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

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

31 August 2026

DATE

SIGNATURE

Case Number: 2023/115357

In the matter between:

INDLUPLACE PROPERTIES LIMITED

Applicant

and

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY First Respondent

BRINK N.O., FLOYD Second Respondent

BRINK, FLOYD Third Respondent

JOHANNESBURG WATER SOC LTD Fourth Respondent

MAHLABA N.O., MOSEFE ISAYA KGAUGELO Fifth Respondent

MAHLABA, MOSEFE ISAYA KGAUGELO Sixth Respondent

MUKWEVHO N.O., NTSHAVHENI JULIAS Seventh Respondent

JUDGMENT

VETTER, AJ**A. INTRODUCTION**

- [1] Most of what this application originally sought has fallen away. What remains is prayer 4 of the notice of motion. It asks for an order directing the first respondent, the City of Johannesburg Metropolitan Municipality, to provide its resolution of the account dispute concerning City account number 4[...]. The resolution is sought for the purposes of section 11 of the City's Credit Control and Debt Collection By-law, 2004, and within 14 days. The applicant also seeks costs. I refer to the first respondent as the City.¹
- [2] The applicant no longer pursues the joinder of Johannesburg Water, and no relief is pressed against the second to eighth respondents. Interim protection against disconnection has already been granted, and the balance of the relief was postponed *sine die*.²
- [3] The City must give the applicant a decision on its complaint. It has not done so. Nothing pleaded, and nothing properly advanced at the hearing, answers the applicant's claim to that decision. I grant prayer 4 and costs.

B. THE COMPLAINT, AND WHAT THE CITY DID ABOUT IT

- [4] The dispute concerns historical sewerage charges debited to the account after the tariff applied to the property was changed. On 11 January 2024 the applicant's attorneys lodged a formal complaint, described as a section 11 dispute, and asked for a statement and debatement of the account. The

¹ Notice of motion, prayer 4, CaseLines 01-3; and applicant's heads of argument, paras 16 to 17, CaseLines 21-13.

² Order of Twala J, 7 November 2023, paras 2 and 3, CaseLines 07-1 to 07-2; and order of Leech AJ, 20 September 2024, para 4, CaseLines 18-3.

City's attorney replied on 30 January 2024 that his client was available for that purpose. In April 2024 the City undertook to reconcile the impugned invoices.³

- [5] On 8 May 2024 the City's attorney wrote setting out what he described as his client's "preliminary views". The letter continued:

"In light of the above, client has requested that the property rates department furnish it with information confirming the correct tariff which should be applied to this account, whereafter, it will determine whether any corrective measure should be carried out on this municipal account. Once I receive information regarding the above, I will inform your offices accordingly and advise you of any further steps the City will be taking."⁴

- [6] That is not a decision. It is a letter from the City's attorney which records preliminary views, says that the information needed to decide has been requested, and promises a determination later. A response which discloses no completed investigation and determines nothing does not resolve a dispute.⁵ The applicant's attorneys said as much on 9 May 2024, disputing the conclusions in the letter and asking for the supporting journals.⁶ No determination has followed, then or since.

- [7] Section 11(5) of the By-law provides:

"The Council must — (a) investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after the query or complaint was received; and (b) inform the customer, in

³ Supplementary founding affidavit, para 39, CaseLines 08-20; Louw to Papas, 30 January 2024, CaseLines 08-94; and Papas to Louw, 10 April 2024, CaseLines 08-95.

⁴ Louw to Papas, 8 May 2024, paras 2 and 4 to 5, CaseLines 08-98 to 08-99.

⁵ *City of Tshwane Metropolitan Municipality v Glofurn (Pty) Ltd* (136/2023) [2024] ZASCA 101 (19 June 2024) (*Glofurn*) at paras 20 to 21.

⁶ Papas to Louw, 9 May 2024, paras 1 to 7, CaseLines 08-100 to 08-101.

writing, of its decision as soon as possible after conclusion of the investigation ...”⁷

- [8] That duty rests on the City. More than two years after the complaint, it remains undischarged.

C. THE PLEADED DEFENCES

- [9] The City pleaded two defences to the relief now pressed. The first is that the applicant failed to comply with the full query and dispute process, because a customer whose query is not resolved within 90 days may appeal to the City Manager or refer the matter to the Ombudsman. The second is that the applicant does not dispute the demand management levy, so that no dispute is pending over it.⁸ A point of *lis pendens* was not persisted in at the hearing.
- [10] The first defence does not answer the relief sought. The route the City relies on is a remedy given to the customer where the City does not decide. On the City’s own quotation of the clause, the customer may appeal a decision made or a failure to make one. That is an answer to a customer who complains of delay. It is not an answer to the City’s own duty to investigate and to communicate a decision, because a remedy for inaction does not discharge the obligation which the inaction breaches. The clause in any event comes from the City’s Policy, which is not in the record, and I need not decide its status: the duty enforced by this order is in the published By-law. Nor is that an incursion into anything the City must decide for itself. The court’s function is to see that the internal machinery is employed, not to resolve the account.⁹
- [11] The second defence is beside the point. Prayer 4 does not touch the demand management levy. Whether the levy is disputed has no bearing on the City’s

⁷ Section 11(5) of the City of Johannesburg Credit Control and Debt Collection By-law, 2004, CaseLines 01-19. Section 11(6) gives the customer an appeal against a decision under subsection (5).

⁸ Answering affidavit, paras 17 to 18 and 26 to 30, CaseLines 12-9 and 12-11.

⁹ *Body Corporate of Willow and Aloe Grove v City of Johannesburg* (41604/2020; 13541/2022) [2023] ZAGPJHC 1451 (11 December 2023) at paras 93, 95 and 96; and *Webster and Others NNO v City of Johannesburg Metropolitan Municipality* (2021/26601) [2025] ZAGPJHC 383 (7 April 2025) at paras 11 and 15.

duty to decide the query, which is disputed, and the order I make decides nothing about it.

D. THE SUBMISSIONS ADVANCED FROM THE BAR

- [12] The City delivered no updated heads. At the hearing its counsel advanced four further points. A journal passed in 2021 was said to be administrative action which the applicant was obliged to review under the Promotion of Administrative Justice Act 3 of 2000. The complaint was said to be time-barred under the By-law. The applicant was said to lack standing because the account stands in the name of the body corporate. And the letter of 8 May 2024 was said to have resolved the dispute. None of these defences was pleaded, identified in the heads of argument, or put to the applicant in the correspondence.
- [13] In motion proceedings the affidavits serve the function of both pleadings and evidence. It is for the parties to define the nature of their dispute, and for the court to adjudicate upon the issues so defined. Parties may expand those issues by the way in which they conduct the proceedings, but not at the price of prejudice to an opponent who has had no opportunity to plead and prove an answer.¹⁰
- [14] The difficulty here is not formal. Each of the four points needs facts which are not on the papers. The review point needs a decision to review, and the only document relied on for it says that the City had not yet decided. The time-bar point needs it to be established when the complaint arose and what period is said to have run. The standing point needs the terms on which the account is held and the effect of section 9 of the Sectional Titles Schemes Management Act 8 of 2011. The applicant has had no opportunity to answer any of that on affidavit, and it cannot fairly be required to do so from the bar, more than two years after the answering affidavit was delivered.

¹⁰ *Fischer and Another v Ramahlele and Others* (203/2014) [2014] ZASCA 88; 2014 (4) SA 614 (SCA); [2014] 3 All SA 395 (SCA) at para 13.

[15] I therefore decide none of the four points. I say only that the letter of 8 May 2024 is not a section 11 decision, which is apparent from its own terms and does not depend on any fact the City was denied the chance to plead. Nothing in this judgment decides who holds account number 4[...], the rights of any person not before me, or any issue in the action pending between the City and the body corporate cited as defendant in it. Nor does anything in it prevent a point properly raised on proper papers from being considered in appropriate proceedings.

E. RELIEF AND COSTS

[16] The order does not decide the correct tariff, the demand management levy, the amount owing on the account, the City's right to recover any amount properly due, or the action pending between the parties. It requires the City to do what its own By-law obliges it to do, and no more. That is all the applicant asks.

[17] The applicant has succeeded. Both counsel agreed that costs should follow the result on the party and party scale, with counsel on scale B, and I make that order. The costs reserved by Twala J on 7 November 2023 fall to be disposed of and follow the result. The costs of the urgent hearing were determined by Leech AJ on 20 September 2024 and are not awarded again.¹¹ No relief was pressed against the second to eighth respondents and no order is made in respect of them.

F. ORDER

[18] I make the following order:

1. The first respondent is directed to provide the applicant, in writing and within 14 calendar days of the date of this order, with its resolution of the account dispute concerning City account number 4[...], for the purposes of section 11 of the City of Johannesburg Credit Control and Debt Collection By-law, 2004.

¹¹ Order of Leech AJ, 20 September 2024, para 5, CaseLines 18-3.

2. The first respondent is to pay the applicant's costs of the balance of the application, including the costs reserved by Twala J on 7 November 2023, on the party and party scale, such costs to include the costs of counsel on scale B.

VETTER AJ
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

Appearances

For the Applicant: Mr L Peter
Instructed by: Vermaak Marshall Wellbeloved Inc.

For the Respondent: Mr L Mokwena
Instructed by: Moodie & Robertson

Date of hearing: 26 August 2026

Date of judgment: 31 August 2026

This Judgment is handed down electronically by circulation to the parties' legal representatives by email and publication on CaseLines and SAFLII. The date for the handing down is deemed 31 August 2026.