 PM
To: collections.balden
Subject: FW: SAHRC FINDINGS - MALUTI A PHOFUNG / FARM 199 BLUEGUMBOSCH (BOKAMOSO) EVICTIONS
Attachments: MALUTI A PHOFUNG INVESTIGATIVE REPORT.pdf; INVESTIGATIVE REPORT - MALUTI A PHOFUNG LOCAL MUNICIPALITY.docx; LETTER TO MALUTI A PHOFUNG MUNICIPALITY.pdf
Importance: High

For Mr Rossouw please!

From: Mokoena Moeketsi [mailto:moeketsim@map.fs.gov.za]
Sent: 26 September 2014 10:48 AM
To: machela@map.fs.gov.za
Cc: 'Tsoeu Mekomatsili'; nyembes@map.fs.gov.za
Subject: FW: SAHRC FINDINGS - MALUTI A PHOFUNG / FARM 199 BLUEGUMBOSCH (BOKAMOSO) EVICTIONS
Importance: High

From: Kopano Motaung [mailto:kopano@map.fs.gov.za]
Sent: 26 September 2014 09:58
To: moeketsim@map.fs.gov.za
Subject: FW: SAHRC FINDINGS - MALUTI A PHOFUNG / FARM 199 BLUEGUMBOSCH (BOKAMOSO) EVICTIONS
Importance: High

Ngwana Matala





Morong!

From: Buang Jones [mailto:bjones@sahrc.org.za]
Sent: 23 September 2014 09:07 AM
To: mmadmin@map.fs.gov.za
Cc: kopano@map.fs.gov.za
Subject: SAHRC FINDINGS - MALUTI A PHOFUNG / FARM 199 BLUEGUMBOSCH (BOKAMOSO) EVICTIONS
Importance: High

Dear Sir

Please find attached report for your kind attention.

Kind regards

<p>Buang Jones Acting Provincial Manager Free State T: +27 51 447 1130 Ext 4311 E: bjones@sahrc.org.za</p> <p>No. 18 Kellner Street, Westdene Bloemfontein</p> <p>Switchboard T: +27 51 447 1133</p>	<p>Upcoming events Click here for upcoming events</p> <p>Follow us:</p> <ul style="list-style-type: none">  @SAHRCommission  SAhumanrightscommission  YouTube: SAHRC1 	 <p>human rights commission</p> <p>www.sahrc.org.za Info@sahrc.org.za</p>
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Transforming society. Securing rights. Restoring dignity

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SOUTH AFRICAN HUMAN RIGHTS COMMISSION

18 Kellner Street
Westdene

P.O Box 4245
Bloemfontein
9300

Tel: (051) 447 1130

Tel: (051) 447 1133

Fax: (051) 447 1128



23 September 2014

Our Ref: FS/1415/0057

Maluti a Phofung Municipality

Phuthaditjhaba

9880

Attention: Municipal Manager

Dear Sir

**RE: SAHRC REPORT & FINDINGS - EVICTION OF RESIDENTS OF FARM 199
BLUEGUMBOSCH**

1. The above matter refers.
2. The South African Human Rights Commission (Commission) has concluded its investigations into this matter.
3. Kindly find attached copy of the report for your attention. This finding is subject to the right of the municipality to appeal to the Chairperson of the Commission within forty-five (45) days of receipt of this report.

Transforming society. Securing rights. Restoring dignity.

Chairperson: ML Mushwana; **Deputy Chairperson:** P Govender; **Commissioners:** L Mokate, B Malatji, J Love, D Titus, M S Ameeria
Chief Executive Officer: K Ahmed

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

18 Kellner Street
Westdene

P.O Box 4245
Bloemfontein
9300

Tel: (051) 447 1130

Tel: (051) 447 1133

Fax: (051) 447 1128



Yours faithfully,

A handwritten signature in black ink, appearing to read "Buang Jones", is written over a horizontal line.

Buang Jones (Mr)

Acting Provincial Manager

Free State Province

South African Human Rights Commission

Transforming society. Securing rights. Restoring dignity.

Chairperson: ML Mushwana; **Deputy Chairperson:** P Govender; **Commissioners:** L Mokate, B Malatji, J Love, D Titus, M S Ameemia
Chief Executive Officer: K Ahmed



SOUTH AFRICAN HUMAN RIGHTS COMMISSION REPORT

File Ref No: FS/1415/0057

In the matter between:

South African Human Rights Commission

Complainant

(On behalf of Bokamoso Residents, QwaQwa)

And

Maluti A Phofung Local Municipality

Respondent

REPORT

1. Introduction

1.1. The South African Human Rights Commission (hereinafter referred to as the "Commission") is an institution established in terms of Section 181 of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the "Constitution").

1.2. The Commission is specifically required to:

2.3. The Respondent is cited as the local government authority with jurisdiction over QwaQwa responsible for the delivery of basic municipal services to its residents.

3. Nature of Investigation

3.1. The investigation into this matter seeks to determine whether any one or more of the human rights listed in Chapter II of the Constitution (Bill of Rights), were violated during and after the eviction of Bokamoso residents in QwaQwa, Free State Province. The eviction took place on the 11 June 2014.

4. Background to the Complaint

4.1. On Tuesday, 10 June 2014, the attention of the Commission was drawn to imminent plans of the Respondent to evict unlawful occupiers of the remainder of Farm Bluegumbosch 199, Ha Tshohanyane, Bokamoso in QwaQwa.

4.2. The eviction followed the Constitutional Court decision to dismiss the application for leave to appeal made on behalf of Bokamoso residents. The application was dismissed on the basis that it bears no prospects of success. The eviction was initially ordered by the Free State High Court on the 17 August 2012.

4.3. The Chief of the Maboela Traditional Council, Morena Tsolo Mopeli sought the intervention of the Commission in order to halt the eviction process pending a comprehensive assessment of the needs of the residents, their details and personal circumstances, the impact of eviction on vulnerable

In investigating the alleged violation, the methodology used by the Free State Office in conducting the investigation, involved a combination of *interview* and *physical inspection* techniques, namely:

- 6.1 Interview with Chief of Mabohele Traditional Council;
- 6.2 Interviews with Residents;
- 6.3 Interview with Respondent; and
- 6.4 *Inspection in loco* of the area.

6.1 *Interview with Chief of Mabohele Traditional Council*

- 6.1.1 On Tuesday, 10 June 2014, the Commission met briefly with Chief Tsolo Mopeli to discuss the impending eviction. It was agreed in that meeting that the Commission would engage with the Municipality with a view to halting evictions until such time that alternative accommodation had been secured for the residents.
- 6.1.2 Chief Tsolo Mopeli furnished the Commission with copies of the pleadings used in the High Court and the order dismissing the application made by the Constitutional Court on the 23 May 2014.
- 6.1.3 Due to lateness of the hour and in order to aid our investigations, the Commission requested a report from the Chief as he had to urgently return to QwaQwa.
- 6.1.4 On Wednesday, 18 June 2014, the Commission received a formal report from the Chief about the period leading up to the eviction and the aftermath of the eviction process.

- 6.1.5.7 Upon arrival of the Sheriff, he handed him a copy of the Commission's correspondence to the Municipality. After a brief meeting between the Sheriff and the Station Commander, the Sheriff told him and another community member that they could only stop the eviction if instructed to do so by the Mayor, Mr Vusi Tshabalala.
- 6.1.5.8 He subsequently contacted the Mayor who acknowledged receipt of the Commission's correspondence. The Mayor informed him that their lawyers had advised them to proceed with the eviction because the eviction order had been granted by the Court.
- 6.1.5.9 The Sheriff stated that the evicted people would be accommodated at a temporary shelter.
- 6.1.5.10 From then on, he went back to Bokamoso to report to the residents about the outcome of his deliberations with the Municipality, the Sheriff and law enforcement officials.
- 6.1.5.11 Residents expressed their disappointment upon hearing that the request to defer eviction by the Commission had been rejected by the Municipality.
- 6.1.5.12 Immediately thereafter, police vehicles entered Bokamoso and announced that because the Court had ruled against them living on this land, they must leave immediately otherwise they would be forcefully removed.

- 6.1.5.20 On Thursday, 12 June 2014, the evictees made their way to the Fire Department to find out more about the plans that had allegedly been made for alternative land.
- 6.1.5.21 He found deplorable conditions at the Fire Department where males and females were crowded together in one room. There was no water and toilets were blocked. Children couldn't attend school and some missed their exams as they were uncertain about where they would be resettled. Much of the furniture that was taken to the factory was damaged and some of the belongings of the evictees had been stolen.
- 6.1.5.22 Some of the evictees, who received shelter from families and friends for the night, arrived at the Fire Department on the 12th June and were told that they were no longer part of the evictees who need to be provided with alternative accommodation and land because they had other options of residence.
- 6.1.5.23 The Municipality took 41 households who slept at the Fire Department on the first night to a piece of land at Snake Park in Bluegumbosch for purposes of alternative accommodation.
- 6.1.5.24 Temporary accommodation provided by the Municipality was made up of old corrugated iron sheets belonging to the evictees and new corrugated iron sheets bought by the Municipality. These temporary shelters are three metres apart.
- 6.1.5.25 On Saturday, 14 June 2014, other evictees were moved to Makwane Youth Centre after the intervention of the MEC for Social Development, Ms Ntombela.

- 6.2.5.4 A communal tap was installed by the Municipality on the 13 June 2014.
- 6.2.5.5 They are all from impoverished backgrounds. They are mostly unemployed and rely on social grants.
- 6.2.5.6 They used to occupy RDP houses belonging to other people before they were allocated land by the Chief in Bokamoso.
- 6.2.5.7 They feel that the Municipality was inconsiderate and acted inhumanely by carrying out the evlction in winter during cold conditions In QwaQwa.
- 6.2.5.8 A voting station tent was erected In Bokamoso during the May national and provincial elections.
- 6.2.5.9 The Municipality has failed to inform them about plans to relocate them to an approved municipal site.
- 6.2.5.10 The Municipality promised to provide their children with counselling and has failed to fulfil this promise.
- 6.2.5.11 The MEC for Human Settlements visited the Snake Park area and promised them that government had found a site for them but couldn't state exactly where this was.
- 6.2.5.12 They have no information on the proposed relocation site identified by the municipality.

- 6.2.11.1 Houses were demolished in their presence and this left them devastated.
- 6.2.11.2 An elderly lady, and two males were hospitalised and a four months old baby suffered from diarrhoea immediately after the eviction.
- 6.2.11.3 Some evictees suffer from chronic illnesses and couldn't take their pills on time.
- 6.2.11.4 One of the evictees was looking after her daughter who had a one month old baby when the eviction took place.
- 6.2.11.5 They requested a temporary mobile clinic but they were told that mobile clinics had been assigned to other areas in the municipality.
- 6.2.11.6 Most of their belongings were taken to the QwaQwa Industrial Area for safekeeping.
- 6.2.11.7 No inventory of their possessions was taken when they were evicted.
- 6.2.11.8 Some of their possessions were stolen whilst in safekeeping at the Industrial Area.
- 6.2.11.9 Some lost their identity documents during the eviction and demolishing of houses.

- 6.2.11.21 All females at the shelter share the same mobile toilet. The mobile toilet is not designed to accommodate persons with disabilities.
- 6.2.11.22 All males also share the same toilet.
- 6.2.11.23 Other proper functioning toilets are used by the Social Workers.
- 6.2.11.24 One of the evictees was injured by a corrugated iron sheet during the eviction and has not received medical attention.
- 6.2.11.25 The municipality did not meaningfully engage with them.
- 6.2.11.26 They could not change their clothes for a week after they were moved to Makwane Youth Centre as their clothes were kept at the industrial area.
- 6.2.11.27 They were told that they would only stay at the Youth Centre temporarily and would then be moved to an alternative municipal site. No date of relocation was fixed and they are still in the dark.
- 6.2.11.28 The Methodist Church of South Africa was able to provide them with blankets and food.
- 6.2.11.29 Some evictees slept on the floor and on beds without mattresses.
- 6.2.12 The evictees accused government of abandoning them.

PHOTO 1 (CHIEF TSOLO MOPELI SHOWING THE EVICTION SITE TO INVESTIGATORS)

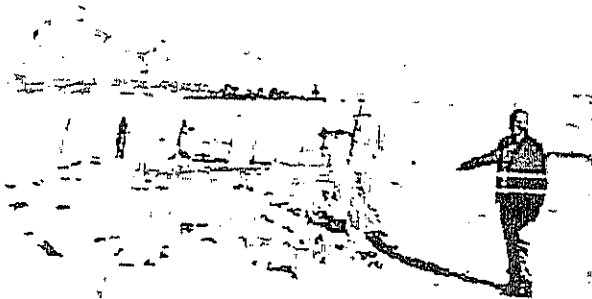


PHOTO 2 (BOKAMOSO AREA)

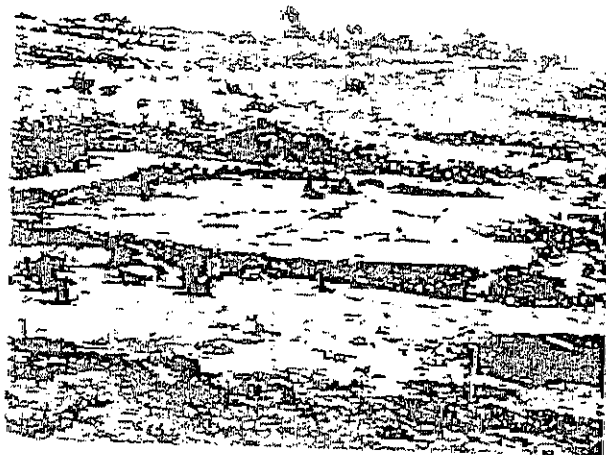


PHOTO 5 (ONE COMMUNAL TAP – SNAKE PARK)



PHOTO 6 (EVICTEES TEMPORARILY RELOCATED TO SNAKE PARK)



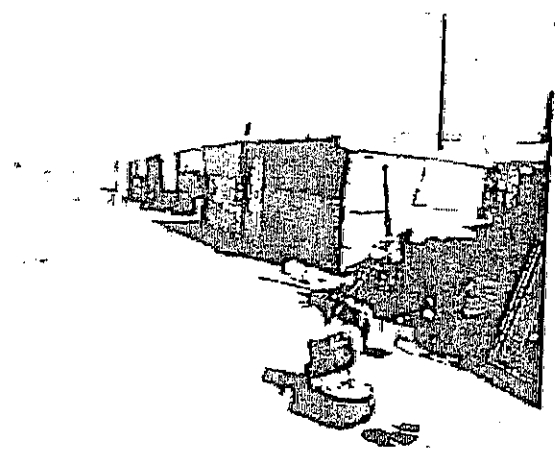


PHOTO 10 (EVICTEE WHOSE BELONGINGS WERE DAMAGED DURING THE DEMOLITION)

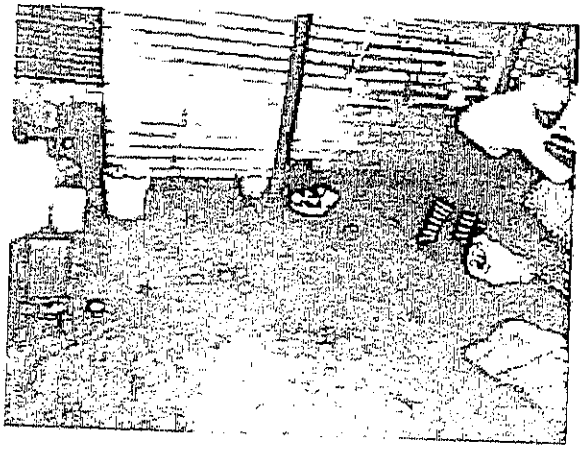


PHOTO 11 (EVICTEES AT MAKWANE YOUTH CENTRE HALL)

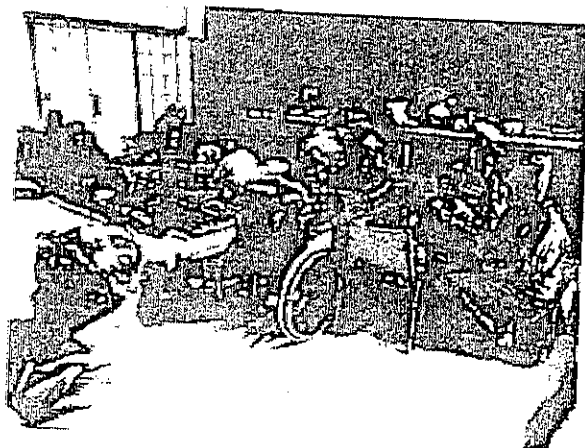


PHOTO 14 (BEDS WITHOUT MATTRESS)

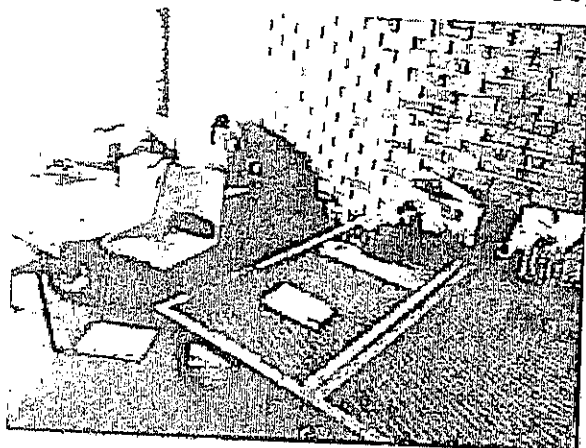


PHOTO 15 (SOME EVICTEES SLEPT ON THE FLOOR)

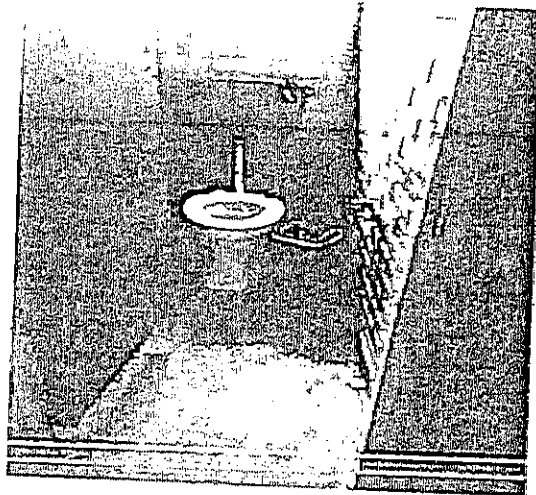
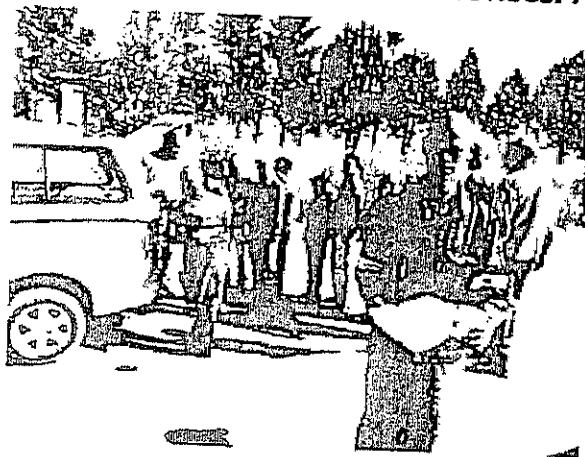


PHOTO 18 (LUNCH PROVIDED BY THE MUNICIPALITY)



6.5 Visit to Respondent Municipal Offices - Phuthaditjhaba

- 6.5.1 On the same day of the investigation, the investigating team paid a courtesy visit to the municipal offices of the Respondent with the intention of informing the Municipal Manager that the Commission had conducted investigations to look at the aftermath of the evictions.