REPUBLIC OF South Africa



in the high court of south africa

gauteng local division, johannesburg

1. REPORTABLE: YES / NO
2. OF INTEREST TO OTHER JUDGES: YES/NO
3. REVISED.

**…………………….. ………………………...**

DATE SIGNATURE

Case No: 10264/2020

In the matter between:

**CITY OF EKURHULENI METROPOLITAN MUNICIPALITY** **APPLICANT**

and

**THE UNLAWFUL OCCUPIERS OF THE IMMOVABLE**

**PROPERTY AT PORTION 102, HOLGATFONTEIN 326**

**IR, NIGEL, also known as MACKENZIEVILLE EXT** 2 **1ST RESPONDENT**

**CITY OF EKURHULENI METROPOLITAN**

**POLICE DEPARTMENT (“SAPS”)** **2ND RESPONDENT**

**SOUTH AFRICAN POLICE SERVICES**

**(“EMPD”) 3RD RESPONDENT**

**TIFFANY BARNARD (MS) 4TH RESPONDENT**

**NONHLANHLA MKHALIPHI (MRS) 5TH RESPONDENT**

**BRENDA OCTAVIA MKHALIPHI (MS) 6TH RESPONDENT**

**B J WILLARD (MR) 7TH RESPONDENT**

**SHARM ROGERS (MR) 8TH RESPONDENT**

**HANS KAYSTER (MR) 9TH RESPONDENT**

**LETOYA GIBBS (MS) 10TH RESPONDENT**

**SANA PRETORIUS (MRS) 11TH RESPONDENT**

**J CEASER (MR) 12TH RESPONDENT**

**JEANY NKOSI (MRS) 13TH RESPONDENT**

**GABRIEL LOTTERING (MR) 14TH RESPONDENT**

**ALLAN JOSEPH FORTUIN (MR) 15TH RESPONDENT**

**ALISTAIRE CLIVE MMULLE 16TH RESPONDENT**

**CHESLIN WINSTON ADAMS 17TH RESPONDENT**

**LUCIAN GALLON 18TH RESPONDENT**

**TSHEHLA KHUSTO SQUATE 19TH RESPONDENT DELICIA BAMBISA 20TH RESPONDENT**

**MZWAKHE LAWRENCE HLOPHE 21ST RESPONDENT**

**WAHIED ELIE 22ND RESPONDENT**

**CHANTELL LEACH 23RD RESPONDENT DERIO MARK LOUWSKITTER 24TH RESPONDENT**

**ELLAINE BEVERLEY MOPP 25TH RESPONDENT**

**ALRANE JULIAN BRANDT 26TH RESPONDENT**

**CRYSTAL VAN WYK 27TH RESPONDENT**

**GERALDINE KATRIENA MITCHELL 28TH RESPONDENT**

**LUCY TSOTETSI 29TH RESPONDENT**

**MARIA SCHROEDER 30TH RESPONDENT**

**SHARON MICHELLE CROTZ 31ST RESPONDENT**

**CLEOPATRA LIVOIDIA KIKIA 32ND RESPONDENT**

**SHIRLY-ANN SHOEMONE ESBEND 33RD RESPONDENT**

**JENNIFER WENDY DIENIE 34TH RESPONDENT**

**FARZAANA MANGERA 35TH RESPONDENT**

**MARRIAM JINA 36TH RESPONDENT**

**PHAKISO THABANA 37TH RESPONDENT**

**NATASHA BETTY WATSON 38TH RESPONDENT**

**THANDEKA FOURIE 39TH RESPONDENT**

**INALEE CHIRENE MALO 40TH RESPONDENT**

**MBALI SHARON MAIMELA 41ST RESPONDENT**

**SARAIT GEORGE 42ND RESPONDENT**

**JEROME BADENHORST 43RD RESPONDENT**

**YVONNE COETZEE 44TH RESPONDENT**

**RASHAAD IQBAL HASSIM 45THRESPONDENT KEVIN EDWIN ATLEE 46TH RESPONDENT**

**HOLLITTO PAUL D’ALMEIDA 47TH RESPONDENT**

**THOBEKA MAHLANGU 48TH RESPONDENT**

**BRANDON MARTIN RICHARDS 49TH RESPONDENT**

**ALRANE BRANDT 50TH RESPONDENT**

**REAGAN GRANT SALLIE 51ST RESPONDENT**

**BERENICE ETHNE PETERSON 52ND RESPONDENT**

**NICO FRANCIS 53RD RESPONDENT**

**KYLE MULLER 54TH RESPONDENT**

**LOUIS PRECIOUS HERMANUS 55TH RESPONDENT**

**REAGEN WALTER BEKKER 56TH RESPONDENT**

**SUZETTE PEACOCK 57TH RESPONDENT**

**FELICIA MERCIA PEAHBHAY 58TH RESPONDENT**

**STELLA LAURA JOUBERT 59TH RESPONDENT**

**PATRICIA BOSMAN 60TH RESPONDENT**

**ELBERINA STEYN 61ST RESPONDENT**

**ELTON KING 62ND RESPONDENT**

**SHANE ZAAN BRANDT 63RD RESPONDENT PIETHERMANES FILANDER 64TH RESPONDENT QUINTON VAN WYK 65TH RESPONDENT**

**WYOLIN WENNAAR 66TH RESPONDENT**

**LEON PILLAY 67TH RESPONDENT**

**JULIUS CEASER 68TH RESPONDENT**

**VIVIEN HUMAN 69TH RESPONDENT**

**JACQUES MEYER 70TH RESPONDENT**

**VIDONIA NADIA KLEIN 71ST RESPONDENT**

**SAUL ROOI 72ND RESPONDENT**

**JOHN JACOBS 73RD RESPONDENT**

**ERNEST MAKHUBO 74TH RESPONDENT**

**LIZZY SMITH 75TH RESPONDENT**

**DOYI LETTIE ZWANE 76TH RESPONDENT**

**ANDRE ALEXANDER 77TH RESPONDENT**

**MALCOM CLYDE SMITH 78TH RESPONDENT**

**ANUSHCAR KLEIN 79TH RESPONDENT**

**THANDIWE MEFANE 80TH RESPONDENT**

**FATIMA SCHROEDER 81ST RESPONDENT**

**QUEENIE MARKGRAAF 82ND RESPONDENT**

**JOAN BHAQA 83RD RESPONDENT**

**DAVID WAGNER 84TH RESPONDENT TEBOGO TSHELO 85TH RESPONDENT ANNA LINA FRANCIS 86TH RESPONDENT**

**BONGANI JAMES NAPE 87TH RESPONDENT**

**MORNE KELLY 88TH RESPONDENT CHRISTINE ABRAHAMS 89TH RESPONDENT SHELDON BADENHORST 90TH RESPONDENT RASHEED JEREMIAH 91ST RESPONDENT REAGAN GRANT SALLI 92ND RESPONDENT**

**HENDRIK VAN HEERDEN 93RD RESPONDENT**

**QUINTON WEBB 94TH RESPONDENT**

**LUCAS JOHANNESBATES 95TH RESPONDENT**

**GRAHAM GRAY 96TH RESPONDENT**

**ELIZABETH JOUBERT 97TH RESPONDENT**

**MBALI MAPHALALA 98TH RESPONDENT**

**LYDIA ROOS 99TH RESPONDENT**

**RICARDO SWARTZ 100TH RESPONDENT**

**RAQUEL BROOKS 101ST RESPONDENT**

**VANESSA WILLIAMS 102ND RESPONDENT**

**DANIEL MOHAPI 103RD RESPONDENT**

**DORAH VAN BILION 104TH RESPONDENT**

**NATALIE SNYDERS 105TH RESPONDENT**

**WILLBA CATHERINE SELINDER 106TH RESPONDENT**

**WARLIED BANOO 107TH RESPONDENT**

**BERENICE SWATZ 108TH RESPONDENT**

**LORENZO LOUW 109TH RESPONDENT**

**SHERYLENE LOUW 110TH RESPONDENT**

**FABIAN ZIEGERS 111TH RESPONDENT**

**RIAAZ ABDULLA GUMAN 112TH RESPONDENT**

**OCTAVIA ROUX 113TH RESPONDENT**

**LEEBAN ROUX 114TH RESPONDENT**

**MEGAN WEBB 115TH RESPONDENT**

**SAMANTHA ABRAHAMS 116TH RESPONDENT**

**MARCOLENE WEBB** **117TH RESPONDENT**

**GERONIMO LOUW 118TH RESPONDENT**

**AZELIA FARLENE SOUTHEN 119TH RESPONDENT**

**RONA HOWARD 120TH RESPONDENT**

**M DEJONG 121ST RESPONDENT**

**LINDIWE NGUZA 122ND RESPONDENT**

**THULANI BUTHELEZI 123RD R ESPONDENT**

**PHUMZILE LIZZY MNUNE 124TH RESPONDENT**

**ALIDA WANDA POST 125TH RESPONDENT**

**SHANEE DANIELLE 126TH RESPONDENT**

**DION SAMUEL JAMES HARRISON 127TH RESPONDENT**

**NKOSINATHI WILFRED NKOSI 128TH RESPONDENT**

**ISOLONE MICHELLE KENNY 129TH RESPONDENT**

**FIONA MARTIN 130TH RESPONDENT**

**ROBIN DIANE ADAMS 131ST RESPONDENT**

**SAMUEL BROWN 132ND RESPONDENT**

**JAUNITA SYLVIA BEUKES 133RD RESPONDENT**

**JACK ISAACS 134TH RESPONDENT**

**REGGIE CRISTJAN MOLEFE 135TH RESPONDENT**

**DOWNWAY STUURMAN 136TH RESPONDENT**

**THADEUS DUBER 137TH RESPONDENT**

**SHEREEZ BEYERS 138TH RESPONDENT**

**RENE’ BEYERS 139TH RESPONDENT**

**INGRID KOEKEMOER 140TH RESPONDENT**

**TLOU FRANS KGOMO 141ST RESPONDENT**

**PUTI PHINEAS KGOMO 142ND RESPONDENT**

**MADIMETJA STEPHEN NONG 143RD RESPONDENT**

**LESLEY JOHN MALONEY 144TH RESPONDENT**

**SHIELA STOMPIE ESAU 145TH RESPONDENT**

**MBALI MAPHALALA 146TH RESPONDENT**

**SONIA PATIENCE JENLLEE NAIDOO 147TH RESPONDENT**

**EDWIN SAMUELS 148TH RESPONDENT**

**PERSERVERENCE MAHLANGU 149TH RESPONDENT**

**BRENDON EPHRAIM KOCK 150TH RESPONDENT**

**LUCY DIPUO TSOTETSI 151ST RESPONDENT**

**GERT JOHANNES BLOCK 152ND RESPONDENT**

**KLARA IRENE FELICITY GEORGE 153RD RESPONDENT**

**BUSI CINDY MTSWENI 154TH RESPONDENT**

**RUAN BRANDON HOWARD 155TH RESPONDENT**

**CAROL ANNE CAROLS 156TH RESPONDENT**

**OSWILL BEYERS 157TH RESPONDENT**

**BEN SPEELMAN 158TH RESPONDENT**

**KARIEM ROOS 159TH RESPONDENT**

**BANELE NGWENYA 160TH RESPONDENT**

**RANDALL THOMPSON MABASO 161ST RESPONDENT**

**JOSEPH MAPOTO 162ND RESPONDENT**

**PERSERVERANCE JEANINE MABASO 163RD RESPONDENT**

**DUDUZILE REJOICE NENE 164TH RESPONDENT**

**RENE BEYERS 165TH RESPONDENT**

**CHARMAINE BEYERS 166TH RESPONDENT**

**RINA SWARTS 167TH RESPONDENT**

**ALLEGRO WILLARD 168TH RESPONDENT**

**SHADRACK MOKOENA 169TH RESPONDENT**

**GERTRUIDA JAARS 170TH RESPONDENT**

**MATHEW BERGMAN 180TH RESPONDENT**

**MARIA TSHABANGU 181ST RESPONDENT**

**EUGENE SAAL 182ND RESPONDENT**

**SONTO SABA 183RD RESPONDENT**

**ANTHONY MORRIS 184TH RESPONDENT**

**BUSISIWE MFAKU 185TH RESPONDENT**

**MAGGIE THANDY MAKHOBA 186TH RESPONDENT**

**ANDREA MAANSDORP 187TH RESPONDENT**

**SEVRIANO MARRICK BENTLEY 188TH RESPONDENT**

**FRANKLIN DAVIDS 189TH RESPONDENT**

**EMLYN SMITH 190TH RESPONDENT**

**MAHALI BRENDA MATLALI 191ST RESPONDENT**

**SENZO LOUIS MASEKO 192ND RESPONDENT**

**CAMPHERDANICA BROWN 193RD RESPONDENT**

**NHLANHLA VINOLIA MTIMUNYE 194TH RESPONDENT**

**IVAN FRANK MORRIS 195TH RESPONDENT**

**FARREL MARTIN 196TH RESPONDENT**

**DIEGO PROBET 197TH RESPONDENT**

**SALOME WHITNEY SMITH 198TH RESPONDENT**

**SOPHIE MARTHA MKALIPE 199TH RESPONDENT**

**BETTY MATSHIGA 200TH RESPONDENT**

**SHAULLIN GILBERT 201ST RESPONDENT**

**ZELDA CONSTANCE BRENDA ROOS 202ND RESPONDENT**

**ANDILE SHABALALA 203RD RESPONDENT**

**CHARMAINE ROOS 204TH RESPONDENT**

**ASHRIFF SHARIEF GUMAN 205TH RESPONDENT**

**KHAVELA TSUMANE 206TH RESPONDENT**

**PREVEIN FRANK VOLMINK 207TH RESPONDENT**

**THABISILE PRECIOUS PULE 208TH RESPONDENT**

**RICARDO DELLANO VISAGIE 209TH RESPONDENT**

**MALCOLM CLYDE SMITH 210TH RESPONDENT**

**PHUMZILE LIZZY MNUNI 211TH RESPONDENT**

**ANDRE ALEXANDER 212TH RESPONDENT**

**HENRIETTE SWARTS 213TH RESPONDENT**

**CLEODINE NEL 214TH RESPONDENT**

**ANGELA SMITH 215TH RESPONDENT**

**BIANCA BADENHORST 216TH RESPONDENT**

**MARIA KLEINTJIE MOOS 217TH RESPONDENT**

**NDWAMATO DANIEL PHASWANA 218TH RESPONDENT**

**PRESTON CHARLES SOLOMONS 219TH RESPONDENT**

**SIDNEY KHAN 220TH RESPONDENT**

**BYRON MARCUS 221ST RESPONDENT**

**JESSICA ROSEMONDE SPEELMAN 222ND RESPONDENT**

**PATRICIA PHILANDER 223RD RESPONDENT**

**ANGELIQUE BROOKS 224TH RESPONDENT**

**DARRYL COX 225TH RESPONDENT**

**JOHN TSHABALALA 226TH RESPONDENT**

**BJ WILLIAMS 227TH RESPONDENT**

**BRAECHELLE WILLARD 228TH RESPONDENT**

**ROSETTA ROOS 229TH RESPONDENT**

**LORENZO LOUW 230TH RESPONDENT**

**LIZELLE MAGDELINE LOUW 231ST RESPONDENT**

**LABIONDE ANNE LOUW 232ND RESPONDENT**

**RAIDEN VAN WYK 233RD RESPONDENT**

**LINDIWE NGUZA 234TH RESPONDENT**

**EDITH KENNY 235TH RESPONDENT**

**URSULA PORCIA PETERSON 236TH RESPONDENT**

**JUSTIN MOOSA BROOKS 237TH RESPONDENT**

**LETHUKUTHULA SABELO NKOSI 238TH RESPONDENT**

**THOKOZILE PATRICIA ROUX 239TH RESPONDENT**

**DOCTOR KLAAS ZWANE 240TH RESPONDENT**

**STOFFEL RICARDO VAN HEERDEN 241ST RESPONDENT**

**STEPHANIE SCHALKWYK 242ND RESPONDENT**

**JAFTA EPHRAIM NKOSI 243RD RESPONDENT**

**SAUL MARTINS ROOS 244TH RESPONDENT**

**SHANEE KHAN 245TH RESPONDENT**

**NATASHA KLARA SKARNEK 246TH RESPONDENT**

**ANATTIO NHLAPO 247TH RESPONDENT**

**SAFIRAH MARUPENG MOKWANA 248TH RESPONDENT**

**RICHMAN NTOKOZA MATHE 249TH RESPONDENT**

**WONIQUE FERRIS 250TH RESPONDENT**

**SHANAY KORDOM 251ST RESPONDENT**

**ANNELINE VAN GREENEN 252ND RESPONDENT**

**ELROY PEACOCK 253RD RESPONDENT**

**EUGENIA GOLIATH 254TH RESPONDENT**

**CELA DE ABREU 255TH RESPONDENT**

**GOODMAN JOHANNES ZWANE 256TH RESPONDENT**

**ANGELA VAN DER WESTHUIZEN 257TH RESPONDENT**

**LINDA THEMBEKA GOVA 258TH RESPONDENT**

**ESTA MAHLANGU 259TH RESPONDENT**

**PINKANA EMILY HADEBE 260TH RESPONDENT**

**LUCHANDRE JANLE CORDELIA MARKGRAAF 261ST RESPONDENT**

**CHRISTINE THERESA ABRAHAMS 262ND RESPONDENT**

**KASHIEFA CHARLES 263RD RESPONDENT**

**NKOSIVEZWE SYDNEY MKONZA 264TH RESPONDENT**

**LOEKIE NAIDOO 265TH RESPONDENT**

**TINA MINAAR 266TH RESPONDENT**

**LAWRENCE ROOS 267TH RESPONDENT**

**GIOVANNO VERGAEL MOOS 268TH RESPONDENT**

**SIMONE BROOKS 269TH RESPONDENT**

**DARIUN MARSHALL 270TH RESPONDENT**

**CHESTER STEPHEN SOLOMONS 271ST RESPONDENT**

**ROSSLYN SMITH 272ND RESPONDENT**

**LYDIA MMAKGONE CHOEU 273RD RESPONDENT**

**NATASHA BRUMMER 274TH RESPONDENT**

**THANDIWE ANNAH MEFANE 275TH RESPONDENT**

**LOUISA PRECIOUS HERMANUS 276TH RESPONDENT**

**KEAGAN MARCO ROSE 277TH RESPONDENT**

**EMMANUEL DENNIS SMITH 278TH RESPONDENT**

**COLIN HENLEY ADRIAN MAY 279TH RESPONDENT**

**KARIN CLASSEN 280TH RESPONDENT**

**JESSICA DUANNE LOUWSKITTER 281ST RESPONDENT**

**GAVA EAGLESTONE 282ND RESPONDENT**

**WARREN ANGELO NAIDOO 283RD RESPONDENT**

**LEAREIL STEFFORD SHAWN 284TH RESPONDENT**

**DOCTOR KLAAS ZWANE 285TH RESPONDENT**

**FRANKLIN DAVIDS 286TH RESPONDENT**

**MARK HAROLD OGLE 287TH RESPONDENT**

**MPENDULO PROGRESS NZIMANDE 288TH RESPONDENT**

**DEIDRE PADAYACHEE 289TH RESPONDENT**

**JOHANNES JOEY WALES 290TH RESPONDENT**

**CHARDENE’ CLARISSA PADAYACHEE 291ST RESPONDENT**

**DAVID SMITH 292ND RESPONDENT**

**JOAN EUNICE KOEKEMOER 293RD RESPONDENT**

**MAUREEN SMITH 294TH RESPONDENT**

**MICHAEL DANIEL KOESNEL 295TH RESPONDENT**

**CHRISTO LOTTERING 296TH RESPONDENT**

**MARTHA VAN ROSS 297TH RESPONDENT**

**TANYA ABRAHAMS 298TH RESPONDENT**

**HENRICO MAANSDORP 299TH RESPONDENT**

**MARIA NIKLAAI 300TH RESPONDENT**

**ALISTER THERON 301ST RESPONDENT**

**ELIZABETH JOUBERT 302ND RESPONDENT**

**GERTRUIDA JAARS 303RD RESPONDENT**

**PHUMZILE LIZZY MNUNE 304TH RESPONDENT**

**HILDA POPPIE MANCHO 305TH RESPONDENT**

**JOSEPH GEORGE KUNENE 306TH RESPONDENT**

**THEMBA LEDONGA 307TH RESPONDENT**

**ANGELA POONEN 308TH RESPONDENT**

**MAGGIE MASHIYANE 309TH RESPONDENT**

**MARIA TSHABANGU 310TH RESPONDENT**

**ANGELIQUE PEACOCK 311TH RESPONDENT**

**LUCY DIPUO TSOTETSI 312TH RESPONDENT**

**ELTON KING 313TH RESPONDENT**

**ESTHER MHLANGU 314TH RESPONDENT**

**ISOLONE KENNY 315TH RESPONDENT**

**ELFONZO VAN SCHALKWYK 316TH RESPONDENT**

**GRAHAM SMALE 317TH RESPONDENT**

**GERONIMO ENVER LOUW 319TH RESPONDENT**

**TEVIN FORTUIN 320TH RESPONDENT**

**MODIEHI THABANA 321ST RESPONDENT**

**KEAGAN ROSE 322ND RESPONDENT**

**SHAWN GOLIATH 323RD RESPONDENT**

**CHESLIN ISAACS 324TH RESPONDENT**

**DAVID TUKONE 325TH RESPONDENT**

**DEIDRE HEIDE PADAYACHEE 326TH RESPONDENT**

**NOMPUMELELO PHIRI 327TH RESPONDENT**

**CHRISTOPHER VAN SCHALKWYK 328TH RESPONDENT**

**ERIC SOUTHEN 329TH RESPONDENT**

**PINKANA HADEBE 330TH RESPONDENT**

**GENEVIEVE DOEKIES 331ST RESPONDENT**

**LATOYA ROUX 332ND RESPONDENT**

**SEROTO SAMUEL MORE 333RD RESPONDENT**

**URSULA LOUW 334TH RESPONDENT**

**FABIAN ZIEGERS 335TH RESPONDENT**

**SIMONE BROOKS 336TH RESPONDENT**

**ANDRIES ADAMS 337TH RESPONDENT**

**ARTHUR DINJANA 338TH RESPONDENT**

**LEONI CAROL LOUWSKITTER 339TH RESPONDENT**

**SELINA DU PREEZ 340TH RESPONDENT**

**ELROY PEACOCK 341ST RESPONDENT**

**TINA MINNAAR 342ND RESPONDENT**

**ANDREA MAANSDORP 343RD RESPONDENT**

**LORETTA LOUW 344TH RESPONDENT**

**VUSUMUZI LETHULI 345TH RESPONDENT**

**NONHLANHLA MKHALIPI 346TH RESPONDENT**

**CHENTONIQUE GOLIATH 347TH RESPONDENT**

**ANGELA SMITH 348TH RESPONDENT**

**NATASHA BRUMNER 349TH RESPONDENT**

**ADDEL LOTTIE ABRAHAMS 350TH RESPONDENT**

**CHADWIN AMIGO 351ST RESPONDENT**

**PORTIA BENNET 352ND RESPONDENT**

**AGNES BULELWA BOOI 353RD RESPONDENT**

**SIPHAKAMISO BUTHELEZI 354TH RESPONDENT**

**PHUMELELE MEITA BUTHELEZI 355TH RESPONDENT**

**SIPHINDILE BUTHELEZI 356TH RESPONDENT**

**PRETTY NOLUBABACO BAWUTI 357TH RESPONDENT**

**ADELAIDE NONHLANHLA CHILWANE 358TH RESPONDENT**

**NOMAXASIBE BERNIES DUIKER 359TH RESPONDENT**

**ZANDILE GINIZA 360TH RESPONDENT**

**JULIA GOMO 361ST RESPONDENT**

**THOKO GUMEDE 362ND RESPONDENT**

**BAISE GODSPHO HADEBE 363RD RESPONDENT**

**KHANYISILEMARIA HADEBE 364TH RESPONDENT**

**NONKULULEKO PRECIOUS HLONGWANE 365TH RESPONDENT**

**THEMBI PROSPERITE HLATSHWAYO 366TH RESPONDENT**

**PETER JABULANE KHANYE 367TH RESPONDENT**

**PHILEMON JEMSANA 368TH RESPONDENT**

**BOITUMELO KHOZA 369TH RESPONDENT**

**CHARLES KUBHEKA 370TH RESPONDENT**

**THEMBI NOMSA KHOZA 371ST RESPONDENT**

**MUSA KHUMALO 372ND RESPONDENT**

**ROSE KHUMALO 373RD RESPONDENT**

**EVA SALUKWATI KHUMALO 374TH RESPONDENT**

**SIBONGILE KHUMALO 375TH RESPONDENT**

**JACK TSHEPO KHAUOE 376TH RESPONDENT**

**ISMAEL BOY KODISANE 377TH RESPONDENT**

**MUSA BONGI KUBHEKA 378TH RESPONDENT**

**BEKISISA WELLINGTON LANGA 379TH RESPONDENT**

**KHANYISILE DAPHNEY LANGA 380TH RESPONDENT**

**THEMBA LEDONGA 381ST RESPONDENT**

**SPHELELE LANGELITHE SASONDO 382ND RESPONDENT**

**BRITAIN TSWAANE LETSEDI 383RD RESPONDENT**

**MARIA SENQOANE LETSOALO 384TH RESPONDENT**

**STHABISO PHILASANDE MABASO 385TH RESPONDENT**

**MERIDON PULEDI MAILULA 386TH RESPONDENT**

**NOLUTHANDO MABEDLA 387TH RESPONDENT**

**NKULULEKO MANANA 388TH RESPONDENT**

**PRECIOUS PHINDILE MANALENG 389TH RESPONDENT**

**ZANELE FLORENCE MAKILE 390TH RESPONDENT**

**LINDIWE MALANGA 391ST RESPONDENT**

**VUYISA MAKEYISI 392ND RESPONDENT**

**KGOTLELECO WINZARD MASHILE 393RD RESPONDENT**

**HANKI CHRISTOPHER MATEBULA 394TH RESPONDENT**

**MMABATHO MATLOU 395TH RESPONDENT**

**ROBERT MAHATLANE 396TH RESPONDENT**

**LIZZY TSHEPO MAYIU 397TH RESPONDENT**

**LUTHANDO ZOTHA MBATHA 398TH RESPONDENT**

**HLENGIWE MBATHA 399TH RESPONDENT**

**ANNA MAGUYO 400TH RESPONDENT**

**THOKOZWA MBENGWENE 401ST RESPONDENT**

**DUMISANI MKHWANAZI 402ND RESPONDENT**

**MUSA SABELO MAMBA 403RD RESPONDENT**

**MARIA SIBONGILE MANYIKA 404TH RESPONDENT**

**SOPHIA MAKALELA 405TH RESPONDENT**

**MERCEY MAKHOBA 406TH RESPONDENT**

**JEFFREY HLAMULA MAKHUBELA 407TH RESPONDENT**

**BUSISIWE MAOHONGELA 408TH RESPONDENT**

**NONTOMBI MASANABO 409TH RESPONDENT**

**MSAWENKOSI MASOND 410TH RESPONDENT**

**RAKONTANE FRANS MASETLA 411TH RESPONDENT**

**BETTY NOZINJA MATSHIGA 412TH RESPONDENT**

**THEMBA MAVUNDLA 413TH RESPONDENT**

**IDAH BUSISIWE MAZIBUKO 414TH RESPONDENT**

**SIBUSISO MARKSMAN MAZIBUKO 415TH RESPONDENT**

**NKOSANA MCOCO 416TH RESPONDENT**

**XOLANI MDOKWE 417TH RESPONDENT**

**PATRICK MDLALOSE 418TH RESPONDENT**

**NZUZO LUYANDA MDLULI 419TH RESPONDENT**

**JULIA MFELANI 420TH RESPONDENT**

**NOMFUNDO NOSIPHO MHLUNGU 421ST RESPONDENT**

**THANDEKA MKIZE 422ND RESPONDENT**

**DELISIWE MARTHA NKUTHA 423RD RESPONDENT**

**DUDUZILE AGNES MLAMBO 424TH RESPONDENT**

**MMAMPEELE LUCIA 425TH RESPONDENT**

**SIPHO MNGUNI 426TH RESPONDENT**

**MDUDUZI MNINZI 427TH RESPONDENT**

**JOSEPHMOFOKENG 428TH RESPONDENT**

**TSEBISO REPLY MOHLALA 429TH RESPONDENT**

**YVONNE MOFOKENG 430TH RESPONDENT**

**KENNETH MOKUBUNG 431ST RESPONDENT**

**HABUNENI ALETTA MOLOI 432ND RESPONDENT**

**NANDILE KARLINA MOPELI 433RD RESPONDENT**

**BRIAN MORAKE 434TH RESPONDENT**

**JAN MORAJANE 435TH RESPONDENT**

**RAESETJA AGNES MOTHIBI 436TH RESPONDENT**

**SIMPHIWE MPANGANE 437TH RESPONDENT**

**MARITS MPHAOJWANE 438TH RESPONDENT**

**NHLANHLA MTHIMUNYE 439TH RESPONDENT**

**JOYCE MSIZA 440TH RESPONDENT**

**MOSES NDANGANENI MUTHELO 441ST RESPONDENT**

**LAZOLA KHAYAKAZI TRACY MQUBE 442ND RESPONDENT**

**LWAZI CEBELIHLE MHLUNGU 443RD RESPONDENT**

**ELIZABETH NAMUNE 444TH RESPONDENT**

**SIPHO GENIUS NGUBANE 445TH RESPONDENT**

**CABANGILE NDLOVU 446TH RESPONDENT**

**SIYABONGA NGCOBO 447TH RESPONDENT**

**NOSIPHO NGOBESE 448TH RESPONDENT**

**LAURETIA NGUBANE 449TH RESPONDENT**

**JABULANI NKOSI 450TH RESPONDENT**

**MAKHOSINI NKOSI 451ST RESPONDENT**

**JAFTA EPHRAIM NKOSI 452ND RESPONDENT**

**TSHIDI FRANCIS NKOSI 453RD RESPONDENT**

**NGUBANI NOKWANDA 454TH RESPONDENT**

**STEPHINA NONG 455TH RESPONDENT**

**NELISIWE SINDISIWE NOTYELWA 456TH RESPONDENT**

**WILLY INNOCENT NTOMBELA 457TH RESPONDENT**

**NTOMBIFUTHI NDLANGAMANDLA 458TH RESPONDENT**

**SINOTHI MAXWELL NTULI 459TH RESPONDENT**

**NTOMBUSUTHI HAPPINESS PETER 460TH RESPONDENT**

**GODFFREY PHIRI 461ST RESPONDENT**

**NONDUMISO WENDY PHUNGULA 462ND RESPONDENT**

**LINDIWE RADEBE 463RD RESPONDENT**

**NOSIPHIWO NWELE 464TH RESPONDENT**

**SOLOMON MACWUELANE RADEBE 465TH RESPONDENT**

**SYLEVESTER LEHLOHONOLO SEMOUSA 466TH RESPONDENT**

**DOROMINAH SEROBE 467TH RESPONDENT**

**EMILY DIMAKATSO SETAI 468TH RESPONDENT**

**JAMES SHABANGU 469TH RESPONDENT**

**THULI DORIS SHOBA 470TH RESPONDENT**

**STHEMBISO SHOBA 471ST RESPONDENT**

**SIPHIWE SIBIYA 472ND RESPONDENT**

**TSHEPONG AMOS SIMANGO 473RD RESPONDENT**

**SIBNGILE EUNICE SIMELANE 474TH RESPONDENT**

**FRANCINA SEODISA 475TH RESPONDENT**

**MIYA SIYELANE 476TH RESPONDENT**

**NTLOKO SONWABO 477TH RESPONDENT**

**PATRICIA TSHABALAL 478TH RESPONDENT**

**BONGINKOSI TOKO 479TH RESPONDENT**

**LERATO INNOCENTIA TSOTETSI 480TH RESPONDENT**

**ESTHER THELMA VILAKAZI 481ST RESPONDENT**

**DUDUZILE CYNTHIA ZUNGU 482ND RESPONDENT**

**NKELI JAMES MAKUBUNG 483RD RESPONNENT**

**AURELIA FIKILE 484TH RESPONDENT**

judgment

Molahlehi J

1. Before this court are two applications that were consolidated in the *rule nisi* issued by Keightley J on 5 June 2020. The applicant is the City of Ekurhuleni Metropolitan Municipality, a Metropolitan Municipality (the Municipality) established in accordance with the provisions of the Local Government: Municipal Structures Act, of 1998. The individual respondents are, the individuals who are unlawfully occupying the houses at portion 102, Farm Holgatatfontein 326 IR, NIGEL also known as "MACKENZIEVILLE EXTENSION 2."
2. It was indicated during oral submission that the Municipality was not persisting with paragraph 9 of the interim order made by Keightley J. This is the part of the order that declared any of the respondents who did not comply with the interim order to be in contempt of the order. Therefore, it follows that this matter turns mainly on whether the rule nisi relating to eviction should be confirmed.
3. The respondent opposed both applications and raised a point in limine concerning the non-joinder of the provincial and national government.

**Background facts**

1. It is common cause that the Municipality designed a housing development project with funding assistance from the provincial government. The project's objective is to meet the Municipality's constitutional duty under section 26 of the Constitution of providing residents falling within its jurisdiction housing at McKenzieville Extension 2. The project commenced in 2017 and was intended to provide housing for about 600 people. It is common cause that following applications by residents in the area the Municipality developed a list of individuals who qualified for housing subsidy.
2. The contractors appointed by the applicant had, by December 2019, managed to develop infrastructure for 568 stands and completed 51 houses, ready for occupation.
3. After December 2019, there was no progress in the project due to the expiry of the contractors' contracts. The other reason for the lack of progress was the National State of Disaster declaration under the Disaster Management Act 57 of 2002 by the State President in terms of which movements of people and gathering were restricted.
4. It is common cause that the respondents moved onto the land and occupied both the completed and incomplete housing structures in Mackenzieville Extension 2. Following this, the applicant obtained an order from this court authorising the South African Police and the Metro Police to attend at the site and identify those who had occupied the properties illegally and served them with the notice in terms of section 4(2) of the Prevention of Illegal Eviction from Occupation of Land Act (PIE Act).
5. It is common cause that during March 2020, the respondents invaded the complete and incomplete houses in the project. Those who occupied the incomplete structures completed them and fitted the windows and doors.

**The respondent's defence**

1. The respondents did not dispute that their conduct is unlawful. They contended that the Municipality is not entitled to evict them even though the occupation of the property was unlawful. Their defence is that they moved into the area out of necessity, arising from the regulations governing COVID – 19 promulgated under the National State of Emergency Disaster Management Act 57 of 2020. The other reason for invading the properties is that they had been rendered homeless after being evicted as backyard dwellers from their previous rented premises. They further contended that the Municipality could not evict them unless alternative accommodation was made available, including engaging with them in discussions regarding the eviction.

**The non-joinder point**

1. The respondents contend that the applicant ought to have joined these proceedings both the national and provincial governments. The test for non-joinder is set out by the Supreme Court of Appeal in Absa Bank Limited v Naude N.O and Others (20264/2014) [2015] ZASCA 97; 2016 (6) SA 540 (SCA) (1 June 2015)in the following terms:

"[10] The test whether there has been non-joinder is whether a party has a direct and substantial interest in the subject matter of the litigation, which may prejudice the party that has not been joined. In Gordon v Department of Health, KwaZulu-Natal it was held that if an order or judgment cannot be sustained without necessarily prejudicing the interest of third parties that had not been joined, then those third parties have a legal interest in the matter and must be joined." (Footnotes omitted).

1. In Judicial Service Commission and Another v Cape Bar Council and Another,[[1]](#footnote-1) the court held that:

"[12] It has by now become settled law that the joinder of a party is only required as a matter of necessity – as opposed to a matter of convenience – if that party has a direct and substantial interest which may be affected prejudicially by the judgment of the court in the proceedings concerned (see eg Bowring NO v Vrededorp Properties CC [**2007 (5) SA 391**](http://www.saflii.org/cgi-bin/LawCite?cit=2007%20%285%29%20SA%20391)**(**SCA) para 21). The mere fact that a party may have an interest in the outcome of the litigation does not warrant a non-joinder plea. The right of a party to validly raise the objection that other parties should have been joined to the proceedings, has thus been held to be a limited one."

1. Applying the above test, in the present matter, I am of the view that the point raised by the respondents bears no merit. There are no facts supporting the contention that it was necessary to join the Provincial and National Government parties in these proceedings. Except that the Provincial Government provided funding for the project, there is nothing to show that it has a direct and substantial interest in the outcome of this matter.

**The eviction application**

1. I now turn to deal with the merits of the eviction application. I have already pointed out earlier that the Municipality has abandoned paragraph 9 of Keightley J's order.
2. In his oral argument, the respondents' Counsel emphasised that the Municipality was obliged to provide housing for the respondents in terms of section 26 of the Constitution. Section 26 of the Constitution provides:

"(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures within each available resources to achieve progressive realisation of this right.

(3) No one may be evicted from their home or have their home demolished without an order of the court, made after considering all relevant circumstances. No legislation may permit arbitrary eviction."

1. The starting point in considering the relief sought by the applicant is whether there has been compliance with the provisions of section 4 of the PIE Act. Section 4(1), (2) and (3) of PIE Act provides:

“ (1) Notwithstanding anything to the contrary contained in any law or the common law, the provisions of this section apply to proceedings by an owner or person in charge of land for the eviction of an unlawful occupier.

(2) At least 14 days before the hearing of the proceedings contemplated in subsection (1), the court must serve written and effective notice of the proceedings on the unlawful occupier and the municipality having jurisdiction.

(3) Subject to the provisions of subsection (2), the procedure for the serving of notices and filing of papers is as prescribed by the rules of the court in question.

1. It is trite that once there has been compliance with the provisions of section 4 (2) of the PIE Act, the owner of the property cannot be denied the eviction order unless the respondents in opposing the relief disclose circumstances that will entitle them to remain on the property. In other words, upon satisfaction of the procedural requirements in the absence of special circumstances, the owner is entitled to the eviction order. Ndlovu v Ngcobo Becker and another v Jika 4 All SA384 [SCA at paragraph 17 to 19[[2]](#footnote-2)
2. It is trite that section 4 of PIE Act does not deprive the owner of the ownership of the property that is the subject of unlawful occupation. As stated in Ndlovu v Ngcobo the effect of the PIE Act is to delay or suspend the exercise of the ownership rights of the landowners until a determination has been made, whether it is just and equitable to evict the unlawful occupiers and under what conditions.
3. As stated in Dwele v Phalatse and Others (11112/15) [2017] ZAGPJHC 146 (7 June 2017)[[3]](#footnote-3), section 4 of the PIE Act contains both procedural and substantive provisions. The procedural provisions are found in sections 4(2), (3), (4) and (5), and the substantive provisions are in sections 4(6), (7), (8) and (9) of the PIE Act.
4. In the present matter, there is no dispute about the procedural aspects of section 4 of PIE. The relief sought by the applicant, which the respondents oppose, has to do with the substantive provisions of section 4 of PIE. In this respect, sections 4(6), (7), (8) and (9) of PIE Act read as follows:

"(6) If an unlawful occupier has occupied the land in question for less than six months at the time when the proceedings are initiated, a court may grant an order for eviction if it is of the opinion that it is just and equitable to do so, after considering all the relevant circumstances, including the rights and needs of the elderly, children, disabled persons and households headed by women.

(7) If an unlawful occupier has occupied the land in question for more than six months at the time when the proceedings are initiated, a court may grant an order for eviction if it is of the opinion that it is just and equitable to do so, after considering all the relevant circumstances, including, except where the land sold in a sale of execution pursuant to a mortgage, where the land has been made available or can reasonably be made available by a municipality or other Organ of State or another landowner for the relocation of the unlawful occupier, and including the rights and needs of the elderly, children, disabled persons and households headed by women.

(8) If the court is satisfied that all the requirements of this section had been complied with and that no valid defence has been raised by the unlawful occupier, it must grant an order for the eviction of the unlawful occupier, and determine-

(a) a just and equitable date on which the unlawful occupier must vacate the land under the circumstances; and

(b) the date on which an eviction order may be carried out if the unlawful occupier has not vacated the land on the date contemplated in paragraph (a).

In determining a just and equitable date contemplated in sub-section (8), the court must have regard to all relevant factors, including the period the unlawful occupier and his or his family have resided on the land question."

1. It is trite that in determining whether or not to grant an eviction order, the court has a discretion to be exercised, guided by what is just and equitable. See Ndlovu v. Ngcobo; Bekker and Another v. Jika [**2004 (1) SA 114**](http://www.saflii.org/cgi-bin/LawCite?cit=2004%20%281%29%20SA%20114)(SCA) para 18. In determining whether there are just and equitable grounds to grant an eviction order, the court is obliged to have regard to all the relevant circumstances, including the availability of land for the relocation of the occupiers and the rights and needs of the elderly, children, disabled persons and households headed by women. The court is obliged to grant an eviction order if there is no valid defence and all the substantive requirement of section 4 of PIE are satisfied.
2. The inquiry following the above finding concerns the equitable date on which the unlawful occupier or occupiers must vacate the property. The date chosen for the eviction of the illegal occupiers has to be just and fair to all parties.
3. The relevant facts and circumstances in this matter that have to be taken into account in considering the relief sought by the applicant the following. As stated earlier, it is common cause that the respondents unlawfully occupied the completed and incomplete structures in the area. It is also common cause that, except for a few, most of them are not on the list of beneficiaries. However, those whose names appear on the beneficiaries’ list also did not act lawfully in occupying the houses before being properly allocated by the Municipality. It is apparent that the structures were not yet certified ready for occupation, neither were any of them provided with the certificate of occupancy. It, therefore, cannot be said that they are lawful occupiers.
4. When invading the, arear the respondents were fully aware that they were not on the list of beneficiaries. Their papers reveal that they were aware that other people in the area had successfully applied for the subsidy and were already on the waiting list.
5. In my view, the respondents' conduct should not be countenance by this court because otherwise, the rule of law would be compromised. In Lesapo v North West Agricultural Bank and Another (CCT23/99) [1999] ZACC 16; 2000 (1) SA 409; 1999 (12) BCLR 1420 (16 November 1999) the Constitutional Court per Mokgoro J said:

"No one is entitled to take the law into her or his own hands. Self-help, in this sense, is inimical to a society in which the rule of law prevails, as envisioned by section 1(c) of our Constitution, which provides:

'The Republic of South Africa is one, sovereign, democratic state founded on the following values:

. . . .

  (c) Supremacy of the Constitution and the rule of law."

Taking the law into one's own hands is thus inconsistent with the fundamental principles of our law."

1. In addition to the defence of necessity, the respondents suggested that they were entitled to unlawfully occupy the properties because some of the Municipality officials were involved in fraudulent conduct about the development of the housing beneficiary list. They allege that one of the officials in the housing department was dismissed for being involved in fraud. This has not been substantiated in that there is no supporting documentary proof or supporting affidavit that the person was dismissed for fraud related to the list of housing beneficiaries. But more importantly, there is no averment that the alleged fraudulent list was ever reported to the police. There is also no indication as to why legal steps could not have been taken to interdict the implementation of the list before resorting to self-help.
2. In the circumstances of this case, refusing to grant an eviction order would result in what the Constitutional Court in, President of the Republic of South Africa and Another v Modderklip Boerdery (Pty) Ltd (Agri SA and Others, Amici Curiae) 2005 (5) SA 3 CC at para 45)[[4]](#footnote-4) referred to as a recipe for anarchy. It would also create a precedent for people to jump the queue and qualify themselves through the back door onto the housing lists in the municipalities. The other risk associated with refusing to grant an eviction in the circumstances of this matter is that the use of self-help would result in people losing confidence in the rule of law, which will invariably lead to unwanted public violence. This applies to the respondents' argument that they should only be evicted on condition the Municipality provides them with alternative accommodation.
3. As indicated earlier, the respondents' Counsel argued that the respondents had the right to housing in terms of section 26 of the Constitution, and I suppose that is why they should not be evicted until alternative land is found for them. However, the right is limited "within available resources to achieve the progressive realisation of this right."
4. The circumstances in the present matter is distinguishable to those in Ekurhuleni Metropolitan Municipality and Another v Various Occupiers, Eden Park Extension 5 2014 (3) SA 23 (SCA) wherein the Supreme Court of Appeal found that the Municipality had "displayed uncertainty as to the identification of those persons who were to be evicted and the integrity of the waiting list and the allocation process had been compromised." In the present matter, the Municipality engaged the services of the police to identify the people who had illegally moved .in the area, and there is no issue about the integrity of the process embarked upon in evicting all the illegal occupiers of the structures. It also important to note that at the time the Municipality instituted the eviction proceedings the respondents had taken possession of the properties for less than six months.
5. In light of the above, I am of the view that the applicant has made out a case that it is just and equitable to evict the respondents from Mackenzi Extension 2. In other words, the Municipality made out a case for the confirmation of the rule nisi. In light of this and as already alluded to earlier, there is no need to deal with the issue of the interdict.
6. The issue that remains for determination is the date of the eviction. As alluded to earlier the respondents unlawfully took occupation of the properties that belonged to the Municipality. At the time of taking occupation of the properties they were aware that it was unlawful for them to do so. In this context it is just and fair to afford them a period of thirty days to vacate the properties in question.
7. In relation to costs of the applications, the Municipality’s Counsel conceded that in the circumstances of this case it would not be appropriate to allow the costs to follow the results.

**Order**

1. In the premises, the following order is made:
2. An order for the eviction of the First, Fourth to Four Hundred and Eighty Fourth Respondents and all those occupying the properties through and under them at the properties described as portion 102, of the farm Holgatfontein 326 IR, Nigel also known as Mackenzieville Extension 2 is granted.
3. The First and Fourth to Four Hundred and Eighty Fourth Respondents and all those claiming occupation through and under them are ordered to vacate the property by **7 July 2021**.
4. In the event where the First, Fourth to Four Hundred and Eighty Fourth Respondents and all those claiming occupation through and under them failing to comply with the order set out above, then and in that event, the City of Ekurhuleni Police Services and or the South African Police Services and or assisted by the Sheriff of this Court or his lawful deputy and a Locksmith are ordered and directed to carry out the eviction order on or after **14 July 2021**.
5. In the event where the First and Fourth to Four Hundred and Eighty Fourth Respondents and all those that occupy the property by virtue of, through or under them attempt to regain access or possession to the property after the eviction order has been executed by the Sheriff and/or his/her authorised deputy; the applicant does not need to approach this court for relief and the City of Ekurhuleni Police Services and or the South African Police Services and or assisted by the Sheriff of this Court or his lawful deputy and a Locksmith Sheriff and/or his/her authorised deputy are authorised and directed to take all legal steps to enforce this Court order once again, including enlisting the services of the South African Police Services and a Locksmith.
6. There is no order as to costs.

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E MOLAHLEHI J

Judge of the Gauteng High Court.

APPEARANCES

For the applicant: Adv. E Sithole

Instructed by: Lebea Incoporated Attorneys

For the Respondent: Adv. D Brown

Instructed by. Chris Billing Attorneys

Heard: 31 May 2021

Delivered: 9 June 2021

1. (818/2011) [2012] ZASCA 115; 2012 (11) BCLR 1239 (SCA). [↑](#footnote-ref-1)
2. 4 All SA384 [SCA at paragraph 17 to 19 [↑](#footnote-ref-2)
3. (11112/15) [2017] ZAGPJHC 146 (7 June 2017) [↑](#footnote-ref-3)
4. 2005 (5) SA 3 CC at para 45) [↑](#footnote-ref-4)