IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA

FURTHER ESTA OCCUPIERS,

PORTION 77 OF THE FARM

NOOITGEDACHT 534 J.Q

FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD

(REGISTRATION NUMBER: 2017/652880/07)

FIRST RESPONDENT

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

THIRD RESPONDENT

SECOND RESPONDENT

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IN THE LAND CLAIMS COURT OF SOUTH AFRICA

(JOHANNESBURG)

Lcc: 100/2022

CASE NO:_____

SECOND RESPONDENT

THIRD RESPONDENT



(REGISTRATION NUMBER: 2005/010773/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD

MOGALE CITY LOCAL MUNICIPALITY

NOTICE OF MOTION - URGENT APPLICATION

TAKE NOTICE that the Applicants will apply to the above Honourable Court on **6 July 2022** as the application may be presented to a Judge and/or counsel may be heard for an order in the following terms:

- That the application is heard as one of urgency in terms of Rule 34 and noncompliance with the prescribed forms, time limits and service requirements is condoned;
- 2. That the First and Second Respondents are ordered repair or reconstruct the homes to their original condition within 45 days.
- 3. That, pending the finalisation of the application:
 - 3.1. The First and Second Respondents are interdicted from causing, or instructing any other party to cause, any damage to the Applicants' homes situated at portion77 of the farm Nooitgedacht 534 J.Q, Gauteng, also known as "Tilly's Farm".
 - 3.2. The First and Second Respondents are interdicted from disturbing the applicants' access to and use of their homes in any way whatsoever.
 - 3.3. The First and Second Respondents shall forthwith reinstate/return/repair the toilets removed from the property;
 - 3.4. The First and Second Respondents shall forthwith reinstate/return/repair the water source of the applicants, being a JoJo tank, to its former, working condition and fill same with clean water;
 - 3.5. The First and Second Respondents shall forthwith return all possessions of the Applicants taken from the property;
 - 3.6. The First and Second Respondents shall provide, within 48 hours, temporary housing units for all occupiers whose homes have been damaged or demolished.
 - 3.7. The temporary housing units shall comply with the following requirements:
 - 3.7.1. It shall be located next to or near the existing damaged/demolished homes;
 - 3.7.2. The housing units shall be constructed from polycarbonate material with

the structural design that has the strength, stability and durability for a lifespan of 25 years.

- 3.7.3. Each temporary unit will have a roof, be water resistant and be not less than 30 square metres in size.
- 4. That the Applicants are granted leave to supplement their papers and to amend the final relief sought on terms deemed appropriate by the Honourable Presiding Judge.
- 5. That the Honourable Presiding Judge provides directions on the further conduct of the matter in respect of service, time limits for delivery of affidavits, and the time, date and venue for any hearing.
- 6. That the First and Second Respondent are ordered to pay the Applicants' costs on an attorney client scale.
- 7. Further/alternative relief

TAKE NOTICE FURTHER that the affidavit of MARGARET MOKGOMOLA together with annexures, and confirmatory affidavit of DAVID DICKINSON, will be used in support of the affidavit.

TAKE NOTICE FURTHER that the Applicants have appointed **LAWYERS FOR HUMAN RIGHTS** with address indicated below where they will accept service of all notices and documents in these proceedings.

PLEASE ENROL the matter accordingly.



LAWYERS FOR HUMAN RIGHTS

ATTORNEYS FOR THE APPLICANTS

Kutluwanong Democracy Centre 357 Visagie Street Pretoria Tel: 012 320 2943 Fax: 012 320 6852 E-mail:<u>david@lhr.org.za</u> <u>deborah@lhr.org.za</u> Ref: LHR/DR/A409

- TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
- AND TO: THE FIRST RESPONDENT MAXXLIVING (PTY) LTD 13 Via Latina Cresent Irene Corporate Corner Irene Gauteng 0157
- AND TO: THE SECOND RESPONDENT CRIMSON KING PROPERTIES 74 (PTY) LTD 128 Beyers Naude Drive Roosevelt Park Johannesburg 2195
- AND TO: THE THIRD RESPONDENT MOGALE CITY MUNICIPALITY Cnr Commissioner & Market Streets KRUGERSDORP 1740

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

(JOHANNESBURG)

-cc 100/2022 CASE NO:

In the matter between:

MARGARET MOKGOMOLA

FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

FOUNDING AFFIDAVIT



MARGARET MOKGOMOLA (IDENTITY NUMBER: 6508120485087)

do hereby make oath and state:

Ι,

- I am adult female, formerly employed as a cleaner for previous owners, and residing 1. since 1988, on portion 77 of the farm Nooitgedacht 534 J.Q, Gauteng.
- The facts contained herein are, save where otherwise stated or indicated from the 2. context, within my personal knowledge and are both true and correct.
- In addition, I am advised and submit that I am competent to bring this application on 3. behalf of the occupiers by virtue of section 38 of the Constitution of the Republic of South Africa, Act 108 of 1996 ("the Constitution") with particular reference to section 38(a), (b) and (c).
- A list of those of us who are represented in this replying affidavit is attached as 4. annexure TF 01. However, we request, for reasons explained below, that other occupiers with similar ESTA rights to ourselves be joined at a later date.
- All reference herein to "we", "our", "us", "me" or "I", will constitute reference to both 5. my co-applicants and I to the extent that this is consistent with the context.
- Where I make legal submissions, I do so on the advice of our legal representatives, 6. the advice which I accept as correct.

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PURPOSE OF THE APPLICATION

- 7. This application is being brought in great haste. I was preparing an affidavit with my legal representatives, Lawyers for Human Rights, when this process was overtaken by the events of 5 July 2022. Up until this point, we had been facing increasing harassment and intimidation from the first respondent.
- We were, however, reassured by our legal representative and our own faith in South 8. Africa's Constitution that the law would take its course and that our rights would be respected. As described below, this belief was swept aside when the first respondent escalated their action and proceeded to demolish, without legal cause, our homes at portion 77 of the farm Nooitgedacht 534 J.Q. Gauteng, which we know as 'Tilly's Farm' (the property).
- 9. This is an application made in terms of S14 of ESTA which provides for the restoration of residence for ESTA occupiers. As indicated below, we were firstly subjected to constructive eviction when the electricity and water was cut off. Secondly, some of our homes were destroyed - that act constitutes as an unlawful eviction and is contrary to the provisions of ESTA and section 26(3) of the Constitution. As such, I am advised that I am entitled to restoration as contemplated in s14 of the Act.
- 10. The relief sought by the court is contained in our notice of motion which is also being prepare in haste.

JURISDICTION

11. We are lawful occupiers of the property as defined in section 1 of the Extension of

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Security of Tenure Act 62 of 1997 (ESTA), and in that:

- 11.1. The property is a farm and is zoned as agricultural land, it is not encircled by such township or townships. We started to occupy the property ranging from 1982 to 1998.
- 11.2. We were given consent by previous landowners to reside on the property either as employees or to rent accommodation.
- 11.3. We have resided on the property openly and continuously for at least three years, generally far longer.
- 11.4. None of us earn more than the statutorily prescribed amount.
 - 11.4.1. Details regarding our rights as ESTA occupiers outlined above are contained in annexure **TF 02**.
- 12. The court has jurisdiction to adjudicate upon this matter in terms of section 20 of ESTA and by virtue of the fact that the land in question falls within the jurisdictional area of the court.

PARTIES

- 13. I am the first applicant. I am an adult female, formerly employed as a cleaner for previous owners, and residing since 1988 on the property.
- 14. The second applicant is the occupants on the property as listed in annexure **TF 01**. Their details and occupation history on the property is outlined in annexure **TF 02**.

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- 15. It may be that annexure **TF 01** and **TF 02** do not include all the occupants of the property who have ESTA rights of occupation. The first respondent and his agents have been causing confusion among other occupants with promises should they relocate.
- 16. We were constantly told by the first and second respondents' legal representative that Gladys Skhosana and her entire family, on whose behalf she had negotiated given her seniority, had signed an agreement to relocate (a draft of which was shown to us and is attached as annexure **TF 03**). We were told that Gladys was happy with the agreement. However, we doubt the legal validity of the document since we have never seen the agreement with her signature. What is not in doubt is that Gladys is far from happy with being removed. The article in the Times Live, attached as annexure **TF 04**, paints a very different picture.
- 17. The first applicant has been using heavy handed tactics to bully old and vulnerable people into accepting offers to relocate which take no account of their rights.
- 18. We therefor request from the court, that we may at a later stage join more applicants, who have similar ESTA rights as ourselves, to this case.
- 19. The first respondent MAXXLIVING (PTY) LTD with company registration number: 2017/652880/07 with registered address at 7 Gembokstraat, Rant-en-dal, Krugersdorp, 1739. The first respondent is currently developing the site on which the applicants' homes are situated in what it describes as a 'mega project.'
- 20. The second respondent is CRIMSON KING PROPERTIES 74 (PTY) LTD with

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company registration number 2005/010773/07 with registered address at 128 Beyers Naude Drive, Roosevelt Park, Johannesburg, 2195. The second respondent is the owner of the property. Annexure TF 05 is a Windeed document showing the second respondents ownership of the property which it acquired in 2007.

21. The third respondent is Mogale City Local Municipality within which the property is located. The third respondent has provided the temporary alternative accommodation to which the first and second respondents seeks to relocate the applicants. No relief is sought against the third respondent.

POSSESSION

- 22. We started to reside on the property at various dates between 1982 and 2000. These dates are listed, along with the following aspects of our occupation of the property in Annexure **TF 02.** We have resided openly on the property since the beginning of our residency.
- Some of us were employed by former owners of the property, others rented property from former owners.
- 24. None of us earn above the threshold to disqualify us as ESTA occupiers. Indeed, many of us survive hand to mouth on social grants.
- 25. A number heads or members of households are over 60 years of age.
- 26. We reside in a range of farm buildings. Annexure **TF 06** contains pictures of these

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structures taken by our legal representative, David Dickinson of Lawyers for Human Rights, on 30 June 2022. At this point surrounding buildings had been demolished, including once that joined onto our own. Nevertheless, the substantive nature of our homes and the facilities they provided for us to live with dignity is clear to see.

ATTEMPTS TO EVICT US

- 27. The applicants brought an application under the *Prevention of Illegal Eviction from Unlawful Occupation of Land Act* 19 of 1998 (PIE) against us in the High Court, Johannesburg in July 2020 (case number 2020/18522) to have us evicted from the property. The court ordered that that Mogale City Local Municipality, under which the property falls, and which was joined to the case as the second respondent, compile a report on the occupiers of the property.
- 28. The applicants returned to the High Court (under the same court case number) seeking to have Mogale City Local Municipality held in contempt of court for not complying with the first order of court of 12 August 2020.
- 29. The High Court found the first respondent not to be in contempt of court, but ordered on 12 April 2021 that the second respondent compile a supplementary report within 60 days. That period has expired, but the applicants did not pursued their eviction application against us, nor have they followed up in regard to the required supplementary report.
- 30. Around the beginning of June, the Mogale City Local Municipality made land available as temporary alternative accommodation. After our arrival on the property

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a number of people came onto the site and erected their own shelters. These people left to obtain a site on this temporary alternative accommodation.

- 31. As ESTA occupiers, we have refused to move to the temporary alternative accommodation. To do so would render us insecure as the accommodation is temporary. The temporary shelters that we have been offered us are between 24 and 30 square meters. The sites on which these shelters are erected are only 50 square meters. These do not compare in any way to our current homes.
- 32. Because we refused to leave the property, the applicants sought to enroll a new application, on an urgent basis, again in the High Court, Johannesburg, for an eviction order against us, again under PIE. A founding affidavit was commissioned on the 24 June 2020 and was served on our legal representative on 27 June 2022 but has not yet been issued or had a Case Lines established.
- 33. Our legal representative wrote a letter to the first and second applicants' legal representative at 12.18pm giving notice to oppose the second, urgent, eviction which the first and second respondents legal representative had informed us, in their Notice of Motion, would be enrolled the following day (25 June 2022).
- 34. The first and second applicants' attorneys also send our legal representative what they said was a 'Final Settlement Agreement' that they claimed had been signed by the remaining 22 occupiers on the property. A list of 22 people that comprised of first names only and no ID numbers was also sent to our legal representative. These are attached as annexures **TF 07** and **TF 08** respectively.

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- 35. We met with our legal representative on 27 June 2022 who clarified our rights as ESTA occupiers based on the information that we provided.
- Our legal representative read out the list of 22 names. While we recognized some of 36. the names, given that there were no surnames we could not verify the list in any way. However, all those present, as listed in annexure **TF 01**, confirmed that they had not signed any document in regard to leaving the property.
- Following this meeting the workmen of the first respondent continued to damage our 37. property as they cleared the land vacated by latter arrivals onto the property. We believe that this damage was deliberately caused by the first respondents' workmen as it occurred whenever nobody was close by.
- When we communicated this to our legal representative he suggested that we 38. clearly mark our properties which we did, labelling them with 'Ref #.' These markings can be seen in annexure TF 05. A picture of one of these sign was sent, as an example, by our legal representative to the legal representative of the first and second applicants. He undertook that these buildings would not be damaged.
- After a number of phone and WhatsApp calls between our legal representative and 39. that of the first and second respondent a meeting on the property was held on 30 June 2022. At this meeting the damage that had been caused was raised and we again received re-assurances that our property would not be damaged until an agreement which took into account our rights was in place. There was a discussion about a possible settlement, but at this point the legal representative of the first and second respondent denied that we were ESTA occupiers.

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- 40. However, the damage to our property continued and indeed escalated.
- On 1 July 2022 a section of the home of Lulu Sebola, who is 68 years old and currently hospitalized, and which was clearly as 'REP 14' was badly damaged. There is photographic evidence of this as our legal representative had taken a picture of the structure on the 30 June 2022 and we provided him with a photo taken on 1 July 2022. Our legal representative included these 'before and after' pictures of Lulu Sebola's home in a letter to the first and second applicants' legal representative at around 10am on Saturday 2 July 2022. This letter is attached as annexure TF 09.
- 42. The letter also informed the legal representative of the first and second respondents that the toilets which we had been using had been removed that morning, Saturday 2 July 2022.
- 43. In response to this letter the legal representative of the first and second respondents phoned our lawyer at around 11am on Saturday 2 July 2022. Our lawyer was verbally given assurances that he would again talk to his clients and that the situation would be stabilized.
- 44. This illustrates a pattern between our lawyer and that of the first and second respondents' legal representative. The latter made extensive use of phone and Whatsapp calls, but failed to back up what he said in writing.
- 45. Similarly, at the onsite meeting on the 30 June 2022 he gave a commitment that our legal representative would be provided the final copy of the agreement that he alleged had been signed by the 22 occupiers on the previously mentioned list, and a

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list which would include their surnames and ID numbers. This was agreed in order that we could establish if there was any overlap between the first and second respondents' list and our own mandate list to Lawyers for Human Rights. However, the final agreement nor the detailed list was never provided.

- 46. At around 12 noon on Saturday 2 July, employee of the first respondent arrived at our homes and vandalized the JoJo tank which supplies us with water. Annexure TF 08 is a picture taken at the time showing the employee of the first respondent, who we know as Marius, wearing a T-shirt branded with the logo of the first respondent. A pair of pliers can be seen in his right hand. He used these to remove the tap from the JoJo tank. Also present was another employee of the first respondent who we know as Peter or Sbu who is standing behind Marius in annexure TF 08. As a result of the removal of the tap, the JoJo tank emptied. Annexure TF 16 is a screen shot from a video taken at the time, showing the damaged tank and the water spilling out. The entire video, showing Marius and Peter/Sbu, is available if required. We have been without water since then.
- 47. On Sunday 3 July at around 7.30pm we were plunged into darkness as our electricity was disconnected. At the same time we saw Marius and Peter close to the property. At this point we were afraid that we would be attacked. I contacted our legal representative. He send a WhatsApp message at 8.10pm to the legal representative of the first and second defendant. This read:
 - 47.1. Dear Greg, I have just had a call from our clients residents of Portion 77. In addition to the removal of toilets yesterday, the JoJo water tank was vandalized yesterday and they

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have no water. Marius, an employee of MAXXLiving was present on site when this happened. This is constructive eviction taking place without a court order. I have just been informed that their electricity has been cut off at around 7.30pm today, again Marius was seen, along with Sbu, when this happened. The residence are afraid that they are going to be attacked. I have told them to contact SAPS immediately and ask for protection as it is clear that your clients are conducting an unlawful campaign of harassment. Yesterday, you assured me that you would ensure that the situation would be stabilized until such time as a lawful resolution to the situation is reached. This is not happening, indeed the harassment is clearly escalating. Will you please contact your client on an urgent basis and instruct them to desist from their unlawful activity before somebody gets hurt. David Dickinson (LHR).

- 48. This message was seen by the first and second applicants' legal representative, as there are two 'blue ticks' showing in the screen grab of the message taken by our legal representative at 20.33pm on Sunday 3 July. This is attached as annexure TF 10. However, no response was received to this message.
- 49. On Monday 4 July, our legal representative sent a letter to the legal representative of the first and second respondent. This repeated the demand for repairing damage to the home of Lulu Sebola, the restoration of the toilets, JoJo tank and electricity. It also demanded that the first respondent and their employees/agents cease harassing us and stay away from our homes. This letter is attached as annexure TF
 12. No response to this letter was received until 11.51am on 5 July 2022.
- 50. Shortly after 2pm on 5 July 2022 the first respondent arrived at our homes with two

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bulldozers accompanied by three police officers. The police officers told us that there was a court order to demolish the homes. I rang our lawyer who spoke to Warrant Officer Robinson of Mulderdrift Police Station, one of the three police officers present and who appeared to be in charge. WO Robinson categorically told our lawyer that there was a court order for the demolition. He refused the request by our lawyer to stop the demolition until he could reach the property.

- 51. Our lawyer arrived about an hour later from Pretoria. By then virtually all of our homes had been destroyed. We managed to get some of our possessions out of the house but some people's property was destroyed in the carnage. Annexure TF 13 shows our destroyed homes. The pictures where taken by lawyer shortly after he arrived at the property.
- 52. Given the speed of events, we have not yet been able to compile a complete list of the property that was destroyed and request that we can submit this to the court at a later date.
- 53. On arrival at the property, our lawyer asked to see the court order. Warrant Officer Robinson did not have a copy but said that the (previously mentioned) Peter had a copy. When this was brought over to us our lawyer identified it as the application papers served on him on Monday 24 June 2022 which are described above. He informed the police, including Warrant Officer Robinson, that it was not a court order.
- 54. Warrant Officer Robinson still refused to stop the bulldozers doing their demolition work saying that a copy of the court order would be brought to us. He then said that Peter had a copy of the court order on his phone.

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- 55. I accompanied our lawyer to talk to Peter. Our lawyer asked the following questions and received the following answers from Peter.
 - 55.1. Q: Are you responsible for the demolition? A: Yes, I was told to clear the ground.
 - 55.2. Q: Who told you to clear the ground? A: Nobody.
 - 55.3. Q: Do you have a court order? A: I have it on my phone.
 - 55.4. Q: Can I see it? A: No.
 - 55.5. Q: Is the Sheriff here? A: No.
- 56. We returned to the police officers and our lawyer asked where the sheriff was. The sheriff was not present. It was only at this point that the bulldozers ceased their work.
- 57. We waited for the court order which we were promised were being brought from the office of the first respondent. At around 4.30pm, Joseph Machete, an employee of the first respondent arrived. He WhatsApped what he said was the court order to our lawyer's phone. This turned out to be the same papers previous mentioned and not a court order. He continued to maintain that there was a court order. At around 4.50pm our lawyer was able to make contact with the legal representative of the first and second applicant. He put this lawyer on loud speaker and asked him if there was a court order. The first and second applicants' legal representative categorically stated that there was no court order.
- 58. We have been unlawfully deprived of our homes during the coldest periods of the

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year and must seek shelter against the elements.What possessions we own are piled up in the open.Some of our possessions have been damaged, destroyed or taken away.

59. We have been stripped of our rights and our dignity. We have been dispossessed by powerful men who think only of profit and take the law into their own hands. The police, either through ignorance, malice or complicity, stood by while our homes were unlawfully destroyed.

WHEREFORE | pray for an order as contained in the notice of motion.

Muldersdriff DATED AND SIGNED AT ____ON THIS _614 ___ DAY OF JULY 2022.

DEPONENT

THUS SIGNED AND SWORN TO AT <u>Managers on this</u> on this <u>acc</u> day of July 2022. The deponent having acknowledged that the deponent knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience and that the contents of this affidavit are both True and correct.



FULL NAMES: Antony

ADDRESS: AFBRAUTAN UMPLANING

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LAWYERS FOR HUMAN RIGHTS

Mandate: Tilly's Farm (Long Term Occupiers) Portion 77 Farm Nooitgedacht 534 Land and Housing Unit Kutiwahong Democracy Centre 357 Visagle Street, Pretoria 0002 Tel (012) 320 2943 Fax (012) 320 6852 Web www.lhr.org.za

COMMUNITY RESOLUTION

We the undersigned, by signing our name on this document confirm the mandate of Lawyers for Human Rights to act on our behalf in any matters arising on our land pertaining to evictions, and destruction and/or confiscation of property to obtain information or documents regarding this matter

We the undersigned, 'Tilly's Farm' community do hereby nominate

<u>CHRISTINA KWAPENG</u> to depose on our behalf any documents required in our matter. 034 9369361

We further confirm that Lawyers for Human Rights has the mandate to take any necessary steps to enforce our rights.

Signed on this 27 day of June 2022.

NC	P: Name & Surname	ID NUMBER	Signature
	Maria Music Koncepeng	5403031021082	MEasquery
2	Mitsiam Eucapoug	79109090330082	MAL
. 3	Margaret Mokersmil		Allyste
i.	Willson Kaycellin	51006 5634 03 3	WILSON
5	Violet moloto	750903 1175 082	ADA.

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~	SIKHOSANA AIFRED MASILO	6603055373081	MAL
7	MTSHWENI SAMSON JABU	6712245706034	ICT I I I I I I I I I I I I I I I I I I
3	TREVOR KOMFINA	7404145589038	Momane !!
9	Victor KudumeLq	8311105986080	thea
10	THANNI LOMAPE	9305090541088	Tores-
4	FRAMS KOMAPE	600511 5757 081	J-16-5
12	Jimmy KwaPEDG	2802052300128	H.
13	Lulu Sebola	570309 0246 08 8	<u>×</u>
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18	Wilson Schlate	6804146010086	Ctel,

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1	Summary of ESTA Occupiers				<u> </u>	r
2	Head of Household	ID number/ DoB	Age	Date started living on the Property	Monthly Income	
3	Lulu J Sebola	5 203 090 246 088	70	1989		
4	Other Household members			1909	N 1 300	
5	Boitumelo Sebole	9 912 211 234 080	23		Grant	
6	Itiseng Shaun Rademan	2008/08/18	14	the second state is all second	Grant	
7	Basetsana Sebola	2003/08/16	19	the second secon		
8	Mbali Sebola	2018/04/23	4			
9	Head of Household			0.00		
10	Maria Meisie Kwapeng	5 903 031 021 082	63	4003		
_	Other Household members		03	1982	R 1 900	
	Mirriam Kwapeng	790 909 023 082	47			
	Adwell Shabangu	1977/03/11	43 45		Grants	
	Lilian Kwapeng	2002/11/19			Grants	
_	Lucky Paul Kwapeng	8 506 175 757 085	20		Grants	
	Jimmy Kwapeng	8 210 065 305 085	37		Grant	
_	Bassie A Kwapeng	9 207 050 309 089	40		Grant	
-		5 207 050 309 089	30	······································	Grant	
18	Head of Household				1	
19	Samson Jabu Mtshweni	6 712 245 706 084	55	2000	B 2 600	
20	Other Household members			2000	R 3 600	
21	Ququ Mtshweni	2 002	20		Grant	-
22	Head of Household				orant	
-	Margarath Mokgomola	6 508 120 485 087		· · · · · · · · · · · · · · · · · · ·		
	Maropene Wilson Kgatla		56		Grant	
	Other Household members	5 510 065 434 089	67	1988	Grant	
	Octovia Kgatla	2005/02/02				
	Charlotte Kgatla	2006/07/02	16		-	-
	Chlodia Kgatla	1992/11/30	30		Grant	
	isabella Kgatia	2014/10/28	8			
	Eurato Kgatla	9 004 130 913 083	32		Grant	
	Penelope Kgatla	8 207 080 594 081	40		Grant	

Annexine TF02

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	A	В	С	D	E	F
32	Head of Household					
33	Auriel Moagi	7 706 205 791 085	46	1997	Grant	
34	Head of Household					
35	Malesela Wilson Sehlako	6 804 146 010 086	55	1989	R 1 870	
36	Head of Household					
				Gladys is my mother/ I		
37	Alfred Masilo Skhosana	6 603 055 393 081	56	was born here	R 6 000	
38	Other Household members		and and			
39	Gladys Skosana	3 706 100 236 081	85		Grant	
40	Head of Household					
41	Matume Victor Kudumela	8 311 105 986 080	39	1998	Grant	
42	Other Household members		20 - 12		1.11.11.11.11.11.11.11.11.11.11.11.11.1	
43	Banyana Malope	9 204 141 504 083	30	1 2	Grant	
44	Katlego Malope	907 186 349 086	13	in the second second		
45	Tshegofatso Malope	1 310 271 110 084	9			
46	Head of Household					
47	Violet Moloto	7 509 031 175 089	47	1995	Grant	
48	Other Household members			and a second second second second second		
49	Sean Moloto	2001/03/09	21		Grant	
50	Head of Household					
51	Trevor Komana	7 404 145 509 088	48	1998	R 2 500	
52	Other Household members	- are an arrested in				
53	Bridley Komane	2000/02/12	22		Grant	1.0.0
54	Mmeladi Poto	2011/04/14	11			
55	Head of Household					
_	Bongani Made	8 803 036 758 083	34	1000	Court I	
57	Other Household members	0 000 000 708 085		1900	Grant	
	Mbali Sibola	2018/04/23	4	() ++		
	Boitumelo Sibola	9 912 211 234 080	23	No. 198. Alternative and the second s	Count	
		5 512 211 254 000	43		Grant	
60	Head of Household					
_	Frans Komape	6 005 125 757 081	62		Grant	
62	and the second sec	10003 123 737 081	02		Giall	-
63	Thandi Komape	9 305 090 547 088	29	1993	R 4 700	
64				12322		
65	No. of households = 12					
66	No. of occupants = 40				1	1000

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26 June 2022

FINAL SETTLEMENT AGREEMENT

From Maxxliving to plot 77 beneficiaries

As agreed from the meeting 20/06/2022 with the beneficiaries' representatives.

One million Rand (R1.000.000,00) in cash that will be paid over a period of 12 (twelve) months for the beneficiaries starting end of July 2022.

We shall offer stands at plot 80 and to erect Zozo structures for the people of the plot. Most of this has already been executed.

This offer is final and will expire on the 27th of June 2022 at 09h30.

hief Executive)Office Bezuidenhout ามท

Plot 77 Representatives

Witness

Europe Mascheng B v Winterps K 36 2152: Nieuw Vennep The Netherlands Tel + 31.61.558.5581 Chamber of Commerce, 75623533

MI.W

South Arrica Macdieng (215) South Africa Tel: +27-76-016-3596 Chamber of Commerce, 2017/65296-14-7

www.maxalwing.com office@maxalwaig.com

TP OS O				An	nexure	TF04 26
WORLD LIFESTVLE FINESLIVE			Waldorf Astoria Maldives	Relax & recover with views of endless oceanic horizons, white beaches and lush greenery.	Waldorf Astoria Maldives Book now >	RELIVITED) ARTICLES Vatjou goed en trek, judge tells farmer who has stalled vital mine expansion NEWS MPS hear tales of abuse of farm
CINCELIVE PREMIUM POLITICS OPINION & ANALYSIS SPORT SCIENCE BUSINESS AFRICA	A bank that takes your money choices seriously. Ap	NEWS S Gladys, 85, weeps as municipality plans to move her from brick house to shack Krugersdorp residents heartbroken ahead of planned relocation to an area without essential services to make way for property development	Belinda Pheto	La uni, 2022 - 60 19 Inten to this article		
			₩.	M.	1E	



HEARTBROKEN Gladys Skhosana says she can't begin to imagine life outside the one she has Image: Sellinda Pheto known her entire life

"Flow do you move me from a house to a shack?" asked Gladys Skhosana. 85, as she wept watching some of her neighbours prepare to move to a new home they have been allocated by Mogale City local municipality.

Gladys is among hundreds of people who have been staying at plot \overline{m} in Nonitgedacht. outside Krugersdorp, west of Johannesburg.

They are being relocated to a new area called Video, almost 2km from their current location, to make way for a housing development. Gladys who was born and raised at the plot, said she never thought she would see the day where she had to be moved.

raised them at the plot. Her children also grew She gave birth to all of her six children and up and built their own lamifies there.

ones are buried here. How do I leave that entire "Fve built my whole life here. I'm very attached to the plot. Both my parents and other loved life behind " she said.

:

I've built my whole life here. I'm very attached 1

to the plot. Both my parents and here. How do I leave that entire other loved ones are buried ife behind?

oweners oy rarmers, mines

Occupiers of state-owned farms in North West granted leave to appeal against ... SOUTH AFRICA

SOUTH AFRICA

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NEWS

Gladys, 85, weeps as municipality plans to move her from brick house to shack

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OPINION & ANALYSIS

Click to view today's Sunday Times Daily as an edition

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LATEST VIDEOS



creates tribute song after Enyobeni tavern deaths East London musician

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Her parents worket for the previous farm owner and she too ended up working as his - Gladys Skhosana donnestic worker. As the years went by, the farmer allocated her parents a portion of land. This arrangement, however, was made verbally and no documentation was ever signed.

"We were shocked to hear that the farm has now been bought and we have to move," she said.

Gladys's current home has three big rooms. The house is full of furniture. Pictures of her family hang on the walls, showing the memories captured over the years.

Gladys told TimesLIVE Premium she had no problem with moving, but she would have preferred to be moved to a place with conditions almost similar to the ones she's living under now. "Where will my belongings fit in those small shacks they have allocated us? I have a lot of furmiture and belongings as you can see. There's no way that they will fit in a shack? she said.

BUILDING BLOCKS The shacks built for the people who are to be relocated from Plot 77 to Video informal ArtHament. Image: Belinds Fileto

TimesLIVL Premium visited the allocated site and found that shacks were being prepared for families. The shacks have two rooms, with the exception of a few that have three.

Mobile toilets were also already placed, but there was no sign of water tanks or electricity supply.

Gladys said their local councillor promised they would be provided with water tanks but could not commit to anything regarding electricity.

"Here we have all of that. There's water and electricity, but they want to send us to a desert where we are going to suffer," she said.

Next to her modest house lives her brother, Masilo. The 54-year-old is also facing relocation but is very opposed to the move.

Masilo told TimesLIVE Premium he built his four-roomed house in 2017. He was adamant he did not see himself living in a shack.







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UNMOVED Ålastlo Skhosana says he doesn't see himself moving from a trick house into a shack Image: Beinde Pheto

"I built this house for myself because I was tired of living in a one-roomed shack. Now the government wants to take me and put me in a shack, while I had worked so hard to save money so I could build this house. Fin really heartbroken, he said.

A handful of residents at the plot were already moving to their newly allocated place, but the majority said they didn't want to move to Video settlement. "We want to be moved to a place where we will stay permanently and where we will receive services. The place they want to send us is dusty, there are no proper roads and we don't see ourselves moving there," Maria Sibanda said.

When TimesLIVE Premium visited the area last week, there was a high private security contingency around Plot 77 and the situation scemed tense.

The developer, Arthur Bezundenhout of Maxx Living, said he was trying his best to make the relocations as comfortable as possible. He said he had made sure he had provided all the affected families with structures.



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Efderly man left homeless after farmer says his home is 'inconventiently placed' Latery 93-year-old John Khumalo has spent his days streaming of retur

Latery 93-year-old John Khumalo has spent his days cheaming of returning to the Free State farm where the spent decades working, and where his fate ...

Buizedenhout admitted there were no services at the new settlement and said some of the services were supposed to be provided by the Mogale City local municipality

He said after marathon regotiations, they had agreed he would give financial compensation to Gladys, who turns out to be the only eligible beneficiary from the plot because size was born there and fixed there her whole hfe.





"We would have leved to build a house for her, but unfortunately we can't build a house for her at the current location where they will be relocated because Mogale City said we can't build any houses until they put services in the area, he said.

Bezuidenhout said as uncomfortable as any change could be, he had tried his best to ensure that those being relocated were in a comfortable situation.

"We have provided transport for all of them and also made sure that we supply them with meals duily," he said.

Bezuidenhout said he bought the land from the previous owner in 2015 and had an eviction order granted. He, however, said he chose to not enforce it as he wanted the relocation to be peaceful and done in the most humane way.

Violet Kwapeng, one of the residents who were recently relocated from the plot to the new settlement, and she was happy and settling in well.

"I'm happy that now I have a place that I can call mine, unlike when we were living at the plot. That stand and shack that I have been allocated are mine and I'll build my own house when I'm in a better financial position," Kwapeng said. She is also employed at the site where the construction of the new development is taking place and said the development was a blessing because she managed to get employment.

Bezuidenhout said he employed about 50 people who were staying at the plot and said once the project was complete, between 300 and 1,000 direct and indirect jobs world have been created.



Finland, Sweden sign to join NATO NATO's 30 allies signed an accession protocol for Finland and Sweden on Tuesday (July 5), allowing them to join the nuclear-...



40 years after extinction, Rhinos returm ...

independence..

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					Mr	N			MAIN MENU	News	Opmen & Analysis	Spert	Busine. Africa

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Any personal information obtained from this search will only be used as per the Terms and Conditions agreed to and in accordance with applicable data protection laws including the Protection of Personal Information Act, 2013 (POPI), and shall not be used for marketing purposes. SEARCH, CRITERIA Search Date 2022/06/23 13:27 Reference Report Print Date 2022/06/23 13:34 **Property Details**

Property Type	FARM	Diagram Deed Number	T533/945
Farm Number	534	Registered Size	8.5653H
Portion Number	77	Municipality	MOGALE CITY LOCAL MUNICIPALITY
Farm Name	NOOITGEDACHT	Province	GAUTENG
Registration Division	DL	Coordinates (Lat/Long)	-26.002332 / 27.908530
Deed Office	PRETORIA		

CRIMSON KING PROP 74	NATION OF A STATE OF A		
Person Type	COMPANY	Title Deed	Owner 1 of 1 T29511/2009
Name	CRIMSON KING PROP 74 PTY LTD		2007/11/07
Registration Number	200501077307	Purchase Price (R)	1 800 000
Share (%)	· · · · ·	Registration Date	2009/06/01

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Page 1 of 4

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Municipal Valuation (R)	•	Valuation Year	-
Zoning Usage			

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Sales shows the details of the most recent transfers in close proximity to the specified property.

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Page 2 of 4


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OpenStreetMap contributors

	Address / Property Information	e'-	C 1			
	Address / Property Information	Size (m²)	Sales Price (R)	Distance (m)	Sold	Transferred
A	NOOITGEDACHT/JQ, 534, 92	110 000	8 466 320	182	2020/03/04	2022/05/26
В	NOOITGEDACHT/JQ, 534, 52	520 000	4 400 000	934	2015/11/30	2019/07/02
С	NOOITGEDACHT/JQ, 534, 218	8 953	2 000 000	1 181	2020/09/17	2020/11/09
D	NOOITGEDACHT/JQ, 534, 96	90 000	1 500 000	1 389	2019/04/10	2020/09/30
E	NOOITGEDACHT/JQ. 534, 185	210	28 000 000	1 458	2021/04/16	2022/02/03

SALES ANALYSIS

5 properties used in the analysis.

Note: Where there is no monetary value or extent it has been ignored.

	Price (R)	R/m ²	Extent (m [*])
Highest Priced Property	28 000 000	54	520 000
Average Priced Property	8 873 264	47	187 791
Lowest Priced Property	1 500 000	168	8 953

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Do	ocument Number	Institution	Amount (R)
RT	R AREA ON BOUNDARY		
JC	0,534,77		

#	Document	Amount (R)	Holder
1	B22449/2009	1 800 000	
2	T20948/2006	540 000	NELL DAVID JOHN
3	B27811/2006	390 000	FIRSTRAND BANK LTD
4	T46980/1969		TILLEY TOWNLEY JON

: 	Name	Туре	Distance (m)
	LAERSKOOL NOOITGEDACHT NR 88	EDUCATION	1 331
2	KWENA MOLAPO COMPREHENSIVE FARM SCHOOL	EDUCATION	1 654

SUBURE TRENDS are the suburb the average price and total volume of sales in the suburb.

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Annexure TF 06

Annexure TF 06 Photos of Homes Taken on 30 June 2022



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Annerire TF 07

Annexure TF 07 List of 22 People



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27 Calend



Annexue TFOS



Our Ref: LHR/DR/A409

2 July 2022

Land and Housing Unit Kutlwanong Democracy Centre 357 Visagie Street Pretoria, 0002

Tel (012) 320 2943 x 234 Fax (012) 320 6852 Web www.lhr.org.za

URGENT

CONTINUED DESTRUCTION OF OUR CLIENTS PROPERTY AT PORTION 77, NOOITGEDACHT FARM (534) 'TILLY'S FARM' MULDERSDRIFT, MOGALE CITY

Attention: Greg Vermaak (Vermaak Marshall Wellbeloved Inc.)

By Email and Whatsapp

Dear Sir,

- Despite assurances from you and the MAXX Living developer on 30th June 2022 that our clients' property would not be destroyed, there has been further destruction.
- This constitute an unlawful attempt to evict our clients who hold ESTA rights in regard to the property.
- A section of the home of Mrs Lulu Sebola (Marked clearly as REP 14) was destroyed yesterday (1st July 2022).
- I attach below a picture I took on the 30th June by myself and one sent to me on the 1st July. The extensive damage is clearly visible.
- 5. Further, I am informed that toilets have been destroyed today.
- 6. We require that, as a matter of urgency you:
 - a. Immediately arrange to repair the damage to the building.
 - b. Provide temporary alternative accommodation as close as possible to the damaged property.
 - c. Restore all toilets that have been destroyed.

M.M. CE



- d. Give written assurance that no further property of our clients will be destroyed and that all intimidation against them cease.
- 7. Please revert on an urgent basis to confirm that you will comply with this demand.



8. We trust you find the above in order.

Sincerely,

David Dickinson

LAWYERS FOR HUMAN RIGHTS

PER: Deborah Raduba Email deborah@lhr.org.za / david@lhr.org.za

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Annexure TF 10 46



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Ameswe 7F 11

Annexure TF 11 Screen shot of message sent to Greg Vermaak

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yesteruay and mey have no water. Marius, an employee of MAXXLiving was present on site when this happened. This is constructive eviction taking place without a court order. I have just been informed that their electricity has been cut off at around 7.30pm today, again Marius was seen, along with Sbu, when this happened. The residence are afraid that they are going to be attacked. I have told them to contact SAPS immediately and ask for protection as it is clear that your clients are conducting an unlawful campaign of harassment. Yesterday, you assured me that you would ensure that the situation would... Read more

20:10 1/

Message



M. M. 1/E



Land and Housing Unit Kutlwanong Democracy Centre 357 Visagie Street Pretoria, 0002

Tel (012) 320 2943 x 234 Web www.lhr.org.za Email: david@lhr.org.za Deborah@lhr.org.za

Your Ref: MR JG VERMAAK/al/MAT1794

Our Ref: LHR/DR/A409

2nd July 2022

VT-12

Vermaak Marshall Wellbeloved Inc. 3RD Floor Office Suites 54 on Bath Corner Tyrwhitt Avenue Rosebank Tel: (011) 447 3690 By email: Ashton@vmw-inc.co.za / Greg@vmw-inc.co.za Fax: 086 644 4255 By WhatsApp: 082 901 5170

Dear Sir,

Portion 77, Nooitgedacht 534: Letter of Demand

1. Despite assurances from you and the MAXX Living developer on 30th June 2022

that our clients' property would not be destroyed, there has been further destruction as indicated, with photographic evidence, in our letter of 2nd July 2022 and my

Whatsapp to you of 3rd July 2022. 2. This constitute an unlawful attempt to constructively evict our clients, without a

- court order who hold ESTA rights in regard to the property. 3. The actions of your client constitute harassment and is creating a dangerous
- 4. We require assurance by 4pm today (4th July 2022) that the following will be
- rectified no later than noon on Wednesday 6th July 2022.

4.1. Restoration of our clients' toilets that were removed.

- 4.2. Repair/replace the JoJo tank which is to be filled with portable water.
- 4.3. Repair to the damage done to the home of Mrs Lulu Sebola (marked as REP 14) and provide temporary alternative accommodation as close as possible to

the damaged property while these repairs are being conducted.

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- 4.4. Restoration of the electricity supply which was cut around 7.30pm on the evening of 3rd July 2022.
- 5. Further, we require by 4pm today:
 - 5.1. An undertaking that your clients will not approach within 150m of our clients' homes without agreement confirmed by ourselves.
 - 5.2. An undertaking that you do not block access for our clients to enter or exit the site.
- We note that you have two cases pending in this matter against our clients. The issued court case 2020/18522 and the yet unissued case which was served on us on 27th June 2022.
- 7. We require that you withdraw case 2020/18522 immediately and give a guarantee that you will not proceed with the unissued case, given the inappropriate law and jurisdiction cited.
- Should you fail to provide the required assurances by 4pm today or restoration of damaged/destroyed/removed property by 12 noon on Wednesday, we will:
 - 8.1. File notice to oppose case 2020/18522 and the case which you have opened and served on us on.
 - 8.2. Apply for an urgent interdict restraining your clients from approaching within 150m of our clients or blocking their entry and exit from the site.
 - 8.3. Apply to court on an urgent basis to enforce our clients' rights as ESTA occupiers.

9. We trust the above is in order.

10. We retain our clients' rights in toto.

Sincerely,

David Dickinson

LAWYERS FOR HUMAN RIGHTS

PER: Deborah Raduba Email deborah@lhr.org.za / david@lhr.org.za

M·M,

Annexure TF 13 50

mnexure TF 13 Destroyed Homes on 5 July 2022





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M.M.

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO:

FIRST APPLICANT

In the matter between:

MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

CONFIRMATORY AFFIDAVIT



DAVID GEORGE DICKINSON

IDENTITY NUMBER: 6304035522085

do hereby make oath and state:

- 1. I am an adult male, a candidate attorney at Lawyers for Human Rights Land and Housing Program with its offices at 357 Visagie Street, Pretoria.
- 2. The facts contained herein are, save where otherwise stated or indicated from the context, within my personal knowledge and are both true and correct.
- 3. I have read the founding affidavit of MARGARET MOKGOMOLA and the annexures and insofar as it refers to me I confirm the contents thereof.

1 Michinsu

SUNNYSIDE

DEPONENT

I hereby certify that the Deponent signed and swore to this affidavit before me at <u>JANNESIDE</u> on this <u>OE</u> day of July 2022. The Deponent stated he knows and understands the contents of this Affidavit, and has no objection to taking the oath, which he considers binding on her conscience. <u>KECMORITED</u> COMMISSIONER OF OATHS: NAME AND SURNAME: KOEVA ROWAD MACUTA CAPACITY: SECCEDANT ADDRESS: 466 LEXIS STELET JULION SERVICE CENTRE JULION SERVICE CENTRE

Ι,

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO:

In the matter between: **FIRST APPLICANT** MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, **PORTION 77 OF THE FARM** SECOND APPLICANT **NOOITGEDACHT 534 J.Q** and MAXXLIVING (PTY) LTD FIRST RESPONDENT (REGISTRATION NUMBER: 2017/652880/07) **CRIMSON KING PROPERTIES 74 (PTY) LTD** SECOND RESPONDENT (REGISTRATION NUMBER: 2005/010773/07) THIRD RESPONDENT MOGALE CITY LOCAL MUNICIPALITY

SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

DEBORAH RADUBA

do hereby state under oath:

- I am an adult female attorney practicing as such at Lawyers for Human Rights ("LHR") at Kutlawanong Democrcay Centre, 357 Visagie Street, Pretoria, and the Applicants attorney of record.
- 2. I am duly authorised to depose to this affidavit on behalf of the Applicants.
- 3. The facts contained herein are, unless otherwise stated or indicated by the context, within my own personal knowledge and to the best of my belief true and correct.
- 4. The purpose of this supplementary affidavit is to inform the Honourable Court of what has happened to the Applicants occupation at the property on 6 July 2022.
- 5. On or about 8am on 6 July 2022, I drove to the property in order to fetch the First Applicant and accompany her to the Muldersdrift Police Station to depose to the founding affidavit for this application.
- 6. Upon my arrival, I saw that there were two bulldozers operating on the property. The bulldozers were demolishing the remaining houses of the Applicants. I saw that some of the Applicants possessions were piled up on one side of the property while the bulldozers were demolishing their homes and collecting the rubble. See attached photographs taken marked as "Annexure DR1".
- 7. The Applicants were standing outside, still in their nightwear, watching their houses be demolished by the First and Second Respondent. They informed me that the buildozer vehicles arrived early in the morning and immediately proceeded to demolish the remaining houses. The Applicants managed to remove some of their belongings.
- 8. The conduct of the First and Second Respondent has rendered the Applicants homeless as they will have nowhere to sleep tonight.

D'K MAZ

WHEREFORE I pray for an order as contained in the notice of motion.

DATED AND SIGNED AT PRETORIA ON THIS 6TH DAY OF JULY 2022.

DEPONENT Servito de on this <u>bb</u> day of July THUS SIGNED AND SWORN TO AT 2022. The deponent having acknowledged that the deponent knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience and that the contents of this affidavit are both True COMMISSIONER OF FULL NAMES: POSITION: (en ADDRESS: SOUTH AFRICAN POLICE SERVICE CLIENT SERVICE CENTRE 2022 -07-06 SUNNYBIDE SOUTH AFRICAN POLICE SERVICE





A ms





DR w



DRMA





DRM

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

(JOHANNESBURG)

CASE NUMBER: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA

FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q. **First Applicant**

Second Applicant

and

MAXXLIVING (PT	Y) LTD	
(REGISTRATION	NUMBER:	2017/652880/07)

First Respondent

CRIMSON KING PROPERTIES (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

Second Respondent

Third Respondent

NOTICE OF APPEARANCE TO DEFEND

BE PLEASED TO TAKE NOTICE that the First and Second Respondents hereby give notice of their appearance to defend the above matter and nominate the address of their attorneys set out hereunder for the service of all process and documents in this matter.



DATED AT JOHANNESBURG ON THIS THE 11th DAY OF JULY 2022

VERMAAK MARSHALL WELLBELOVED INC. FIRST AND SECOND RESPONDENT'S ATTORNEYS Third Floor Office Suites 54 on Bath Corner Tyrwhitt Avenue ROSEBANK Johannesburg Tel: 011 447 3690 Fax: 086 644 4255 E-mail: greg@vmw-inc.co.za Ref: Mr JG Vermaak/sg/Mat1794

TO:

THE REGISTRAR OF THE ABOVE HONOURABLE COURT JOHANNESBURG

AND TO:

LAWYERS FOR HUMAN RIGHTS APPLICANTS' ATTORNEYS Kutlwanong Democracy Centre 357 Visagie Street PRETORIA Tel: 012 320 2943 Fax: 012 320 6852 E-mail: david@lhr.org.za; deborah@lhr.org.za Ref: LHR/DR/A409

SERVICE BY EMAIL

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

(JOHANNESBURG)

CASE NUMBER: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA

FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q. First Applicant

Second Applicant

First Respondent

Second Respondent

Third Respondent

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

ANSWERING AFFIDAVIT

I, the undersigned

JONATHAN JOUSTRA

do hereby make oath and state that:

- I am an adult male project manager of the First Respondent herein of c/o Messrs Vermaak Marshall Wellbeloved Inc. ("VMW Inc."), 3rd Floor Office Suites, 54 on Bath, Cnr Tyrwhitt Avenue, Rosebank.
- The facts herein contained are, unless appears either expressly or otherwise by necessary implication, within my personal knowledge and are both true and correct.
- Legal submissions are made on the advice of the First and Second Respondents' legal representatives, which advice is hereby accepted.
- 4. I have read the founding affidavit of Maragaret Mokgomola ("*Mokgomola*") and answer thereto as follows:
- 5. I must state the following at the outset:
 - 5.1. Having taken legal advice, the First and Second Respondents are aware that certain of their actions in respect of certain of the Applicants were based on an incorrect understanding of the law. Certain (although not all) of the Applicants have had their structures demolished and the First and Second Respondents do not resist all of the relief sought *vis-à-vis* those Applicants;
 - 5.2. As I will describe in greater detail below, however, not all of the

3

Applicants have had their structures demolished, alternatively some have entered into agreements with the First and Second Respondents to relocate to Plot 80;

- 5.3. Certain of the other relief sought against the First and Second Respondents is not competent: for example the chemical toilets, the water supply, and the illegal electricity connections were not removed by the First and Second Respondents but by Mogale City.
- 6. With respect to certain of those Applicants whose structures have been demolished, the First and Second Respondents have tendered reconstruction nearby the erstwhile position, and at the time of preparing this affidavit believe that the issue before this Honourable Court in respect of (at least) some of the Applicants may have been resolved prior to the necessity of a hearing.
- In respect of the remaining Applicants, it is necessary to draw this Honourable Court's attention to the following:
 - 7.1. Mokgomola and Wilson Kgatla are the occupiers of the structure numbered "REP 9" at the property, which has not been demolished. In support hereof, I annex hereto as "AA-1", a photograph taken of the structure subsequent to the events described in the Applicants'
founding affidavit by one of the First and Second Respondents' representatives;

- 7.2. The structure numbered "REP 10" at the property has also not been demolished. In support hereof, I annex hereto as "AA-2" a copy of a photograph taken of the structure subsequent to the events described in the Applicants' founding affidavit by one of the First and Second Respondents' representatives. I have been informed that a person by the name of Meisie occupies this structure;
- 7.3. On 28 June 2022, an agreement was entered into between the First Respondent and one Jeffrey Skhosana, on behalf of Alfred Skhosana and other members of the Skhosana family. The agreement stipulates that the beneficiaries listed therein would relocate to stands provided to them at Plot 80. A copy of the agreement is annexed hereto as "AA-3". It is respectfully submitted that a plot was made available to Alfred Skhosana and that all of the other persons included in the agreement have already relocated;
- 7.4. I have redacted the abovementioned agreement to exclude certain personal information. However, an unredacted copy will be made

available to this Honourable Court at the hearing of the matter, should it be necessary;

- 7.5. On 30 June 2022, an agreement was entered into between the First Respondent and Thandi Komape, Frans Komape and Dipou Komape. The agreement stipulates that the aforementioned persons would relocate to stands provided to them at Plot 80. A copy of the agreement is annexed hereto as "AA-4". It is respectfully submitted that plots were made available to Thandi Komape and Frans Komape;
- 7.6. On 2 July 2022, an agreement was entered into between the First Respondent and Basetsana Sebola, on behalf of Lulu Sebola. The agreement stipulates that Lulu Sebola and her family members/dependents listed therein, would relate to a stand provided to them at Plot 80. A copy of the agreement is annexed hereto as "AA-5".
- 8. In light of the above, the First and Second Respondents respectfully submit that the relief sought by the by the Applicants in sub-paragraph 3.6 of the notice of motion does not pertain to the abovementioned persons.
- 9. The Applicants have claimed certain relief against the First and Second

Respondents in respect of the provision of services to the Applicants' structures. In this regard, on 5 July 2022, one John Gregory Vermaak ("*Vermaak*") VMW Inc. addressed a letter to the Applicants' representatives which records as follows:

- "1. Agreements have been entered into between various persons and our client, including with several represented by the LHR. These individuals have signed agreements to vacate, have done so voluntarily, and their erstwhile accommodation has been demolished as part of the said agreement.
- Our client denies that this constitutes an unlawful attempt to constructively evict your clients. Those that have agreed to vacate have done so voluntarily, and those that declined to do so have remained.
- It is by no means common cause that your clients hold ESTA rights in respect of the property.
- 4 Our client denies that its actions constitute harassment: many of the occupiers of the property agreed to relocate voluntarily to land provided for them by Mogale City. Our client is not only entitled to demolish any vacant accommodation that may

remain at the property, but is in fact impelled to do so by consistent attempts at invasion of the vacated accommodation.

- 5. As advised, the portable toilets are owned by Mogale City. It is Mogale City that has removed these toilets and the JoJo tank. Our client is not responsible for these actions and cannot be obliged to reinstate the toilets or the tank.
- 6. Our client will repair the damage to the accommodation of Ms Sebola and will take instructions with respect to temporary alternative accommodation. Can you advise whether Ms Sebola is still in hospital?
- 7. Our client did not interrupt the electricity supply: this was apparently done by Mogale City which was horrified by the illegal connections at the property. We understand that these have been illegally reinstated in any event.
- 8. Our client will not extend an undertaking that it will not approach within 150 meters of your clients' homes, but will

undertake that it will not block access for your clients to access or exit the site.

- 9. There are two cases pending against your clients. One is the original application in terms of section 4 of PIE, and the most recent one is the section 5 application. We will neither withdraw these cases, nor give the guarantee that our client will not proceed with the unissued case: it is by no means agreed that the law or jurisdiction is inappropriate. We also caution you against referencing without prejudice conversations.
- 10. Our client has instructed us to address a further settlement proposal to your clients which we anticipate you will receive within the hour. It will not be necessary, in the circumstances, to take any further steps with respect to any High Court process: we are aware of your involvement and will not attempt to proceed in either matter absent engaging with you, and giving you due notice.
- 11. Any attempt to interdict our client from exercising its legitimate proprietal rights on its property will be opposed.

- 9
- 12. We must also point out that certain of your clients threatened our client's agents with a knife and rocks. Criminal cases have been opened with the SAPS."
- 10. A copy of the above letter and e-mail transmitting same are annexed hereto as "AA-6" and "AA-7". Accordingly, it is respectfully submitted that the First and Second Respondents were not responsible for the removal of the services to the Applicants' structures and cannot bear the burden to re-install same at their expense.
- 11. Due to the limited time frame in which the First and Second Respondents were constrained to prepare this affidavit, the First and Second Respondents reserve the right to supplement their answering affidavit prior to the hearing of the matter, should it be necessary.
- 12. Because of the urgency of the matter, I do not propose to deal with the contents of the affidavit *ad seriatim*, suffice it to say, however, the following:
 - 12.1. While the facts presented by the Applicants in respect of their alleged ESTA rights are scanty, and in fact inadequate, the First and Second Respondents are prepared to concede the jurisdiction of the Honourable Court for present purposes, while not accepting the summary and factless allegations made in respect thereof;

- 12.2. I deny that the deponent was a cleaner: she is in fact a teacher;
- 12.3. It is correct that the Skhosana family are happy with the settlement entered into with them, and the deponent's conjecture is neither factually correct nor appropriate;
- 12.4. The Applicants' attorneys have indicated that they do not intend to supplement their founding affidavit;
- 12.5. I note the concession that, alternative accommodation having been provided by the Third Respondent, a number of people arrived at the property and erected shelters, no doubt in anticipation of obtaining accommodation from the Third Respondent;
- 12.6. The accommodation at Plot 80 is compliant with the Housing Code, which regulates that to which the Applicants are entitled;
- 12.7. The First and Second Respondents, while conceding that accidental damage did take place, deny that this was deliberate;
- 12.8 The deponent, and presumably her legal representatives, are clearly confused at the role of an attorney: anything relayed by the First and Second Respondents' attorney to the Applicants' legal representatives was on our instruction and on our behalf. Nothing



turns on this however;

- 12.9. The point made by the deponent about "*powerful men who think only* of *profit*" is gratuitous, unnecessary, and takes the matter no further;
- 12.10. The First and Second Respondents reserve the right to place their settlement proposal before this Honourable Court on a with prejudice basis should it become necessary to do so.

WHEREFORE the First and Second Respondents pray that, absent that which the First and Second Respondents are willing to concede, the application be dismissed with costs.

ONATHAN JOUSTRA

I HEREBY CERTIFY THAT THE DEPONENT HAS DECLARED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT AND THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF IT IS THE TRUTH, WHICH AFFIDAVIT HAS BEEN SIGNED AND SWORN TO BEFORE ME AT <u>Provent</u> ON THIS THE <u>12</u> DAY OF <u>July</u> 2022, AND THAT THE PROVISIONS OF THE REGULATIONS AS CONTAINED IN GOVERNMENT NOTICE NO.R1258 OF 21 JULY 1972, AS AMENDED HAVE BEEN COMPLIED WITH.

COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE	E
CLIENT SERVICE CENTRE	
2022 -07- 1 2 CSC ROSEBANK	-
SUID-AFRIKAANSE POLISIEDIEN	īs







28 June 2022

FINAL SETTLEMENT AGREEMENT

From Maxxliving to plot 77 beneficiaries Gladys Vuyelwa Skhosana ID no: 3736100236081

Children

- 1. Jeffry Abram Skhosana ID No: 551009 5436088
- 2. Idah Fikile Malope DOB: 1957/08/01 (Deceased)
- 3. Lucky Skhosana (Deceased)
- 4. Alfred Masilo Skhosana (6603055393081)
- 5. Christopher Bafana Skhosana (Deceased)
- 6. Aubrey Skhosana ID No: 7411055764080

As agreed at the meeting 26/06/2022 with the beneficiary' representatives as detailed in attendance register attached thereto as Annexure "A"

The determination made by this community meeting and by mutual agreement of all the long term occupiers is that there is only one true benefactory from plot 77 hereto know as Gladys Vuyekwa Skhosana. Her sworn statement attached as Annexure "B"

The beneficiaries agree that they will relocate to stands provided for them at ploy 80. Maxxliving will erect zozo structures for each family unit.



We shall offer stands at plot 80 and to erect Zozo structures for everyone from plot 77, as Most of this has already been executed 22/06/2022

This offer is final and will expire on the 29th of June 2022 12:00 and is agreed that the beneficiaries and thier 16 Grand children, 19 great grand kids and 1 great great grand child to relocate to plot 80 by the close of business 29/06/2022.

Europe Maxxliving BLV Minterpark 86 E152, Nieuw-Vennep The Netherlands Tall #31 61 558 5581 Ehamber of Commerce: 75621533

South Africa Maxxiving (Pty) LTD South Africa Tel: +27 75 016 8550 Chamber of Commerce: 2017/652880/07

www.maxxlivin_.com office__maxxliving.com



Should the benefiters or any of them remain in occupation of plot 77 after 29 June 2022 then the payments revert to in the cause above will not continue and we will revert to litigation.

Once they have left the property the beneficiaries will confirm in writing that they have vacated property they will notify Maxxliving that the may take any steps deemed necessary to protect the property from further encroachments by informal residents.

The last and final statement submitted by a generational landowner in the area who is familiar with the residents, employees and various persons that have come and gone as tenants etc. has corroborated the statement that Gladys Skosana is indeed the original and true beneficiary of Plot 77. The is statement can be found as Annexure "C"

Chief Executive Officer Arthur Bezuidenhout

Brenda Malore

Witnesses

Plot 77 Representatives

JEFF

S.N.



30 June 2022

FINAL SETTLEMENT AGREEMENT

From Maximum to plot 77 informal occupants Lucas Yazini Ntshaba ID no: 8402056276082

Family members residing in old farm House numbered REP 8

- 1. Dipou Komape
- 2. Thandi Komape
- 3. France Komape

As agreed at the meeting 30/06/2022 with the beneficiary' representatives as detailed in attendance register attached thereto as Annexure "A"

The determination made in this meeting and by mutual agreement of all the long term occupiers of household REP8 is that the whole family will volatarily accept our offer of relocation to plot 80.

We shall offer stands at plot 80 and to erect Zozo structures for everyone from REP 8,

This offer is final and will expire on the 30th of June 2022 as agreed to relocate to plot 80 by the close of business 30/06/2022.

Should the benefiters or any of them remain in occupation of plot 77 after 1 July 2022 the developer will continue and revert to litigation.

Once they have left the property the beneficiaries will confirm in writing that they have vacated. They will notify Maxxliving so that they may take any steps deemed necessary to protect the property from further encroachments by informal residents.

Europe Maxilving B.V Minterpark 86 2152, Nieuw-Vennep The Netherlands Tel: +31 61 558 5581 Thamber of Commerce, 75621533

South Africa Maxiliving (Pty) LTD South Africa Tel: +27 76 016 8596 Chamber of Commerce: 2017/652880/07

www.maxslivin_.com office@maxsliving.com



AP Chief Executive Officer Arthur Bezuidenhout

Plot 77-REP 8 Representatives

Witnesses



house 14



AGREEMENT TO RELOCATE

I, the undersigned,

Rasetsana Sebola On Behaif of Luly Sebola Identity Number: 0308160757081

- 1. Agree that I will relocate from my present residence to a Plot identified for me at the area known as Plot 80.
- 2. I confirm that once I am relocated Maxxliving (Pty) Ltd can demolish my previous place of residence.
- 3. I confirm that I understand my legal rights, and that I am happy to relocate to the stand provided for me and my family.

NAME:

Basetsana Sebola

FAMILY MEMBERS AND DEPENDANTS:

Basetsana Sebola Itiseng Rademan

DATE:

02 /114 2022

MAXXLIV NG (PTY) LTD

VERMAAK MARSHALL WELLBELOVED INC.

Our ref: Mr G Vermaak/sg/Mat1794

Your ref:

5 July 2022

ATT: DAVID DICKINSON LAWYERS FOR HUMAN RIGHTS, LAND & HOUSING PROGRAMME Email: david@lhr.org.za

Dear Sir,

CRIMSON KING PROPERTIES 74 (PTY) LTD / THE UNLAWFUL OCCUPIERS OF PORTION 77 OF THE FARM NOOITGEDACHT 534

Further to your letter of 4 July 2022 (dated 2 July 2022), we are instructed to respond as follows:

- 1. Agreements have been entered into between various persons and our client, including with several represented by the LHR. These individuals have signed agreements to vacate, have done so voluntarily, and their erstwhile accommodation has been demolished as part of the said agreement.
- 2. Our client denies that this constitutes an unlawful attempt to constructively evict your clients. Those that have agreed to vacate have done so voluntarily, and those that declined to do so have remained.
- 3. It is by no means common cause that your clients hold ESTA rights in respect of the property.
- 4. Our client denies that its actions constitute harassment: many of the occupiers of the property agreed to relocate voluntarily to land provided for them by Mogale City. Our client is not only entitled to demolish any vacant accommodation that may remain at the property, but is in fact impelled to do so by consistent attempts at invasion of the vacated accommodation.

3rd Floor Office Sultes, 54 on Bath, Corner Tyrwhitt Avenue, Rosebank T: 011 447 3690 / 3721 / 3968 | F: 086 644 4255 | greg@vmw-inc.co.za

Directors: J.G. Vermaak BA (Hons) LEB (Rhodes) | M. Marshall BA LEB (Wits) | M.B. Wellbeloved Bcom LEB (Wits) + Associates: M. Rosseau BA (Hons) (RAU) LEB (Unisa) | J.S. Berman BA (Hons) LEB (Wits) | A. Lucey BA (Rhodes) LEB (UI) | N. Greelf Bsc LEB (Rhodes) + Candidate Attorneys: M. Kenny BA LEB (UP) LEM (University College Dublin) | N. Papas Bcom LEB LLM (UCT) | F. Ubsit LEB (UI) + Paralegol: A. Meerkotter LEB (cum loude) LEM (cum loude) (Wits) + Financial Manager: A.P. Heidstra

96 "AA-7"

Ashton Lucey

From: Sent: To: Cc: Subject: Greg Vermaak Tuesday, 05 July 2022 11:51 David Dickinson Ashton Lucey CRIMSON KING PROPERTIES 74 (PTY) LTD / THE UNLAWFUL OCCUPIERS OF PORTION 77 OF THE FARM NOOITGEDACHT 534 (Mat1794) 20220705 - Letter to Lawyers for Human Rights, Land & Housing Programme.pdf

Dear Sir,

Attachments:

Please find letter attached for your attention.

Regards,



Greg Vermaak

greg@vmw-inc.co.za 011 447 3690 011 447 3721 011 447 3968

3rd Floor Office Suites, 54 or Corner Tyrwhitt Avenue, Rose

VERMAAK MARSHALL WELLBELOVEC

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA

FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

AMENDED NOTICE OF MOTION – URGENT APPLICATION

TAKE NOTICE that the Applicants will apply to the above Honourable Court on 26 July

2022 or as soon thereafter as counsel may be heard for an order in the following terms:

- That the application is heard as one of urgency in terms of Rule 34 and noncompliance with the prescribed forms, time limits and service requirements is condoned;
- 2. That the First and Second Respondents are ordered repair or reconstruct the homes to their original condition within 45 days.
- 3. That, pending the finalisation of the application:
 - 3.1. The First and Second Respondents are interdicted from causing, or instructing any other party to cause, any damage to the Applicants' homes situated at portion 77 of the farm Nooitgedacht 534 J.Q, Gauteng, also known as "Tilly's Farm".
 - 3.2. The First and Second Respondents are interdicted from disturbing the applicants' access to and use of their homes in any way whatsoever.
 - 3.3. The First and Second Respondents shall forthwith reinstate the water source of the applicants, being a JoJo tank, to its former, working condition and fill same with clean water.
 - 3.4. The First and Second Respondents shall forthwith return all possessions of the Applicants taken from the property or destroyed.
 - 3.5. In the alternative to prayer 3.4. above, the First and Second respondents are ordered to pay constitutional damages of R5,000 (five thousand rand) to each adult applicant.
 - 3.6. The First and Second Respondents shall provide, within 48 hours, temporary housing units for all occupiers whose homes have been damaged or demolished.
 - 3.7. The temporary housing units shall comply with the following requirements:

3.7.1. It shall be located next to or near the existing damaged/demolished homes;

- 3.7.2. The housing units shall be constructed from polycarbonate material with the structural design that has the strength, stability and durability for a lifespan of 25 years.
- 3.7.3. Each temporary unit will have a roof, be water resistant and be not less than 30 square meters in size.
- 4. That the Applicants are granted leave to supplement their papers and to amend the final relief sought on terms deemed appropriate by the Honourable Presiding Judge.
- That the Honourable Presiding Judge provides directions on the further conduct of the matter in respect of service, time limits for delivery of affidavits, and the time, date and venue for any hearing.
- 6. That the First and Second Respondent are ordered to pay the Applicants' costs on an attorney client scale.
- 7. Further/alternative relief

TAKE NOTICE FURTHER that the affidavit of MARGARET MOKGOMOLA together with annexures, and confirmatory affidavit of DAVID DICKINSON, and replying & supplementary affidavit of LERATO KGATLA, along with confirmatory affidavits will be used in support.

TAKE NOTICE FURTHER that the Applicants have appointed LAWYERS FOR HUMAN RIGHTS with address indicated below where they will accept service of all notices and documents in these proceedings.

PLEASE ENROL the matter accordingly.

LAWYERS FOR HUMAN RIGHTS

ATTORNEYS FOR THE APPLICANTS Kutluwanong Democracy Centre 357 Visagie Street Pretoria Tel: 012 320 2943 Fax: 012 320 6852 E-mail:<u>david@lhr.org.za</u> <u>deborah@lhr.org.za</u> Ref: LHR/DR/A409

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT

AND TO: ATTORNEYS FOR THE FIRST AND SECOND RESPONDENTS

Vermaak Marshall Wellbeloved Inc. 3RD Floor Office Suites, 54 on Bath Corner Tyrwhitt Avenue, Rosebank Tel: (011) 447 3690 <u>Ashton@vmw-inc.co.za</u> / <u>Greg@vmw-inc.co.za</u>

THE FIRST RESPONDENT MAXXLIVING (PTY) LTD 13 Via Latina Cresent Irene Corporate Corner Irene Gauteng 0157

AND TO: THE SECOND RESPONDENT CRIMSON KING PROPERTIES 74 (PTY) LTD 128 Beyers Naude Drive Roosevelt Park Johannesburg 2195

AND TO: THE THIRD RESPONDENT MOGALE CITY MUNICIPALITY Cnr Commissioner & Market Streets KRUGERSDORP 1740

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

REPLYING AND SUPPLIMENARY AFFIDAVIT

1,

LERATO KGATLA

(IDENTITY NUMBER: 8207080594081)

LE LJ

do hereby make oath and state:

- I am adult female, a volunteer administrator for a child aftercare NPO, and residing since 1988, on portion 77 of the farm Nooitgedacht 534 J.Q, Gauteng (the property).
- My mother, Margaret Mokgomola, deposed to the founding affidavit in this case.
 My mother has been admitted to hospital because of the stress of events and 1 therefore make this replying affidavit on behalf of the occupiers of the property.
- The facts contained herein are, save where otherwise stated or indicated from the context, within my personal knowledge and are both true and correct.
- 4. In addition, I am advised and submit that I am competent to bring this application on behalf of the occupiers by virtue of section 38 of the Constitution of the Republic of South Africa, Act 108 of 1996 ("the Constitution") with particular reference to section 38(a), (b) and (c).
- 5. A list of those of us who are represented in this replying affidavit is attached as annexure **TFA 01**.
- All reference herein to "we", "our", "us", "me" or "I", will constitute reference to both my co-applicants and I to the extent that this is consistent with the context.
- Where I make legal submissions, I do so on the advice of our legal representatives, the advice which I accept as correct.

1/2 L.J

- Where I refer to 'the respondents' I do so in respect to the first and second respondents only and, where necessary, refer specifically to individual respondents.
- 9. I combine with this replying affidavit a supplementary affidavit in regard to destroyed and missing property as a result of the applicants actions and which we alerted parties to in Paragraph 52 of our founding affidavit. The aspect of supplementation is dealt with below.
- 10. Where I do not deal with any of the allegations in the answering affidavit which is inconsistent with the founding affidavit, it is denied.

RESPONSE TO FIRST AND SECOND RESPONENTS' ANSWERING AFFIDAVIT

General

- 11. I have noted the admission by the respondents, in the most euphemistic terms possible, that "certain of their actions in respect of certain of the Applicants were based on an incorrect understanding of the law". This, the deponent say, was discovered after obtaining legal advice. I note that the respondents are still represented by the same attorneys who engaged with our attorneys before our homes were demolished.
- 12. I naturally agree that the respondents acted unlawfully but deny that this was only due to an "incorrect understanding of the law".

- 13. I respectfully emphasise to this Honourable Court that the respondents' own annexures attached to the answering affidavit shows the cynical nature of the respondents' averments:
 - 13.1. Annexure "AA-3", which purports to be a "final settlement agreement"
 drafted by representatives of the first respondent, notes on the second
 page: "Should the benefiters or any of them remain in occupation of plot
 77 after 29 June 2022 then the payments revert to in the cause above
 will not continue and we will revert to litigation." (sic)
 - 13.2. Annexure "AA-4", another purported "settlement agreement" engineered by the first respondent, notes on the first page: "Should the benefiters or any of them remain in occupation of plot 77 after 1 July 2022 the developer will continue and revert to litigation". (sic)
 - 14. For all the alleged "incorrect understanding of the law" professed in the answering affidavit, the above-mentioned excerpts makes it clear that the respondents fully grasped the most important legal principle: No person shall have its home wrecked, demolished, damaged, or be evicted from such home without a valid court order.
 - 15. It is also common cause that the respondents indeed instituted (misconceived) eviction proceedings but chose not to proceed with same. Even if the respondents' far-fetched allegations of settlements were true (which is strongly denied), there was still no basis for the respondents' conduct.
 - 16. I respectfully submit that the mala fides and complete disregard for the law, the

18 L.J

courts, and our constitutional rights are clear.

17.1 will now answer seriatum to some specific allegations in the answering affidavit:

18. Ad Paragraphs 1 -4.

Save for denying that the facts in the affidavit are true and correct, the remainder of the allegations are noted.

19. Ad Paragraph 5.

Apart from noting the concession of unlawful conduct, the remainder of the allegations are denied. It is specifically denied that the respondents were not responsible for the disconnection of services to our homes.

20. Ad Paragraph 6.

The respondents tender will not restore our rights in full. We have tendered a counter proposal to the respondents that provides adequate relief and await a response.

21. Ad Paragraph 7.1

The house numbered "REP9" has indeed not been demolished in its entirety. However, two doors were crowbarred open and damaged. I attach hereto, as annexure **TFA 02**, a picture of the damage.

22. Ad Paragraph 7.2

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The content of this paragraph is denied. The respondents' annexure AA-2 shows the building from the front. The structure has been completely demolished from behind and is uninhabitable as shown in annexure **TFA 03**.

23. Ad Paragraph 7.3 and 7.4

The content of this paragraph is denied and the respondents are put to the proof thereof. It is specifically denied that Gladys Skhozana is the "only one and true beneficiary from plot 77" as stated in the referred to agreement.

24. Ad Paragraph 7.5

- 24.1. The content of this paragraph is denied.
- 24.2. The agreement is signed by Lucas Ntshaba. The listed family members, Dipou Komape, Thandi Komape and France Komape who are among the applicants, have no knowledge of this agreement and gave Lucas Ntshaba no mandate to make an agreement on their behalf.
- 24.3. The purported agreement is invalid in regard to the family.
- 25. Ad Paragraph 7.6.
 - 25.1. The content of this paragraph is denied.
 - 25.2. The purported agreement was not signed by Lulu Sebola, but by her 19 year old granddaughter and another granddaughter of 14 years of age.

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25.3. The agreement is invalid in regard to the family.

26. Ad Paragraph 8.

This paragraph is denied and I repeat what I stated above: Even if the agreements were somehow valid (which remains denied), the agreements itself never purported to grant the respondents in the fashion they did without a court order. The purported agreements envisaged litigation if there was a breach.

- 27. Ad Paragraph 9 and 10.
 - 27.1. It is admitted that the correspondence was addressed, but the contents thereof are denied. The fact that a lawyer acting on behalf of the respondents made these claims, is no proof of the veracity of the claims.
 - 27.2. In fact, the respondents version appears to be that Mogale City acted out of own volition and independently of the respondents to allegedly enter the private properties of the respondents and disconnect services. This is, with respect, far-fetched.
 - 27.3. Our evidence in the founding affidavit that agents of the first respondent vandalized the JoJo tank prior to its removal, was not answered specifically.
 - 27.4. Furthermore, the disconnections were done at night and without warning.Agents of the respondents were seen close to the property at this time

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when they had no reason to be present.

27.5. I further point out that the correspondence in question undertook to "repair the damage to the accommodation of Ms Sebola". This was not done and the undertaking was then rendered nugatory when the entire building was demolished unlawfully.

28. Ad Paragraph 12.2

This paragraph is denied. My mother, Margaret Mokgomola, worked as a cleaner from when she came onto the property in 1988 first for a man named Paul and then Rupa for approximately eight years. She subsequently has run a NPO crèche.

29. Ad Paragraph 12.4

I deny that our attorneys indicated that we "do not intend to supplement (our) founding affidavit". We specifically reserved that right in our founding affidavit – paragraphs 4 and 52. Our legal representatives also addressed an e-mail to the applicant's legal representatives on 8 July 2022, stating: "*At this stage we do not plan to file any supplementary affidavits and you should proceed as per the directions with your answering affidavit.*" The position has since changed. I attach a confirmatory affidavit from our attorney as **TFS 04**.

30. Ad Paragraph 12.7.

11.23

The content of this paragraph is denied. Doors were broken open with crowbars. Some of our buildings were destroyed with our property still inside.

SUPPLEMENTARY AFFIDAVIT

- 31. As was indicated in the founding affidavit, the applicants reserved their right to supplement their papers. This was mainly due to the haste with which the founding affidavit had to be drafted.
- 32. The founding affidavit was finalised and filed as the respondents were demolishing our homes. It was therefore not possible to assess the damage to our possessions at the time of deposing to the founding affidavit.
- 33. Since the founding affidavit has been deposed it, it also became apparent that the respondents deny removing our possessions from the premises.
- 34. This supplementary affidavit deals exclusively with the aspect of our possessions. I respectfully submit that there are good reasons why the aspect was not dealt with comprehensively in the founding affidavit. It is, however, germane to the issues before this Honourable Court and in the interest of justice to accept the supplementary affidavit.
- 35. The respondents, in paragraph 11 of their answering affidavit, reserved their right to

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supplement their answering affidavit prior to the hearing of the matter. I therefore submit that there is no prejudice in allowing this supplementary affidavit as the respondents have an opportunity to respond to the new allegations and amended notice of motion.

- 36. The notice of motion is amended only to include alternative relief for constitutional damages.
- 37. From the pictures attached to the founding affidavit and this affidavit, it is evident that our personal belongings were crushed under rubble.
- 38. Moreover, we maintain that some of our possessions were taken or destroyed by representatives of the respondents. A comprehensive a list as we are able to produce is attached as annexure **TFS 05**.
- 39. Confirmatory affidavits by people who had property destroyed or lost are also attached.
- 40. Given our indigent situation, the possessions which we lost as a result of the demolition of our homes, have low monetary value but are essential to our survival. I am advised that in *Ngomane & Others v City of Johannesburg Metropolitan Municipality and Another* (734/2017) [2018] ZASCA 57 the appropriateness of awarding constitutional damages when property is unlawfully and unconstitutionally destroyed and when other relief is not possible was affirmed.
- 41. It would be impossible for us to pursue a conventional damages claim for the loss of our property given its low monetary value and our limited resources to pursue a civil

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action for damages. We are assisted in this litigation by an NGO, Lawyers for Human Rights. However, the NGO has limited resources and cannot assist people with civil damages claim

42. Insofar as the property may be capable of return, we seek the return of the property.However, we have included an alternative claim for constitutional damages ofR5,000 per adult applicant (as listed in TFS 01) in the amended notice of motion.

WHEREFORE I pray for an order in the terms set out in the amended notice of motion.

LERATO BOSTOE

DEPONENT

I hereby certify that the Deponent signed and swore to this affidavit before me at $\underline{MulDerEDRIST}$ on this \underline{IS} day of \underline{Jurg} 2022. The Deponent stated she knows and understands the contents of this Affidavit, and has no objection to taking the oath, which she considers binding on her conscience.

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COMMISSIONER OF OATH NAME AND SURNAME: Soft municipal CAPACITY: Soft ADDRESS: ARRAHAN WAR wilk Plot Ol Mul PENDALP

hat Days at F	
2022 -07-15	
Enals A. Constraints and	

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			Date					
			started				building	
			living on			Numbe	8	
				~	:	r of		
Bv Houses 13 July 2022	1D number/ DoB	Age	Property	income	Rep #	rooms		
	1	1	-				Wrecked	AA5: One signiture is 14 years old, the other 19. No evidence that hospitalised
Lulu J Sebola	5 203 090 246 088	70	1989	R 1 980	14	2	1.00 P	grandmother has given consent.
Other Household members								
Boitumelo Sebole	9 912 211 234 080	23		Grant				
Itiseng Shaun Rademan	2008/08/18	14						
Basetsana Sebola	2003/08/16	19						
Mbali Sebola	2018/04/23	4						
Head of Household								
	E 003 021 071 087	63	1987	R 1 900	10		3 Wrecked -	
							contrary to AA 2:	
				_			see picture in	
							replying affidavit	
Other Household members								
Mirriam Kwapeng	790 909 023 082	43		Grants	4	8	Wrecked	
Adwell Shabangu	1977/03/11	45		Grants				
Lilian Kwapeng	2002/11/19	20		Grants				
Lucky Paul Kwapeng	8 506 175 757 085	37	2	Grant	-			
Jimmv Kwapeng	8 210 065 305 085	40		Grant	2		3 Wrecked	
Bussisiwe A Kwapeng	9 207 050 309 089	30		Grant				
Head of Household								
Samson Jabu Mtshweni	6 712 245 706 084	55	2000	R 3 600	15	5	Wrecked	
Other Household members								
Onon Mtshweni	2 002	20		Grant				

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TF5 01 103

Head of Household							
						Two doors	
					3 ro(3 rooms crowbared open	d open
					to		
					house	se	
Margarath Mokgomola	6 508 120 485 087	56	1988 Grant	irant	9 reman	an.	
Maropene Wilson Kgatla	5 510 065 434 089	67	1988 Grant	irant	-		
Other Household members							
Octovia Kgatla	2006/07/02	16					
Charlotte Kgatla	1992/11/30	30	0	Grant	1 sl	1 shack Wrecked	
Chlodia Kgatla	2014/10/28	00					
Isabella Kgatla	9 004 130 913 083	32	0	Grant		1 Wrecked	Rooms were attached to sloe of # 9
Lerato Kgatla	8 207 080 594 081	40	0	Grant		2 Wrecked	Ditto
Penelope Kgatla							
Head of Household							
Malesela Wilson Sehlako	6 804 146 010 086	55	1989	R 1 870	13	1 Wrecked	
Head of Household							
Matume Victor Kudumela	8 311 105 986 080	39	1998 Grant	Grant	11	2 Wrecked	
Other Household members							
Banyana Malope	9 204 141 504 083	30	5	Grant			
Katlego Malope	907 186 349 086	13					
Tshegofatso Malope	1 310 271 110 084	6					
Head of Household							
Violet Moloto	7 509 031 175 089	47	1995 (Grant	2	2 Wrecked	
Other Household members							
Sean Moloto	2001/03/09	21	-	Grant			
Hood of Household							

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Trevor Komana	7 404 145 509 088	48	1998	R 2 500	n	1 Still standing but	
						damaged - see	
						picture	
Other Household members							
Bridley Komane	2000/02/12	22		Grant			
Mmeladi Poto	2011/04/14	11					
Head of Household							
						Wrecked	AA4: This is signed by Lucas Ntshaba who is known to the Komape family. However, none of them agreed to this agremenet
Frans Komape	6 005 125 757 081	62		Grant	80	4	and Lucas Nshaba does not represent them.
Other Household members							
Thandi Komape	9 305 090 547 088	29	1993	R 4 700			
No. of houses/separate rooms = 15	ns = 15						
No. of adult occupants = 27					_		
No. of child occupants = 7			_				

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TFS02 106

Annexure STF 02 Damaged Doors to REP #9



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tfs 03 107

Annexure TFS 03 Rep House # 10 Wrecked



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TF504 109

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q

FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

CONFIRMATORY AFFIDAVIT

Ι,

DAVID GEORGE DICKINSON

IDENTITY NUMBER: 6304035522085

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- 1. I am an adult male working as a candidate attorney with Lawyers for Human Rights with their offices at 357 Visagie Street, Pretoria.
- 2. The facts contained herein are, save where otherwise stated or indicated from the context, within my personal knowledge and are both true and correct.
- 3. I have read the answering affidavit of LERATO KGATLA and insofar as it refers to me I confirm the contents thereof.

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DEPONENT

I hereby certify that the Deponent signed and swore to this affidavit before me at <u>Muldasdrigt</u> on this <u>IS</u> day of June 2022. The Deponent stated s/he knows and understands the contents of this Affidavit, and has no objection to taking the oath, which s/he considers binding on her conscience. COMMISSIONER OF OATHS: NAME AND SURNAME: <u>SAMEMENER</u> CAPACITY: <u>SAME</u> ADDRESS: <u>MURREDORYTE</u> A GREATEN UNDER MAN

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TFS05 I/I

By houses 13 july 2022	ID number	REP	MISSING/DESTROYED PROPERTY	ESTIMATED VALUE
head of household				
Maria Meisie Kwapeng	5 903 031 021 082	10	fan	
	3 505 051 021 082	10	micro headsets and	R400,00
			samsung system	B3 500 00
			bed	R2 500,00 R500,00
			heater	R400,00
			radio samsung	
			cuttings	R440,00
			Cash (Pension and Ioan of R2,000)	R5 800,00
Miriam kwapeng	790 909 023 082	4	2by 20 m extension cord	R300,00
			2by sabat batteries	R2 000,00
			9kg gas bottle	R250,00
			toaster	R250,00
			bed	R500,00
			wardrobe	R150,00
			sofas	R2 500,00
			curtains	R1 000,00
			cupboards	R2 500,00
			room divider	R1 000,00
			bicycle	R500,00
			table	R750,00
			chest of draw	R2 000,00
			micro oven	R800,00
			plasma tv	R2 000,00
			solar light	R400,00
samson jabu mtsweni	6 712 245 706 084	15	Cash	R1 000,00
			Phone 1	R1 748,00
			Phone 2	R279,00
			Bicycle Bed	R500,00
			beu	
Margarath Mokgomola	6 508 120 485 087	9	wifi router	R599,00
Maropene Wilson Kgotla	5 510 065 434 089		grocery	R800,00
			shoes & clothes	R2 000,00
			tables & chairs kitchen unit	R3 000,00
			wardrobe	R1 500,00
			deep fridge	R2 000,00
			2 heads boards	R1 500,00
			car tyres size 14	R3 000,00

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			dulux paint 20 litres	R250,00
			box tools	R1 500,00
			R4 700 missing money	R4 700,00
			battery charger	R400,00
			DVD & sound system	
			[panasonic] R3 000	R3 000,00
			decoder	R599,00
			Acer laptop [broken]	R5 000,00
Malesela V wilson sehlako	6 804 146 010 086	13	2 mobicel phones	
			money worth	R750,00
			radio	R150,00
			light	R35,00
Matume Victor Kudumela	8 311 105 986 080	11	grocery worth	R600,00
			hair cutting machine	R350,00
			fridge	
			decoder	R599,00
			hard pots	R599,00
				1000,00
Trevor Komana	7 404 145 509 088	2	mountain bicycle	R1 500,00
	1 101 143 505 600		DSTV dish	R599,00
				10,6662
Frans Komape	6 005 125 757 081	0	laptop HP	D0 500 00
	0 003 123 / 5/ 001	0		R8 500,00 Total for these
Thandi Komape	9 305 090 547 088		4 plate stove	
Dipuo Komape	901 020 069 087			goods below
	501 020 009 087		4 plate gass stove 2 wardrobes	
]	
			clothes	······
			bedding	
			kettle	
			iron	
			curtains	
			2 mattresses	R3 500,00
Tankiso Alpheus Mwanza		None	bed	R800,00
			curtains	R500,00
Jimmy kwapeng		17	sound system (car radio)	R1 000,00
			carpets	R1 500,00
			spanner tool box	R1 200,00
			wall kitchen unit	R2 000,00
			cupboard	
				R1 000,00
			air condition fan	R750,00
			sofas	R2 000,00
			roon divider	R1 000,00

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	mobicel cell phone	R450,00
		PE 000 00
Violet Moloto	7 bed & headboard	R5 000,00
	stand	R2 000,00
	bed	R1 000,00
	Table & chair	R1 500,00
	electricity stove	R200,00
	kettle	R150,00
	cooler box	R150,00
	10 plates	R200,00
	water tank	R250,00
	2 bucket full of cups	R300,00
	pots	R500,00
	blankets & bedding	R1 000,00
	curtains 3 pairs	R600,00

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IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

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CONFIRMATORY AFFIDAVIT

١,

Violet - TShepiso molato (IDENTITY NUMBER: 7509031175039)

1. I am

an	adult	gemale	, Mem	ploye	d	
			<u> </u>			
I have	resided since	1995	, on portior	n 77 of the f	arm Nooitgeda	icht 534
J.Q.						

- 2. The facts contained herein are, save where otherwise stated or indicated from the context, within my personal knowledge and are both true and correct.
- 3. I have read the answering affidavit of LERATO KGATLA and insofar as it refers to me I confirm the contents thereof.

DEPONENT

I hereby certify that the Deponent signed and swore to this affidavit before me at Muldender P[- on this 15 day of June 2022. The Deponent stated s/he knows and understands the contents of this Affidavit, and has no objection to taking the oath, which s/he considers binding on her conscience. COMMISSIONER OF OATHS: NAME AND SURNAME: SET manager 2022 -07-15 SUPPLY CHALL MANAGEMENT SOUTH APPIG/ W POLICE SERVICE ADDRESS: PLOT OI, ABRAHAN UAR WE MULTERMORTA

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

CONFIRMATORY AFFIDAVIT

١,

JIMMY KWAPENS

(IDENTITY NUMBER: 821006 5305 085)

E J.K

1. Iam

ABULT MALE UNEMPLOYES

I have resided since <u>1982</u>, on portion 77 of the farm Nooitgedacht 534 J.Q.

- 2. The facts contained herein are, save where otherwise stated or indicated from the context, within my personal knowledge and are both true and correct.
- 3. I have read the answering affidavit of LERATO KGATLA and insofar as it refers to me I confirm the contents thereof.

rtk.

DEPONENT

I hereby certify that the Deponent signed and swore to this affidavit before me at Mucs cress cress cress cress on this 15 Fully day of June 2022. The Deponent stateds/he knows and understands the contents of this Affidavit, and has no objection totaking the oath, which s/he considers binding on her conscience.

Mill Bajant COMMISSIONER OF OATHS: NAME AND SURNAME: Son Monor 2022 -07-15 CAPACITY: 587 ADDRESS: PTO-1 OI, APPRAMAN DAN SAN SANT MULIDENSONM

IN THE LAND CLAIMS COURT OF SOUTH AFRICA (JOHANNESBURG)

CASE NO: LCC 100/2022

In the matter between:

MARGARET MOKGOMOLA FURTHER ESTA OCCUPIERS, PORTION 77 OF THE FARM NOOITGEDACHT 534 J.Q FIRST APPLICANT

SECOND APPLICANT

and

MAXXLIVING (PTY) LTD (REGISTRATION NUMBER: 2017/652880/07)

CRIMSON KING PROPERTIES 74 (PTY) LTD (REGISTRATION NUMBER: 2005/010773/07)

MOGALE CITY LOCAL MUNICIPALITY

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

CONFIRMATORY AFFIDAVIT

1, Samson Jabu Mtshueni (IDENTITY NUMBER: 6712245706084) ٦

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1. I am

an adult male working as a painter and renovator Bar Gert van Jus I have resided since 2000, on portion 77 of the farm Nooitgedacht 534 J.Q.

- 2. The facts contained herein are, save where otherwise stated or indicated from the context, within my personal knowledge and are both true and correct.
- 3. I have read the answering affidavit of LERATO KGATLA and insofar as it refers to me I confirm the contents thereof.

Altoni

DEPONENT

I hereby certify that the Deponent signed and swore to this affidavit before me at <u>Mullandagh</u> on this <u>15</u> day of time 2022. The Deponent stated s/he knows and understands the contents of this Affidavit, and has no objection to taking the oath, which s/he considers binding on her conscience. COMMISSIONER-OF OATHS: NAME AND SURNAME: <u>Son</u> <u>Manual</u> CAPACITY: <u>Son</u> ADDRESS: <u>Plot of</u> <u>DBRAME</u> <u>Son Manual</u> <u>Recorded</u> <u>Recorder</u> <u>Plane</u> <u>2022</u>-07-15