

Ruling of the Constitutional Court ..

7. The ConCourt decision included an order :
 - i for the occupiers :
 - to vacate the Joe Slovo settlement in accordance with a timetable *conditional upon and subject to the occupiers being relocated to TRAs situated at Delft or another appropriate location on conditions set out in the order*,
 - ii for the applicants and respondents, through their representatives, to engage with each other with a view to reaching agreement on :
 - a. a date upon which the relocation would commence different to that contemplated in an Annexure (ie 17 August 2009);
 - b. a timetable for the relocation process that may be different to that contemplated in the Annexure; and
 - c. any other relevant matter upon which they agree to engage.

Issues arising out of the Order....

01 July 2009 the Provincial Minister :

- expressed reservations about the immediate implementation of the court order
- replaced the legal team that had previously represented his office;

7 August 2009, a Memorandum, on behalf of the National Minister, advised the Constitutional Court that, following its judgment the Provincial Minister had expressed “grave concerns”

Provincial Minister's concerns....

- a. The consequences, which the provision of TRA housing for the occupiers would have :
 - for “the hundreds and thousands of people” who are currently ahead of the residents involved in the litigation in terms of:
 - current applicable housing lists
 - the cost and timing of the erection of the TRA houses that the Order envisages being built prior to the relocation;

- b. The fact that the court order :
 - made no provision for the balance of the occupiers moved to the TRAs and who could not be moved back to the permanent housing constructed at Joe Slovo;

Provincial Minister's concerns....

- c. The social, financial and legal effects of the massive relocation, rather than an *in situ* upgrading of the site;
- d. the practical, financial or social advantages of the proposed density as opposed to the options of either greater densification or an *in situ* upgrading of the site;
- e. Hence, the Provincial Minister :
 - commissioned a report by appropriately qualified experts to consider and address the concerns.
 - indicated that “in the event of this advice confirming that the implementation of the order in its current form does give rise to (unforeseen) difficulties”, these difficulties will need to be addressed prior to any proposed implementation of the current order;

Processes undertaken ...

- In accordance with the duty to engage, meetings were held amongst the legal representatives of the respondents and the residents.
- Provincial Minister requested an extension of time to report to the Constitutional Court as :
 - Provincial Minister expected to be in possession of the expert study;
 - Residents and the National Minister had no objections to agreeing to an extension to report to the Constitutional Court by no later than 30 September 2009.

Processes undertaken ...

- 24 August 2009, the Constitutional Court ordered the National Minister and the Provincial Minister to :
 - report to the Court on the process of engagement contemplated in paragraphs 5, 6 and 7 of the Court's eviction order, by no later than 30 September 2009.

In the light of this order the Court suspended the eviction order until further notice

Processes undertaken ...

- 29 September 2009, the National Minister sought a further extension from the Constitutional Court, until Friday 30 October 2009 :
 - to accommodate the requests, process and further consultations sought by the third respondent, and thereafter to report thereon to the Court.
- 30 September 2009, the Provincial Minister sought an extension from the Constitutional Court to report to it on 30 January 2010
- 5 October 2009 the Constitutional Court granted the extension for the purposes of reporting on the process of engagement until 30 October 2009.

The Socio-Economic Study

- Based on studies from :
 - City of Cape Town – October 2004
 - National Department of Housing – April 2009
 - Community Organization Resource Centre – June 2009
- The study was to
 - establish the socio-economic profile to the community ;
 - conduct a feasibility study on the various typology options for the remaining undeveloped portions of the Joe Slovo

The Socio-Economic Study

- It was established that :
 - 2748 households could be used for the investigation although a further 352 may share existing shacks.
 - The approach in this study is to replace shacks with houses.

The Socio-Economic Study

- It was also ascertained that :
 - approximately 16% of the registered households were single persons
 - about 24 heads of households had disabilities
 - 31% of the residents were in schools, kindergardens and creches
 - about 46% of the residents were employed
 - only about 5 families earned more than R3500
 - Transport requirements by employed persons :
 - by train - 57%, buses - 18% and taxis - 18%
 - Period of settlement in Joe Slovo :
 - 22% less than 5 years 83% since 1994
 - Size of shacks
 - About 66% are smaller than 15 m²
 - 11% greater than 26m².

The Socio-Economic Study ...

- **Densification planning yielded:**
 - 2008 housing opportunities vs the present layout of 1500.
- **Under the 70%:30% agreement**
 - around 2000 families can remain in the densified Joe Slovo precinct.
- **Densification would mean :**
 - number of roads would be reduced and replaced with walkways in reduced reserve widths.
 - With money saved from the subsidies, the living environment must be improved from the normal housing projects.
- **CRU rental stock in the Intersite land in Langa was proposed to address the needs of non-qualifiers.**

Study's advantages and disadvantages

- relocating everyone in Joe Slovo to the TRA units in Delft will have a negative impact on their:
 - living conditions, social wellbeing, employment functions, education and personal finances.
- The children are :
 - well entrenched in the schools in Langa
 - the three temporary schools in Delft are over subscribed
 - new permanent schools will only commence construction in mid 2010 with completion in 2012
- Personal costs for additional transport for a period of two years:
 - will exceed R 32 million and which will not be necessary if phased construction were to take place.

Study's advantages and disadvantages

- relocation of this community to TRAs before being provided with permanent houses may mean that the community may not accept the Council decision and elect to conduct protests and negative media coverage.
- The report recommends that :
 - densification of the Joe Slovo precinct be approved and that phased construction be implemented
 - the whole process to be undertaken with the assistance from the consent of the community.

Process after the results of study ..

- 2 October 2009, all the parties :
 - were invited to workshop the report and the implementation of the Constitutional Court Order.
 - agreed that it is unlikely that this consultation process will be complete by 30 October 2009
- 27 October 2009, 2nd and 3rd respondents agreed :
 - a further extension be requested from the Constitutional Court to the end of January 2010
 - to give the parties time for consultation with beneficiaries
 - Consultation to include the new proposals on densities.

Way forward

- Consultation processes with the community to discuss, *inter alia* :
 - Results of the socio-economic study
 - Typology of the housing units
 - Densities
 - Transitional housing arrangements
 - Allocations of housing units

Recommendation

- It is recommended that this Committee take note of the status and the implementation of the Constitutional Court order relating to the Joe Slovo residents.



THANK YOU!

- Densification and involvement of communities – how does this affect the development of sustainable human settlement?
- Consultations processes are they legitimate & organised community leaders