IN THE HIGH COURT OF SOUTH AFRICA

FREE STATE DIVISION, BLOEMFONTEIN

Not reportable

Case no: 2025-207118

In the matter between

AD OUTPOST TWO THOUSAND AND SEVEN (PTY) LTD APPLICANT

and

MANGAUNG METROPOLITAN MUNICIPALITY FIRST RESPONDENT

SEKONDERE MEISIESKOOL ORANJE SECOND RESPONDENT

LETTIE FOUCHE SKOOL THIRD RESPONDENT

TOTAL ENERGIES MARKETING SOUTH AFRICA FOURTH RESPONDENT

(PTY) LTD T/A BLOEMGATE TOTAL

THOLO RES BAR (PTY) LTD T/A RE-A-HOLA CENTRE FIFTH RESPONDENT

BODY CORPORATE OF LOCH LOGAN PARK SIXTH RESPONDENT

MINISTER OF COOPRATE GOVERNANCE SEVENTH RESPONDENT

AND TRADITIONAL AFFAIRS

MINISTER OF FINANCE EIGHTH RESPONDENT

Neutral citation: *AD Outpost Two Thousand and Seven (Pty) Ltd v Mangaung Metropolitan Municipality and Others* (2025-207118) [2025] ZAFSHC 360 (19 November 2025)

Coram: **MHLAMBI J**

Heard: 14 November 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 12h00 on 19 November 2025.

Summary: Interdict – self-created urgency – principles restated – application struck from the roll.

ORDER

The application is struck from the roll with costs including counsel’s costs on scale B.

JUDGMENT

Mhlambi J

[1] The applicant filed a motion with the court that includes Parts A and B. In Part A, urgent relief is requested through a specific order as follows:

‘2.1 The First Respondent be interdicted and further restrained from enforcing the provisions of Section 28 of the Advertising By-laws in the following manner:

2.1.1 Removing or otherwise interfering with the Applicant's outdoor media signage on the sites listed and referred to under paragraph 18.2 of the Founding Affidavit;
2.1 .2. Implementing Debt Collection measures in terms of the First Respondents Credit Policy;

2.1.3. Consolidating the accounts of the Applicant with those of the respective properties of the Second to Sixth Respondents, referred to under the paragraph 18.2 of the Founding Affidavit;

2.1.4.Disconnecting any utility services to the properties referred to under paragraph 18.2 of the Founding Affidavit pursuant to the enforcement of Section 28 of the advertising By-laws;

2.1.5. Withdrawing the Applicant's approvals obtained for the advertising signs on the properties mentioned in paragraph 18.2 of the Founding Affidavit, relying on the Applicant's non-compliance with Section 28 of the Advertising Bylaws.

3. Punitive costs against the First Respondent.

4. Further and/or alternative relief.'

[2] Part B aims to declare unlawful and constitutionally invalid the provisions of s 28 of the Mangaung Metropolitan Municipality By-Laws related to Outdoor Advertising[1] (the By-Law), to the extent they conflict with s 229 of the Constitution, the Local Government: Municipal Property Rates Act 6 of 2004 and the Local Government: Municipal Systems Act 32 of 2000.

[3] The sites mentioned under para 18.2 of the founding affidavit pertain to the second through sixth respondents.

[4] The first respondent opposed the application. The second to fifth respondents did not, while the sixth respondent's counsel merely appeared to inform the court that it supported the relief sought in Part A. The first respondent's counsel objected to this form of communication, arguing that counsel could not sneak into court and make prejudicial statements without the first respondent's input.

[5] The first respondent argued that the issue was not urgent and was a result of self-created urgency by the applicant. The applicant had been inactive for at least two weeks before the urgent application was filed. The first respondent was given limited time to oppose the relief by submitting an answering affidavit. The relief was not valid because the first respondent had issued notices of withdrawal of consent and notices of compliance related to unauthorized signs, which are the subject of the current application.

[6] The applicant is a limited liability company with a registered address at Maxwell Office Park, 3[...] M[...] Crescent, Waterfall City, Johannesburg. The first respondent is a local municipality with its main office at Bram Fischer Building, Nelson Mandela and Markgraaf Streets, Bloemfontein (the Metro). The second to sixth respondents are schools and businesses within the jurisdiction of the first respondent. The seventh and eighth respondents are

[1] Provincial Notice No. 46 of 2019.

ministers cited in their official capacities. No relief is sought against the second to eighth respondents.

[7] It is commonly accepted that the applicant is the lessee in separate outdoor advertising-related agreements with the second to sixth respondents at various sites. The applicant complied with the first respondent's requirements by applying for municipal consent to engage in outdoor advertising activities at the various sites. The authorisations were renewed on 10 April 2025. In the founding affidavit, the applicant stated that the first respondent unilaterally created account number 497160 1550 for the applicant in May 2017 and debited it with the amount of R484,556.00, including VAT. Upon inquiry, these amounts were identified as levies or taxes imposed by the first respondent on outdoor media companies for billboards erected on private property within the first respondent's jurisdiction. At that time, the by-law regulating outdoor advertising operations was the 2015 by-law, which did not contain a provision similar to s 28 of the current By-law that allows levies to be billed according to a schedule of tariffs.

[8] In March 2023, the first respondent created and assigned additional accounts for the applicants relating to privately owned properties where the applicant had installed billboards. On 1 September 2025, the applicant obtained legal advice regarding the legality and lawfulness of the charges imposed by the first respondent. It then filed an application against the first respondent, the Ministers of Cooperative Governance and Traditional Affairs, and Finance under case number 4592/2025. The applicant sought to challenge the constitutionality of section 28 of the By-law, requesting that it be declared unlawful and invalid. On September 16, 2025, the first respondent issued a letter of demand to the applicant, claiming arrears on annual levies billed to four of the five accounts assigned to the applicant, totalling R998,559.69. Failure to settle the account within seven days would allow the respondent to withdraw its consent to outdoor advertising, remove the applicant's signage, and disconnect the water supply to the sites.

[9] On 19 September 2025, the applicant, through its attorneys in the initial application, informed the first respondent that its threats were premature and unauthorized. The applicant asked the first respondent to stop such conduct, warning that failure to do so would prompt the applicant to pursue appropriate legal remedies. The first respondent disputed the applicant's claims and filed an opposition to the initial application.

[10] On 26 September 2025, the first respondent addressed a letter to the applicant's attorneys, stating the following:

1 It had no intention of suddenly cutting off water supplies to the second through sixth respondents;

2 That the compliance period granted in the first respondent's letter of 16 September 2025, is extended by seven days;

3 That no account consolidation has happened yet;

4 Those disconnections will only occur after the accounts are consolidated and relevant notices have been issued and disclosed to the lessors.

[11] The applicant responded through its attorneys, condemning the first respondent's attempt to intensify collection efforts against the applicant and its lessors. It requested an undertaking from the first respondent to cease such conduct. The first respondent did not reply to the request.

[12] On 9 October 2025, the first respondent issued withdrawal notices to the applicant and five of its lessors to remove the outdoor advertising signage. On 14 October 2025, the applicant responded, stating it had no choice but to adapt and repurpose the pending litigation to protect its rights unless it received an undertaking not to enforce the s 28 By-law, *pendente lite*, by Friday, 17 October 2025, at close of business. The first respondent did not respond to the proposal.

[13] In argument, the applicant conceded that determining a constitutional issue was, under the circumstances, not urgent and that, from 17 October 2025, until the filing of the urgent application, the applicant took no action. The

applicant considered the matter urgent because the removal of signage, the consolidation of accounts, and the disconnection of the water supply were expected to occur shortly after Friday, 17 October 2025. This prompted the applicant to prepare the urgent papers immediately after the 17 October deadline.

[14] The first respondent stated in its answering affidavit that the applicant withdrew the initial application under case 4592/2025 on 3 November 2025. The present application was only filed at the Metro's offices on 6 November 2025. The first respondent was expected to respond to the newly amended and reworked portion of the application within three court days, calculated from Friday, 7 November 2025, to Tuesday, 11 November 2025, as it was directed to file its answering affidavit by the close of business on Tuesday, the 11th. This timeline was unrealistic, as the shortened period was intended to prevent an organ of state from responding to an urgent application seeking relief to stop it from exercising its statutory public power pending a declaration of the constitutional invalidity of a by-law.

[15] The first respondent engaged its attorneys on 10 November 2025, and was only able to schedule a virtual consultation with senior and junior counsel in Cape Town, as well as new junior counsel in Bloemfontein, on Tuesday, 11 November 2025, at 16h00 due to existing commitments.

[16] Rule 6(12)*(b)* of the Uniform Rules of Court states that in every affidavit supporting an application under paragraph *(a)* of this subrule, the applicant must clearly describe the circumstances that make the matter urgent and explain why they believe they cannot obtain substantial redress at a regular hearing. In *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others*,[2] it was emphasized that the procedure outlined in rule 6(12) is not merely for formality. The applicant must explicitly state the circumstances they claim make the matter urgent. More importantly, they must also provide the reasons why they believe they cannot receive substantial

[2] *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196.

redress at a scheduled hearing in due course. The question of whether a matter is urgent enough to be enrolled and heard as an urgent application turns on whether there is no substantial redress through a normal application.[3]

[17] It is trite that an applicant cannot create his or her own urgency by delaying the filing of an application, and the court will not come to the assistance of an applicant who has delayed approaching the court.[4] The applicant has known since 2019 that the respondent had unilaterally opened and allocated its accounts and had sent invoices. The alleged illegality was known as of 1 September 2025 when it sought legal advice, and it was aware, by 16 September 2025, of the withdrawal of the consent and the disconnection of the water supply. The applicant withdrew the initial application only on 3 November 2025 and filed the new application only on 6 November 2025. The delay in launching these proceedings[5] does not evidence any pressing urgency in connection with the matter, nor does the founding affidavit point to any instance of prejudice having been suffered by the applicant. On the contrary, the undisputed evidence is that the applicant was aware of the accounts allocated to him for a considerable period, up to the point at which they sought legal advice.

[18] In its replying affidavit, the applicant sought to dispel the idea of self-created urgency, stating that it had consistently worked to remove the need for urgent proceedings by asking the first respondent not to interfere with the utilities and services provided to and paid for by the applicant's landlords, the second to sixth respondents. Additionally, the first respondent was asked to give commitments not to interfere with the applicant’s outdoor advertising operations while waiting for the outcome of the constitutional challenge against the s 28 By-law. The applicants cannot rely on these requests for undertakings as a basis for urgency, since, at best, they amount to self-created urgency.[6]

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[3] Ibid para 6.
[4] *Tukela v Minister of Public Works and Others* [2017] ZALCPE 28.
[5] *Transvaal Agricultural Union v Minister of Land Affairs and Another* [1996] ZACC 22; 1996 (12) BCLR 1573; 1997(2) SA 621.
[6] *M.E.M v K.M.N.O* [2024] ZAFSHC 94 para 42.

[19] The courts have consistently refused urgent applications in cases when the urgency relied upon was clearly self-created. Consistency is important in this context, as it informs the public and legal practitioners that the Rules of Court and Practice Directives can be ignored only at a litigant's peril. Legal certainty is one of the cornerstones of a legal system based on the rule of law.[7]

[20] In the circumstances, I am not convinced that the applicants have established a proper case for urgency. The application should be removed from the roll due to lack of urgency, and costs should follow the outcome.

Order

The application is struck from the roll, with counsel’s costs on scale B.

JJ MHLAMBI
JUDGE OF THE HIGH COURT

[7] *Dynamic Sister Trading (Pty) Limited and Another v Nedbank Limited* [2023] ZAGPPHC 709.

Appearances

For the Appellant:	Mr Mfazi
Instructed by:	Symington De Kok Attorneys
For the Respondent:	Mr Snyman
Instructed by:	Raynard & Associates INC