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EASTERN CAPE BRANCH



7th July 2008

Dear Ms. Koff,

Land Use Management Bill (B27-2008)

Thank you for forwarding me a copy of the Bill.

There seems little wrong with the Bill but I would, on behalf of our Branch, like to bring the following to your attention.

The Bill was published for comment in July 2001 and 57 written submissions were received. That was 8 years ago and about 3 years before the property boom. I wonder if the number of submissions would not have increased dramatically if the Bill had been published later.

The draft Bill states that 24 workshops were held but these all appear to have been with Government Departments. It does not appear as though the Public were ever invited to, or informed of, these workshops.

The Town and Regional Planners were consulted but no consultation appears to have taken with other Professional bodies such as the Land Surveying Profession, Engineering Profession or Architects, all of whom play a vital role in making various applications to Municipalities.

It would be more transparent if the Public were allowed to put forward the names of members to the various Land use Committees. A number of the smaller Municipalities have very little experience with regard to town planning matters, and having private professional serve on the committees would not only allow for a wider scope of ideas, but also enable the members to learn from each other.

It will be interesting to note what time frames will be published under paragraph 40 on page 15 as the time frames published in terms of the Land Use Planning Ordinance 15 of 1985 have seldom been adhered to by Municipalities in the past.

The Bill is replacing the Removal of Restrictions Act No.84 of 1967, Physical Planning Act No.18 of 1984 and the Development Facilitation Act No.67 of 1995. What will become of Ordinance 15 of 1985? If this ordinance is not going to be replaced then is this not going to cause confusion?

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Kindly acknowledge receipt of this e-mail.


Yours faithfully,

P.B. Sülter


Chairman – SAGI Eastern Cape Branch

13  CH 2, Part II: JUDICIAL CONDUCT

- Section 13: Disclosure of registrable interests
- Minister in consultation with Chief Justice to appoint Registrar of Judges' Registrable Interests
- Every judge to disclose to Registrar particulars of registrable interests
- Regulations made in consultation with Chief Justice
- Regulations must be approved by National Assembly

14  Section 13: Regulations for Register

- Must at least prescribe—
- format of the Register
- kinds of interests of judges and their immediate family members that are regarded as registrable interests
- manner and the instances in which, and the time limits within which, registrable interests must be disclosed to the Registrar
- a confidential and a public part of the Register and the interests to be recorded in those parts respectively
- the recording, in the public part of the register, of all registrable interests derived from the application of section 11 (extra-judicial income)
- procedure providing public access to public part of Register and procedure for providing access to, and maintaining confidentiality of, confidential part
- procedure for lodging of a complaint by Registrar, in the event of—
- (i) failure to register any registrable interest by any judge, including any failure to register any such interest within a prescribed time limit; or
- (ii) disclosure of false or misleading information by any judge

15  CH 2, Part III: CONSIDERATION OF COMPLAINTS BY COMMITTEE

- Section 14: Lodging of complaints
- Any person may lodge complaint with Chairperson
- Complaint must be—
- based on certain grounds; and
- lodged by affidavit or affirmed statement

16  Section 14: Grounds for complaint

- Incapacity giving rise to judge's inability to perform the functions of judicial office in accordance with prevailing standards, or gross incompetence, or gross misconduct, as envisaged in section 177(1)(a) of the Constitution
- Any wilful or grossly negligent breach of the Code of Judicial Conduct
- Accepting, holding or performing any office of profit or receiving any benefits in contravention of section 11
- Any wilful or grossly negligent failure to comply with any remedial step imposed in terms of this Act
- Any other wilful or grossly negligent conduct that is incompatible with or unbecoming the holding of judicial office, including conduct that is prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts

17  CH 2, Part III: CONSIDERATION OF COMPLAINTS BY COMMITTEE

- Section 15: Lesser complaints may be summarily dismissed
- Complaint must be dismissed if it—
- (a) does not fall within the parameters of any of the grounds set out in section 14(4);
- (b) does not comply substantially with the provisions of section 14(3);
- (c) is solely related to the merits of a judgment or order;
- (d) is frivolous or lacking in substance;
- (e) is hypothetical.
- Complainant may appeal to Committee


18  CH 2, Part III: CONSIDERATION OF COMPLAINTS BY COMMITTEE

- Section 16: Impeachable complaints – Tribunal recommended


- Chairperson must be satisfied that the complaint, if valid, is likely to lead to impeachment of respondent
- Committee to meet to consider recommending that Tribunal be appointed

19  CH 2, Part III: CONSIDERATION OF COMPLAINTS BY COMMITTEE


- Section 17: Inquiry into serious, non-impeachable complaints
- Chairperson must be satisfied that valid complaint not likely to justify impeachment
- Chairperson or member must investigate complaint
- If complaint found valid, remedial steps imposed
- Respondent/complainant may appeal to Committee

20  Section 17: Remedial steps

- Apologising to the complainant, in a manner specified
- A reprimand
- A written warning
- Any form of compensation
- Appropriate counselling
- Attendance of a specific training course
- Appropriate corrective measure
- The state shall not be responsible for any expenditure incurred as a result of, or associated with, any remedy unless the remedy was selected from a list of approved remedies or services compiled from time to time by the Minister, after consultation with the Chief Justice, and then only to the extent set out in that list

21  CH 2, Part III: CONSIDERATION OF COMPLAINTS BY COMMITTEE

- Section 18: Consideration of appeals by Committee
- Appeals against dismissal of complaint, or finding that complaint is valid and/or against remedial step imposed
- Committee may confirm or set aside dismissal or finding/remedial step
- Committee may instruct investigation of complaint or recommend appointment of Tribunal

22  CH 2, Part IV: REQUEST TO APPOINT TRIBUNAL AND CONSIDERATION OF TRIBUNAL REPORT BY COMMISSION

- Section 19: Commission to request appointment of Tribunal
- Section 20: Commission to consider report and make findings
- If Commission finds respondent is suffering from an incapacity, is grossly incompetent or is guilty of gross misconduct, it must submit finding to Speaker of National Assembly
- If Commission finds that respondent—
- (a) is not grossly incompetent, but that there is sufficient cause for respondent to attend specific training course or counselling or be subjected to any other appropriate corrective measure, the Commission may order that respondent attend such course or be subjected to such measure; or
- (b) is guilty of degree of misconduct not amounting to gross misconduct, the Commission may impose any remedial step referred to in section 17(8)

23  CH 3: JUDICIAL CONDUCT TRIBUNALS

- Part 1: INTRODUCTORY PROVISIONS

24  CH 3, Part 1: INTRODUCTORY PROVISIONS

- Section 21: Appointment of Tribunal
- Chief Justice must appoint Tribunal when requested by Commission