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RIGHTS EMPOWERMENT



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FAX COVER SHEET

TO: BN Dambuzi	FROM: Nobandi Luone
COMPANY: Parliament	DATE: 10-5-12
FAX NUMBER: 021-086666-0984	TOTAL NO. OF PAGES: 5 incl
PHONE NUMBER: _____	SENDER'S REFERENCE NUMBER: I AM / NS /
RE: Redraft housing Rental Bdo.	YOUR REFERENCE NUMBER: _____

MESSAGE

COMMENTS:

<u>URGENT</u>	AS REQUESTED	FYI	ACTION
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cb discussed telephonically
 as emails, repeatedly not
 delivering, herewith fax
 per above.



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Attention : The Chairperson
Ms BN Dambuza
Committee for the Portfolio of Human Settlements
(B21B-2011)
Parliament
CAPE TOWN

28th April 2012

Dear Ms Dambuza

**SUBJECT : PUBLIC SUBMISSION ON THE REDRAFTER RENTAL HOUSING
AMENDMENT BILL**

Further to my written and oral presentation to the Committee on the 8th December 2011, I herewith wish to submit comment of the redraft of the aforementioned Bill.

Before I do I wish to take this opportunity to state that I was very pleased when I read the re draft, to note that many important factors have been taken into account and added into the Bill. The committee has clearly applied themselves to the task at hand.

On another note though after my oral presentation on the 8th December 2011 it was instructed by you to the Tribunal persons present to make contact with me and to address my issues that had arisen with them in regards to my matter and that of another person, who's facts I presented in the presentation. Sadly although I gave my contact details to two members of the Tribunal, one I believe was from the main office, I have not heard from either. I did also submit the information as requested by the DA whip to whom I recently spoke with him and learnt that he is no longer with the committee, which might explain why I heard no more in this regard from him either.

I had also sent two emails to the committee's offices requesting that I please still be contacted as stated by the tribunal, so that I may resolve the issues on hand. May I now take this opportunity to please ask that I am contacted by the relevant person(s) as I intend taking my matter to the Constitutional Court and will require the input from the Tribunal in this regard.

Having said that let me move onto comment of the re draft.

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.2.

While the Act clearly states that "**ALL relevant circumstances**" must be taken into account. This, sadly, rarely happens. I am able to supply the committee with many case files where hardly any of the relevant information is considered by magistrates. In fact the point of contract law itself is usually only argued out and on those grounds seldom do circumstances become considered. Agreed there are circumstances where the tenant is reckless, and or negligent, or is able to make alternative plans and doesn't and abuses the situation.....and so forth. There are also circumstances where they are not and the owner **IS** in a position to assist the tenant. There are many more examples however I do not wish to take up much time and I also did cover many of them in my oral presentation.

To this end I wish to make three suggestions towards consideration in amending the re draft.

- a) That similar to the NCR a **LAND OWNER** must take some responsibility for them accepting the tenant they allow into the property. If a tenant is a single mother from a divorce with no family and no savings but has a clean ITC this does not mean that if circumstance arose wherein she would lose her job that she will not then be in a negative position and might need rental leniency for a month or two while looking for another job. Again there are several examples I could raise, I however feel you see where I am coming from.

As an example there was a matter where in the application the tenant was asked the following question ;

"Is there anyone who can help you if you should fall into any financial difficulties or do you have money saved for such an event"

The prospective tenant answered " **NO** "

She was granted occupancy. When some time later she did fall into financial Difficulties no tolerance was shown and an eviction was applied for and granted. In spite of this question having being answered in the application papers. Eviction **WAS** granted and all preference was awarded to the Land Owner in spite of her **HONEST** response to the answer in the application form.

- b) As with the NCR I feel that again the Land Owner (most of whom have these properties for no other reason than profit – should be made to also have to carry part of the responsibility (naturally given that the problem is of a true and reasonable manner ie. Loss of work, severe illness etc..) I feel that as with the NCR if tenancy **IS** granted then if the tenant falls into a genuine situation, a period of 3/6 months of a leniency against rental should be granted.
- c) I also feel that the wording around the grounds for which a court order for eviction may be applied for needs to be defined more especially in light of the fact that albeit its strength of wording, the words, "*all relevant....*" Are **NOT** being applied. There are also reports that have been written on this subject which address these topics as problem areas. **Especially as middle class evictions has risen by astronomical percentages** and the evictions are no longer now just "poor or homeless squatters"

Please advise if the Committee wishes for me to supply it with the reports I refer to above

3./cont



.3.

I feel that somehow the "**REASONABLE MAN THEORY**" should also be applied and considered as part of the process in applying for an eviction order and added to a more defined explanation of the wording "All relevant....."

I have no doubt that if the committee were to see some of the evictions cases arguments and the ruling they would see that **IN SPITE** of the law, and the requirement of "All Relevant..." people were still and more often than not being unfairly and unjustly evicted to the complete land owners gain and support.

Please advise if the Committee wishes for me to supply it with case laws for reference of example

In closing and as stated in my Oral presentation and which statement I still support, that all eviction applications should **ONLY** be allowed to be applied for (eventually when they are all in place) through the Rental Tribunals only. This will allow for insurance that the tribunals first become involved in assisting the tenant (or land owner)

MANY tenant(s) and or Land owners in some cases, do not have the means mentally, emotionally or financially to help themselves. They want to but do not know how. This will then also ensure that **ONE** Body hears these cases and not a myriad of overloaded or at times, under experienced Magistrates all over the country. It will allow for the case law and experience of these Tribunals to grow and become fully versed in these matters promulgating fair and just ruling in each case, according to , **ALL THE**

It will also force tenants and Land Owners to really have to apply themselves to the issues at hand and with clear guide lines, rather than willy nilly run the gauntlet on emotional feelings of the matter. **But most of all It will mostly allow for equality of the process for both sides.** More often than not the Land Owner is more educated in legal issues and/or can afford attorneys, which many tenants across the board are not and cannot.

Let me end by saying that Yes there are many cases where the Land Owner is being severely prejudiced by the tenant(s) and this will go to proof in the circumstances. But at what point do we stop supporting the chasing of profits for the sake of profits and the costs is leaving families homeless or emotionally broken in support of these profits.

..4/cont



..4..

At what point does it become about the words JUST & EQUITABLE. While we need to consider a persons or companies rights in growing their profits we must also JUSTLY & EQUITABLY consider the rights of those who make it possible for them to Do so. The reasonable man theory could and will go a long way to making this a reality.

I trust that the Committee will consider these points and find a reasonable way to incorporate them into the FINAL draft of the Bill.

From myself personally and the chance to share my view points with the committee I am humbled and wish to say thank you for the opportunity to do so.

Please feel free to contact me on my cell if you have any further queries or require any further papers.

Sincerely

A handwritten signature in black ink, appearing to be 'NaNandi Simone', with a large, stylized flourish extending to the right.

NaNandi Simone