



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 012427/26

In the matter between

TRANSET SOC LTD

APPLICANT

AND

**UNLAWFUL OCUPIERS OF THE PORTION OF
RESPONDENT**

1st

ERF 1[...], BELLVILLE THAT IS UNDER

THE TIENIE MEYER BYPASS BRIDGE

THE CITY OF CAPE TOWN

2nd

RESPONDENT

Date of Hearing : 30 January 2026

Date of Delivering : 04 February 2026

JUDGMENT

THULARE J

ORDER

1. The *rule nisi* issued on 27 January 2026 is confirmed and made final, to the extent set out below.
 - 1.1. The first respondent shall within 10 court days vacate a portion of Erf 1[...], Bellville, located under the Tienie Meyer Bypass bridge as indicated by the red shaded area in annexure B1 (the property)
 - 1.2. The first respondents are interdicted and restrained from:
 - 1.2.1. Entering or being upon a portion of Erf 1[...], Bellville, located under the Tienie Meyer Bypass bridge as indicated by the red shaded area in annexure B1 (the property) for purposes of unlawful occupation or invading the property and/or
 - 1.2.2. Erecting, completing or extending any structure of the property; and/or
 - 1.2.3. Occupying any vacant portion of the property.
 - 1.2. Authorising the sheriff and/or the Applicant assisted insofar needs be, by members of the South African Police Service (SAPS) to give effect to the provisions of the order by:
 - 1.2.1. immediately removing any person found to be in contravention of this order;

1.2.2. demolishing any incomplete structure that is not occupied and is erected on the property since the grant of this order;

1.2.3. removing any possessions found at or near such structures, including any building materials, which possessions and/or building materials shall be kept in safe custody for one week by the applicant until released to the lawful owner; and

1.2.4. to take all reasonable steps in order to give effect to this order.

1.4. The City to provide reasonable and emergency accommodation to the first respondents within 7 days from the date of this order.

2. A copy of this order shall be served on the first respondents by the sheriff in the following manner.

2.1. By reading aloud the contents of this order using a loudhailer at the property and in the languages English, Afrikaans and isiXhosa and

2.2. By placing copies of the order at visible, prominent and accessible places to the bridge of the property.

3. A copy of this order shall be served at the nearest SAPS station having jurisdiction of this area.

4. The costs of this application be paid by the City of Cape Town.

[1] On an urgent application, the court on 27 January 2026 issued a *rule nisi* calling upon the respondents to show cause on 30 January 2026 why the following order should not be made final:

1.1 interdict and restrain the first respondent from

1.1.1. entering or being upon a portion of Erf 1[...], Bellville particularly the red shaded area as indicated in annexure B1 (the property) for purposes of unlawful occupying or invading the property; and/or

1.1.2. erecting, completing or extending any structure of the property; and/or

1.1.3 occupying any vacant portion of the property

1.2 Authorising the sheriff and/or the applicant assisted insofar needs be, by the members of the South African Police Service (SAPS) to give effect to the provisions of the order by:

1.2.1. immediately removing any person found to be in contravention of this order;

1.2.2. demolishing any incomplete structure that is not occupied and is erected on the property since the grant of this order;

1.2.3. removing any possessions found at or near such structures, including any building materials, which possessions and/or building material shall be kept in safe custody for one week by the applicant until released to the lawful owner; and

1.2.4. to take all reasonable steps in order to give effect to this order;

1.3. directing that the costs of this application be paid by those respondents who oppose the application, such costs on a joint and several basis, the one paying the other to be absolved.

1.4. That the second respondent provide reasonable and emergency accommodation to the first respondents within 7 days from the date of the granting of the order.

2. That paragraphs 1.1 and 1.2 of this order shall operate as an interim order with immediate effect.

3. That service shall be effected in the following manner on the respondents:

3.1 by sheriff and/or applicant and/or SAPS attending at the property and serving a copy of this order in the following manner:

3.1.1. by reading aloud the contents of this order using a loudhailer at the property and in a language understood by the occupants; and

3.1.2. by placing copies of the order at visible, prominent places that is accessible to the property.

4. That this order shall be served on SAPS at the nearest police station having jurisdiction of this area.

5. This shall not be construed as an eviction order. It shall not entitle the applicant to demolish any occupied structure as at the date of this order or to use the provisions of this order for purposes of evicting occupiers from the property under the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998 (the PIE Act).

[2] The urgent application for the *rule nisi* was served on the occupiers found in the structures under the bridge personally on 23 January 2026. They did not appear in court on 27 January 2026. The urgent application for the *rule nisi* was also served on the second respondent (the City). The City did not enter a notice of intention to defend for the application for the *rule nisi* hearing. However, they had an attorney on a watching brief at the hearing of the application on 27 January 2026. The rule was granted. It was served on the City's attorneys of record and on the SAPS the

next day, 28 January 2026. On the 29th of January 2026 the City filed a notice of intention to oppose confirmation of the *rule nisi* and served an answering affidavit. The City was represented at the hearing on the return date of 30 January 2026.

[3] In its founding affidavit the applicant indicated that it brought the application in terms of section 4 and/or 6 of the PIE Act for an order evicting and the unlawful occupiers from the property. The applicant received a report from a professional engineer appointed by the second respondent, indicating that the structural integrity of the Tienie Meyer bridge (the bridge) was compromised. As a result, the unlawful occupiers that live under the bridge will face significant physical harm if they continue living there. The urgent eviction and interdict are sought only in respect of the portion that is under the bridge. The property is also close to one property of the City which is also illegally occupied and another belonging to PRASA which is also illegally occupied. The property is a marshaling yard of the applicant but due to unlawful occupation by the occupiers it cannot be used for its intended purpose. The occupiers have no express or tacit consent from the applicant and have no right to continue to occupy the property.

[4] Already on 28 August 2024, the City's Manager, Support Services, Transport Shared Services, Urban Mobility Directorate, Andrea De Ujfalussy, made a report to the Principal Legal Advisor, Legal Services, Xavier Erasmus and to the Manager: MURP, where she indicted that Tienie Meyer was a class 2 dual carriageway which formed an important mobility function and carried a high volume traffic during the morning and afternoon peak hours. The unlawful occupation of the verge and adjacent properties posed a significant safety risk for

both motorists and pedestrians. There was a critical stormwater and electricity infrastructure housed on the verge which included a large 1200mm diameter stormwater system. The unlawful occupation along the verge obstructed access for maintenance purposes to the stormwater manholes and posed a significant risk to the City's ability to maintain their infrastructure. This increased the potential risk for flooding in a flood prone area that required regular cleaning and access to the system for inspections. The presence of unlawful occupiers obstructed free access to critical services and hindered maintenance inspections and actions required on a continual basis. In the event of a blockage of the stormwater pipes the City needed unobstructed access with equipment to manholes. If not possible, this would have significant flooding implications of properties upstream and not only posed a risk to individual owners, but also put council at risk to public liability claims. Electricity had advised that there were high levels of damage to infrastructure in the area and specifically along the Tienie Meyer bypass they had experienced incidents involving vandalism of low voltage cables that supplied streetlights. A breakdown of incidents with electrical infrastructure was given as to date of incident, its description and what it cost the City. At the time of the report the unlawful occupation was some 8-10 months old and the gradual increase in illegal structures straddling underground services was noticed. The Councilors of the City had expressed concern regarding anti-social behaviour of people in the area. Electricity reported high levels of criminal activity. Urban Mobility attested to theft of manhole covers and metal products in the area which posed a significant threat to services.

[5] On 25 February 2024 Captain JA Van Zyl of the South African Police Service (SAPS) raised concerns, in a report, about contact and property crime, as well as

drug related crimes and prostitution being driven by undocumented persons who were operating in the area. He noted that people staying in structures next to Tienie Meyer were involved in crimes like robberies, hijacking and theft out of motor vehicles. The targets of these criminal acts were pedestrians walking from workplaces to board public transport, vehicles and motor bikes were attacked and students from various tertiary institutions between Bellville and Bellville South were robbed of their cellphones, laptops and various other items around Tienie Meyer road. The suspects involved, including in unlicensed selling of liquor, were staying in the informal structures next to the Tienie Meyer road.

[6] On 27 December 2025 the applicant received a letter and a report from the City. The report is by Andrew Rowan, a Professional Engineer and Director of Structures at HHO Consulting Engineers (Pty) Ltd, dated 11 December 2025 and addressed to the City. The material part of his report reads:

“Following the recent fire that occurred under Tienie Meyer bypass, a site inspection was carried out as a preliminary assessment of the bridge on the 9th of December 2025. It was evident that the fire has caused significant heat-related damage to the concrete elements of the structure, potentially compromising the bridges overall structural integrity.

At this stage, the full extent of the damage cannot be conclusively determined, as access to critical structural components remains obstructed by the informal dwellings, However, there are clear and visible signs of concrete spalling on the soffit of the bridge, which poses an immediate safety hazard to the illegal occupants currently residing under the structure. In addition to spalling, we also observed concrete delamination, indicating internal separation of the concrete layers. The presence of both delamination and spalling significantly increases the risk of reinforcement corrosion, which can further weaken the structure if not urgently addressed.

It was noted that the middle column showed severe signs of deterioration and must be carefully and urgently inspected, as any further weakening may compromise public safety.

In addition to the existing structural risks, the continued occupation of the individuals under the bridge creates a high likelihood of another fire occurring. Another fire incident would also further deteriorate the structural integrity of the bridge, potentially affecting its ability to safely carry the flowing traffic that relies on this route for daily commuting.

Considering the above, the following actions are urgently proposed.

1. Immediate removal of the occupants under or adjacent to the damaged portions of the bridge to provide safe access and prevent further fire-related risks.
2. Cleaning of all expected structural surfaces, including the breaking out and removal of all loose concrete debris or fire-damaged concrete.
3. Once safe access has been established and loose material removed, a comprehensive follow-up inspection must be conducted to determine the full extent of the fire damage.

Given the risk of life safety, the potential for further fires, and the possible impact on public transport and traffic flow, we request that these instructions be treated with the highest level of urgency.”

[7] In the letter to the applicant, the City’s attorneys refer to previous engagements between them in relation to the occupiers in the vicinity of the bridge and indicate that recent events and inspections have revealed that eviction of certain occupiers in close proximity to or under the bridge is urgent. The City refers to the professional engineer’s report. The City to section 6(5) and gave the applicant 14 days in terms of section 6(4) of the PIE Act to institute urgent proceedings for the

eviction of the occupiers under the bridge. The City indicated that should the applicant not proceed with urgent eviction proceedings, it would launch the urgent proceedings and request the applicant to pay the costs associated with such proceedings.

[8] Before this, the applicant and the City had been engaged for eviction and finding emergency alternative accommodation for the occupiers. The application was coming but would not have been on an urgent basis. The applicant had already, on 28 March 2024, assisted by the sheriff and SAPS, served the occupiers of its property with the final notices to vacate by 30 April 2024. Before then, the applicant had been to the property on at least four occasions to discuss the intended eviction with the unlawful occupiers. The occupiers were willing to vacate if alternative accommodation was provided to them. The occupiers at one stage refused to provide personal information to the applicant, alleging that it had previously been provided to the City. The occupiers remained in unlawful occupation. The applicant received complaints from the SAPS, and the City on the suspected drug use and dealing, robbery, theft, undocumented foreign nationals and unregistered minor children on the property. Neighbouring owners and companies also complained about the fire that broke out on the property recently which exposed their properties to risk. On 4 November 2025 the occupiers provided their personal information which was recorded on the survey questionnaire issued by the City. The City deemed the information, which was sought for purposes of accommodation, as insufficient. After some further interactions, the City determined that the occupiers could only be provided with emergency housing kits, only after the occupier secured a site for its construction and the landowner of such site had consented to it.

[9] In its answering affidavit, the City set out its position as that it did not oppose in principle the eviction of the occupiers whose informal structures were situated directly beneath the fire-damaged portion of the bridge. It accepted that the occupiers continued occupation presented an immediate and demonstrable risk to life, limb and public safety. The City's concerns were confined to 3 items, to wit

(a) misgivings as to the procedure employed by the applicant.

(b) the scope of the eviction sought; and

(c) The timing of the eviction, insofar as it affected the City's obligations to provide emergency assistance to persons who may be rendered homeless.

The City sought to ensure that:

(a) Any urgent order granted by the court at this stage evicts those people (and only those people) who may be in danger from the fire-damaged bridge, or who may impede the City's efforts to rectify it.

(b) The order affords the City a realistic period to make available emergency housing kits to those occupiers who will be displaced.

(c) The order does not at this stage (aside from the above kits) require the City to provide alternative land upon which the kits can be erected, as this is a relief which can only be considered in terms of section 4 of the PIE Act in due course; and

(d) (Related to the above) the serious procedural defects in the application are addressed, in particular, that the order granted is only interim in nature pending an orderly eviction from both the applicant and the City's properties in due course in terms of section 4 of PIE Act.

Save for the concerns and what the City sought to ensure, it did not oppose the relief sought and supported it.

[10] The City's submission was that section 5 of PIE was mandatory for urgency cases in terms of PIE Act. The applicant sought the urgent eviction of persons from their homes because of immediate danger. This was a paradigmatic case contemplated by section 5 of PIE Act which provided for a distinct and exceptional remedy. The PIE Act prescribed section 5 procedure as the procedure whereby the requirements and time limits in section 4 may be circumvented. Where an applicant sought urgent relief in a manner other than as prescribed by section 4, section 5 was the only way to do so which was sanctioned by statute. The approach of the applicant to harness section 4 and 6 of PIE Act and overlay them with the emergency considerations in the manner of a Rule 6(2) urgent application presented serious difficulties. There was a different test applicable in section 5 proceedings. Court sanctioned service was still required. There was a requirement that there be no other remedy. Urgent proceedings provided interim relief and could not result in the final order. The section 5 procedure ensured that extraordinary urgent relief was not used to bypass the safeguards built into section 4 of PIE Act. The applicant and the City attended to the occupiers under the bridge on 23 January 2026. They only counted the structures and collected the names and surnames of the occupiers. The City knew that it required what it called undertaking a full survey of the personal circumstances of the occupiers, but did not do it. It seeks to blame the applicant for its omission.

[11] The City's case was that there was extensive demand for basic services and housing which was growing at an ever-increasing rate. It was facing an unprecedented challenge for access to state assisted housing while operating in a context of very limited resources. It gave a stark example that only a few days ago it was called upon to house and relocate no less than about 3 500 households and undertake to provide a housing report by 20 February 2026. As at 28 January 2026, there were 4 597 housing reports requested by the City in private eviction matters where it must provide the provision of alternative accommodation. This figure did not account for the total number of individuals affected, which is multiples of this figure. There were hundreds of active litigation matters in which the City had been cited and was required to address the availability of alternative accommodation. There was currently no availability of Temporary Relocation Areas (TRAs) near the property. It is anticipated that TRAs may be available several months from now and at locations far removed from the property. The identification of land for temporary occupation was a complex process involving safety, land-use and operational considerations. The City cannot reasonably be required to identify, prepare and make available land for temporary occupation within an inflexible or truncated timeframe, let alone on seven days as the *rule nisi* in this matter proposed.

[12] The City offered and reiterates its offer to provide emergency housing kits to those occupiers certified in annexure A to the notice of motion. Each emergency kit housing kit permits the construction of a structure measuring approximately 6m X 3m (18 square metres). The average cost of each housing kit is approximately R15 000-00 with the projected total expenditure to the City for the provision of such housing kits to the identified occupiers being in the region of R195 000-00.

The City will only provide the occupiers with the emergency housing kits and it is the duty of the occupiers to assemble the materials themselves.

[13] Section 5 of PIE Act provides:

“5 Urgent proceedings for eviction

(1) Notwithstanding the provisions of section 4, the owner or person in charge of land may institute urgent proceedings for the eviction of an unlawful occupier of that land pending the outcome of proceedings for a final order, and the court may grant such an order if it is satisfied that-

(a) there is a real and imminent danger of substantial injury or damage to any person or property if the unlawful occupier is not forthwith evicted from the land;

(b) the likely hardship to the owner or any other affected person if an order for eviction is not granted, exceeds the likely hardship to the unlawful occupier against whom the order is sought, if an order for eviction is granted; and

(c) there is no other effective remedy available.

(2) Before the hearing of the proceedings contemplated in subsection (1), the court must give written and effective notice of the intention of the owner or person in charge to obtain an order for eviction of the unlawful occupier to the unlawful occupier and the municipality in whose area of jurisdiction the land is situated.

(3) The notice of proceedings contemplated in subsection (2) must-

(a) state that proceedings will be instituted in terms of subsection (1) for an order for the eviction of the unlawful occupier;

(b) indicate on what date and at what time the court will hear the proceedings;

(c) set out the grounds for the proposed eviction; and

(e) state that the unlawful occupier is entitled to appear before the court and defend the case and, where necessary, has the right to apply for legal aid.”

The concerns of the City about the procedure adopted by the applicant in approaching the eviction of the occupiers under the bridge is not just unnecessary grumbling. A litigant in the position of the applicant should preferably directly invoke legislation which has been enacted to give effect to its rights and must rely on the legislation to make its case. Section 5 of PIE entitled the applicant to approach the court on an urgent basis to claim the eviction of the occupiers. An applicant who exercises their right to common law recourse and thereby opt out of section 5 provisions in favour of the common law interdict must explain that course of action. The whole of section 5 must be read as a whole and must be read together with section 4 and because it implicated organs of State, with section 6, including being read with Rule 6(12), as defining the scope of the positive rights that everyone has, especially unlawful occupiers and the corresponding obligations of each, especially on the State and in this instance specifically the City. In approaching the relationship between section 5 of the PIE Act and Rule 6(12) of the Uniform Rules, one must bear in mind what was said in *Minister of Finance v Aribusiness NPC* [2022] ZACC 4, 2022 (4) SA 362 (CC) at para 103:

“[103] Ordinarily, the purpose served by regulations is to make an Act of Parliament work. The Act itself sets the norm or provides the framework on the subject-matter legislated upon. Regulations provide the sort of detail that is best left by Parliament to a functionary, usually the Minister responsible for the administration of the Act, to look beyond the framework and — in minute detail — to ascertain what is necessary to achieve the object of the Act or to make the Act work. In *Engelbrecht* this court embraced the following words of Bennion, which were quoted with approval by Ponnar AJA in a minority judgment in *Makwetlane*:

'Underlying the concept of delegated legislation is the basic principle that the Legislature delegates because it cannot directly exert its will in every detail. All it can in practice do is lay down the outline. This means that the

intention of the Legislature, as indicated in the outline (that is the enabling Act), must be the prime guide to the meaning of delegated legislation and the extent of the power to make it.

...

The true extent of the power governs the legal meaning of the delegated legislation. The delegate is not intended to travel wider than the object of the Legislature. The delegate's function is to serve and promote that object, while at all times remaining true to it.' ”

After the location of its identity within section 6, the best foot forward first for a person in the position of the applicant seems to be section 5 of PIE as the main meat cut. Section 4 of PIE was the vegetable mix and Rule 6 (12) the herbs, in the urgent complex stew of eviction of the occupiers. Section 5 interposed an internal remedy specialised for and umbilically linked to eviction within a complex statutory and common law matrix. However, unless section 5 was found to be exhaustive of the common law norms of an interdict, I am unable to conclude that the applicant was required to seek recourse only in the application of section 5. Ordinarily a person in the position of the applicant would not be allowed to seek relief by circumventing the particular statutory edifice, unless the statute did not codify the common law to some extent and was thus not ousted and where necessary its development was consistent with the constitution and that statute. It must be borne in mind that the power of the court to dispense, in Rule 6(12) is related to the forms and service provided in the rules, that is, to what was called delegated legislation in *Afribusiness*, and not to the norms and framework legislated in an Act of Parliament.

[14] The parties are agreed that there is an imminent threat to life, limb and property and probable irreparable harm for occupiers and others under the bridge? The City was correct in its observations that the eviction of the occupiers beneath the fire-damaged portion of the bridge was necessary. It is against that background

that I understand the City's position, in principle, not to oppose the eviction of those occupiers. It seems to me that the City, correctly, may have observed that there was no alternative remedy available for an interim interdict to be granted. It did not oppose the granting of the interim interdict, for all intents and purposes evicting the unlawful occupiers from a dangerous place. The City did not dispute that an eviction of the occupiers whose informal structures are situated directly beneath the fire-damaged portion of the Tienie Meyer bridge was necessary. The City accepted that the continued occupation presented a demonstrable risk to life, limb and public safety.

[15] The applicant elected to follow the common law on interdicts which allowed them to assert their rights for vindication and relief. For purposes of this judgment, I am inclined to accept that the common law on interdict was still within reach of the applicant in this matter. Only on the return date of the *rule nisi* the City brought to the fore the competition between the urgent interdict in common law and the statutory remedy in section 5 of PIE. Urgent matters require rapid decision making and in certain matters definitive resolutions of such serious competitions are not engaged in, unless raised, in urgent interim order applications. Judges resolve disputes and do not argue the law, and this is one of the main differences between a Judge on one hand and an Advocate, a Professor of Law or a Social Commentator on the other. It is against this background that the interim order was approached. The City was served with the application for the *rule nisi* and elected not to raise this important question of law, to wit, whether section 5 of PIE superseded the common law on interdicts in respect of urgent eviction applications. Or put otherwise, has an urgent interim and final interdict remained competent claims for eviction despite the enactment of section 5 of PIE? The City cannot be allowed to

be deliberate in electing to join a race halfway and then seek to argue about the track and how the starting shot should have sounded. The question being raised in this late stage, I do not have to provide a categorical answer. This normative contest between statute and common law which the City belatedly introduced, will one day be timeously, fully and properly placed before a competent court which will enjoy the benefit of full arguments, to give a decision. Where the City is correct, is that the focus should now be on the finish line and how this complex race is to be won. The City may mumble and rumble about the racecourse, but the race is on and importantly, the City is also running in it now.

[16] The facts of this case make it clear that both the interim and final orders were matters which required extreme urgency. At least since early 2024 the parties have been aware and in discussion about the need for the occupiers to vacate the property and on 23 January 2026 all the parties specifically assembled to discuss the urgent need for the removal of the occupiers under the bridge. The occupiers and the City were given written and effective notice of the intention of the applicant to apply for both the interim and the final interdict. The City has been aware since 11 December 2025, when the professional engineer provided his report to the City, that the occupiers were to be evicted, as the City was aware that they were not willing to move out of own volition unless given alternative accommodation. In fact, the City is the one that applied pressure on the applicant to institute these proceedings. Section 4, to which section 5 refers, and section 5 itself, has provisions which would not advance the interests of justice in the urgent application of the nature before me. The 14-day notice required in 4(2) would unduly delay and may defeat the object of preventing harm or even death, which is sought to be achieved, so is the potential appeal processes of Legal Aid South

Africa Act where legal aid was sought (section 5(3)) and declined. I am unable to conclude that the notices given in these proceedings would not have met adequate notice envisaged in section 4(4). The enquiry in section 4(7) of the availability of land, is premised on the allowance of time for the municipality to prepare reports, and experience teaches that those time frames, in the City's mindset, were never tuned for urgent matters as the matter before me. Section 4(8) read within the context of the whole of section 4, confirms that section 4 had in mind the consideration that the unlawful occupier would have a valid defence not to be moved, which is not applicable in this matter. In this matter, the urgent removal of the occupiers has become non-negotiable. Moreover, their stance is not to advance a valid defence against the eviction, but the consequences of the eviction, in that they need alternative land. It is these factors that make it impossible to conclude that the applicant must have followed section 5 and no other remedy in this matter. Moreover, even if section 5 was applicable and there were deviations from peremptory provisions, the question was whether the object of the statutory provisions was achieved [*Unlawful Occupiers, School Site City of Johannesburg* 2005 (4) SA 199 (SCA) at para 22]. On the facts, there is no prospect that the court may order the unlawful occupiers to go back and occupy the bridge whose structural integrity was compromised. The court was told that the applicant cannot use its property, which should be used for the organisation and preparation of freight trains for their journey. I understand marshalling in the locomotive space to mean specialised facilities where trains are sorted, classified and prepared for their destinations. The view by the City that the occupiers may, by court order, be returned to that property and prevent the applicant to use its space for the purpose it was intended, to serve the country, is preposterous.

[17] I am mindful that the order that is made must consider the probable impact it will have on the constitutional and statutory powers and duties of the City, against which the final order is sought [*National Treasury and Others v Opposition to Urban Tolling Alliance and Others* 2012 (6) SA 223 (CC) at para 45-47]. The City elected to put in one basket its obligations to provide housing in general and in its papers makes no attempt to make the distinction between its ordinary obligations to incrementally house the indigent, and the obligations of the City in urgent matters requiring housing. There is a reason why, for purposes of urgent matters, even in section 5 interim orders, that the requirement in section 4(7), to wit, whether 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, is absent. The law anticipates a reasonable City, which identifies land for emergency accommodation and engages in the complex process involving safety, land-use and operational considerations not when a court order is sought against them, but in anticipation of answering to its constitutional obligations when the need arise. The idea that indigent South Africans, if any, will simply be provided emergency housing kits which permitted construction of a structure measuring approximately 6m X 3m, and be left to go and look for land, demonstrates how the City has no feeling of concern to the issue of land. The *Concise Oxford Dictionary*, 10th edition, Edited by Judy Pearsall, 2002, Oxford University Press defines a home as a place where one lives permanently. Most of the things can be absent, including a structure, but there can be no 'home' without a place. Place is land. It is location. How the City can elevate and equate movable material to land, which by its very nature is immovable, escapes my logic. As regards its obligations for housing the indigent in urgent matters, the City refuses to understand the reality. The City knew, through its own officials, since August 2024 that the presence of the occupiers on the bridge was unsustainable. From 11

December 2025 the City knew the situation was urgent. It was and could not have been surprised by the service of these proceedings to realise that it was sitting with an urgent housing problem. The attempt by the City to conflate its internal processes and obligations to translate persons from emergency housing to their general housing programmes, for the indigent, is a cheap attempt to sow confusion. Whilst the provision of emergency accommodation require judicial oversight, the internal transfers and translations from emergency to general housing do not. The fact that the City, in its mindset, has no recognition for the distinction between emergency situations that require judicial oversight, and its ordinary obligations towards the indigent which require political oversight, is no reason for the court to enter political debates. For these reasons I am making the order.

DM THULARE
JUDGE OF THE HIGH COURT