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SELECT COMMITTEE ON PETITIONS AND EXECUTIVE UNDERTAKINGS: CONTENT OF THE BOKAMOSO VILLAGE PETITION

1. CONTENT OF PETITION

The petition is dated 1 August 2014 but was received by the Office of the Secretary to the National Council of Provinces (NCOP) on 11 August 2014. The petition was referred to the Chairperson of the Select Committee on Petitions and Executive Undertakings (Committee) by the Chairperson of the NCOP on 13 August 2014. The petition is submitted Mr Gatebe and Matjele on behalf of former residents of a village called Bokamoso Village (Village). The Village is located near Qwa Qwa and falls under the Maluti-a-Phofong Local Municipality (Municipality). The Municipality is in turn located in the Thabo Mafutsanyane District, Free State Province.

The petitioners represent over 700 families hailing from the Village. The Village is under the chieftaincy of Chief Tsholo Mopeli (Chief Mopeli). The petitioners submitted the petition to the NCOP after they were evicted from the Village by the Municipality in or around June 2014.

The Municipality evicted the petitioners following a Constitutional Court (CC) ruling that the land on which the petitioners lived on belonged to the Municipality (and not to Chief Mopeli). In evicting the petitioners, the Municipality used bulldozers to destroy the homes and properties of the petitioners including that of Chief Mopeli. Media reports around the matter, indicate that the Municipality has earmarked the land in question for commercial and residential use.

A primary contention of the petitioners is that the land in question belongs to Chief Mopeli and a number of them took occupation of the land as far back as 1983 after its previous owner (a farmer by the name of Liddle) abandoned the land. The petitioners further contend the land in question is their ancestral land.

Also of importance, the petitioners further claim they occupied parcels or plots of land allocated to them by Chief Mopeli. Despite not having a title deed to show his ownership in the land, Chief Mopeli allocated the land to the petitioners for residential and agricultural purposes (the petitioners reared pigs, sheep, donkeys, horses and cows and also grazed livestock on the land). Chief Mopeli also allocated land for a cemetery and an initiation



school. Also according to the petitioners Chief Mopeli allocated land to the petitioners for around R500 for a plot or parcel of land. Chief Mopeli has confirmed via media reports that he owns the land and the land is the subject of a land claim dispute that has yet to be resolved.

The Municipality, on the other hand, maintains the petitioners have been occupying the land illegally for the past two years because the land lawfully belongs to it. Media reports also indicate that the Municipality took reasonable and numerous measures to inform the petitioners of the evictions including holding meetings with the Maboela Tribal Council, local church leaders and the petitioners themselves. The Municipality also broadcasted news of the eviction on a local radio station. Post the eviction the Municipality even made an effort to accommodate the petitioners in community halls and youth centres on a temporary basis.

2. RELIEF SOUGHT

The petitioners would like the Committee to intervene in securing suitable alternative accommodation for them. The petitioners further require the Committee to intervene in upholding their rights which they claim have been violated in a number of ways by the Municipality post the eviction. What follows below is a discussion of some of the grievances the petitioners have against their eviction:

- The youth centers and town halls that they have been moved into post the eviction are unsuitable as males and females are expected to stay together and there is no heating in the halls and youth centres.
- The petitioners are not given healthy food whilst in the youth centres and town halls.
- The general state under which the petitioners find themselves in the youth centres and town halls is inhuman and unsuitable.
- The children of some of the petitioners are not attending school primarily because of transport related issues.
- The children of petitioners that are able to attend school have to walk on foot for a distance of plus or minus 20 kilometres.

The Municipality had made a number of commitments or undertakings to the petitioners pre and post the eviction but has to date failed to honour any of these commitments of undertakings. The Municipality for instance undertook to relocate all the displaced petitioners to suitable alternative accommodation however only some of the petitioners have been relocated to an area called Bloemgumbosch. That having been said, the petitioners have raised reservations through the media around the relocation to Bloemgumboach including that:

- Parcels or plots of land in Bloemgumbosch are estimated to amount between R10 000 to 15 000 for a plot or parcel of land in the states area;
- The land in and around Bloemgumbosch is largely underdeveloped and full of dongas and has no water, roads and electricity;
- Bloemgumbosch is far from amenities such as schools, shops and hospitals; and
- The petitioners have no ancestral link or connection with Bloemgumbosch.



The Municipality also undertook to provide meals to the petitioners and provide transport to enable their children to attend school however the petitioners claim the Municipality has failed to provide them with proper food and their children are walking long and unacceptable distances to attend school.

3. RECOMMENDATIONS TO THE COMMITTEE

The petitioners each contributed R500 to raise an amount of R200 000 to enable Chief Mopeli to contest their eviction through the courts.

Chief Mopeli initially brought the matter before the Free State High Court in 2012 and the High Court found in favour of the Municipality and held that the Municipality was well within its rights to evict the petitioners from the land. Chief Mopeli took the matter on appeal to the Supreme Court of Appeal (SCA) and in 2013 the SCA also found in favour of the Municipality. Chief Mopeli subsequently took the matter to the highest court in the land, namely, the Constitutional Court (CC) and in May this year the CC held that the land in question belonged to the Municipality and not to Chief Mopeli (who sold parcels of land to the petitioners). **[Please note that the Constitutional Court decision has yet to be published].**

On the basis of the above court rulings, it is submitted that there is very little the Committee can do in terms of restoring ownership of the land in question back to the petitioners because the highest court in the land has already settled the question of ownership of the land.

The Committee can however undertake an oversight visit to the affected area to determine whether or not the petitioners have been settled in suitable alternative accommodation and have access to food, hygiene and other essentials.

The Committee can also undertake such an oversight visit in an effort to ensure it holds the Municipality to some of the undertakings that it made to the petitioners with regards to their relocation or resettlement.

4. STATUS OF PETITION

The Committee has yet to consider the content of the petition and decide on the best possible course of action for its resolution.

