

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CONSTITUTIONAL COURT CASE NUMBER: CCT 24/07

In the matter between:

**OCCUPIERS OF 51 OLIVIA ROAD,
BEREA TOWNSHIP AND
197 MAIN STREET
JOHANNESBURG**

Applicant

and

CITY OF JOHANNESBURG

1st Respondent

RAND PROPERTIES (PTY) LTD

2nd Respondent

MINISTER OF TRADE AND INDUSTRY

3rd Respondent

PRESIDENT OF THE REPUBLIC OF SA

4th Respondent

FILING SHEET

PRESENTED FOR FILING:

1. Settlement agreement between City of Johannesburg and the Occupiers of 51 Olivia Road, Berea Township and 197 Main Street, Johannesburg dated 29 October 2007.

Dated at Johannesburg on 30 October 2007.

WEBBER WENTZEL BOWENS
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WITS LAW CLINIC

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TO:
**THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
JOHANNESBURG**

AND TO:

THE STATE ATTORNEY
Attorneys for The Minister of
Trade and Industry
and the President of the Republic of
South Africa
10th Floor, North State Building
95 Market Street, cnr Kruis Street
Johannesburg

Received a copy hereof on this the
day of October 2007.

For: The State Attorney

AND TO:

MOODIE & ROBERTSON
First Respondent's Attorneys
9th Floor, 209 Smit Street
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Tel: (011) 403 5171
Ref: Mr C Povall

Received a copy hereof on this the
day of October 2007.

For: First Respondent's Attorneys

STEVE KAHANOVITZ
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Attorney to the Amici Curiae
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Received a copy hereof on this the
day of October 2007

For: the attorney to the Amici Curiae

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT 24/07

In the matter between:

**OCCUPIERS OF 51 OLIVIA ROAD, BEREA
TOWNSHIP AND 197 MAIN STREET,
JOHANNESBURG**

Applicants

and

CITY OF JOHANNESBURG

First Respondent

RAND PROPERTIES (PTY) LTD

Second Respondent

MINISTER OF TRADE AND INDUSTRY

Third Respondent

**PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA**

Fourth Respondent

AGREEMENT

TAKE NOTICE that the Applicants and the First Respondent agree to the following:



Definitions

In this agreement, the following terms shall be defined as indicated below –

- “residential accommodation” shall mean any land or buildings occupied as a home by any natural person, whether or not the City owns such land or buildings and whether or not the City considers such land or buildings fit for occupation as a home.
- “the parties” shall refer collectively to the Applicants and the First Respondent.
- “the properties” shall refer to 51 Olivia Road, Berea Township and 197 Main Street, Johannesburg, being the buildings currently occupied by the Applicants as their homes.
- “the buildings” shall refer to the Old Perm, BG Alexander and MBV Hospital Buildings (or another building renovated in compliance with the provisions of this agreement



located within the Urban Development Zone (UDZ) for the inner city of Johannesburg). The "Old Perm" Building is situated at 70 Kotze Street, cnr Claim Street, Hillbrow, the MBV Hospital Building is situated at 33 Hancock Street, cnr Claim Street, Joubert Park and BG Alexander Building is situated at 313 Smit Street (between Quartz and Claim Streets), Hillbrow. The UDZ is identified in the map contained in Annexure A to this agreement.

"the occupiers" shall refer the Applicants, as identified and enumerated in the register contained in annexure B to this agreement.

"the City" shall refer to the City of Johannesburg, being the First Respondent.

Introduction

- 1.1. This agreement contemplates the resolution of the following aspects of the dispute between the parties:



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- 1.1.1. The interim measures to be taken by the City to improve the condition of the properties;
- 1.1.2. The City's application for the eviction of the occupiers from the properties.
- 1.2. Nothing in this agreement shall be construed as allowing the City to remove any of the occupiers or their belongings from any residential accommodation without an order of the High Court or without their written consent given directly to the City or via a properly authorised attorney.

The interim measures to be taken by the City to improve the condition of the properties

- 2. The City shall, at its own expense, take the following measures to render the 51 Olivia Road property safer and more habitable:
 - 2.1. A standpipe with 6 (six) taps supplying potable water shall be installed in a location on the property which the occupiers are reasonably capable of securing;

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- 2.2. 10 (ten) chemical toilets will be provided at a practical site inside the building on the property;
- 2.3. The City will conduct a once-off operation to clean and sanitise the property. This will include the removal of sewerage from the first floor parking garage in the building on the property. The occupiers undertake to provide reasonable assistance in the clean-up operation;
- 2.4. 2 (two) skips will be provided in the courtyard at the rear of the building on the property for the disposal of residential waste. The City shall empty the skips at least once every week;
- 2.5. An adequate number of refuse bags will be delivered to the occupiers once every week.
- 2.6. The lift doors on the ground floor of the property will be closed, in order to secure the lift shaft;



- 2.7. 3 (three) dry chemical fire extinguishers will be provided for each floor of the building on the property. The occupiers undertake to secure these fire extinguishers while ensuring their accessibility;
- 3. The City shall, at its own expense, take the following measures to render the 197 Main Street property safer and more habitable:
 - 3.1. A standpipe supplying potable water will be provided in an alley next to the property;
 - 3.2. 3 (three) chemical toilets will be provided in an alley next to the property;
 - 3.3. The City will conduct a once-off operation to clean and sanitise the property. This will include the removal of refuse and rubble from the roof of the property. The occupiers undertake to provide reasonable assistance in the clean-up operation;
 - 3.4. An adequate number of refuse bags will be delivered to the occupiers once every week;

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- 3.5. 3 (three) dry chemical fire extinguishers will be provide for use on the property. The occupiers undertake to secure these fire extinguishers while ensuring their accessibility;
 - 3.6. The City will remove the panels in front of window spaces on the property to improve ventilation;
 - 3.7. The City will open the bricked up door at the back of the property.
4. All of the steps set out in clauses 2 and 3 above shall by completed within 21 working days of the signature of this agreement.

The City's application for the eviction of the occupiers from the properties

5. The City of Johannesburg will provide all of the occupiers with accommodation in the "Old Perm" Building and/or Phase 1 of the "MBV Hospital" Building and/or in the "BG Alexander Building" (or in another building renovated in compliance with the provisions of this agreement located within the Urban Development Zone (UDZ) for the inner city of Johannesburg). The "Old Perm" Building is situated at 70 Kotze Street, cnr Claim Street, Hillbrow, the MBV Hospital Building is situated at

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33 Hancock Street, cnr Claim Street, Joubert Park and BG Alexander Building is situated at 313 Smit Street (between Quartz and Claim Streets), Hillbrow.

6. The accommodation to be provided shall consist of at least the following elements: security against eviction; access to sanitation; access to potable water; access to electricity for heating, lighting and cooking.
7. The accommodation shall be of the standard contemplated in the City's Accommodation Establishment By-Laws.
8. No occupier shall be required to pay a rate of rental in respect of their occupation of the accommodation (which will include water, electricity and any other charges necessarily incidental to occupation of the accommodation) in excess of 25% of his or her household's monthly income, or his or her individual income if he or she lives alone. The occupiers' income shall be verified in the survey mentioned in Clause 20 below.



9. The accommodation shall make provision for individual households (defined as occupiers living in relationships with or without children inside or outside marriage, single parents with children and groups of siblings living together) to be accommodated in private rooms in the buildings.
10. Groups of unrelated occupiers of the same gender living together may be accommodated in larger rooms of no more than 8 persons with internal partitioning to ensure privacy.
11. The partitioning will provide each of the occupiers with space to keep personal belongings. No more than two occupiers will be required to share a partitioned space, save that no partitions will be necessary if the room accommodates four persons or less.
12. The building floor plans will be made available for the inspection of the occupiers. A committee elected by the occupiers will inspect the plan in the presence of representatives of the City responsible for the design and construction of the buildings. The occupiers will be afforded the opportunity to make suggestions for changes to the floor plan.



13. Once the buildings have been completed in line with the agreed floor plan, the occupiers will be given an opportunity to visit the completed buildings and make representations, through their attorneys by an agreed deadline, as to the state of the buildings. The City shall consider any such representations that might be made and, if necessary, respond to such representations with reasons. Once these representations have been made and responded to, the buildings will be deemed ready for occupation.

Relocation

14. The occupiers and the City shall agree a specific date or dates, through their attorneys, on which the occupiers shall relocate to the buildings prepared for their occupation, once those buildings are ready for their occupation.
15. Subject to the requirement that the buildings will be complete and ready for occupation by the end of January 2008, the occupiers agree that the date for relocation shall be no later than 18 February 2008.
16. The City shall, at its expense, assist the occupiers to transport their belongings to the buildings.



17. If any of the occupiers fail or refuse to vacate the properties on the agreed date, then the Sheriff of the Court or his lawfully appointed Deputy is hereby authorised to evict such occupier or occupiers from the properties. If the occupiers or occupiers' names appear in Annexure B to this agreement, the Sheriff is directed to relocate them to the building designated for their occupation in terms of this agreement. Any eviction or relocation in terms of this clause shall not take place less than 48 hours after the date on which it is agreed the occupiers will voluntarily vacate the properties in terms of Clause 14 above.

Permanent accommodation

18. The parties agree that the accommodation envisaged in clause 5 above will be made available to the occupiers pending the provision of suitable permanent housing solutions. The nature and location of any permanent housing options to be made available to the occupiers will be developed by the City in consultation with the occupiers concerned, having regard to applicable national, provincial and municipal housing policies and implementation plans.



19. Nothing contained in this agreement shall limit the right of any individual occupier to identify his or her own permanent accommodation and vacate the accommodation envisaged in Clause 5 above by free consent.

Survey

20. In order to give effect to clause 18 above, it is agreed that the parties will cooperate in managing a comprehensive socio-economic survey of each household in the two properties. The survey will be undertaken by a neutral specialist contractor, agreed between the parties and at the cost of the City. The City may receive financial assistance in this regard from the Social Housing Foundation or other source. The survey shall commence, as soon as possible after the signature of this agreement and will involve a detailed questionnaire administered to each household on the register contained in Annexure B to this agreement. The questions will be agreed between the parties and will aim to establish at least the following:

- 20.1 whether the household head and/or any members of the household are employed;



20.2 the average household income;

20.3 whether social grants are received or can be applied for;

20.4 major expenditure items and expenditure preferences;

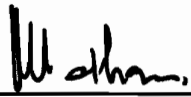
20.5 housing affordability thresholds;

20.6 optimum medium to long-term accommodation options.

21. The parties agree that the Constitutional Court should be requested, if it approves the terms of this agreement, to make this agreement an order of Court. The agreement shall take effect on the date on which it is endorsed by the Constitutional Court.

SIGNED AT JOHANNESBURG ON THIS THE 29th DAY OF OCTOBER 2007





MORAY HATHORN

FOR THE OCCUPIERS OF 51 OLIVIA ROAD, BEREA TOWNSHIP 197
MAIN STREET, JOHANNESBURG

DULY AUTHORISED BY THE OCCUPIERS OF 51 OLIVIA ROAD, BEREA
TOWNSHIP AND THE WITS LAW CLINIC



MAVELA AV DLAMINI

FOR THE CITY OF JOHANNESBURG

DULY AUTHORISED BY THE CITY OF JOHANNESBURG

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