



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

- (1) REPORTABLE: NO  
(2) OF INTEREST TO OTHER JUDGES: NO  
(3) REVISED.

SIGNATURE

DATE: 14 August 2025

Case no: 2021/27693

In the matter between:

**SYLVIA MARIA LAMPE**

Applicant

and

**CITY OF JOHANNESBURG**

Respondent

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**JUDGMENT**

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**WILSON J:**

- 1 The applicant, Ms. Lampe, runs a home exercise studio from her property in Randburg. On 19 January 1984, the Randburg Town Council granted Ms. Lampe permission to operate that business on the property. The licence had to be renewed annually on payment of a licence fee. Ms. Lampe renewed her licence every year until 1992, when, she says, the Randburg Town Council did away with the annual licence fee, and extended her licence indefinitely.

- 2        Some 25 years later, in 2017, the respondent, the City, which had succeeded to the Randburg Town Council's rights and obligations, determined that Ms. Lampe did not have its consent to operate her business from the property. On 13 December 2017, the City issued a notice headed "UNAUTHORISED USE OF PROPERTY". The City informed Ms. Lampe that the property was being used "in a manner which contravenes the Randburg Town Planning 1976 [sic]". The contravention alleged was that Ms. Lampe was "conducting a gymnasium (callanetics studio) without the approval of the council".
- 3        Ms. Lampe sent two letters to the City in which she explained that her business was being operated in accordance with the licence she obtained from the Randburg Town Council in 1984. Accordingly, she said, she did have the necessary consent to operate her business, the property was not being put to an illegal use, and the notice should be withdrawn.
- 4        Those letters were ignored. In July 2019, the City increased the property rates levied against the property. Ms. Lampe says that, from that month, her municipal account included an additional R9400 per month in rates and taxes, which were levied on the basis that the property was being put to an illegal use because the City did not consent to its use as a home exercise studio. Ms Lampe could not afford these charges, and did not pay them. She did, though, lodge a new application with the City for consent to run her business from the property. Nevertheless, the City continued to levy additional rates and taxes on the basis that the property had been used illegally without its consent, and Ms. Lampe continued to refuse to pay them.

- 5 In response to Ms. Lampe's refusal to pay the additional rates, the City terminated her electricity supply and sued for the amounts outstanding. The electricity disconnection was reversed by order of Vally J on 5 March 2020. Vally J also ordered the parties to "hold a debatement regarding the penalties charged" to Ms. Lampe within 30 days of his order. That debatement never took place, since the City took the view that it would simply proceed with its action to collect the rates it said were due.
- 6 Ms. Lampe's new consent use application was granted in October 2020. This seems to have triggered the withdrawal of the City's action to collect the outstanding rates, but the City continued to levy enhanced rates and taxes against Ms. Lampe's property on the basis that it was being put to an illegal use, even though the City had itself consented to the use of the property in October 2020. In the meantime, Ms. Lampe had to fend off further attempts to disconnect her water and electricity supplies.
- 7 Ms. Lampe now applies to me for an order declaring unlawful the City's decision to levy enhanced property rates based on the tariff applicable to properties being put to an illegal use. She seeks the reversal of all illegal use charges levied against her since July 2019. She also seeks the recalculation of her municipal account as if the levies were never charged. This relief is no doubt meant to insulate her against value added tax and interest charged and compounded on the monthly amounts levied since July 2019, and that included the illegal use charges.
- 8 The City does not seriously oppose the relief in respect of illegal use charges levied on or after 20 October 2020, which is the date on which the City says it

gave its consent for the use of the property to run Ms. Lampe's business. In its answering affidavit, the City says that it is "attending to reverse the penalty costs charged on and after 20 October 2020". The answering affidavit was deposited on 6 September 2021. I have nothing before me that indicates that Ms. Lampe's account has since actually been corrected to the extent the City concedes it should be. However, the City can suffer no prejudice from an order that it implements such a correction. If it has already done so, then so much the better.

9 The only real dispute before me is whether Ms. Lampe is entitled to the reversal of the penalty charges levied between 1 July 2019 and 20 October 2020. The City says that the property was being put to an illegal use during that time, since its consent was not obtained until 20 October 2020, and the penalty charges it levied against the property during that time were perfectly lawful.

10 I disagree. The City accepts that the consent the Randburg Town Council gave for the use of the property in 1984 binds it as the Randburg Town Council's successor in law. The City also accepts that the Randburg Town Council granted Ms. Lampe a licence to use the property for the purposes to which she put it. The City also accepts that the licence was renewed annually for ten years before being renewed indefinitely. The City stakes its opposition to this application solely on the contention that Ms. Lampe never "applied for consent in terms of sections 13 and 14 of the Randburg Town Planning Scheme, 1976" (City's answering affidavit, paragraph 18). The City's point, as far as I understand it, seems to be that Ms. Lampe might have had a business

licence from the Randburg Town Council, but that did not mean that Randburg Town Council had consented to the use of the property in terms of its Town Planning Scheme, 1976.

11 I find that proposition far-fetched. It beggars belief that the Randburg Town Council would have issued a business licence that authorised the illegal operation of Ms. Lampe's business from the property nominated in the licence. In other words, it seems to me that the issuing of the licence necessarily entailed the Randburg Town Council's consent for the use of Ms. Lampe's property for the purpose specified in the licence. Mr. Magaqa, who appeared for the City, made no coherent submissions to the contrary.

12 Moreover, the City's notice of 13 December 2017 states that the contravention of its town planning scheme was that Ms. Lampe's business was being operated "without the approval of the council". The notice did not say that a specific form of approval – for example consent under a particular statute or planning scheme – was necessary. It said merely that there was no approval at all. That was plainly wrong, since Ms. Lampe did have the Randburg Town Council's approval to operate her business from the property. That approval bound the City when it succeeded to Randburg Town Council's rights and obligations. On this basis, too, the notice could not have provided the City with the authority necessary to levy the penalties it did.

13 In its answering affidavit, the City submits that "the health department and the department of development planning/town planning . . . are separate institutions". As a result, so the City says, Ms. Lampe "cannot argue that simply because she obtained consent to trade from the health department [that]

meant that she also obtained consent of use from the department of development planning/town planning department” (City’s answering affidavit, paragraphs 100 to 101).

14 Plainly, two departments in the same government entity are not “separate institutions”. In any event, it seems to me that the City has misstated Ms. Lampe’s case. Her case is that the enhanced charges levied against her rates account are based on the erroneous proposition that the City has not consented to the use of the property. We know that proposition is erroneous because the licence she obtained constitutes clear consent to use the property for the purpose to which she put it.

15 “Municipal officials do not act appropriately if they take insulated decisions in respect of different duties that they are obliged to perform” (see *Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg v City of Johannesburg* 2008 (3) SA 208 (CC) (“*Olivia Road*”), paragraph 44). Even if it were accepted that the City is entitled to treat Ms. Lampe’s licence as no more than consent for health purposes and to insist that she was also required to apply for planning permission from “some other department in the bureaucratic maze” (*Olivia Road*, paragraph 44), I do not think the City would be entitled to rely on Ms. Lampe’s failure to obtain that planning permission to advance the proposition that it neither knew about nor consented to the use of the property for the purpose to which Ms. Lampe has now put it for 42 years.

16 For all these reasons, the application must succeed. In her notice of motion, Ms. Lampe seeks costs on the attorney and client scale. She is obviously entitled to them. The City has conducted itself throughout this litigation in an

unresponsive and high-handed manner. It failed seriously to oppose the bulk of Ms. Lampe's claim. In the end, it pursued a far-fetched justification of one portion of the penalties it has imposed. Had the City engaged reasonably and sensibly with Ms. Lampe from the outset, this application would never have been necessary.

17 Accordingly –

17.1 It is declared that the respondent's conduct in levying property rates on the applicant's property based on the tariff applicable to properties put to an illegal use is unlawful.

17.2 The respondent is directed to reverse all charges against the applicant's municipal account number 401940788 which were levied since 1 July 2019 on the basis that the applicant's property is being put to an illegal use

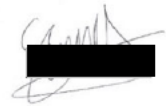
17.3 The respondent is interdicted and restrained from continuing to levy property rates against the applicant's municipal account number 401940788 on the basis that the applicant's property is being put to an illegal use.

17.4 The respondent must, within 30 days of the date of this order, furnish the applicant with a municipal account recalculated on the basis of the orders in paragraphs 17.2 and 17.3 above.

17.5 The respondent is interdicted and restrained from terminating any services to the applicant's property on the basis of non-payment of

municipal charges levied in contravention of paragraphs 17.2 and 17.3 above.

- 17.6 The respondent is directed to pay the costs of this application on the scale as between attorney and client.



**S D J WILSON**  
Judge of the High Court

This judgment is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 14 August 2025.

HEARD ON: 30 July 2025

DECIDED ON: 14 August 2025

For the Applicant: N Mhlongo  
Instructed by P Shikwambana Inc t/a PS Attorneys

For the Respondent: S Magaqa  
Instructed by Madhlopa & Thenga Inc