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

Case no: 2025-056009

Not Reportable

In the matter between:

CITY OF CAPE TOWN MUNICIPALITY

APPLICANT

and

NATALIE BEUKES

FIRST RESPONDENT

MOHAMED OSMAN

SECOND RESPONDENT

**ALL OTHER OCCUPANTS HOLDING TITLE
UNDER THE FIRST RESPONDENT AT**

1[...] E[...] ROAD

LAVENDER HILL

WENDY KOOPMAN

JUNAID ISAACS

ANY OTHER PERSONS

HOLDING TITLE UNDER

THE FOURTH RESPONDENT AT THE

THIRD RESPONDENT

FOURTH RESPONDENT

FIFTH RESPONDENT

**SEPARATE DWELING
AT 1[...] E[...] ROAD**

SIXTH RESPONDENT

Neutral citation: City of Cape Town Municipality v Natalie Beukes & 5 Others
(Case No: 56009/25) [2026] ZAWCHC... (31 August 2026)

Coram: MTHIMUNYE AJ

Heard: 30 July 2026

Delivered: Electronically on 31 August 2026

Summary:

ORDER

- 1 The First and Second Respondents and all those holding title under them are ordered to vacate the property situated at 1[...] E[...] Road, Lavender Hill on/before 30 October 2026, failing which the Sheriff of this Court, or his deputy, is authorised and directed to evict them therefrom on 1 November 2026, or any day thereafter as close as possible to the aforementioned date.
- 2 The Fourth and Fifth Respondents and all those holding title under them are ordered to vacate the property and separate dwelling situated at 1[...] E[...] Road, Lavender Hill on/before 30 October 2026, failing which the Sheriff of this Court, or his deputy, is authorised and directed to evict them therefrom on 1 November 2026, or any day thereafter as close as possible to the aforementioned date. Provided that, the City of Cape

Town has provided them with alternative accommodation or an emergency housing kit on or before 30 October 2026.

- 3 The Sheriff of this Court is directed and authorised to remove all the possessions of all six Respondents, in execution of this order, and to hand the same to the Applicant to store for a period of one (1) month. In the event that such property is not claimed, it be deemed abandoned, and the Applicant may dispose of it as the Applicant deems fit.
- 4 The Sheriff of this Court is directed and authorised to break all structures unlawfully erected on the property and to remove all building material in execution of this order, and hand same to the Applicant to store for a period of (one) 1 month, and in the event that it is not claimed, it be deemed abandoned, and disposed of it as the Applicant deems fit.
- 5 All six Respondents are interdicted and restrained from entering, occupying, trespassing or otherwise unlawfully accessing the property, after they have vacated or have been ejected by the Sheriff from it.
- 6 It is ordered that the Sheriff of this Court and or the Applicant be duly assisted, if necessary, by members of the South African Police Services to give effect to the provisions of this order by immediately removing the Respondents found to be in contravention of this order, and by taking all reasonable steps to give effect to this Order.
- 7 Each party will pay their own costs of this application.

JUDGMENT

MTHIMUNYE AJ:

Introduction

[1] This is an application brought by applicant, the City of Cape Town (“the City”) in terms of section 4 of the Prevention of illegal and Unlawful Occupation of Land Act 19 of 1998 (“The PIE Act”) that the respondents be evicted from 1[...] E[...] Road, Lavender Hill (“the property”).

[2] The City also seeks interdictory relief against the respondents in the event that the eviction order is granted, that the respondents be interdicted or restrained from entering, occupying, trespassing or otherwise unlawfully accessing the property after they have vacated or been ejected from the property. This application is only being opposed by the first respondent.

Issues for determination

[3] The issues to be determined are whether the respondents are in unlawful occupation of the City’s property, whether it is just and equitable to evict the respondents and whether the applicants have made out a proper case for the interdictory relief to be granted.

The City’s case

[4] The City is the applicant and the owner of the property in dispute. The City avers that on 1 March 2000, the tenancy of the property was transferred to the late John Engelbrecht (“Engelbrecht”) after his father the original tenant passed away

in terms of the City's Rental Housing Policy. At the time until his untimely death Engelbrecht was listed as the sole occupant of the property.

[5] On 26 July 2001 Engelbrecht later became involved in a romantic relationship with Johanna Beukes ("Johanna"), the maternal grandmother of the first respondent. Johanna lived with Engelbrecht on the property from 2001 until 2009.

[6] While residing at the property Engelbrecht erected a separate dwelling on the property without the City's consent. This separate dwelling was occupied by the late Norman Koopman, the fourth respondent's brother. After Norman Koopman passed away in November 2022, Engelbrecht decided to sublet the separate dwelling to the fourth respondent.

[7] Upon being advised on 10 April 2024 that the property was vacant due to the passing of Engelbrecht, the City immediately caused the property to be secured by barricading the entrance to the main dwelling. At the same time, the City informed the fourth respondent who was in occupation of the separate dwelling that they had no entitlement to it, as Engelbrecht had no right to sublet due to unlawful construction of the dwelling without the City's permission.

[8] Subsequently the property has been, according to the City, subject of continuous invasions, culminating in various unauthorised accessing of the main dwelling by removing the barricades and various applications for interdictory relief. On each occasion after the property has been barricaded 15 April 2024, 27 May 2024, 25 June 2024 the City would find the first respondent in occupation of the property and the barricades removed.

[9] According to the City as far back as 26 July 2024, this court (per Kantor AJ) issued a rule nisi interdicting the invasion of the property, however this was ignored by the first respondent who was served by the sheriff of the court with the order on 26 July 2024. Despite the rule nisi being served on the first respondent, she on 5 August 2024 invaded the property again knowing that there is a return date for the matter to be heard on 29 August 2024. The City further allege that it once again in August responded to the invasion of the property and while its officials attempted to secure and barricade the property they were faced with harassment and threats to leave the property by members of the ARA political party. City further alleged that while their officials were at the property they interviewed the fourth respondent who confirmed that the main dwelling was vacant and unoccupied and that she, her son, Jayden, and her boyfriend the fifth respondent were in receipt of the notice of eviction but have been unable to find alternative accommodation.

[10] The rule nisi was subsequently discharged for matter to be heard on the opposed roll as the rule nisi could not be used as a method to evict the respondents. Subsequently, matter came before this court for the eviction application to be heard. The respondents are still in occupation of the property and the City in an endeavour to prevent the respondents from re-taking possession of the property seeks an order interdicting the respondents from occupying the property after an eviction order is granted and executed.

[11] They aver that were the respondents to take occupation of the property after they have been ejected from the property by the sheriff this will result in the City having to assess and repair the property before allocating it to the next eligible housing applicant on the City's housing tenure database. Further pending on the

extent of damages to the property and the time needed to attend to the repairs will result in prejudicing the next person in line to be allocated a rental house, as he or she will have to wait longer to occupy the property. Further, in the absence of the interdict, the City would be placed in the same position they were in during July 2024, save that they will be safeguarded from “All other Persons who intended to take occupation of the property”.

[12] The City further alleges that the first and second respondent will not be rendered homeless as a result of an eviction order, as they can use their income to secure rental accommodation. Further prior to the first respondent’s unlawful occupation of the property the first respondent was residing at 1[...] E[...] Road, and at 24 July 2024 listed as an occupant to that property. In addition, that 1[...] E[...] Road serves as the primary residence for the first respondent and her family. Which means that the family will be able to provide temporary lodging until she secures alternative rental housing.

[13] The City further asserts that the fourth respondent and her household will not be rendered homeless in the event an eviction order is granted as the fourth respondent is listed as an occupant at [...] S[...] Court, Lavender Hill, a property belonging to her family. Further that there is no information that the respondents are elderly or that they suffer from any chronic illnesses.

[14] Accordingly, the respondents are in unlawful occupation of the property and prejudicing an identified prospective tenant who has been waiting for a housing opportunity for more than 20 years. Further, by disregarding a court order the first respondent has shown a flagrant disregard for the City’s processes as well as the Rule of Law.

[15] The City contends prior to Engelbrecht's death and during their housing inspection on 29 September 2023 it was recorded on their files that the late Engelbrecht was the exclusive occupant of the property and that he only had a single bed and single cupboard, which they found inside the property. Furthermore, that a person claimed to be Engelbrecht's brother informed them that Engelbrecht was living alone at the time of his death, which fact was confirmed by the fourth respondent to the City's officials on 11 April 2024. Equally, the fourth respondent is not a family member of the late Engelbrecht. Consequently, neither the first nor the fourth respondents qualify for allocation of the property in line with the City's housing allocation policy and request the Court to grant the relief sought by them in their Notice of Motion, with costs to be awarded against the first respondent.

Respondent's opposition to the eviction application

[16] In summary the first respondent in opposition avers in her papers that most of the City's assertions are hearsay and speculative as she was born on the property and raised by her late grandmother, Johanna and her step grandfather, Engelbrecht.

[17] During October 2023 the first fire broke out on the premises. During that period, Engelbrecht, who was wheelchair bound was forced to vacate the property. After the property was repaired, she moved in permanently with Engelbrecht due to his declining health, however sadly Engelbrecht passed away on 7 April 2024, while she was still residing at the property.

[18] The first respondent admits that she vacated the property prior to Engelbrecht's death as a result of a dispute with Engelbrecht about his friends' drug abuse in the house. She further admits that she did not return to the property

after Engelbrecht's death as she was felt unsafe to stay at the property alone. This situation has since changed after she married the second respondent who is currently residing at the property with her.

[19] The first respondent also concedes that when she returned to the property following Engelbrecht's funeral, she discovered the property had been barricaded and removed the barricades in order to occupy the property. She alleges she did this because her belongings remained in the property. Subsequent to residing there for several weeks and whilst employed at Watsons Inc Chartered Accountants, another fire suspiciously broke out in the property, she again vacated the property in order to effect repairs to it. She later returned to the property and found it once again barricaded. Resulting in her again removing the barricades in order to access the property.

[20] The first respondent denies that she has no connection or right to the property. According to her she has taken great effort and expense to remove herself permanently from her guardian's home in 2023 to reside with Engelbrecht. She alleges when the first fire broke out in the property during October 2023, after the repairs she and her children moved in with Engelbrecht to look after him. She admits that Engelbrecht then later passed away on 7 April 2024. Thus, if she were to vacate the property now, she would be put to significant inconvenience in finding alternative accommodation elsewhere. According to her Lavender Hill is affordable accommodation for herself and her children and she cannot afford such costs of relocation at the present moment.

[21] Furthermore, she avers that the City is insensitive to the history of this matter, and to the fact that the area and housing units are hardly fit for human

habitation yet regrettably serves as a home for individuals like herself. She alleges that the City failed to consider the historical context within which these units came to be rented by the tenants and the rights of the families of these tenants who have lived there for their entire lives.

[22] The first respondent further admits that she resides in the main house with her husband, the second respondent and their minor children and that the fourth and fifth respondents reside in a separate dwelling on the property. She alleges that the 48 year old fourth respondent and the 57-year-old fifth respondent are unemployed living on a meagre existence. Further that the fourth respondent is a chronic patient who receives treatment at Retreat Day Hospital while the fifth respondent does occasional gardening to generate an income. Furthermore, that both the fourth and fifth respondents will be rendered homeless if they were to be evicted from the separate dwelling which they have occupied for approximately 14 years. At this juncture I point out that both the fourth and fifth respondent has not filed any opposing papers. First respondent further alleges that her husband, the second respondent is a 32-year-old Uber driver and that their joint income won't be able to sustain them to the extent that they can afford alternative accommodation.

[23] Furthermore, she seeks a dismissal of the application, asserting that, given the history of the matter according to her, the applicant has no right to the order it seeks. Both the second, fourth, and fifth respondents confirm the first respondent's affidavit as true and correct.

The City's reply

[24] The City explained that the averments made in the replying affidavit were recorded after the City perused and considered their housing records. In that they

only realised that some of the information recorded in their founding papers were incorrect. Amongst others were the significant fact that the first respondent's grandmother, the late Johanna, only took occupation of the property on 19 August 2000, indicating that the first respondent could not have been born there given she was born 6 months after 19 August 2000.

[25] The City conceded that it is likely that the first respondent could have lived with the late Johanna and Engelbrecht in 2003, as the city's records refers to a granddaughter of Johanna whom she lived with at the property. However, the name of the granddaughter is not listed on the tenancy list.

[26] Further that the relief sought by them aligns precisely with what the first respondent claimed in her answering papers, to give effect to its constitutional mandate to provide access to housing for applicants, who applied for housing, and who waited for decades for housing to be allocated to them. In that the first respondent seeks to disrupt an orderly, just and coherent housing allocation system, by remaining in occupation of a property, which they have no lawful entitlement to.

[27] The City emphasises that first respondent is silent with regard to the need for her to have been placed in foster-care with Liezel Anne Beukes from 2007. Furthermore, in terms of their records, the first respondent resided with Roslynn Rosetta Booysen ("Booyesen") as an adopted child or a foster daughter at 1[...] E[...] road as reflected on a copy of tenancy transfer form annexed as "RA2.1" and "RA2.2". Further on 2 November 2022 when first respondent accompanied Engelbrecht to the City's local housing office in Retreat, she informed the City officials that she stays with Booysen at 1[...] E[...] Road since the age of seven,

and that her mother, Liezel Beukes, was homeless and living on the streets. No mention was made that she resides with Engelbrecht.

[28] Accordingly the City denies that the first respondent was born on the property or raised by Engelbrecht and her late grandmother. Further she has always been an still is a tenant at 1[...] E[...] Road as illustrated in their records, on 2 November 2022, 9 February 2023 and 6 June 2023 it is recorded that the first respondent informed the City that she was resident at 1[...] E[...] Road, Lavender Hill.

[29] The City further maintains that their records further reflect the first respondent as an occupant at 1[...] E[...] Road on 3 September 2014, 9 November 2016, 2 December 2016, 6 March 2019, 8 March 2019, 11 January 2022, 15 February 2022, 1 March 2022 and 5 July 2024. Further that she only resided at 1[...] E[...] Road on 18 October 2023. Accordingly, the City denies that the first respondent oscillated between 1[...] E[...] Road and 1[...] E[...] Road. In addition, they deny that the first respondent lived at the property on 7 April 2024 or that her goods were stored on the property. The City is adamant that at the time of Engelbrecht's death he was residing alone in the property as was confirmed by Engelbrecht's brother and the fourth respondent.

[30] In their papers the City further avers that the respondents have failed to demonstrate their eligibility for the property to be allocated to them, nor have they applied for housing to the City. Furthermore, as of 25 March 2025 the first respondent was not listed on the City's housing needs database and simply want the property to be allocated without following the City's housing policy. I am inclined to agree with the City that there is nothing substantially different to the

respondents' circumstances compared to that of thousands of people who have applied and are listed as housing applicants on the City's database. These individuals have been waiting patiently for over two decades while the respondents have taken a laid-back approach in not applying for housing from the City. Furthermore, I say with conviction that self-help and not complying with court orders can never be condoned by this court.

[31] I will now turn to deal with whether the respondents are unlawful occupiers, whether it is just and equitable for them to be evicted from the property and whether the City has made out a proper case for a final interdict to be granted against the respondents interdicting them from entering the main and separate dwelling of the property.

Are the respondents' unlawful occupiers

[32] The first respondent's defence against the eviction application is that she was born and raised on the property by the late owner of the property Engelbrecht together with her late grandmother Johanna. Further that during April 2024, Engelbrecht passed away while she was still residing at the property.

[33] The City maintains that the first respondent was neither born nor raised on the property. Further, that the first respondent after the death of Engelbrecht did not reside on the property, as a result of the property being vacant at the time the City barricaded the property to prevent any unlawful entering. The first respondent in her papers admits to not being in occupation of the property when it was barricaded by the City, and that she removed these barricades in order to take occupation of the property.

[34] The City submits that the first respondent together with all the other respondents are in unlawful occupation as they are occupying the property without any legal right to do so, as well as without the City's consent. Further that in terms of the City's housing policy the respondents do not qualify for the property as none of them have applied for housing by the City. Transfer of tenancy is provided for in the City's Housing Allocation Policy, at paragraph 3.3.2, which read as follows:

“3.3.2 TRANSFER OF TENANCY

There are various circumstances that could lead to a tenancy being cancelled while there are persons, usually dependants of the tenant, still residing in the rental unit. The City makes provision to consider the possible transfer of a tenancy of a rental unit to one of the persons who remain behind on condition that they meet the criteria as stipulated in clauses 3.3.2.1-3.3.2.8 below. Failing to meet the criteria as stipulated below will result in all occupants being notified to leave the rental unit. The following conditions will apply for the following circumstances 3.3.2.1 - 3.3.2.8 below. Failing to meet the criteria as stipulated below will result in all occupants being notified to leave the rental unit. The following conditions will apply for following circumstances:

3.3.2.1 [...]

“3.3.2.5 In the event of death of the surviving partner /spouse or where there is no spouse/partner, the following will apply:

(a) [...]

(b) where there are no minor child/children of the deceased tenant the tenancy may be transferred to a family member in occupation on condition that:

(i) he/she is part of the original family house (appear on the current family form or listed on the tenancy file) and has been living with the tenant for an unbroken period of at least two (2) years leading up to the death of the tenant. Adequate proof provided must not be older than five years prior to the death of the tenant; or

(ii) he/she was living on the property since birth and has been living with the tenant for an unbroken period of at least two (2) years leading up to the

death of the tenant. Adequate proof of stay must be submitted and must not be older than five years to the death of the tenant.”

[35] From the above, it is apparent that the respondents either had to be family members of Engelbrecht, who were in occupation of the property at the time of his death or be part of the original family house by appearing on the City’s tenancy file of the property. The respondents would also be eligible for tenancy under the Housing Allocation Policy if they had been living on the property since birth and has been living with Engelbrecht for an *unbroken period of at least two (2) years* leading up to his death.

[36] Having regard to the various affidavits filed in this matter, I am more inclined to accept the version of the City that the first respondent was never born or raised on the property. As illustrated by the City in their answering and replying affidavits the first respondent might have occupied the property for a short period prior to Engelbrecht’s death, but that does not mean that she resided on the property for the unbroken 2 years leading up to Engelbrecht’s death as required by the Housing Allocation Policy. According to the first respondent’s own submission in her answering papers, she oscillated between 1[...] E[...] Road and 1[...] E[...] Road, which clearly indicates a broken period between the times she stayed at one property, then the other.

[37] To pin the colours to the mast, the first respondent, by her own version, further alleges in her papers when the first fire broke out in the property during October 2023, after the repairs she and her children moved in with Engelbrecht to look after him. She admits that Engelbrecht then later passed away on 7 April 2024. Thus, it is apparent that if the court had to accept her version, she would only

have been in occupation of the property for approximately 6 months and would thus not have been able to qualify for tenancy in terms of the City's Housing Allocation Policy.

[38] The submission by the first respondent's legal counsel that the City are simply seizing these rental properties with no regard for the historical basis on which these properties came to be occupied and that the first respondent is being deprived of her family home which is shamelessly a manner in which the City is extending the legacy of Apartheid is unsustainable and must fail. The Housing Allocation Policy was enacted to give effect to section 26 of the Constitution in terms of which:

- “(a) Everyone has a right to adequate housing;
- (b) The state must take reasonable legislative and other means, within its available resources, to achieve the progressive realisation of this right;
- and
- (c) No one may be evicted from their home, or have their home demolished without an order of court, made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.”

[39] It is clear that the law thus provides for the implementation of this Housing Allocation Policy. If we apply the constitutional mandate, there has to be a balancing of rights. Under these circumstances we need to weigh up the right of a person who has applied and waited patiently for approximately 20 years to be allocated a rental unit against a person who has taken a laid-back approach and has done absolutely nothing in applying for housing independently but instead resorted to self-help by occupying a property allocated to someone else without the City's consent. Looking at the policy in a reasonable and balanced manner it is my view that the tenant identified by the City to whom the property is to be allocated far

outweighs the respondents' right to that property. Further the City in allocating this property is having regard to the historical basis on which the property should be handed to the prospective tenant identified by them as opposed to the allegations by the first respondent.

[40] I find that the first respondent, together with all the other respondents occupying the property were well aware that the property belongs to the City and needed to be handed over to the next housing applicant in line. It is unreasonable of the respondents, who have not applied for housing from the city to skip the waiting queue on the City's housing allocation list and take occupation of the property unlawfully.

[41] In addition, the first respondent admitted that she had full knowledge of the *rule nisi* preventing her from entering the property, despite that she still removed the barricades from the property in order to unlawfully occupy the property. I thus cannot find otherwise than that first respondent acted unlawfully and had no permission from the City to occupy the property. I also find that she knew she was listed as a tenant at 1[...] E[...] Road and not at 1[...] E[...] Road and thus stood in line for tenancy in terms of the property situated at 1[...] E[...] in terms of the City's Housing Allocation Policy.

[42] Most importantly, although the rest of the respondents did not oppose the application by the City, I find for all the reasons set out above that all the respondents as cited by the City in their notice of motion are unlawful occupiers of the property situated at 1[...] E[...] Road, Lavender Hill.

The “just and equitable” consideration

[43] The eviction application was brought in terms of Section (4) of the PIE Act. In terms of Section 4 of the PIE Act the court may only grant an eviction order if it is just and equitable to do so; after considering all relevant circumstances which would include whether the municipality has land available for relocation of the unlawful occupiers as well as considering the rights and needs of disabled persons and households headed by women. The weight to be attached to these relevant circumstances must be assessed in the light of the property owners' right under section 25 of the Constitution.

[44] In *Occupiers, Berea v De Wet NO and Another* 2017 (5) SA 346 (CC) at para 44 – 45 it was held that in determining whether it is just and equitable to evict the respondents, a court must engage in a two part enquiry. Firstly, it must determine whether it is just and equitable to grant an eviction order. Secondly, the court must determine a just and equitable date for implementing the eviction order.

[45] The Constitutional Court in *Port Elizabeth Municipality v Various Occupiers* [2004] ZACC 7; 2005 (1) SA 217 (CC) at para 36, stated that a court has to take into consideration all relevant circumstances together with the “broader considerations of fairness and other constitutional values, so as to produce a just and equitable result”. Having regard to the provisions of section 4 of the PIE Act, I have already found that the respondents are unlawful occupiers. With regard to the fourth, fifth and all other occupants holding title, it is clear that the separate dwelling on the property was erected without the City's consent as illustrated in their founding affidavit. The fourth and fifth respondents elected not to oppose this matter, thus there is no other evidence before court than that of the city. No submissions have been made by them that they will be rendered homeless except for confirming the affidavit by the first respondent setting out their ages, that the

fourth respondent has a chronic illness and that the fifth respondent is an occasional gardener who receives a meagre income. Further the City in their papers confirm that during an interview with their officials the fourth and fifth respondents informed them that they were experiencing difficulty in securing alternative accommodation.

[46] Concerningly, is the first and second respondents' factors placed before this court. It is clear that they're not playing open cards with this court. This is foreshadowed in their papers by the sparse information regarding their respective income and places of employment. There is no proof as to how much the first respondent and she conveniently only states that he husband earns R3 000or as an Uber driver.

[47] She further has not addressed the aspect of her being listed as a tenant at 1[...] E[...] Road and why it cannot be seen as a possible alternative accommodation. No allegation of homelessness is being made by the first respondent in her papers. She only takes issue with relocating. She only alleges that the area of Lavender Hill is affordable for her and her children and that she has got no sufficient costs to relocate at the present moment.

[48] The first and second respondents have not honestly discharged their inability to secure alternative accommodation. They elected to omit relevant and important information in order to put this court in a position to decide whether they will be rendered homeless or will be unable to afford to secure alternative accommodation. The only inference I can draw is that their joint income is sufficient for them to secure alternative accommodation. Having regard that the first respondent resided unlawfully in the property for over six months and that it is not a household headed

by a woman and that neither she nor her husband are elderly, I find that it is just and equitable for them and all those who hold title under them to be evicted from the property.

[49] With regard to the fourth and fifth respondents and having regard that they resided in the separate dwelling on the property for over 14 years, that there is an allegation that they may be rendered homeless, that they are facing difficulty in securing alternative accommodation I find that it will not be just and equitable to evict them without the City providing them with alternative accommodation. Further having regard to Section 26 of the Constitution and the City's obligation to provide citizens with housing it is my considered opinion that they should be provided with emergency housing or an emergency housing kit by the City.

[50] In the circumstances having regard of all the relevant circumstances as foreshadowed above and balancing the interests, I find that it is just and equitable to grant an eviction order against all the respondents and those holding title under them. It is my considered view that a just and equitable date for the eviction of the first and second respondents be implemented within a month from the date hereof. This decision is based on the fact that the respondents were aware since 2024 of the eviction application and that the property had been allocated to someone else. Further not only was this person waiting for more than two decades to be allocated a rental unit but as a result of the first and second respondents self-help method in occupying the property, this person had to wait an added two years. This person is entitled to have his housing issue remedied as soon as possible.

[51] With regard to the fourth and fifth respondents, provided that the City comply with this Courts directions and provide the fourth and fifth respondents

with alternative accommodation or an emergency housing kit, I similarly find that it will be just and equitable for the fourth and fifth respondents to be evicted from the property within a month from the date hereof.

Interdictory relief

[52] I now consider whether the City has satisfied the requirements for interdictory relief. The requirements for a final interdict are well established. To obtain a final interdict, the City must establish the following, as set out in *Setlogelo v Setlogelo* 1914 AD 221:

- “(a) a clear right to the relief sought;
- (b) an injury actually committed or reasonably apprehended;
- (c) the absence of any satisfactory remedy available to it.”

[53] On the facts of this matter the City has demonstrated a clear right to the relief sought. It is not in dispute that they are the owners of the property or that they have the right in terms of their constitutional mandate to ensure that the properties are allocated in a procedural manner intended for persons identified by the City.

[54] Concerning the injury actually committed or reasonably apprehended from the facts, it is evident that the City had approached the court before, in order to prevent the invasion of the property. They have also barricaded the property, put up no trespassing notices but this did not stop the first respondent from removing these barricades despite being served with a court order preventing her from entering the property. During her stay at the property also fires had broken out damaging the City’s property. It is evident on a balance of probabilities that the

City has suffered injury that was actually committed by the first respondent by unlawfully occupying its property.

[55] I further find that that there is no alternative remedy available to the City, as it has the right to secure its property from being damaged as they still need to hand it over to the person who has already waited two decades for this property to be allocated to him or her. No other remedy will be able to afford the City the similar protection that it currently seeks from this court.

Costs

[56] Costs are in the court's discretion. Having regard to the history of this matter, and after exercising my discretion, it is my considered view that it will be just and equitable if each party pays their own costs.

Order

[57] In the result I make the following order:

(a) The First and Second Respondents and all those holding title under them are ordered to vacate the property situated at 1[...] E[...] Road, Lavender Hill on/before 30 October 2026, failing which the Sheriff of this Court, or his deputy, is authorised and directed to evict them therefrom on 1 November 2026, or any day thereafter as close as possible to the aforementioned date.

(b) The Fourth and Fifth Respondents and all those holding title under them are ordered to vacate the property and separate dwelling situated at 1[...] E[...] Road, Lavender Hill on/before 30 October 2026, failing which the Sheriff of this Court, or his deputy, is authorised and directed to evict them therefrom on 1 November 2026, or any day thereafter as close as possible to the aforementioned date.

Provided that, the City of Cape Town has provided them with alternative accommodation or an emergency housing kit on or before 30 October 2026.

(c) The Sheriff of this Court is directed and authorised to remove all the possessions of all six Respondents, in execution of this order, and to hand the same to the Applicant to store for a period of one (1) month. In the event that such property is not claimed, it be deemed abandoned, and the Applicant may dispose of it as the Applicant deems fit.

(d) The Sheriff of this Court is directed and authorised to break all structures unlawfully erected on the property and to remove all building material in execution of this order, and hand same to the Applicant to store for a period of (one) 1 month, and in the event that it is not claimed, it be deemed abandoned, and disposed of it as the Applicant deems fit.

(e) All six Respondents are interdicted and restrained from entering, occupying, trespassing or otherwise unlawfully accessing the property, after they have vacated or have been ejected by the Sheriff from it.

(f) It is ordered that the Sheriff of this Court and or the Applicant be duly assisted, if necessary, by members of the South African Police Services to give effect to the provisions of this order by immediately removing the Respondents found to be in contravention of this order, and by taking all reasonable steps to give effect to this Order.

(g) Each party will pay their own costs of this application.

S MTHIMUNYE

ACTING HIGH COURT JUDGE

Appearances:

For the applicant: Adv Paula Gabriel
QJ Williams & Associates Inc.

For the respondents: Adv William Fisher
Sylvester Vogel Attorneys