IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

(1)	**NOT REPORTABLE**
(2)	**NOT OF INTEREST TO OTHER JUDGES**

CASE NO: 2026-111519

DATE: 28 MAY 2026

In the matter between:

GOLDENROD GROUP (PTY) LTD Applicant

and

THE EXECUTIVE MAYOR OF THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY – COUNCILLOR SELLO ENOCH DADA MORERO First Respondent

THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY Second Respondent

THE MUNICIPAL MANAGER OF THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY – DR FLOYD BRINK Third Respondent

Neutral Citation: *Goldenrod Group v The Executive Mayor, Johannesburg, and Others (2026-111519)* **[2026] ZAGPJHC ---** (28 May 2026)

Coram: Adams J

Heard: 18, 19, 20 and 22 May 2026 – 'virtually' on the evening of Friday, 22 May 2026, as a videoconference on *Microsoft Teams*.

Delivered: 28 May 2025 – This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to *CaseLines* and by release to SAFLII. The date and time for hand-down is deemed to be 10:00 on 28 May 2026.

Summary: Civil procedure – urgent application for interim interdict – to interdict demolition by Local Authority of buildings and container structures – application opposed by Municipality on the basis that the structures are unlawful – *National Building Regulations and Building Standards Act* 103 of 1977 ('the NBR Act') – structures non-compliant with s 4(1) – not approved by the City – application also opposed on the basis of lack of urgency – defences to application accepted by the Court –

Although application should fail – the Municipality does no altogether have clean hands – therefore, court crafted a structural order – applicant ordered to regularise building – failing which either party could return to court –

ORDER

(1) The applicant, its employees, agents, contractors and/or any other person or persons acting through it, be and are hereby interdicted and restrained from continuing any building, construction or installation of building structures on its immovable property, being Erven 5120 and 5121, Johannesburg Township, commonly known as ‘Marble Towers’ and situated at 206 Rahima Moosa Street, Central Johannesburg (‘applicant’s property’) and from related activities in relation to the said structures.

(2) The applicant, its employees, agents, contractors and/or any other person or persons acting through it, be and are hereby interdicted and restrained from occupying or permitting the occupation or use of any of the aforementioned structures identified by the City as non-compliant with applicable building regulations and/or fire safety requirements.

(3) The applicant shall, within 72 hours of this Order, cordon off and/or seal all structures identified by the City as non-compliant; ensure that such structures are not occupied or accessed by any person, and shall take all reasonable steps to secure the property, including erecting adequate fencing or barricading; placing clear and visible warning signage and preventing unauthorised access.

(4) The applicant shall forthwith remove all structures encroaching upon municipal property and/or public pavements or road reserves.

(5) The applicant shall, within twenty days of this Order submit compliant building plans in respect of all structures; remedy all fire safety non-compliances identified by the City, including but not limited to means of egress; emergency exits; fire detection and protection systems; emergency lighting; and evacuation procedures and plans.

(6) The applicant shall provide written proof of such compliance to the second respondent, who shall be entitled to conduct inspections upon expiry of the

compliance period and to verify compliance with this Order and applicable legislation.

(7) In the event of non-compliance, the respondents shall be entitled to take such lawful enforcement steps as may be necessary.

(8) The aforesaid structures on the applicant's property shall remain cordoned-off and secured, and no use or occupation of non-compliant structures shall occur pending compliance with this Order and/or the approval of building plans and regulatory requirements.

(9) If required, the parties shall engage in *bona fide* mediation within twenty days of this Order and the mediation shall be conducted by a mutually agreed upon mediator, failing which by one appointed by the Chairperson of the Johannesburg Society of Advocates.

(10) In the event of non-compliance with this Order; failure of mediation; or failure by the applicant to obtain lawful approvals; either party may re-enrol the matter on the same papers, duly supplemented.

(11) The applicant shall pay the respondents' costs of this opposed Urgent Application, including Counsel's costs on scale 'B' of the tariff referred to in Uniform Rule of Court 67A(3), read with rule 69.

JUDGMENT

Adams J:

[1]. The applicant is the owner of immovable property, being Erven 5120 and 5121, Johannesburg Township, commonly known as 'Marble Towers' – a multi-storey building – and situated at 206 Rahima Moosa Street, Central Johannesburg ("applicant's property"). Over the last few years, the applicant has caused to be erected and built on the ground level of its property certain structures, which house informal businesses and traders, and, which by all

accounts, are non-compliant with the building regulations and by-laws of the second respondent ('the City') and which have not been approved by the City.

[2]. The applicant applies on an urgent basis for interdictory and related relief against the first respondent ('the Mayor'), the second respondent (the City of Johannesburg) and the third respondent ('the Municipal Manager'), all of whom I shall refer to collectively as 'the City of Johannesburg'. It may be apposite, to place in context the issues to be decided in this matter, to cite in full the relief sought by the applicant in its notice of motion, which indicates that the applicant applies for the following orders: -

'(1) Dispensing with the usual forms and service provided for by the Uniform Rules of Court and hearing this application as a matter of urgency in terms of Rule 6(12) of the rules of this Honourable Court.

(2) The first and second respondents and/or their duly authorized departments and representatives are interdicted and restrained from:

(2.1) Demolishing, damaging, removing or dismantling, or in any manner interfering with any structures situated on the property owned by the applicant, commonly known as "Marble Towers" and described as Erven 5120 and 5121, Johannesburg Township, at 206 Rahima Mossa Street, Johannesburg CBD, Johannesburg, Gauteng ("the Property").

(2.2) Enlisting, mandating, or utilizing any third parties, including but not limited to the South African Police Services, the Johannesburg Metropolitan Police Department, the South African National Defence Force, or any other law enforcement organization, to demolish, damage, remove or dismantle any structures on the property.

(2.3) Entering the Property for purposes of demolition, damaging, removing or demolishing any structures on the Property.

(2.4) Preventing the applicant, its tenants, employees, contractors, invitees or lawful occupants from accessing and utilizing the property peacefully and lawfully.

(2.5) Threatening, intimidating or coercing the applicant, its representatives, tenants or occupants with demolition, confiscation or removal, absent lawful authority and/or an order of court.

(3) The respondents shall be entitled to enter the property solely for the purpose of conducting lawful inspections and/or investigations, strictly in accordance with applicable legislation and upon reasonable prior notice to the applicant.

(4) The orders listed under paragraphs 2 and 3 above shall operate as an interim interdict, pending the final determination of legal proceedings:

(4.1) To be instituted by the applicant within twenty court days of the granting of this order for the review and setting aside of any decision, alternatively, threatened decision, taken by the first and/or second respondents and/or any official, employee, representative or agent of the second respondent, to demolish, remove, or interfere, with structures situations on the Property; and/or

(4.2) Instituted by the respondents for authorization to demolish, remove or interfere with the aforesaid structures.

(5) Directing the respondents to furnish to the applicant, within five days of this order, with:

(5.1) All notices allegedly issued relating to the Property;

(5.2) All inspection reports;

(5.3) All photographs, diagrams and surveys relied upon;

(5.4) All written decisions relating to the threatened demolition of the structures on the property;

(5.5) All resolutions, delegations and authorisations relied upon in taking such a decision;

(5.6) The statutory and by-law provisions relied upon for the threatened demolition and enforcement action.

(6) Costs of suit as against the first and second respondents, jointly and severally, with one paying the other to be absolved, on the scale as between attorney and client.

(7) Further and/or alternative relief.'

[3] The respondents oppose the application in the main on the basis that the applicant is not entitled to the interdictory relief because the structures are illegal in that it is non-compliant with the building regulations and the By-Laws of the City. Moreover, so the City contends, they are entitled to remove these structures as they are empowered by the relevant legislation to remove illegal structures as part and parcel of their enforcement of the By-Laws. The applicant, so the case on behalf of the respondents goes, has not satisfied a single requirement for interim interdictory relief. There is no *prima facie* right – the right asserted is itself

unlawful. There is no irreparable harm – the structures are modular and their value quantifiable. The balance of convenience favours the respondents and the public. Alternative remedies exist and have been deliberately ignored.

[4] Therefore, the central question before this Court is simply whether the applicant has made out a case for the interdictory relief sought by it in this urgent application. That issue is to be decided against the factual backdrop of the matter.

[5] The case on behalf of the City is that the applicant has been aware of enforcement proceedings since 12 April 2022 – over four years ago. It (the applicant) has conveniently omitted to disclose to the Court this four-year enforcement history. For this reason alone, so the contention on behalf of the City continues, the application should fail.

[6] I find myself in agreement with this contention by the City. If regard is had to the version of the City, supported by contemporaneous documentary evidence, it is so that the applicant has clearly misrepresented or attempted to misrepresent to the Court that no notice of contravention was served. This breaches the duty of *uberrima fides* owed by an applicant in an application, especially one brought on an urgent basis.

[7] The simple point, as irrefutably confirmed by the City's Land Information System ('LIS'), is that that no building plan applications have ever been submitted for either Erf 5120 or Erf 5121. The applicant's claim of compliance has, in my view, been demonstrated to be false. On 6 May 2025 the City directed the applicant to submit building plans in respect of the container structures erected on its property – it failed to comply.

[8] This means that the applicant does not have a *prima facie* right on which to ground an application for interim interdictory relief. It has no right to maintain structures erected in contravention of section 4(1) of the National Building Regulations and Building Standards Act 103 of 1977 ('the NBR Act') without the written approval of the local authority. Section 4(1) reads as follows: -

‘**4 Approval by local authorities of applications in respect of erection of buildings**

(1) No person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.’

[9] The section is in peremptory terms (‘no person shall’) and it clearly and unequivocally places a prohibition on the erection of any building or structure without prior approval of the local authority after building plans are submitted to and approved by the City. There can accordingly be little doubt that the structures in question are illegal and that the City is entitled to enforce compliance with the law. Moreover, s 4(4) renders the contravention of s 4(1) a criminal offence.

[10] In that regard, the enforcement proceedings against the illegal structures on the applicant’s property were initiated by the City’s Building Inspectorate on 12 April 2022 – more than four years before this application was brought, and more than four years before the first respondent’s public statements on 13 May 2026 that the City would be embarking on another ‘clean-up’, which would have included the demolition of the said unlawful structures. The so-called ‘Mayoral High-Impact Service Delivery operation’ of 13 May 2026 was, according to the respondents, a routine, multi-departmental operational framework involving multiple departments addressing multiple properties in the inner city – not a targeted campaign against the applicant.

[11] On 12 April 2022, the first contravention notice was issued by the City, directing removal of all illegal structures and containers and on 15 June 2022 the Building Inspectorate recommended rates penalties to the City’s Revenue Department. On 21 June 2022, a law enforcement complaint was registered in City’s LIS. This is an automated, timestamped system entry that cannot be fabricated or backdated. On 27 September 2023, a follow-up inspection found continued non-compliance. It therefore bears emphasising that the applicant had been given seventeen months to comply and had failed to do so.

[12] To add the proverbial insult to the injury, on 6 May 2025 – a full year before this application is launched – a further contravention notice was issued by the City specifically instructing the applicant to submit building plans within 21 days, which notice the applicant also disregarded. Thereafter, on 13 May 2026, a further inspections found continued non-compliance and, by then, no building plans had ever been submitted. And on 14 May 2026, a final contravention notice was served on Mr Grandy Malapane, identified as the Building Manager on site.

[13] I therefore agree with the City that for these reasons alone the application should fail – be it for lack of urgency or for a failure on the part of the applicant to demonstrate that it has a *prima facie* right on which to ground interim interdictory relief. The simple fact of the matter is that the applicant has had four years to submit building plans for approval and to regularise the container structures, It failed to do so. It therefore cannot be heard complaining that the matter is urgent. If there is any urgency, there can, in my view, be no doubt that such urgency is self-created.

[14] There are further reasons why the applicant cannot and should not succeed with its application for the relief sought. In particular, it is a well-established principle of our law that a court will not grant interdictory relief to protect an unlawful state of affairs, particularly where public safety is implicated. See *Lester v Ndlambe Municipality and Another*[1], in which the SCA held that the law could not and did not countenance an ongoing illegality which was also a criminal offence; to do so would be to subvert the doctrine of legality and to undermine the rule of law.

[15] Ms Qofa-Lebakeng, Counsel for the City, submitted that the aforegoing facts are dispositive of the interdict requirements: no *prima facie* right; no cognisable irreparable harm to be protected as against the real risk to life; and a balance of convenience that overwhelmingly favours the respondents and the public. I agree. The respondents bear a constitutional obligation to ensure that

[1] *Lester v Ndlambe Municipality and Another* 2015 (6) SA 283 (SCA) at para 20.

buildings are safe for occupation. And this is precisely why the NBR Act was enacted.

[16] Accordingly, the urgent application should fail.

[17] The flipside of the coin is, however, that the City does not have the power to, without more, demolition buildings or building structures. Its reliance in that regard on the provisions of s 12(1) of the NBR Act is misplaced. The applicable section is s 21, which provides that: -

'… a magistrate shall have jurisdiction, on the application of any local authority or the Minister, to make an order … authorising such local authority to demolish such building if such magistrate is satisfied that such erection is contrary to or does not comply with the provisions of this Act or any approval or authorisation granted thereunder.'

[18] This, in my view, means that, in the interest of justice, it is necessary for this Court to regulate the further conduct of the matter, lest any of the parties interpret a refusal by the Court to grant the applicant's urgent application as confirmation that the building structures on the applicant's property can and should be demolished without more.

[19] I therefore intend crafting an order in the nature of a structural order, which, I believe, would assist in the orderly and lawful resolution of the disputes between the parties. In that regard, the respondents, at some stage during the proceedings, proposed on a 'with prejudice' basis an order, which finds favour with the Court. I intend granting and order as proposed by the respondents, with a number of modifications.

[20] As for the relief sought by the applicant in para 5 of its notice of motion, it appears to me that the order sought by the applicant has in the main been addressed by the respondents' answering affidavit. In any event, for the reasons alluded to *supra*, that is not the type of relief which the applicant can apply for on an urgent basis.

Costs

[21] The general rule is that costs should follow the suit. I can think of no reason why I should deviate from that rule. The respondents have successfully opposed an urgent application and costs should therefore be awarded in their favour.

Order

[22] In the result, I grant the following order: -

(1) The applicant, its employees, agents, contractors and/or any other person or persons acting through it, be and are hereby interdicted and restrained from continuing any building, construction or installation of building structures on its immovable property, being Erven 5120 and 5121, Johannesburg Township, commonly known as 'Marble Towers' and situated at 206 Rahima Moosa Street, Central Johannesburg ('applicant's property') and from related activities in relation to the said structures.

(2) The applicant, its employees, agents, contractors and/or any other person or persons acting through it, be and are hereby interdicted and restrained from occupying or permitting the occupation or use of any of the aforementioned structures identified by the City as non-compliant with applicable building regulations and/or fire safety requirements.

(3) The applicant shall, within 72 hours of this Order, cordon off and/or seal all structures identified by the City as non-compliant; ensure that such structures are not occupied or accessed by any person, and shall take all reasonable steps to secure the property, including erecting adequate fencing or barricading; placing clear and visible warning signage and preventing unauthorised access.

(4) The applicant shall forthwith remove all structures encroaching upon municipal property and/or public pavements or road reserves.

(5) The applicant shall, within twenty days of this Order submit compliant building plans in respect of all structures; remedy all fire safety non-compliances identified by the City, including but not limited to means of

egress; emergency exits; fire detection and protection systems; emergency lighting; and evacuation procedures and plans.

(6) The applicant shall provide written proof of such compliance to the second respondent, who shall be entitled to conduct inspections upon expiry of the compliance period and to verify compliance with this Order and applicable legislation.

(7) In the event of non-compliance, the respondents shall be entitled to take such lawful enforcement steps as may be necessary.

(8) The aforesaid structures on the applicant's property shall remain cordoned-off and secured, and no use or occupation of non-compliant structures shall occur pending compliance with this Order and/or the approval of building plans and regulatory requirements.

(9) The parties shall engage in *bona fide* mediation within twenty days of this Order, if required and the mediation shall be conducted by a mutually agreed mediator, failing which by one appointed by the Chairperson of the Johannesburg Society of Advocates.

(10) In the event of non-compliance with this Order; failure of mediation; or failure by the applicant to obtain lawful approvals; either party may re-enrol the matter on the same papers, duly supplemented.

(11) The applicant shall pay the respondents' costs of this opposed Urgent Application, including Counsel's costs on scale 'B' of the tariff referred to in Uniform Rule of Court 67A(3), read with rule 69.

L R ADAMS
Judge of the High Court
Gauteng Division, Johannesburg

HEARD ON:	18, 19, 20 and 22 May 2026 – 'virtually' as a videoconference on *Microsoft Teams*
JUDGMENT DATE:	28 May 2026
FOR THE APPLICANT:	M R Maphutha
INSTRUCTED BY:	Madhi Attorneys Incorporated, Parkwood, Johannesburg
FOR THE FIRST, SECOND and THIRD RESPONDENTS:	(Ms) M Qofa-Lebakeng
INSTRUCTED BY:	Ncube Incorporated Attorneys, Illovo, Sandton