



10 July 2020

Ms Jacqui Samson  
Head of Department  
Western Cape Department of Human Settlements  
Private Bag X9083  
CAPE TOWN  
8000

Attention: Brenda van Willingham

**RE: PARLIAMENTARY QUESTION: WRITTEN REPLY**

The Parliamentary Question for Written Reply below, received on the 7<sup>th</sup> of July 2020 refers:

**Question:**

**Mr P J Marais to ask Mr T A Simmers, Minister of Human Settlements:**

With reference to *City of Cape Town v Morning Star Development and Upliftment Initiative (MDUI)* and in light of the COVID-19 current lockdown situation and the ongoing legal process between the City of Cape Town and the MDUI, where 166 units have been standing vacant since September 2018:

- (1) (a) What steps has he taken to resolved the situation, (b) why has this dispute not been placed on the court roll yet and (c) which attorney or legal practitioner or legal firm has been appointed to act on behalf of the City;
- (2) whether he challenges the interdict by the MDUI; if not, why not; if so, what are the relevant details?

**Response:**

- (1) The City of Cape Town intended to hand over a number of completed Housing Units on the 20<sup>th</sup> of September 2018. However, on or about 17 September 2018, the Morningstar Development and Upliftment Initiative (MDUI) disrupted a meeting of Sub council 7 in Durbanville, and various threats of disruption of the handover process were issued. On the basis of these threats and ongoing protest actions at site, the City had no alternative but to approach the Court on or about 19 September 2018, for Urgent Interdictory Relief, preventing the MDUI from disrupting the handover or interfering with the connected persons, entering onto the project site, and/or interfering with the handover process in anyway.

The handover was suspended because the MDUI applied for an interdict to prevent the City from handing over the houses pending a Review Application to set aside the housing allocation process.

An order was granted in terms of which the MDUI was directed by the Court to deliver its Review Application in this matter by no later than 11 January 2019.

On or about 14 January 2019, the MDUI delivered their Review Application in terms of Rule 53 of the Uniform Rules of Court. Given the far reaching implications of the relief sought, the City opposed the review application and accordingly delivered its Rule 53 Record.

However, on or about 29 April 2019, the City's legal team received correspondence from the erstwhile opposing attorneys, purporting to withdraw as attorneys of record. This resulted in MDUI being unrepresented, and further delayed the delivery of the MDUI's supplementary founding affidavit.

In or during May 2019, the MDUI obtained new legal representation, and belatedly filed its Supplementary Affidavit in the Review Application on or about 21 June 2019. The City then filed its Answering Affidavit.

The parties are currently in negotiations, on a "**Without Prejudice**" basis in an attempt to finding an amicable solution to the litigation.

The filing of further papers have been suspended pending the outcome of the "Without Prejudice" negotiations.

If the parties do not find an amicable solution, MDUI will be expected to file their replying papers whereafter pleadings will deemed to be closed. The Parties will then approach the Court for a preferential hearing date, where the matter will be fully ventilated.

The law firm of Timothy & Timothy Incorporated have been the appointed attorneys of record on behalf of the City throughout this ongoing dispute.

(2) Not applicable to the City of Cape Town.

Please do not hesitate to contact this office should you require any further information.

Yours faithfully

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**NOLWANDLE GQIBA**

Executive Director: Human Settlements