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FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

APPLICATION NO : 827 / 2012

In the matter between :

THE MINISTER OF RURAL DEVELOPMENT AND LAND
REFORM

1st Applicant

MALUTI-A-PHOFUNG MUNICIPALITY

2nd Applicant

and

MORENA TSHOLO MOPELI

1st Respondent

THE MABOLELA TRADITIONAL COUNCIL

2nd Respondent

THE UNLAWFUL OCCUPIERS OF THE REMAINDER OF THE
FARM "BLUEGUMBOSH 199", DISTRICT HARRISMITH

3rd Respondent

POTENTIAL UNLAWFUL OCCUPIERS OF THE REMAINDER
OF THE FARM "BLUEGUMBOSH 199", DISTRICT
HARRISMITH

4th Respondent

SUPPLEMENTARY AFFIDAVIT

Pont



I, the undersigned,

MACHELA HLELI

declare under oath as follows :

1.

I am a major female, the Director : Housing and Planning in the employ of the Second Applicant and as such duly authorised and able to depose to this affidavit as the contents hereof, unless otherwise indicated, fall within my personal knowledge and are true and correct. I am presently the Acting Municipal Manager of the Second Applicant.

2.

I am deposing to this affidavit after leave to supplement had been granted by the above Honourable Court on **21 June 2012**.

3.

3.1 On the **3rd July 2012**, the Second Applicant had the opportunity to establish the exact number of people already residing in the temporary structures on the Remaining Extent of the farm "**Bluegumbosh 199**", HARRISMITH. The operation could not be finalized as the officials of the Second Applicant, backed by the police who had accompanied them, indicated that they could not proceed as they were being interrupted by the First Respondent's people.

3.2 During such visit the following could be ascertained :

P.m.H



- (i) Total number of pegged sites : 237
- (ii) Sites with empty shacks : 148
- (iii) Sites with indication that there are people staying in : 31
- (iv) Empty sites : 58


3.3 There was also a load of bricks reported on one of the sites with no shack on such site. In regards to the survey by the Second Applicant , I refer to the confirmatory affidavit of **M C Mopeli** and **T J Matsaneng**, both informal settlement officers in the employment of the Second Applicant, attached hereto as annexures "A" and "B" respectively, which officers conducted the survey in regards to the number of people present on the sites concerned.

4.

During 2005 a township establishment was done by the Second Applicant in the PHUTHADITJAHBA area, consisting of 234 residential sites called PHUTHADITJHABA Extension 10. Of these sites 25 were utilised during 2010 leaving the number of 208 residential sites which are available to the present unlawful occupiers of the Remaining Extent of the farm "Bluegumbosh". These sites have the following infrastructure :


- (a) Water network;
- (b) Sewer network; and
- (c) Gravel roads.

5.

Pm# 

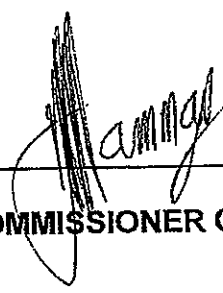
This area is habitable for settlement and as such available to the Third and Fourth Respondents as alternative accommodation .

SIGNED at Harrismith on this 5th day of JULY 2012



M HLELI : DEPONENT

I CERTIFY that this affidavit has been sworn to and signed before me at Harrismith this 5th day of July 2012 by the above-mentioned deponent who declared that he / she is acquainted with the contents of this affidavit and understands same, that he / she has no objection to taking the prescribed oath and further, that he / she considers the said oath as binding on his / her conscience, which oath was properly taken by me, as required by law.



COMMISSIONER OF OATHS

FULL NAMES :
ADDRESS :
CAPACITY :
AREA :

COMMISSIONER OF OATHS/
KOMMISSARIS VAN EDE
MARELIE HAMMAN
PRACTISING ATTORNEY/
TUSSENREDE PROKUREUR
37 ROSEN STREET HARRISMITH 5850

/s/
 FREE STATE HIGH COURT, BLOEMFONTEIN
 REPUBLIC OF SOUTH AFRICA

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POTENTIAL UNLAWFUL OCCUPIERS OF THE REMAINDER
 OF THE FARM "BLUEGUMBOSH 199", DISTRICT
 HARRISMITH

4th Respondent

CONFIRMATORY AFFIDAVIT

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PmH

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I, the undersigned,

TSIETSI JOHANNES MATSANENG

declare under oath as follows :

1.

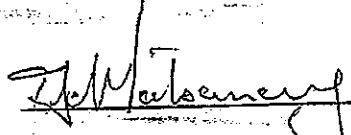
I am a major male, employed as Informal Settlement Officer at the Second Applicant.

2.

I have read the supplementary affidavit by **ME M HLELI**, the Acting Municipal Manager and confirm the contents thereof as far as it is applicable to myself.

SIGNED at Harrismith

on this 5th day of JULY 2012


T J MATSANENG: DEPONENT

I CERTIFY that this affidavit has been sworn to and signed before me at

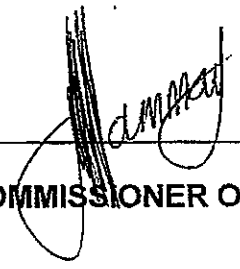
Harrismith this 5th day of

July 2012 by the above-mentioned deponent who

declared that he / she is acquainted with the contents of this affidavit and understands same, that he / she has no objection to taking the prescribed oath and further, that he / she considers the said oath as binding on his / her conscience, which oath was properly taken by me, as required by law.

Pm H





COMMISSIONER OF OATHS

FULL NAMES :

ADDRESS :

CAPACITY :

AREA :

COMMISSIONER OF OATHS/
 KOMMISSARIS VAN EDE
 MARELIZE HAMMAN
 PRACTISING ATTORNEY/
 PRAKTISERENDE PROKUREUR
 34 GARDEN STREET HARRISMITH 9880

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[Handwritten signature] PMA



1/0
FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

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OF THE FARM "BLUEGUMBOSH 199", DISTRICT
HARRISMITH

4th Respondent

CONFIRMATORY AFFIDAVIT

PmH

m-c 

I, the undersigned,

MENKIE CHRISTINE MOPELI

declare under oath as follows :

1.


I am a major female, employed as Informal Settlement Officer at the Second Applicant.

2.

I have read the supplementary affidavit by **ME M HLELI**, the Acting Municipal Manager and confirm the contents thereof as far as it is applicable to myself.

SIGNED at Harrismith

on this 5th day of JULY 2012



M C MOPELI: DEPONENT

I CERTIFY that this affidavit has been sworn to and signed before me at

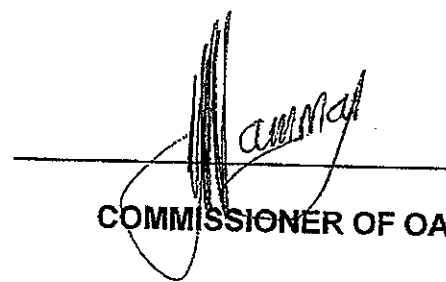
Harrismith this 5th day of

July 2012 by the above-mentioned deponent who

declared that he / she is acquainted with the contents of this affidavit and understands same, that he / she has no objection to taking the prescribed oath and further, that he / she considers the said oath as binding on his / her conscience, which oath was properly taken by me, as required by law.

PmH





Handwritten signature of Marelize Hamman over a horizontal line.

COMMISSIONER OF OATHS


FULL NAMES :

ADDRESS :

CAPACITY :

AREA :

COMMISSIONER OF OATHS/
 KOMMISSARIS VAN EDE
 MARELIZE HAMMAN
 PRACTISING ATTORNEY/
 PRAKTISERENDE PROKUREUR
 34 WARDEN STREET HARRISMITH 9890

PMH 

MINUTES ON THE EVICTION UNLAWFUL OCCUPANTS AT THE REMAINING PORTION OF BLUEGUMBUSCH 199 HELD BETWEEN MAP AND SAPS ON THE 29TH OCTOBER 2012 AT 10H00

OPENING

The Director (Department of Human Settlements, Spatial Development, Planning and Traditional Affairs) officially opened the meeting and requested all members to introduce themselves.

The Director then gave over to Brigadier Mahloko to give background of their request for a meeting. Brigadier Mahloko informed the forum that a letter was received from Provincial Commissioner for eviction of unlawful occupants at Remaining Portion of Bluegumbusch 199 (Ha-Tshwanyane).

Municipal Manager and Brigadier both agree that a meeting must be organized with relevant role players for today (29th /10/12). The Brigadier mentioned the following;

- They expected the Security Company to be present in the meeting for clarities needed by SAPS.
- SAPS will only be available for security purposes and not for eviction.

The Director of Public Safety Roads and Transport informed the forum that in terms of Disaster Management a contingency plan should be formulated which includes but not limited to the following:

- A storage place must be provided for where goods will be delivered and stored, and the plan must outline the resources available, vehicles and equipment available for this purpose.
- Flammable substances, for example LPG Gas which might explode during eviction should be taken into consideration.
- Register for all items/goods to be removed should be available.

The Director of HSSDP&TA explained that:

- In terms of the order given by the High court of South Africa, no alternative accommodation for the occupants must be provided.
- The order is specific that the structures must be demolished, and since the Court has also ordered the illegal occupants to be responsible for the costs of the municipality, it was suggested together with the municipality's

legal advisors that the materials used to build the structures can be delivered to a safe place, registered and be auctioned in order to recover some of the municipality's costs as ordered by the court.

- All relevant information requested by the court regarding alternative accommodation and so on were provided by the municipality and the decision of the Court was based on that information.
- Both the Sheriff of the Court and the Municipality communicated the Court's decision by placing the order on notice boards on site, in English, Sesotho and Afrikaans. The Legal Aid Board, who was representing the illegal occupants, also communicated the decision of the court to their clients. Some of these illegal occupants were personally at court when the ruling was made.
- The Municipality advertised sites for sale in Phuthaditjhaba Ext 10 during the period that the illegal occupants were given to move away from the land, in an attempt to give them ample opportunity to legally acquire serviced sites and move there.
- The appointed service provider will make use of its own transport and personnel to carry out the eviction. They will be responsible for the transporting of the corrugated iron used to build the structures to the identified area for storage. The Director however, indicated that there is a gap that needs to be closed, which is that of the goods/household contents belonging to the occupants. She suggested that perhaps the municipality can provide a transport where they will assist by taking the goods to the areas where the people will go.
- Few sites will be set aside for indigents and Municipality criteria will be followed to determine whether they qualify or not.
- Municipal Manager had a meeting with Tribal Authority, the Chief and representatives of the occupants. All were positive regarding this matter.
- New sites cost R10 000 – R 15 000 at Phuthaditjhaba Ext 10. Buyers are given opportunity to pay the deposit and pay balance in three months.
- It has been proved beyond reasonable doubt through deed search that most of the occupants own properties, therefore the question of alternative accommodation does not become much of a pressing issue for the municipality.

SAPS CONCERNS ABOUT RISKS:

SAPS are concerned of the consequences that might result as a result of the eviction. These include the following;

- The R57 route to Kestell may be affected during eviction.
- R712 to Golden Gate and Harrismith may also be affected.
- School children examination, particularly matric exams will be impacted by the eviction.
- That address where storage for the material to be confiscated from the site must be made known to SAPS by the Municipality.
- Estimated number of occupants who are physically staying on site is required so that crowd can be determined for the Public Order Police.
- Any legal action taken by the defendants, for example appeal, should be taken into account.

LEGAL IMPLICATIONS

Responding to the concern whether there is any period within which the court will expect the order to have been implemented, the Legal Advisor from site indicated that;

- Eviction order will last until it is implemented and it does not expire.
- Any legal action taken by the occupants will be valid only if the court knows about it, for now eviction order take precedence.
- He also cautioned that nobody has authority of changing what the court has ordered. The eviction order must be implemented as it is.

WAY FORWARD

The following were agreed upon;

- A slot in Qwa-Qwa and Lesedi Radio stations will be booked by Director (Spatial Development and Planning) through assistance of the office of Communications officer to communicate the logistics and time frames surrounding the issue of eviction.
- Print media will also be used in this regard and the message will be the same as that which will be communicated on radio.

- That the municipality will arrange a meeting between the appointed service provider, the sheriff of the court, SAPs and municipal representatives to deliberate on logistical issues that will enable SAPS to make their own plans
- The message to illegal occupants will be that they have until 31/12/12 to leave the land in question and make the necessary arrangements for alternative accommodation, failure to do this will result in the eviction and there are no guarantees that their goods will be safe.
- Two dates, (the 2nd and the 3rd of January 2013) have been identified as two possible dates for the eviction.
- Feedback meeting will be held on the 28/11/12 with all stakeholders to determine progress.
- Municipality will still give fair opportunity for occupants to make application for sites until a date that will be communicated through the media.

CLOSURE

Meeting adjourned at 11:59 and all members were thanked for their participation by Director of Human Settlements, Spatial Development, Planning and Traditional Affairs.

CHAIRPERSON

DIRECTOR (HUMAN SETTLEMENTS, SPATIAL DEVELOPMENT, PLANNING AND TRADITIONAL AFFAIRS)

C

MINUTES OF THE EVICTION OF ILLEGAL OCCUPANTS OF THE REMAINING PORTION OF BLUEGUMBOSCH 199: MAP; SAPS AND ICEBURG SECURITY (28 NOVEMBER 2012 AT 10H00)

1. Opening

1.1 The Director HSSDP&TA opened the meeting and welcomed all members.

2. Apologies

2.1 Brigadier. Mahloko who attended a Section 4 meeting in preparation for the ANC rally

3. Background

3.1 In a meeting held on 29 October 2012, a request was made that Iceberg Security be invited in the next meeting to clarify how they intend operating on the day of the eviction.

4. Minutes of the previous meeting

4.1 These together with the proposed agenda were circulated before the meeting among all concerned

4.2 No corrections were made

4.3 Me P Selepe proposed that they be adopted as a true reflection of the proceedings and was seconded by Colonel Ntuli.

4.4 Matters arising from the minutes

4.4.1 The Infrastructure Offices in the industrial area has been identified as a storage for the confiscated goods

4.4.2 All structures must, according to the Court order, be demolished to ensure that they will not be used again

4.4.3 MAP will see to keeping a register and storage of house hold content for the owners to claim after eviction

5. Feedback from MAP

5.1 a media statement was released to all local newspapers two weeks back (around 12/11/12)

5.2 The statement was made both in Sesotho and English

5.3 Only one newspaper, Express broadcasted the statement

5.4 A MAP official was interviewed on a live Qwaqwa radio broadcast and the community was allowed to call and interrogate him about the land issue

- 5.5 The Executive Mayor and the local Council of Churches also addressed the illegal occupants on 27/11/12 on the same issue
- 5.6 Lesedi Stereo had promised a slot on the issue but they did not fulfill. It is however said that they presented the issue to their listeners on the morning of 28/11/12.
- 5.7 One other newspaper refused to print the article unless it was done in their terms
- 5.8 The Municipality has set aside about 70 of the 130 sites for these illegal occupants. These will be availed freely to all people who can produce proof of payment of the site in question
- 5.9 An observation of all that was done to communicate to the people revealed that:
- Most people are prepared to move from the land
 - The tribal Chief is instigating the community by lying about an appeal he claims to have launched. MAP legal teams as well as SAPS have not received any document that suggests that an appeal was launched. The only document seen by SAPS was the one wherein the Chief was asking clarity from the Court on how the judgment was reached.
 - According to the list given to the Court about 390 sites have been sold yet 400 names were given. Of these numbers there is only less than 100 people that actually stay in those shacks (about 35 people)
 - Three permanent structures have been erected at the site
 - The farm house should not be affected by the eviction
 - The Infrastructure department will be used for storage
 - MAP traffic will deploy a team to control the R57 and R712 routes
 - MAP Fire Department will have a team of 10 members on standby for the eviction

6. Report by Iceberg Security

- 6.1 Rule 37.4 must be availed to the Company to exempt them from any claim
- 6.2 A team of 180 people will be sent to evict. These have been divided into:
- Loading teams – on site
 - Off loading teams – infrastructure
 - Ground team – for demolition
 - Drivers to 3 trucks and 2 tlb's
- 6.3 MAP requested to have all electricity connection cut to avoid injury
- 6.4 There is a possibility of acquiring the services of tipper trucks for the permanent structures

7. Report by SAPS

- 7.1 MAP was thanked for making means to communicate with the community prior the eviction. They encouraged to keep reminding them with the hope that the eviction will be eased
- 7.2 SAPS also researched and discovered that very few people occupied their shacks
- 7.3 SAPS will have to brief the Executive Mayor about their strategy on the eve of the execution

- 7.4 About 200 public order police will be availed
- 7.5 The route between the eviction site and the storage will be patrolled
- 7.6 R 57 and R117 will also be patrolled
- 7.7 SANDF will be invited should need rise
- 7.8 Eviction cannot be done before Christmas due to other commitment that the Police Department has, the National Conference of the ANC and the activities of the Festive season themselves

8. Legal opinion

- 8.1 All procedure was followed and the eviction can be executed
- 8.2 No appeal was received
- 8.3 A Sheriff will be availed since our region will not have one after 1 December 2012

9. Resolutions

- 9.1 The time for the eviction will be communicated
- 9.2 The date remains undisclosed
- 9.3 Iceberg and SAPS must meet to finalize strategy
- 9.4 Media be used more to remind the community

10. Closure

- 10.1 All members were thanked for attending the meeting

D

MINUTES OF THE EVICTION OF ILLEGAL OCCUPANTS OF THE REMAINING PORTION OF BLUEGUMBOSCH 199 HELD ON 29 May 2014 AT 09H00 IN THE DIRECTOR HSSD&P's OFFICE

1. Opening

1.1 The Chairperson Mr. WM Matjele.

2. In attendance

2.1 Mr. MW Matjele – Public Safety, Mr. T Mokomatseli, Mr. MS Nyembe, Mr. MN Mokoena – HSSD&P, Gawie – Balden Voggel & Venote, Mr. Thateng – Sherriff of the Court

3. Background

3.1 The meeting was a follow up of the one held with the Executive Mayor on the 28 May 2014.

4. Minutes of the previous meeting

4.1 The minutes were not read as all matters arising from them comprised the agenda for the current one and only reports were needed.

5. Matters discussed and resolutions

- 5.1 SAPS – Mr. Matjele ~~must~~ arrange a meeting with Brigadier Mahloko and her team for the 03rd June 2014 where they will be engaged on the matter.
- 5.2 He ~~must~~ however provide the Brigadier with all relevant legal documents prior the proposed meeting for her to engage her team on the matter.
- 5.3 Iceberg Security Services – they must also be invited to the meeting since they are to execute the evacuation.
- 5.4 The Executive Mayor's meeting with the concerned illegal occupants must also be during any of the days before the 3rd of June.
- 5.5 MAP must organize temporary storage for the confiscated goods with FDC.

6. Closure

7. Next meeting – 03 June 2014

MINUTES OF A MEETING ON BLUEGUMBOSCH EVACUEES KEPT AT MAKWANE YOUTH CENTRE

Date: 05 August 2014

Venue: Mayoral Committee Room

Time: 10h00

Chairperson: Cllr. MM Lakaje Mosia

Item	Responsibility
<p>1. Opening & welcome</p> <ul style="list-style-type: none"> • All members present were welcomed • The Executive Mayor's apology was forwarded and accepted • A special welcome made to a representative from the Office of the MEC Corporate Governance and Traditional Affairs 	<p>Cllr. MM Lakaje Mosia</p>
<p>2. Introduction</p> <p>Cllr. Masechaba Lakaje – Mosia – MMC, Women, Children and People with disabilities.</p> <p>Moeketsi Mokoena – MIP Housing Manager</p> <p>Thabo Masukela – Cooperate Governance and Traditional Affairs (Province)</p> <p>Malefo Moopeloa – Manager in the Office of the Executive Mayor</p> <p>Mbongiseni Nyembe – MIP Land Administration Manager</p> <p>Morena Nchaga Mokoena – Tribal Authorities</p> <p>Morena Thako Malakoane</p>	<p>All present</p>
<p>3. Purpose</p> <p>3.1 Way forward about families left at Makwane Youth Centre after the "portion of the farm Bluegumbosch 199" eviction.</p> <p>3.1.1 Background</p> <ul style="list-style-type: none"> - The eviction took place on the 11th June 2014 - By evening, 40 families (54 people) were taking in by the Municipality and recorded as being stranded. These were housed at Phuthaditjhaba Fire Station before being relocated to Bluegumbosch Ext. 10. - The municipality gave them meals and blankets. MDC Catering Services also provided some meals. - The Municipality also bought building material and built shacks for the families. - From the 12th June more people who claimed to also been stranded arrived in large numbers at the Fire Station. The Municipality did not make any provision for them. - Their arrival also hampered the moving of the others that were recorded under 40 families. 	<p>Cllr. MM Lakaje Mosia</p>

- Furthermore the construction of shacks was also stopped by angry Bluegumbosch residents.
- After the intervention of the Department of Social Development these people that claimed to be stranded were moved to Makwane Youth Centre where living conditions were better than the crowded and unhealthy environment at Fire Station.
- The Municipality transported them to Makwane Youth Centre.
- The Municipality engaged in talks with MEC, Ntombela about sites that could be availed for these people since the municipality did not have any to give to people.
- Cllr. Lakaje Mosia also met with Morena Malakoane to confirm the availability of sites.

3.1.2 Resolutions

- Morena Malakoane has availed about 90 sites of which 61 will be used.
- The Municipality will give Morena a list of the affected people and this will also confirm the exact number of sites needed.
- Families to bring along their luggage when allocated sites.
- Families to assist with: road making, water and toilets.
- MAP to assist with: road making, water and toilets.
- Families will only pay administration fee and not allocation fee as is usually practiced. (Morena yet to consult about the amount)
- The Executive Mayor will be given a report on the resolutions of the meeting and implementation is to be done as soon as possible.

3.1.3 Remarks by the office of the MEC Corporate Governance

- Mr. T. Masukela indicated their appreciation on how the matter was handled. That at the end all affected people will be taken care of. He mentioned this in the light of what the Law states about evacuating people: that alternative accommodation must be given to them.

4. Closure

- The Chairperson thanked everybody for the contributions and closed the meeting.

All presents

Mr. T. Masukela

Cllr. MM Lakaje Mosia

A REPORT ON THE ILLEGAL SELLING AND OCCUPATION OF LAND ON THE FARM; BLUEGUMBOSCH 199.

Background

The municipality established on the 31st of January that sites are being sold on the farm Bluegumbosch 199, and it was alleged that Morena Tsholo Mopeli is the one selling the sites, and that money is being paid into the bank account opened at the post office for this purpose. The farm in question is registered under the ownership of the Republic of South Africa and the Department of Rural Development and Land Affairs is the custodian of this land. A meeting with Mofumahadi Macharles Mopeli, Councillor Mahadi Mopeli and Morena Ts'olo Mopeli was called by the chairperson of Spatial Development, Planning and Traditional Affairs, Councillor Ntsane Mopeli on the 6th February 2012. The meeting was held at Maluti-a-Phofung offices on the date and a huge number of people who said they are accompanying their traditional leader turned up for the meeting (attendance register attached). The group was uncontrollable and caused commotion outside the meeting venue after they were asked to step out of the meeting as they did not form part of the people invited. The meeting could therefore not proceed and all the parties agreed to postpone the meeting to the following week, which would be the week of the 13th February.

This group of people held a caucus outside the municipal building, where they uttered intimidating words to our informal settlements officers, indicating that they would be invading land in two day from that date, and that they would deal with the informal settlements officers if they dared go and try to remove them after they have illegally settled themselves there.

On Sunday the 12th February, our officials learned that sites were being pegged and some people were erecting shacks regardless of the pending talks between the municipality and the traditional leaders on the same issue of the farm, Bluegumbosch 199.

Response by the Municipality

On Monday the 13th February, the informal settlements officers went on site to assess the situation. Based on what they found there, they then made arrangements to go and evict all the people that were busy erecting the informal structures in preparation for settlements, using the municipality's impoundment policy bi-law. The officials invited members of South African Police Services to accompany them for security purposes. The operation was planned for Tuesday, 14th February at 8h00. On arriving there, SAPS members indicated that they were not aware of the magnitude of the problem and suggested that they would need more manpower to assist the municipal workers with the impoundment of the illegal occupants' building materials. They then made arrangements with the Bethlehem office to give them more manpower, and they did this with the assistance of Mr. Matjele, who is the Director of Safety and Security within the municipality.

On Wednesday, 15th February, both the municipal official accompanied by SAPS members from Phuthaditjhaba and Bethlehem assembled to strategise for the operation. SAPS then requested the eviction order or an interdict that would enable them to proceed with the operation. In the absence of the two, they then withdrew from the operation and the municipal officials could not proceed on their own due to safety issues.

Township Establishment on the Land by MaP

As part of forward planning, Maluti-a-Phofung local municipality identified this farm for future extension of Phuthaditjhaba and made a written request to the Department of Land Affairs to transfer this pocket of land into its (the municipality) name, so that a township can be established and registered. The process of township establishment commenced in 2007 and could not be approved at the Townships Board level as the land ownership was a concern. The transfer of land from the department to the municipality could however not proceed as there was a registered claim against the same land.

Consent to Continue with Township Establishment

In August 2011, the Land Claims Commission division within the department of Rural Development and Land Affairs finally reached an agreement with both the claimants and the municipality that the municipality will set aside sides on the identified portion of the proposed layout plan of the township for restitution claimants. Based on this agreement, the department wrote a letter of support to the municipality on the proposed township establishment project. This invasion of land came in just as the municipality was to commence with the township establishment project.

Application for a Court Interdict

Balden and Vogel were appointed to assist the municipality with the application of court interdict to stop the traditional leader from selling the sites and to stop the people from invading the land, Bluegumbosch 199. The meeting with the advocate who would lodge the application to the High Court on behalf of the municipality was on Wednesday, 15th February 2012 in Bloemfontein. Present in this consultation was Me Hleli, Mr. Nyembe, Mr. Gawie from Balden and Vogel, Mr. Mashune and Mr. Williams both from the Department of Rural Development and Land Affairs as well as Advocate Hough.

The delegation made a presentation to the advocate, who asked specific questions with regard to land ownership, interventions taken to stop the illegal occupation and sale of land in order to build up the case for the court interdict. Owing to the fact the department of Rural Development and Land Affairs are still the legal title deed holder of the land, it was advised that it would be prudent for them to sign the forwarding affidavit as the second plaintiff after the municipality. The officials who attended the meeting indicated that their Provincial Head, Mr. Ramagaga would have to sign that affidavit and they would have to talk to him about that. Alternatively, the

department was to give documentation with the minister's signature that indicated that they land has been transferred to the municipality.

Meeting with DRDLA

After an indication that there should at least be an indication of the intervention taken by the land owner to stop the invasion of their land in order to give the application more weight, an urgent meeting between the department and the municipality was arranged for Thursday, 16th February in Qwa-Qwa. The officials met at the municipal offices and deliberated on issues, including alternative actions that the land owner and the municipality as the caretaker of land based on the agreement that was entered into after the decision for the municipality to proceed with the township establishment process. These included the department applying section 7 of their land restitution act, to open a case against the traditional leader and illegal occupants for interfering with the restitution process. They are also to open a fraud case against the traditional leader for illegal selling land that belongs to them. The municipality was to open a case of intimidation as it's officials were intimidated by the illegal occupiers.

The meeting then suggested to having a meeting with all parties concerned before they proceeded with the criminal cases, to afford the other parties to be on the same page as the rest of them as it was possible that they might not be aware that the land does belong to the department. It was however not possible to meet with the Maboela Tribal Authority due to short notice. An alternative date of Tuesday, 21st February was suggested and agreed upon by all stakeholders.

Morena Tsholo Mopeli was called in an attempt to meet with him before the delegation could meet with the community members, but all efforts to get hold of him failed. The delegation then went to meet with the community, who indicated that they were there because they have been placed by their traditional leader who is the custodian of the land in question. A message was left with them to request a meeting with the traditional leader on his earliest availability.

Meeting with the Maboela Tribal Authority

The department called a meeting with the tribal authority and the municipality on Tuesday, 21st February at the Maboela tribal authority's council. All members of the tribal authority attended the meeting with the exception of Morena Tsholo, who has been established to be directly involved in this whole Bluegumbosch 199 problem. The Maboela Tribal Authority clearly stated that he (Morena Tsholo) is acting on his own accord and have disregarded both the tribal authority's order to stop with what he is doing, the municipality's request to him to stop selling the land and the chief traditional leader's instruction for him to stop with his actions.

It was then agreed by all stakeholders that while a meeting will be organised at the later stage that will clarify issues of boundaries with all concerned, what needs to happen as a matter of urgency was for Morena Tsholo to be stopped with immediate effect, as well as the invading of land by community members using all means possible. It was then agreed that Morena Moeti

will address the community on the local radio station and warn them not to associate themselves with this illegal activity. The department of Rural Development and Land Reform was to open the case of fraud against Morena Tsholo and that of trespassing against all the people who have illegally placed themselves on their land. The same were opened yesterday by the department. The municipality also opened the case of intimidation, and the case number is CAS 270/02/2012.

Decision to Proceed with Legal Action

After several consultations, it was agreed by the municipal manager that an application for the court interdict must be lodged with immediate effect using the signed contract that puts the municipality under the caretaker ship of the property in question. There is also an indication that the Premier of the Free State will back the municipality on their application of this interdict.

The department of Rural Development and Land Reform is in the meantime, also said to be dealing with the application for the eviction order and an interdict from their Pretoria offices. In the meantime, people are still moving into the land and the roads have been paved on the land by the unknown persons.

Application of the Court Interdict

The department of Rural Development and Land Reform submitted a forwarding motion to interdict the illegal occupants as well as the Mabilela Traditional Council from occupying and selling sites on this land on the 24th February 2012. The municipality became the second plaintiff as the land legally belongs to the department.

The court interdict was awarded to the applicants on Monday, 27th February 2012. A copy of the interdict is attached for your reference and will run on an interim basis until the 22nd of March 2012, the period which the respondents have to defend the matter. Should they fail to defend by the said date, the Rule Nisi will be made a final order of court and then the municipality can begin with the evictions.

Notice to Oppose by the First Respondents

The first respondents filed a notice to oppose the interdict and the matter was postponed to the 26th of April 2012. The respondents are to file their opposing affidavit by the 5th of April while the applicants are to file the relying affidavit by the 19th of April. The costs for the postponement are to be paid by the first respondents.

The second respondent, who is Mabilela Traditional Council expressed through their legal representatives, their willingness to assist applicants in this matter as they still maintain that Morena Tsholo acted on his own and without permission by the council. They are completely distancing themselves from his actions, which is why they would like to work with both the applicants. They have however not confirmed this in writing.

Complaints by the Farmers Residing on the Portion of this Farm

There is a small group of farmers who have been operating on the portion of the farm (Ha-Tsoanyane) since 1995 who have submitted both verbal and written complaints against the illegal occupants on various aspects including stock theft and safety of the farmers themselves (please refer to the attached letter).

Final Court Order

The court ruled in favour of the applicants in July after considering the applicant's presentation against the PIE Act, and ordered the illegal occupants to vacate the site by the 18th of August 2012, failing at which the municipality was ordered to evict them. The court did not order the municipality to offer these occupants alternative accommodation.

Post the Final Order

The municipality made all necessary arrangements for the eviction which was to be carried out after the 18th of August. A service provider was appointed, who will be assisting with the eviction and an order was issued out to service provider to enable him to do work whenever was requested by the municipality after all the necessary arrangements were made with other stakeholders. SAPS was also engaged, although they were at first sceptical of the eviction and was constantly requesting the municipality to furnish them with information regarding alternative accommodation available for the illegal occupants, a definite eviction date could not be finalised as then came the Marikana debacle. The MEC of Safety and Security, Mr. Butana Khomphela, advised that the municipality should put the eviction on hold as most of the police manpower was deployed in Marikana. He indicated that he did not want to proceed with the eviction with limited police manpower as it was/is not known what will transpire during the eviction. The municipality was to be told when would be the right time to proceed with the eviction, suffice to say that there was one thing after the other that prevented SAPS not to assist with the eviction until finally a date was agreed upon in a meeting as discussed below.

At a meeting that was held on the 29th of October 2012 between MaP and SAPS where eviction was on Bluegumbusch was discussed, it was resolved that;

- The eviction cannot take place during the month of November as this has a potential of disturbing the matric exams. The public order police will not be available from the first week of December until the 21st as they will be deployed to Bloemfontein for the ANC Conference.
- Two dates, (the 2nd and the 3rd of January 2013) have been identified as two possible dates for the eviction.
- The municipality must communicate its intentions to evict the people through different media. They should also make sites available free of charge for indigent's people residing illegally in Bluegumbusch, and this must be thoroughly communicated.

- Feedback meeting will be held on the 28/11/12 with all stakeholders to determine progress.

A written communiqué was then distributed to local news papers on Thursday, 15th November 2012 and was published on Express News Paper of the 21st November 2012. The message urged the residents to come to the municipality from Monday, 26th, with proof of purchase of a site in Bokamoso so that they be given preference. The assessment criteria would still be used to allocate sites according to different categories.

An interview was also held on QwaQwa radio on Monday the 19th November between 9h00 and 10h00, with the same message as distributed to the print media conveyed. Lesedi did not honour the appointment they made on two occasions.

Address by the Executive Mayor and Leaders of Different Churches

The Executive Mayor of Maluti-a-Phofung Municipality invited priests from different churches to go and address the community of Bokamoso and plead with them to cooperate with the municipality by moving out of the area as ordered by the court, and to respond to the call by the municipality to come and give their names for allocation of sites to those who are qualifying.

Number of Residents in 'Bokamoso'

The estimated number of structures on site is \pm 400 and of this number, about 100 or less are occupied while the rest are unoccupied. There are a few permanent structures occupied and the other structure is under construction, at roof level currently.

Feedback Meeting with all Stakeholders

A feedback meeting by all stakeholders took place on the 28th of November where the final eviction date was agreed as the 3rd of January 2013. All the plans were put on place for the eviction.

An Appeal by Morena Tsholo and the Illegal Occupants

On the 21st of January 2012, a communiqué was received that the defendants have appealed the court's decision. This meant that we could no longer proceed with the eviction on the 3rd of January as planned, until the court has ruled on the appeal. A communiqué was received on the 20th of February that Judge C J Musi wishes to hear the application for leave of appeal on Friday 22nd of February 2013, at 9H00.