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28 March 2020

## **THE RESIDENTS OF EKUPHUMELELENI INFORMAL SETTLEMENT// ETHEKWINI METROPOLITAN MUNICIPALITY & CALVIN SECURITY SERVICES**

1. We act for the residents of Ekuphumeleleni Informal Settlement and Abahlali baseMjondolo an organisation of shack dwellers whose members live in the informal settlement.

2. On 27 March 2020, eight households who live in the informal settlement had their homes demolished by security officials from Calvin Security Services who claimed that they had been sent by Councillor Sibusiso Kwela of ward 17 of the eThekweni Municipality, the full circumstances are set out below.
  - 2.1 At approximately 14:00, several security guards from Calvin Security descended on the Ekuphumeleleni informal Settlement. Their entourage comprised of 9 Calvin Security branded vehicles.
  - 2.2 These security guards demolished eight homes, marked seventeen homes with yesterday's date (27/03/20) and marked ten homes with X, leaving the community in fear that they will return to demolish the marked homes as well.
  - 2.3 The security guards were not accompanied by the Sheriff and did not exhibit a court order that authorised these evictions. They also did not claim to be acting on the authority of a court order.
  - 2.4 The security company is known to be contracted to the eThekweni Metropolitan Municipality and has previously attended the settlement to demolish homes without a court order accompanied by Councillor Sibusiso Kwela.
3. In the circumstances the demolition of our clients' homes was unlawful on the unfortunate basis that it took place after the Minister of Justice and Correctional Services issued a direction under the Disaster Management Act, published by Government Notice 43167 of 26 March 2020. In terms of directive 5(f), all evictions are suspended with immediate effect for the duration of the lockdown period.

4. We record our serious concern and deep regret that Calvin Security, purportedly on behalf of the eThekweni Municipality conducted these unlawful evictions on the first day of the national lockdown when evictions are suspended, and our clients were placed under a legal obligation to remain in their homes.
  
5. Further, we wish to bring the following to your attention –
  - 5.1 Section 7(2) of the Constitution enjoins the state to “respect, protect, promote and fulfil the rights in the Bill of Rights”.
  
  - 5.2 Section 26 (3) of the Constitution provides that “no one may be evicted from their home or have their home demolished, without an order of court made after considering all the relevant circumstances.”
  
  - 5.3 Further, section 8(1) of the Prevention of illegal Eviction from and Unlawful Occupation of Land Act provides that no person may evict an unlawful occupier except on the authority of a court order of a competent court.
  
  - 5.4 Section 8(3) provides that any person who contravenes section 8(1) is guilty of an offense commits a criminal offense and liable on conviction is liable to a fine and imprisonment not exceeding two years.
  
6. Considering the law outlined above, the demolition of our clients’ homes by Calvin Security and the eThekweni municipality is in any event unlawful because it breaches our clients’ constitutional and statutory rights. The demolition of our clients’ homes is unlawful, in that it is taking place in breach of section(s) 7 (2) and 26 (3) of the Constitution, section 8 (1) of the PIE act and directive 5(f) of the regulations issued under the Disaster Management Act.

7. At this stage we would like to point out the following;
  - 7.1 Our clients were in peaceful and undisturbed possession of their homes at the Ekuphumeleleni Informal Settlement.
  - 7.2 Their homes were unlawfully demolished when they needed to be in their homes the most to stop the spread of COVID19.
  - 7.3 Our clients have rebuilt their homes as entitled and to comply with the national lockdown, they now live in fear of another unlawful eviction.
8. These unlawful demolitions not only removed our clients' homes but also threatened our clients' health by exposing them to the corona virus and thus putting the entire settlement at risk.
9. In these circumstances, our clients are entitled to an order interdicting the municipality and/or its agents from demolishing their homes without an order of court.
10. We are instructed to demand, as we hereby do, that the eThekweni Metropolitan Municipality and Calvin Security issue written undertakings by 12:00 on Monday 30 March 2020, that they, and their agents, will not evict our clients with or without an order of court in line with directions issued by the Minister of Justice and Correctional Services. Should we not receive this written undertaking, we are instructed to approach the high court for urgent relief. In the event that this becomes necessary, costs will be sought, on a punitive scale, against the municipality and Calvin Security Services.

Yours faithfully



**Nomzamo Zondo**  
Executive Director

**Copy to:**

Minister Lindiwe Sisulu  
Minister of Human Settlement, Water and Sanitation  
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