



LEGAL RESOURCES CENTRE

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Your Ref:

Our Ref: HS/SJ/SPLUMB

7 August 2012

The Honourable Chair
The Portfolio Committee on Rural Development and Land Reform,
Mr Stone Sizane MP

For attention:

Secretary of Committee: Ms Phumla Nyamza
The Portfolio Committee on Rural Development and Land Reform,
3rd Floor,
90 Plein Street,
Cape Town,
8000,

Per email: panyamza@parliament.gov.za

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**SUBMISSIONS ON THE SPATIAL PLANNING AND LAND USE
MANAGEMENT BILL [B14- 2012]**

Your call for submissions on the Spatial Planning and Land Use Management Bill (SPLUMB) published on the 2 August 2012 on the website of Parliament, has reference.

On the 28 May 2012, we made submissions to the Select Committee on Land and Environmental Affairs in the National Council of Provinces on SPLUMB [B-2012]. We attach hereto our cover letter as well as the submissions sent to the Select Committee. We did not receive any substantive correspondence from the Select Committee,¹ and are yet to have the opportunity to make oral submissions. Our written submissions on this Bill have remained the same and we therefore we request that you consider the attached submission.

¹ We received a letter dated 12 June 2012 from the Chairperson of the National Council of Provinces indicating that the Select Committee would not be proceeding with the Bill due to the incorrect tagging of the Bill.

We request that you grant our Director, Ms Janet Love, the opportunity to appear before your Committee on the afternoon of the 21 August 2012, to make oral submissions to supplement these written submissions. We shall then elaborate on our proposals to **address the 1913 land legacy through the SPLUMB** with chapters dealing with:

- a) **Mining on communal land;**
- b) **Promotion of communal commonage land for land reform purposes;**
- c) **Community consent standards in respect of disposal and/or development of communal land.**

The Legal Resources Centre is a non-profit public interest law firm. Much of the work of our organisation is devoted to representing poor rural communities. Our submissions on the SPLUMB are on behalf of such communities. We also act herein for the Foundation for Sustainable Environment (FSE) who assisted in the preparation of the sections of the memorandum dealing with sustainable development and environmental considerations.

The LRC has been consistently involved with making submissions to the Department of Rural Development and Land Reform on the development of this Bill. We made submissions on the 2007 Land Use Management Bill; the draft bill of the 6 May 2011; and comments on the Green Paper on Land Reform on the 31 December 2011. We submit that our 2011 submissions are still relevant, and address the following areas in our submissions on the 2012 bill in the attached memorandum:

1. The failure of the Bill to incorporate sufficient development principles relevant to the **principle of sustainability**;
2. The failure of the Bill to ensure the constitutional principle of **administrative justice** is respected and adhered to through-out the land use change and land development process;
3. The failure of the Bill to recognise the historical impact **mining** has had on communities in South Africa, which creates a need for the Bill to make special consideration when applications for land use change and land development are made in the context of mining;
4. While the Bill recognises, in its Preamble, that the informal and traditional land use development process remain poorly integrated into formal systems of spatial planning and land use management, it is then silent on the **status of customary tenure and the rights of customary communities** to consent as provide for in the Interim Protection of Informal Land Rights Act. As such, it may only perpetuate the inequality it purports to undo.

5. The failure of the Bill to recognise the tension of opposing development paradigms and **community participation** in this regard as provide for in regional and international law.

We look forward to hearing your response to our request that we may secure a slot on the afternoon of the 21 August 2012 to make oral submissions to your Committee.

Your faithfully,

LEGAL RESOURCES CENTRE

Per:

A handwritten signature in black ink, appearing to read 'Love', with a stylized flourish underneath.

JANET LOVE and HENK SMITH

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