

The Committee Secretary  
Portfolio Committee on Human Settlements  
Provincial Parliament

[grhoxo@parliament.gov.za](mailto:grhoxo@parliament.gov.za)

(For Attention: Mr Greg Rhoxo)

#### **COMMENTS ON THE RENTAL HOUSING AMENDMENT BILL [B21-2011]**

We have received inputs from the Rental Housing Tribunal in our Province ("the Tribunal") and also from one of the members of the Tribunal. These comments are attached hereto.

You will note that the amendments proposed by the Rental Housing Amendment Bill ("the Bill") are generally supported by the Tribunal.

We wish to present our comments as follows:

Clause 2 of the Bill proposes that section 4(5)(d)(ii) of the Rental Housing Act, 1999 ("the principal Act") be amended to give a landlord the right to, on termination of a lease, repossess rental housing property after obtaining a ruling by the Tribunal or an order of court.

In our view, section 4(5)(d)(ii) of the principal Act and the proposed amendment is problematic, for the following reasons:

1. The provision implies that a landlord would not be able to regain possession/control of his/her rental housing property upon the termination of a lease, without first obtaining a court order or Tribunal ruling, even if a tenant voluntarily vacates the rental housing property.
2. The Tribunal interpreted the proposed amendment to this provision to imply that they (the Tribunal) would be able to deal with eviction matters. The insertion of the words "a ruling by the Tribunal" could therefore be regarded as being in direct conflict with clause 7 of the Bill and section 13(14) of the principal Act.

Clause 7 of the Bill proposes an amendment to section 13 of the principal Act by inserting the following subsection as subsection 10A:

*"(10A) The Tribunal must refer any matter that relates to evictions to a competent court"*

Section 13(14) of the principal Act provides the following:

*"The Tribunal does not have jurisdiction to hear applications for eviction orders."*

Clause 5 of the Bill proposes that section 9 of the principal Act be amended by the insertion of the following subsection after subsection (4):

*"(4A) A person appointed in terms of subsection (4) may not serve for more than two consecutive terms."*

In the opinion of one of the Tribunal members, *"this would be punitive to those who could be of enormous benefit to the Rental Tribunals, as there are few individuals who are expert in the various sectors expected of future members."*

The Tribunal member proposed that the provision be amended to make it possible for a member who fulfilled two consecutive terms to reapply for appointment as a member of a Rental Housing Tribunal.

We trust that the above input will be of value in the deliberations leading up to the enactment of the Amendment to the Rental Housing Act, 1999.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ilze Mathese', written in a cursive style.

**ILZE MATHESE**

**STATE LEGAL ADVISER**

**DATE: 30/11/2011**