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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NUMBER: 2025-055433

Reportable:	NO
Circulate to Judges:	NO
Circulate to Magistrates:	NO
Circulate to Regional Magistrates	NO

In the matter between:-

CHARLES ALLAN JORDAN

Applicant

and

**CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**

1st Respondent

CITY POWER JOHANNESBURG (SOC) LTD

2nd Respondent

JOHANNESBURG WATER (SOC) LTD

3rd Respondent

JUDGMENT

FMM Reid J:

[1] This is an urgent application dealing with the dispute of a municipal account resultant from, *inter alia*, a backdated re-zoning of the property being occupied by 2 elderly ladies.

[2] The applicant seeks the following relief:

2.1. That the matter be heard as one of urgency.

2.2. That, pending the final adjudication of the relief set forth in Part B of this Notice of Motion, the Respondents be interdicted and restrained from implementing its decision to interrupt, reduce, discontinue, disconnect and/or terminate the electricity and/or water supply to the Applicant's property known as Erf 1[...] N[...], situated at 1[...] N[...] Road, N[...], Johannesburg ('the property');

2.3. That, in the event that the Respondents would interrupt, reduce, discontinue, disconnect and/or terminate the electricity and/or water supply to the /per property situated at 104 Nellie Road, Norwood, Johannesburg, the Applicant be authorised to take all necessary steps, including to engage the services of any third party and/or service provider, to reconnect the supply of electricity and/or water to the property, the costs of which the Respondents will be held liable for, jointly and severally;

2.4. Costs of the application, if opposed.

[3] The applicant thus requests an interim interdict, to the abovementioned terms, pending the relief set out in Part B of the Notice of Motion.

[4] Amongst other relief, Part B of the Notice of Motion reads:

“3. That the First Respondent attend to adjudication, resolution and final determination of the pending and resultant disputes of this matter by the following means and procedures:

3.1 The First Respondent shall take any and/or all necessary actions to

ensure that the applicable adjustments, corrections and/or amendments are made to the account number 205082156 relating to the property known as Erf 1[...] N[...], situated at 1[...] N[...] Road, N[...], Johannesburg, including but not limited to:

3.1.1 Reversing all the amended billing entries corresponding to the tariff amendment dated 11 October 2021.

3.1.2 Reversing all entries, including inter alia interest- and penalty charges, disconnection/reconnection fees, legal fees and/or ancillary charges rendered on the previous accounts; and

3.1.3 Recording and reclassification of the property and all related charges thereto to 'Residential purposes', and

3.1.4 Recalculating and rebilling the applicable rates, tariffs and charges to coincide with the actual billing to be rendered from date of the "backdating" of the account; and

3.1.5 Any prescribed amounts, being all amounts older than three years as at the date of adjudication of the account in terms of the order, are to be written off."

[5] In summation, the applicants apply for an urgent interim interdict to the effect that the respondents will proceed with the abovementioned municipal services, pending finalisation of the disputes that include *inter alia* the recalling of some municipal accounts, re-zoning of the property and an unsolved dispute about outstanding amounts.

Urgency

[6] It has been held in the matter of **Twentieth Century Fox Film Corporation and Another v Anthony Black Films (Pty) Ltd** 1982 (3) SA 582 (W) on 585 and 586 that an undue delay in launching the application may in itself constitute a basis

for refusing condonation under Rule 6(12).

[7] In *Burger NO v Nel and others* **2024 JDR 2292 (NWM)** the court set out helpful guidelines for the court's consideration, in exercising the determination of whether an applicant has established urgency. These principles are:

7.1. There is an inherent duty on an applicant to attempt to resolve the dispute prior to approaching the court on an urgent basis.

7.2. A fine balancing act is required which entails a legal representative to possess the ability to carefully calculate the time period when negotiations are exhausted, and determining how much time would be a fair period to grant the respondent to fully answer to the application.

7.3. The court is guided by the relevant events that occurred between the parties, the time periods thereof, and the interaction between the attorneys, prior to the issuing of the application.

7.4. If an application is launched premature, it may be struck for want of urgency. If the application is launched too late, it might successfully be argued that the applicant created its own urgency and the application be struck from the roll.

7.5. The legal representatives of the applicant must estimate the appropriate time to launch an urgent application.

[8] The *locus classicus* that deals with the degrees of urgency is the matter of **Lunar Meubel Vervaardigers (Edms) Bpk v Makin & Another (t/a Makin's Furniture Manufacturers** 1977 (4) SA 135 (W) at 136H where the court held that:

"Practitioners should carefully analyse the facts of each case to determine, for the purposes of setting the case down for hearing, whether a greater or lesser degree of relaxation of the Rules and of the ordinary practice of the Court is required. The degree of relaxation should not be greater than the exigency of

the case demands. It must be commensurate therewith. Mere lip service to the requirements of Rule 6 (12) (b) will not do and an applicant must make out a case in the founding affidavit to justify the particular extent of the departure from the norm, which is involved in the time and day for which the matter be set down."

and further

". . . there are degrees of urgency. As a result, our courts deal with the question of urgency according to the merits of each case. The degree of relaxation of the rules and of the ordinary practice of the court depends on the degree of urgency of each matter. On the other hand, where a matter lacks the requisite degree of urgency, the court can, for that reason alone, strike the application from the roll."

[9] In having regard to the time periods that preceded this application, and the amount of correspondence between the parties, I am satisfied that the balancing act mentioned above was executed correctly and the respondents were granted sufficient time to be in a fair position to answer to the application. The attempts of the attorneys to resolve the dispute out of Court is also clear from the amount of correspondence between the attorneys.

[10] The matter is thus regarded as urgent and proceeds as such. I now deal with the merits of the matter.

Points *in limine*

[11] Mr Sithole raises on behalf of the respondents that the applicant has no *locus standi*, as a point *in limine*.

[12] Mr Sithole argues that the deponent to the founding affidavit does not have a direct or indirect interest in the outcome of this matter, and that the deponent's rights would not be affected whether the application is successful or not.

[13] The deponent to the applicant's affidavit is **Charles Allan Jordan** (Jordan), an adult male person and supposed tenant of the property concerned, situated at 1[...] N[...] Road, N[...], Johannesburg (the property). In terms of a pending agreement, **David Goodyer** has the right of control and occupancy over the said property. **Goodyer** and **Jordan** entered into a lease agreement, as set out in more detail hereunder. **Jordan's** elderly mother of 98 years old, together with a care-taker of 79 years old, are currently living in the property.

[14] The respondent argues that the *lis* between Jordan and the property is too far removed and he has no *locus standi* on that basis.

[15] Foresight Office Unit CC ('the CC') is the registered owner of the property known as Erf 1[...] N[...], situated at 1[...] N[...] Road, N[...], Johannesburg. The members of the CC are Hilton Norman Yutar (ID: 4[...]) and Darryl Israel Yutar (ID: 7[...]).

[16] Jordan deposes to the affidavit, but it is unclear whether he is acting in his personal capacity, acting as representative of the property, Foresight Office Unit CC, or as representative of his mother and her care-taker. Jordan presents a special Power of Attorney from Foresight Office Unit CC (the CC) dated **31 January 2023**. This does not clear the uncertainty up, and no regard is had to the Power of Attorney, being more than 2 years old.

[17] In terms of a pending agreement, David Goodyer has the right of control and occupancy over the said property. Goodyer and Jordan entered into a Commercial Lease Agreement on 31 March 2019. In Clause 5 of the lease agreement, the parties contracted that the dwelling on the property may be used as a residence and/or AirBnB. The agreement also determines in paragraph 8 that:

“8.2 The Lessee (sic-Jordan) will be liable for all other charges in respect of the dwelling including charges of electricity, refuse removal, sanitation, sewerages and water.

8.3 The Lessee shall not sub-let the whole or any party of the proms

without the written consent of the Lessor, which consent shall not unreasonably be withheld.”

[18] Foresight Office Unit CC ('the CC') is the registered owner of the property known as Erf 1[...] N[...], situated at 1[...] N[...] Road, N[...], Johannesburg ("the property").

[19] To summarise: Foresight Office Unit is the owner of the property and has an agreement with Goodyer to rent the property. Goodyer has a Commercial Lease Agreement with Jordan (the applicant) to rent the dwelling on the property. There is a dispute between the respondents and Jordan in relation to the amounts outstanding for municipal services, and the retrospective re-zoning of the property from residential to commercial. Due to these disputes, the services have been terminated to the property and no payment has been received by the respondents.

Locus standi

[20] The term *locus standi* literally means "He who has a right to sue and be sued in an action". Everyone has a right to be heard in his own cause, and no one, save a qualified practitioner, has a right to be heard in the cause of another" (per SEARLE, JP in **Rescue Committee, DRC v Martheze** 1926 CPD 300). The test is, "has the person appearing a direct personal interest in the suit". In that case, it may be considered as 'his cause'" (*ibid*).

[21] In **Mgquba and others v Principal, St John's College and others [2023] JOL 5** the following was found:

(Quotation from the headnote)

"Seeking an order directing the principal of the first respondent school to withdraw an advertisement in respect of various teachers' posts at the school and related relief, the applicants asserted that they had the necessary locus standi to bring the application because they had children who were enrolled as learners at the school. They did not provide the names of the children or the grades in which they were enrolled. The respondents challenged the

applicants' locus standi .

Held *that while it is sufficient for a deponent in application proceedings to assert baldly that he or she has locus standi or the necessary authority to institute the proceedings, if those assertions are challenged by the respondent in the answering affidavit, the applicant must either annex the relevant resolution or aver further facts to establish locus standi. It was common cause that in this case the only possible basis on which the applicants could have established locus standi was by virtue of them being parents of learners enrolled at the school. And it would have been relatively easy for them to do so merely by providing the names of their children and their grades. That would have been sufficient to defeat the respondents' challenge to their legal standing. The applicants' failure to put up sufficient facts to sustain their bald assertion regarding locus standi and the application was dismissed on that basis alone."*

[22] As mentioned, it is trite that the applicant must have a direct interest in the subject matter of the application. The owner of the property, Foresite Office Unit would have a direct interest in the outcome of the application. So would the current tenants who stay on the property, as their rights would be directly influenced by the outcome of the application.

[23] It is unclear whether Jordan acts in his personal capacity, as representative of Foresite Office Unit, or as representative of his mother. This is a fatal error made by the applicant. The role and position of the applicant must be unequivocally clear to any person reading the court papers.

[24] It is imperative for the court, and the other parties, to know the exact identity of the applicant.

[25] For the above reasons, I come to the conclusion that the point *in limine* is to be upheld. The application can therefore not be successful.

Costs

[26] The general principle is that the successful party is entitled to its costs.

[27] I find no reason to deviate from the general principle.

[28] As such, the applicant is to pay the costs of the respondents.

Order

In the premise, I grant the following order:

- i) The point *in limine* of *locus standi* is upheld.
- ii) The application is dismissed.
- iii) The applicant is to pay the costs of the respondents.

FMM REID

JUDGE OF THE HIGH COURT

GAUGENG DIVISION JOHANNESBURG

REPRESENTATION:

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