

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

Case No: 2026/016783

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

In the matter between:

**FUTURE INDEFINITE INVESTMENTS
180 (PTY) LTD**

First Applicant

**THE OLIFANTSFONTEIN BUSINESS
FORUM NPC**

Second Applicant

FLOTEK PIPES AND IRRIGATION (PTY) LTD

Third Applicant

GLASS DECORATIONS CC

Fourth Applicant

NORCROS (S A) (PTY) LTD

Fifth Applicant

COMPASS HOUSE (PTY) LTD

Sixth Applicant

And

**THE CITY MANAGER CITY OF EKURHULENI
METROPOLITAN MUNICIPALITY**

First Respondent

**THE CITY OF EKURHULENI
METROPOLITAN MUNICIPALITY**

Second Respondent

**THE CITY MANAGER CITY OF
TSHWANE METROPOLITAN MUNICIPALITY**

Third Respondent

**THE CITY OF TSHWANE
METROPOLITAN MUNICIPALITY**

Fourth Respondent

JR 209 INVESTMENTS (PTY) LTD

Fifth Respondent

**ERF 8[...] ERASMUSKLOOF
EXTENSION 3 (PTY) LTD**

Sixth Respondent

ESKOM HOLDINGS SOC LTD

Seventh Respondent

JUDGMENT

MIA, J

[1] The applicants seek urgent interim interdictory relief pending compliance with statutory authorizations governing land use, environmental approval and relocation of occupiers. The application is opposed.

[2] The applicants own commercial and industrial properties in Clayville Township, situated adjacent to Portion 83 of the Farm Olifantsfontein 402, Registration Division JR, Gauteng Province (the Relocation Site). The first to fourth respondents the Municipalities responsible for enforcement of certain legislation in the area, the fifth and sixth respondents are developers and own the property designated as the Relocation Site(the Developers). Eskom Holdings SOC Ltd (Eskom) is the eighth respondent and cited because it requires the relocation to work in the area where the resident are currently located. The applicant seeks an order interdicting the respondents from permitting or facilitating the relocation of an existing informal settlement known as the L&J Settlement to the Relocation Site pending lawful compliance with applicable legislation.

BACKGROUND FACTS

[3] The L&J Settlement is an informal residential settlement established on Portion 3 of the Farm Sterkfontein 401, Division Registration Division JR,

Gauteng Province, 51 3919 hectares in extent, (the Sterkfontein Property). It is partially situated in Ekurhuleni Municipality and partially in Tshwane Municipality. Approximately 3000 households reside in the L&J Settlement.

[4] It is common cause that both the Sterkfontein Property and the Relocation Site are owned by the Developers. Eskom intends upgrading infrastructure affecting at least 68 residents within the L&J Settlement. It requires the relocation of the households located on the Sterkfontein property. The Municipality does not have alternative land available to relocate the residents of the L & J settlement. It held discussions with the Developers, who made the Relocation Site available for relocation purposes.

[5] It is not disputed that the Developers commenced works at the Relocation Site. The applicants allege that on 16 January 2026 they became aware of the relocation plans and that preparatory earthworks were undertaken without compliance with planning, environmental and building legislation. The applicant seeks to prevent the occupation of the properties adjoining its property by thousands of residents without the necessary planning, building and environmental compliance overnight. The applicant purchased its property adjacent to the Relocation Site during 2011 for an amount of R54 500 000 million. It has improved the property which accommodates warehouses occupied by commercial and industrial tenants. The rental income is thus the source of a substantial monthly income for the applicants. It envisage that the settlement with which has not been approved by the Municipality will affects is commercial interest negatively.

THE MUNICIPALITY'S POSITION

[6] The Municipality contends that it has no control over the Relocation Site as it is owned by the Developers. They also maintain that there is no written relocation agreement. It also states that it has not relocated any households or persons. It agrees that the Developers must comply with the law before any relocation occurs. The Municipality further states that it cannot relocate people without statutory compliance as it would amount to an unlawful relocation.

ISSUES FOR DETERMINATION

[7] The issues to be considered are:

- a) Whether the matter is urgent.
- b) Whether the applicants have established the requirements for an interim interdict:- namely a prima facie right; a reasonable apprehension of irreparable harm; that the balance of convenience favours the granting of relief; and the absence of an alternative remedy.
- c) Whether the conduct complained of is prima facie unlawful.
- d) Whether the Municipalities can be interdicted on the present evidence.

URGENCY

[8] Once the applicants demonstrate a prima facie right and harm, the urgency depends upon whether substantial redress can be obtained in due course and whether the harm apprehended is imminent. The applicants allege that work has commenced on the Relocation Site consistent with preparation for occupation. They fear that relocation could occur imminently. That the work has commenced is undisputed. The applicant fears that upon establishment of the informal settlement on the Relocation Site, it will be difficult to restore the *status quo*, particularly where vulnerable occupiers are involved. The harm would be effectively irreversible in relation to their interests and income. I am satisfied that the matter is urgent.

PRIMA FACIE RIGHT

[9] The applicants rely on their rights as neighbouring property owners and on statutory compliance requirements arising from various legislation including Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA), National Environmental Management Act 107 of 1998 (NEMA), National Building Regulations, and the Municipality's Spatial Development Framework (MSDF). They contend that no lawful rezoning, environmental authorisation and building approvals have been secured nor was there a public participation process conducted. The Relocation Site is still zoned as

agricultural and the respondents have not provided evidence of approved land use change, environmental authorisation or building plan approval. The Municipality's version reiterates that relocation may not occur without compliance with the law. The applicants have established a *prima facie* right to be assured that there was and there will be statutory compliance prior to land use change and the envisaged establishment of a settlement. There is no dispute that there was no participation. The Municipality maintains that there should be compliance however the Developers are required to apply for the necessary approvals.

REASONABLE APPREHENSION OF IRREPARABLE HARM

[10] The relocation of thousands of residents to the Relocation Site without compliance with national laws and Bylaws carries permanent consequences. Once the residents occupy the Relocation Site there will be challenges to the applicants' business and commercial interest if the informal settlement is not properly serviced. The relocation will have practical operational and commercial impact on the adjacent commercial businesses where the relocation is not properly planned and managed and is not compliant with the applicable laws. An unplanned relocation without the proper services in place to service the Relocation Site will result in a deterioration of the area and impact the applicants' businesses where it relies on rental income from tenants. In *V & A Waterfront Properties (Pty) Ltd and Another v Helicopter & Marine Services (Pty) Ltd and others*¹ the Court recognised that a threat of harm to an applicant's right was deserving of protection. The Court stated: "*In the present case, therefore, the threatened invasion of the first appellant's rights under the lease constituted proof of reasonably apprehended injury. It was not necessary for the appellants' success to show that the helicopter was unairworthy or what the chances were of a fatal or destructive crash.*"²

[11] In the present case, therefore, the threatened invasion of the first appellant's rights under the lease constitutes proof of reasonably apprehended injury. The apprehension of harm is objectively reasonable.

¹ 2006 (1) SA 252 (SCA)

² Ibid para [22]

BALANCE OF CONVENIENCE

[12] The respondents rely on humanitarian considerations and infrastructure needs. Those considerations are weighty. However, the rule of law requires that even socially beneficial objectives be pursued within statutory bounds. The interdict sought is not final. It merely suspends relocation pending lawful compliance. The balance of convenience favours preserving the status quo until legality is established.

ALTERNATIVE REMEDY

[13] There is no adequate alternative remedy. A claim for damages would not reverse land use change nor undo the establishment of a settlement. It cannot be expected that the applicant wait for the envisaged harm to occur. The claim for envisaged loss caused by relocation of the residents in contravention of the law will be complex and difficult to prove. It cannot be expected of the applicant to remain docile in the face of a threat of anticipated financial loss. This accords with the view in *V & A Waterfront Properties (Pty) Ltd and Another v Helicopter & Marine Services (Pty) Ltd and others*³

MUNICIPAL LIABILITY

[14] Whilst the Municipality contends that it has not itself relocated any person and lacks control over the Relocation Site, it does have control over the application of the laws and its own Bylaws. The Municipality is also delegated to enforce the applicable environmental laws. During the Municipality's discussions with the Developers, it expressed willingness to assist, and that works commenced in the context of that arrangement. The Municipality as a public authority cannot avoid scrutiny by characterising its involvement as informal where its facilitation is integral to the impugned conduct.

[15] The relief sought is preventative, not punitive. It is appropriate that all parties involved in the relocation arrangement be bound by an order

³ Ibid at para [23]

preserving legality. It is not appropriate to allow unlawful developments to proceed to a stage where a fait accompli effectively determines the outcome. Once the land use change has been finalised and there is appropriate compliance with the relevant laws then a properly planned relocation may follow. .

CONCLUSION

[16] The applicants have established the requirements for interim interdictory relief. The relief will be framed to preserve the status quo pending compliance with applicable statutory requirements.

[17] Consequently I order as follows:

ORDER

1. The application is heard as one of urgency in terms of Rule 6(12).
2. Pending the lawful, final and operative approval of all statutory authorisations and consents required in respect of the Relocation Site:
 - 2.1 The first to fourth respondents are interdicted from facilitating, authorising or permitting the relocation of any occupiers from the L&J Settlement to the Relocation Site;
 - 2.2 The fifth and sixth respondents are interdicted from establishing or permitting the establishment of any informal residential settlement at the Relocation Site;
 - 2.3 All respondents are interdicted from allowing access to, invasion of, or habitation of the Relocation Site for purposes of such relocation.
3. The above order shall operate as an interim interdict pending the institution and determination of review or declaratory proceedings within 30 days.
4. The second, fifth and sixth respondents shall pay the costs of this application jointly and severally, the one paying the others to be absolved.

S C MIA
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Appearances:

On behalf of the applicant	: Werner Lüderitz SC 082 492 4459 wluderitz@advchambers.co.za Jaco van Heerden 082 855 6834 jvh@advchambers.co.za
Instructed by	: Adriaan Venter Attorneys & Associates info@avatt.co.za
On behalf of the respondent	: Emmanuel Nathi Sithole 076 1629 605 esithole@law.co.za
Instructed by	: Jose & Associates info@jose-associates.co.za
For the Developers:	: Stefan Viljoen Stefanviljoenlaw1@gmail.com 079 011 4515
Instructed by	: AB Lowe Associates law@ablowe.co.za
Date of hearing	: 10 February 2026
Date of judgment	: 4 March 2026