

IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

Case No: **UM 169/2019**

In the matter between:

SAKELIGA NPC First Applicant

JACOBUS JOHANNES ROOTMAN Second Applicant

JACOBUS PHILIPPUS SNYMAN Third Applicant

and

KGELETLENGRIVIER LOCAL MUNICIPALITY First Respondent

**THE MUNICIPAL MANAGER, KGETLENGRIVIER
LOCAL MUNICIPALITY** Second Respondent

IDEAL PREPAID (PTY) LTD Third Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS** Fourth Respondent

THE MINISTER OF FINANCE Fifth Respondent

**THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR LOCAL GOVERNMENT, NORTH WEST PROVINCE** Sixth Respondent

**THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR FINANCE, NORTH WEST PROVINCE** Seventh Respondent

NOTICE OF MOTION

TAKE NOTICE that the Applicants shall make application to this Honourable Court on a date to be allocated by the Registrar or as soon thereafter as counsel for the Applicants may be heard for an order in the following terms:

1. That the first respondent's and second respondent's defence in respect of Part B of the main application be struck out.
2. In the alternative to prayers 1 above, the following order is made:
 - 2.1 The first and second respondents are ordered to deliver a supplementary record in terms of Rule 53(1)(b) within 21 days from the date of this order, including the following:
 - 2.1.1 copies of all documentation relating to the first respondent's municipal council's decision to appoint the third respondent to provide services to the first respondent;
 - 2.1.2 copies of all documentation relating to powers and delegations of authority by the first respondent to the third respondent to act on its behalf;
 - 2.1.3 copies of all communications between the first respondent, second respondent and third respondent regarding the appointment of the

third respondent, with specific reference to the period of January 2018 to December 2019;

2.1.4 copies of all communications between the first respondent, fifth respondent, sixth respondent and/or the seventh respondent regarding the appointment of the third respondent;

2.1.5 a copy of the feasibility study done by the first respondent in respect of the appointment of the third respondent;

2.1.6 copies of all submissions made by the first respondent, alternatively the second respondent to the seventh respondent and/or the fifth respondent regarding the future budgetary implications of the third respondent;

2.1.7 copies of all minutes of meetings and/or resolutions passed by the council of the first respondent for the period 1 January 2015 to 1 January 2020;

2.2 The first and/or second respondents are ordered to provide full reasons for the impugned decision by the first respondent and/or the second respondent in terms of which the third respondent was appointed.

2.3 In the event that any of the aforementioned documentation are not provided, the first and/or second respondents are ordered to provide, simultaneously with the supplementary record, comprehensive reasons and details under oath as to why such documentation are not available and/or not within the possession of the first and/or second respondent,

including full and comprehensive details as to all steps taken, searches conducted and other respondents or officials consulted to obtain such documentation and where the documents are to be found.

- 2.4 Should the first and/or second respondents fail to comply with any of the orders granted in terms of prayers 2.1, 2.2, and 2.3 above, that the applicants be permitted to make application on the same papers, suitably amplified, for an order that the first and second respondents be declared to be in contempt of court and ancillary relief relating to such declaration of contempt or any other appropriate relief including final relief in terms of Part B of the Notice of Motion in the main review application.
3. The first respondent is ordered to pay the costs of this application on the scale as between attorney and client.
4. Further and/or alternative relief.

TAKE FURTHER NOTICE that the accompanying founding affidavit attached to this notice of motion, deposed to by **PETER JOHANNES WASSENAAR** and annexures thereto, will be used in support of this application.

TAKE FURTHER NOTICE that if the respondent(s) intends to oppose this application, the respondent(s) is required to:

- (a) notify the applicants' attorneys and the Registrar of this Honourable Court thereof within **5 (five) days** from service of this application.

- (b) file an answering affidavit, if any, within **15 (fifteen) days** after having so given notice of intention to oppose this application.

TAKE FURTHER NOTICE that the respondent(s) is required, in the notice of intention to oppose, to appoint an address as referred to in Rule 6(5)(b) at which it will accept notice and service of all documents in these proceedings.

TAKE FURTHER NOTICE that if no notice of intention to oppose is given as set out above, application will be made to the above Honourable Court on a date to be allocated on the unopposed motion roll by the Registrar of this Honourable Court.

SIGNED AT PRETORIA ON THIS THE ____ DAY OF _____ 2021.

KRIEK WASSENAAR & VENTER INC.

Attorneys for the Applicants

3rd Floor

HB Forum Building

13 Stamvrug Road

Val De Grace

Pretoria

Tel: 012 756 7566

E-mail: peter@kriekprok.co.za

REF: QB0393

C/O SMIT STANTON INCORPORATED

29 Warren Street, Mahikeng

Tel: 018 381 0180

Fax: 086 274 6253

E-mail: litigation1@smitstanton.co.za

REF: N NEETLING

TO: THE REGISTRAR OF THE HIGH COURT
NORTH WEST DIVISION, MAHIKENG

AND TO: MOSIRE TSIANE ATTORNEYS
Attorneys for the First and Second Respondents
Ground Floor, Stand 85
Afrisport Building
Temba, 0407
Tel: 012 717 7987
Fax: 012 717 8307
E-mail: mosiretsiane@lantic.net
REF: KLM3980/019
C/O KGOMO ATTORNEYS
58 Shippard Street
Mahikeng
Tel: 018 381 0495
Fax: 018 381 0496
E-mail: info@kgomoattorneys.co.za

Received copy hereof on the _____ day of December 2021

Attorneys for the First and Second Respondents

AND TO: GUNZENHAUSER ATTORNEYS
Attorneys for the Third Respondent
Atrium on 5th, 9th Floor

Cnr 5th and Maude Street, Sandton

Tel: 011 282 085

E-mail: werner@mqlaw.co.za

REF: W JANSE VAN RENSBURG/10001B

C/O MAPONYA ATTORNEYS

Office CB29, 1st Floor

Megacity Shopping Centre

Cnr Sekame Road & Dr James Moroka Drive

Mmabatho

Tel: 018 384 2823

E-mail: thabiso@maponya.co.za

Received copy hereof on the _____ day of December 2021

Attorneys for the Third Respondent

IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

Case No: **UM 169/2019**

In the matter between:

SAKELIGA NPC

First Applicant

JACOBUS JOHANNES ROOTMAN

Second Applicant

JACOBUS PHILIPPUS SNYMAN

Third Applicant

and

KGELETLENGRIVIER LOCAL MUNICIPALITY

First Respondent

**THE MUNICIPAL MANAGER, KGETLENGRIVIER
LOCAL MUNICIPALITY**

Second Respondent

IDEAL PREPAID (PTY) LTD

Third Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

Fourth Respondent

THE MINISTER OF FINANCE

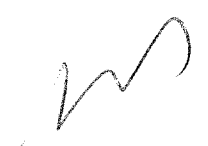
Fifth Respondent

**THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR LOCAL GOVERNMENT, NORTH WEST PROVINCE**

Sixth Respondent

**THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR FINANCE, NORTH WEST PROVINCE**

Seventh Respondent



FOUNDING AFFIDAVIT

I, the undersigned,

PETER JOHANNES WASSENAAR

do hereby declare under oath as follows:

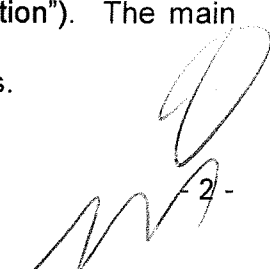
1.

- 1.1 I am an adult male attorney practicing as such as director of Kriek Wassenaar & Venter Incorporated, with its offices situated at 3rd Floor, HB Forum Building, 13 Stamvrug Street, Val de Grace, Pretoria, Gauteng.
- 1.2 I am the attorney of record for applicants herein. I am duly authorised by the applicants to depose to this affidavit.
- 1.3 The contents of this affidavit are true and correct and fall within my personal knowledge, save where the context indicates otherwise.

2.

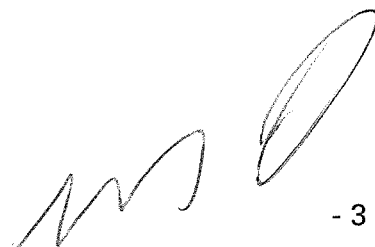
NATURE AND PURPOSE OF THIS APPLICATION

- 2.1 This application is of an interlocutory nature in respect of a review application instituted by the applicants on 3 October 2019 ("main application"). The main application is opposed by the first, second and third respondents.



- 2 -

- 2.2 Against the background pertaining to the main application that is dealt with below, the applicants seek an order herein, as main relief, that the first and second respondents' defence in respect of Part B of the main application be struck out.
- 2.3 In the alternative to the main relief sought, the applicants seek an order that the first and second respondents deliver a full and comprehensive supplementary record of the proceedings in terms of Rule 53(1)(b) in respect of the decisions and conclusions as referred to in the notice of motion in respect of the main application, including all relevant and necessary documentation not included in the record delivered by the second respondent on 10 June 2021, including:
- 2.3.1 copies of the first respondent's municipal council's decision to appoint the third respondent to provide services to the first respondent;
 - 2.3.2 copies of all powers and delegations of authority by the first respondent to the third respondent to act on its behalf;
 - 2.3.3 copies of all communications between the first respondent, second respondent and third respondent regarding the appointment of the third respondent, with specific reference to the period of January 2018 – December 2019;
 - 2.3.4 copies of all communications between the first respondent, fifth respondent, sixth respondent and/or the seventh respondent regarding the appointment of the third respondent;



- 2.3.5 the feasibility study done by the first respondent in respect of the appointment of the third respondent;
 - 2.3.6 all submissions made by the first respondent, alternatively the second respondent to the seventh respondent and/or the fifth respondent regarding the future budgetary implications of the third respondent;
 - 2.3.7 all minutes of meetings and/or resolutions passed by the council of the first respondent for the period 1 January 2015 until 1 January 2020; and
 - 2.3.8 full reasons for the impugned decision by the first respondent and/or the second respondent in terms of which the third respondent was appointed.
- 2.4 Related to the alternative prayer, and for the reasons dealt with in this affidavit, the applicants seek an order that in the event that the first and/or second respondents aver that any of the aforementioned documentation is not available and/or not within the possession of the first and/or second respondents, that the first and/or second respondents be ordered to provide full and comprehensive reasons as to why the documentation is not in the possession of the first and/or second respondent and/or not available, inclusive of full details regarding steps taken and searches conducted to obtain such documentation.
- 2.5 Lastly, apart from an order as to costs, the applicants seek an order that should the first and/or second respondents fail to comply with the prayers relating to the provision of documentation and reasons, that the applicants shall be allowed to supplement their papers for purposes of applying for an order that the first and/or

second respondents be declared to be in contempt of court and ancillary relief relating to such declaration of contempt.


3.

BACKGROUND

The main application and order of 1 November 2019

- 3.1 On 3 October 2019, the applicants issued an application out of this Honourable Court, seeking relief in a two-pronged approach as appears from a copy of the notice of motion that is annexed hereto and marked "A".
- 3.2 The main application, in essence, is an application for review in terms of Rule 53 and relates to the decision by the first respondent ("the municipality") and/or the second respondent ("the municipal manager") to appoint the third respondent ("Ideal Prepaid") as a subcontractor of the municipality to manage all aspects of billing of customers of the municipality in respect of utilities or other municipal services, apart from electricity.
- 3.3 The relief sought in part A of the notice of motion is pending an application for review as contemplated in Part B of the application.
- 3.4 Apart from providing a concise summary of the relief sought in the main application for want of context, I do not intend to deal with the merits of the main application herein. This application is brought under the same case number as the main application and a full set of the papers filed in the main application will be at the disposal of Court during the hearing of this application.

- 3.5 In Part A of the notice of motion, the applicants sought an interim interdict against the first, second and third respondents to prevent the payment by customers of municipal services into the bank account of the third respondent, which the applicants allege are unlawful, as the arrangement is in conflict with the legality principle as it infringes provisions of the Local Government: Municipal Finance Management Act, 56 of 2003 ("MFMA").
- 3.6 The first and second respondents did not oppose the relief sought in Part A and filed an explanatory affidavit suggesting, in essence, that certain of the prayers sought in Part A be clarified and/or worded differently.
- 3.7 The third respondent opposed the relief sought in Part A and filed an answering affidavit in opposition thereto.
- 3.8 Subsequently, by agreement between the applicants and the aforementioned respondents, an order by consent, serving as an interim interdict, was granted by this Honourable Court on 31 October 2019, disposing of the relief sought in Part A of the notice of motion. A copy of this order is annexed hereto and marked "B".
- 3.9 Part B of the main application is still pending. In part B of the main application, in summary, the applicants seek final relief that the decision to appoint the third respondent to manage the billing aspects of the municipality be reviewed and set aside and that any contract entered into in respect of such appointment be declared invalid and set aside. Final interdictory relief is sought against the first, second and third respondents. The aforementioned is encapsulated in prayers 2, 3, 4, 8 [sic] and 5 of the notice of motion. Just and equitable relief in terms of



- 6 -

section 172(1)(b) of the Constitution and/or in terms of section 89(1) of PAJA is also sought, as per prayer 6 of the notice of motion.

- 3.10 In line with the provisions of Rule 53(1), the first and second respondents were called upon to show cause why the decision and contract should not be reviewed and corrected and be set aside and to dispatch, in terms of Rule 53(1)(b) to the Registrar of the above Honourable Court, the record of proceedings regarding the said decision and conclusion of the agreements, together with such reasons that they are by law required to provide.
- 3.11 The first and second respondents were called upon to comply within 15 days after receipt of the notice of motion, thus by 25 October 2019.
- 3.12 The first and second respondents were aware that the order was granted in terms of Part A on 31 October 2019 and that a record had to be delivered for purposes of Part B of the main application.

Application to compel and order of 14 May 2021

- 3.13 The first and second respondents failed to furnish a record and reasons within the prescribed time period, notwithstanding letters addressed to the legal representative of the first and second respondents to request that the record be furnished.
- 3.14 As a consequence, an application was lodged on or about 29 September 2020 to compel the first and second respondents to comply with the provisions of Rule 53(1) and to provide a record of the proceedings.

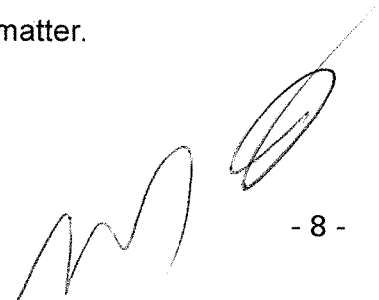


- 3.15 I deposed to the founding affidavit in support of the relief sought in the application to compel and I humbly request that the content of that affidavit be read with the content hereof, insofar as I deal therein with the steps that were taken by our offices on behalf of the applicants to secure the record of the proceeding and the failure on the part of the first and second respondents to comply.
- 3.16 As is dealt with in my founding affidavit in respect of the aforementioned application, I indicated that in order to enable the applicants to pursue the review application, a record is required to be filed, also incorporating documents specifically listed in paragraphs 4.2.1 – 4.2.10 of my affidavit.
- 3.17 The application was heard on 14 May 2021 and the Court granted an order on that day, a copy of which is attached hereto and marked "C".
- 3.18 In terms of the order, the first and second respondents were compelled to dispatch the record of proceedings to the Registrar of this Honourable Court within 14 days from the date of receipt of the order.
- 3.19 The first and second respondents were aware that an order was granted on 14 May 2021.

4.

RECORD OF PROCEEDINGS PROVIDED BY THE FIRST AND SECOND RESPONDENTS

- 4.1 Mosire Tsiane Attorneys are the attorneys of record for both the first and second respondents. Mr Ngaka is the attorney dealing with the matter.



- 8 -

- 4.2 Following the order granted on 14 May 2021, Mr Ngaka sent a letter to me dated 26 May 2021, seeking an indulgence to submit the record by not later than 4 June 2021. I directed a letter to the attorney on the same day, stating that such indulgence will be granted for a complete record to be filed by 4 June 2021. Copies of these letters are annexed hereto, respectively marked "D" and "E".
- 4.3 On 7 June 2021, I received an e-mail from Mr Ngaka to which some portions of a purported record were annexed. A copy of this e-mail is annexed hereto, marked "E". I had a telephone discussion with Mr Ngaka on 7 June 2021 during which discussion Mr Ngaka requested a further extension until 9 June 2021 to provide the complete record.
- 4.4 I sent a letter to the attorney on 8 June 2021, a copy of which is annexed hereto marked "G". In this letter, I recorded what Mr Ngaka indicated to me during our telephone discussion, specifically that I was informed that the first respondent, the municipality, is struggling to collate the record, apparently because the municipal manager, the second respondent is in possession of the file. I also reiterated the requirements of Rule 53(1)(b) in this letter, given the impression that was created that the compilation of the record was not receiving the necessary attention and diligence.
- 4.5 The record was only served on our offices on 10 June 2021, accompanied with an affidavit referred to as "*RESPONDENT AFFIDAVIT IN TERMS OF RULE 35(12)*". ("Rule 35(12) affidavit"). The second respondent deposed to the affidavit. I annex a copy of the index and affidavit hereto for ease of reference, marked "H". It is unclear why reference is made to Rule 35(12) as no notice in terms of Rule 35(12) was sent to the first and/or second respondents at any point in time.

- 4.6 The affidavit was not commissioned and on 11 June 2021, I wrote to Mr Ngaka, requesting that a duly commissioned and complete affidavit be provided. A copy of this letter is annexed hereto marked "I". A copy of the signed affidavit was only provided on 17 June 2021, annexed to a letter sent to me on that date, a copy of which is annexed hereto, marked "J".
- 4.7 In the meantime, MG Law Inc, representing the third respondent, enquired as to whether the first and second respondents have delivered a record. A copy of this letter is annexed hereto marked "K", wherein the attorneys stated that they too require a copy of the record for purposes of supplementing their papers in respect of Part B of the main application. On 22 June 2021, I sent a letter to the attorneys, confirming that a record was provided on 10 June 2021 and that this will be made available to them. I mentioned in this letter that the record did not include any records relating to the municipal council's 2019 decision under review and that the first and second respondents have been demanded to file a proper record. A copy of my letter is annexed hereto marked "L".
- 4.8 After considering the record with the applicant, I further wrote to Mr Ngaka on 26 August 2021, informing him that the record does not include all the relevant documentation. A copy of this letter is annexed, marked "M".
- 4.9 I stated the following in my letter, among other things:

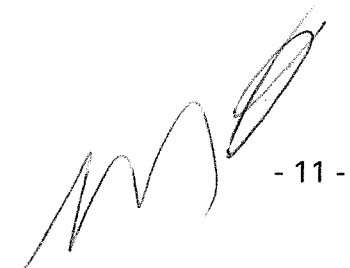
"We have considered the rule 53 record which your client has made available and the affidavit filed by your client. It is our view that your client has not properly disclosed the record of proceedings and complied with the order of court. In several instances your client states that the

documents cannot be found whilst such documents are official documents which must be in your clients' possession or your client must know what the whereabouts are of the documents."

- 4.10 In this letter, I specifically mentioned the documentation that the first and second respondents are requested to provide, all of which have been listed in my founding affidavit in respect of the application to compel, and which are listed in the notice of motion in support of which this affidavit is filed.
- 4.11 I demanded in the letter that the first and second respondents must provide a full and proper record, including the documentation specifically identified, by no later than 10 September 2021.
- 4.12 Subsequent thereto, no further documents have been received and the record remains incomplete and defective.
- 4.13 Reasons have also not been provided.

Rule 35(12) affidavit and record

- 4.14 The purported record annexed to the Rule 35(12) affidavit spans across more than 260 pages (some documents have been printed double-sided and are not paginated). The record contains scant documentation in respect of the decision under review.
- 4.15 The specific documentation requested has not been provided.
- 4.16 In the Rule 35(12) affidavit, the second respondent states throughout the affidavit in respect of certain documents:



- 11 -

"the documents referred to are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown".

4.17 This phrase appears in paragraphs 3, 4, 5 and 9 of the affidavit and in paragraph 7, the second respondent simply states: *"The documents referred to in these paragraphs are not available."*

4.18 The documents that are allegedly not available or which cannot be found relates to, as indicated on the index:

42.1 *Council Resolution;*

42.3 *All powers, delegations for authority granted by the First Respondent to the Third Respondent to act on its behalf;*

42.5 *Communication between First, Second, Fourth, Fifth, Six Respondents relating to appointment of Third Respondent;*

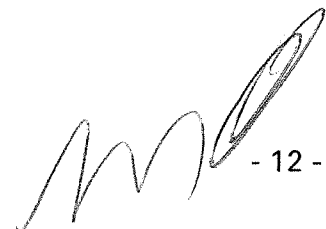
42.7 *Reasibility Study (presumably meant to read 'feasibility study')*

42.8 *Submissions Made by First Respondent;*

42.9 *Submissions made to Council of First Respondent;*

42.10 *All minutes of meetings/or resolutions passed by Council – January 2015 – January 2020 [sic]*

4.19 As per number 42.2 of the index, the *"Agreement concluded by the First Respondent and Third Respondent"* is included in the record. This is relevant to the matter at hand and in essence, apart from limited copies of e-mail



- 12 -

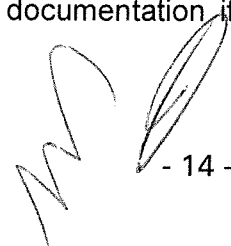
correspondence, the only document of value for purposes of the review application that has been included in the record.

- 4.20 Paragraph 42.4 of the index refers to "*All communications and/or correspondent between the First Respondent, the Second Respondent and Third Respondent*" [sic] contained in pages 95 – 158 of the record. Firstly, pages 95 – 102 have not been included in the record. Secondly, only copies of correspondence during February 2019 and March 2019 have been included, whereas correspondence from January 2018 to December 2019 ought to have been provided, given the time periods within which the impugned decision was made and steps taken ancillary thereto.
- 4.21 In paragraph 42.6 of the index, reference is made to "*Compliance with Local Government Municipal Systems Act 32 of 2000, MFMA 56 of 2003 and PFMA 1 of 1999*" which is stated to be contained in paragraphs 159 – 264 of the record. These documents refer to the "Ulundi Municipality", which bears no reference whatsoever to the matter at hand and should not have been included in the record.
- 4.22 The vague statements throughout the affidavit are totally unacceptable and neither the court nor the applicant can be expected to simply accept that the documents are not available or could not be found.
- 4.23 The second respondent does not explain why the documents are unavailable, apart from simply stating as much. The second respondent also does not state which steps have been taken to obtain these documents or what is meant with "*diligent search*".



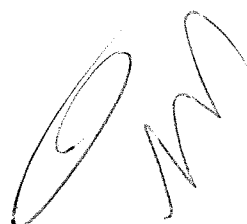
- 13 -

- 4.24 Moreover, the second respondent does not state, for example, where the documents are usually kept and in whose possession it ought to have been and/or whether discussions have been held or meetings convened between the respective respondents to try and obtain the documents. Given the role that the other respondents have to play regarding the decision under review, the second respondent ought to have approached the other respondents to obtain the relevant documents. The second respondent fails to indicate whether or not this has been done.
- 4.25 It needs to be pointed out that in terms of section 117 of the Local Government: **Municipal Systems Act, 32 of 2000** ("the Systems Act") all records and documents are in the custody of the municipal manager i.e the Second Respondent. Further the municipal manager as accounting officer of a municipality must in terms of section 62(1)(b) of the MFMA take all reasonable steps to ensure that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards.
- 4.26 It is inconceivable that considering also the abovementioned provisions of the legislation that the documents and records cannot be produce. More is required than just the terse and inadequate response of the Second Respondent.
- 4.27 It is for this reason that the alternative relief in the notice of motion makes provision for the first and/or second respondents to provide full and comprehensive reasons as to why the documentation is not in the possession of the first and/or second respondents and/or not available, inclusive of full details regarding steps taken and searches conducted to obtain such documentation if they are unable to provide the documents.



- 14 -

- 4.28 However, the first and/or second respondents should be able to provide the documents. It is unfathomable that the requested documents are not within the possession of the first and/or second respondents.
- 4.29 This is particularly so because various other provisions in municipal legislation, inclusive of the MFMA, as well as provisions in the Constitution dictate that an official record must be kept and retained in respect of decisions made or agreements entered into by a municipality and third parties, inter alia.
- 4.30 I deal with a select few provisions of the relevant legislation herein to illustrate why the documents must be in the possession of the first and/or second respondent.
- 4.31 The second respondent acts as the accounting officer of the first respondent and his powers and functions are dealt with in various provisions of the Systems Act. The powers, functions and obligations of the second respondent, with reference to the procurement of services, are also regulated by the Municipal Supply Management Regulations ("SCMR"), issued by the Minister of Finance in terms of section 168 of the MFMA and any Supply Chain Management Policy that may have been made by the first respondent in terms of the SCMR. The second respondent can therefore not simply aver that the documents are not available.
- 4.32 National Treasury has various duties and functions as far as the procurement of services by municipalities is concerned by virtue of section 217 of the Constitution and various provisions of the MFMA, in particular section 33 thereof, dealing with contracts that have future budgetary applications. Furthermore, by virtue of chapter 2 of the MFMA, National Treasury has a supervisory function



- 15 -

over financial management by municipalities, which stems from section 216 of the Constitution and has a specific interest as far as the primary bank account of a municipality is concerned, as envisaged in section 8(5) of the MFMA.

- 4.33 For this reason, copies of all communications between the first and/or second respondents with the fifth respondent (Minister of Finance) and the seventh respondent (the Member of the Executive Committee for Finance in the North West Province) must be in possession of the first and/or second respondent.
- 4.34 The sixth respondent, being the MEC for Local government in the North West Province has a particular and important role to play, as does the fourth respondent (The Minister of Cooperative Governance and Traditional Affairs), being the National Minister responsible for Local Government. Communications between the fourth and/or sixth respondents must have been entered into and copies thereof within the possession of the first and/or second respondents.
- 4.35 The crux of the main review application relates to the decision to appoint the third respondent to provide services to the first respondent. It is therefore obvious that communications must have been entered into between the first respondent, second respondent and third respondent regarding the appointment of the third respondent. Copies of such communications must be available, with specific reference to the period of January 2018 – December 2019. The agreement concluded between the first and third respondents as provided alone does not suffice.

- 4.36 For the same token, powers and delegations of authority by the first respondent to the third respondent to act on its behalf must be in the possession of the second respondent and ought to have been included in the record.
- 4.37 The Systems Act contains specific provisions in respect of mechanisms for the provision of services and processes prescribed when municipalities decide to provide municipal services through external mechanisms, in this case the third respondent.
- 4.38 Section 78(3)(c) of the Systems Act requires, inter alia, that a feasibility study must be conducted. Since it is required by law, there can be no reason why the feasibility study done by the first respondent in respect of the appointment of the third respondent is not available or cannot be obtained.
- 4.39 Section 33 of the MFMA regulates contracts having future budgetary implications. It provides that before a contract is entered into, the views of National Treasury, the relevant Provincial Treasury and the national department responsible for Local Government must be obtained, inter alia. Based thereon, all submissions made by the first respondent, alternatively the second respondent to the seventh respondent and/or the fifth respondent regarding the future budgetary implications must be obtained and provided by the first and/or second respondents.
- 4.40 It begs to mention that in Rule 35(12) affidavit, the second respondent states in paragraph 5 thereof that "*I however advise that the search of documents which are not available is on-going, and if they are found at a later stage, they will be gladly handed in*". Despite a significant lapse of time since June 2021, no further

documents have been forthcoming or any further information provided by the second respondent as to the status of the so-called on-going search.

- 4.41 The record provided, as such, is incomplete and insufficient. The significance hereof is dealt with hereunder.
- 4.42 The first and/or second respondents have also failed to provide reasons for the impugned decision as is also required in terms of Rule 53(1)(b).

5.

THE IMPORTANCE OF A PROPER AND COMPLETE RECORD AND REASONS IN REVIEW PROCEEDINGS

- 5.1 The purpose of Rule 53(1)(b) is to facilitate and regulate review applications.
- 5.2 Rule 53 makes provision for an applicant, after consideration of the record as envisaged in Rule 53(4), to amend, add to or vary the terms of the notice of motion and supplement the review application. This is what the applicants intend to do but are hindered from doing as a result of the incomplete record provided by the first and second respondents.
- 5.3 A proper and complete record is necessary to enable the applicants to interrogate the decision under review and to assess the lawfulness of the decision-making process. It is part and parcel of the right to exercise administrative justice in terms of section 33 of the Constitution and the provisions of the Promotion of Administrative Justice Act, 2000 ("PAJA").



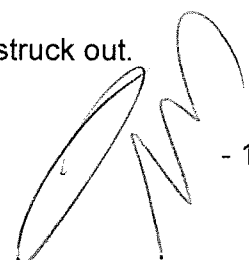
- 5.4 The Supreme Court of Appeal has held, in case law that will be dealt with during the hearing of this application, that a record plays a vital role in enabling a court to perform its constitutionally entrenched review function and that without a record, a litigant's right in terms of section 34 of the Constitution to have a justiciable dispute decided in a fair public hearing before a court with all the issues being ventilated, would be infringed.
- 5.5 Furthermore, the filing of the full record furthers an applicant's right of access to court by ensuring that the court has the relevant information before it and that there is equality of arms between the person challenging a decision and the decision-maker.
- 5.6 A record must contain all relevant information in respect of the impugned decision or proceedings and the factors at play as regards the decision-making process. Every document that may shed light on why the decision under review was made should be included in the record.
- 5.7 As an organ of state, the first respondent must be held to a higher standard of conduct expected from public officials. In review proceedings, it is expected of the first and second respondents to provide a complete record and reasons and to be open and frank.

6.

RELIEF SOUGHT:

Striking out of defence

- 6.1 The applicants seek an order that the defence of the first and second respondents in respect of Part B of the main application be struck out.




- 19 -

- 6.2 The applicants are being prejudiced by the failure of the first and second respondents to provide a complete record and reasons for the impugned decision.
- 6.3 The applicants are not in a position to supplement their papers or amend, add to or vary the relief sought in the main application in the absence of a complete record. This is a direct result of the conduct of the first and second respondents.
- 6.4 The first and second respondents have paid scant attention to the proceedings in general. The first and second respondents did not oppose the relief sought in Part A of the notice of motion and as stated above, only filed an explanatory affidavit.
- 6.5 Thereafter, despite opposing the relief sought in Part B of the notice of motion, which demands compliance with Rule 53(1)(b), an application had to be instituted to compel the delivery of a record. This is telling of the disinterest on the part of the first and second respondents in respect of the proceedings and the main application in general.
- 6.6 Furthermore, to date hereof, no reasons have been provided for the impugned decision, which is also compulsory in terms of Rule 53(1)(b).
- 6.7 The record that was eventually filed was clearly compiled haphazardly as is evidenced by the limited information included, the irrelevant information included and complete disregard for documentation which is required for purposes of the review application.
- 6.8 The record as it stands does not comply with the provisions of Rule 53(1)(b).

- 6.9 The first and second respondents, as illustrated above, should be in possession of all the relevant documentation in respect of the impugned decision. Considering the Rule 35(12) affidavit and the mystery as regards the whereabouts of the relevant documentation, it can be accepted, as things stand, that the first and second respondents are unable to meaningfully oppose the review proceedings.
- 6.10 This is exacerbated by the fact that no reasons for the decision under review have been provided.
- 6.11 Against this background and having failed to comply with the provisions of Rule 53(1)(b), the defence of the first and second respondents ought to be struck out.

Relief to compel delivery of reasons and a supplementary record and specific documentation

- 6.12 If the Honourable Court is inclined to provide the first and second respondents with a further opportunity to provide a complete and comprehensive record, the first and/or second respondents should be ordered to provide the documents specifically referred to in the notice of motion and all other documentation relevant to the decision under review.
- 6.13 All the requested documentation dealt with above is relevant to the impugned decision and the review proceedings.

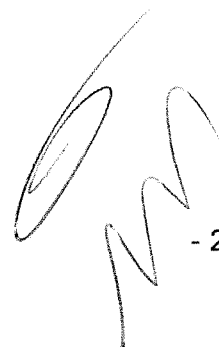


- 21 -

- 6.14 There can be no question that the documentation should be in the possession of the first and/or second respondents, given the statutory provisions referred to, which are fully dealt with in the main application.
- 6.15 As a result, the first and second respondents should be compelled to deliver a comprehensive and complete supplementary record containing the documents specifically identified and all other documents relevant to the impugned decision within a specified time period.
- 6.16 The first and second respondents should also be ordered to provide reasons within a specified time period.

Reasons and details to be provided if documents are not provided

- 6.17 Knowing that the second respondent has already offered vague and unsubstantiated excuses for not providing certain relevant documentation in the Rule 35(12) affidavit, the notice of motion makes provision therefore that if it is again averred that certain documentation is not available and/or within the possession of the first and/or second respondent, that full and comprehensive reasons and details be provided as to why the documentation cannot be made available, as set out in the notice of motion.
- 6.18 I have dealt with why the vague and unsubstantiated averments in the Rule 35(12) affidavit are insufficient, given the relevant statutory provisions and also the duty that rests upon the first and second respondents to comply with Rule 53(1)(b).



- 22 -

Supplementation of papers for purposes of a contempt application

- 6.19 Lastly, the applicants seek an order that should the first and second respondents fail to provide a complete record with all the relevant documentation, or if not available, provide full details and reasons as to why, that the applicants be permitted to make application on the same papers, suitably amplified, for an order that the first and/or second respondents be declared to be in contempt of court and ancillary relief relating to such declaration of contempt.
- 6.20 Given the history of the conduct of the first and second respondents, it cannot be expected of the applicants to give the first and second respondents one opportunity after the next to comply with Rule 53(1)(b). An order to compel delivery of the record has already been obtained and if the alternative relief is granted by this Honourable Court, the first and second respondents should comply, failing which an application for contempt of court will be justified.
- 6.21 As far as costs are concerned, the applicants seek an order that the first respondent pays the costs of this application on a punitive scale. This is warranted in light of what has been dealt with above.

7.

WHEREFORE the applicants pray for an order as set out in the notice of motion,



P J WASSENAAR

THUS SWORN AND SIGNED AT Pretoria. ON THIS 14th DAY
OF December 2021, BEFORE ME AS COMMISSIONER OF OATHS, THE
DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE
CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND
REGARDS THE OATH AS BINDING ON HIS CONSCIENCE AFTER COMPLYING
WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY
1972, AS AMENDED.

BEFORE ME:

NAME:

CAPACITY:

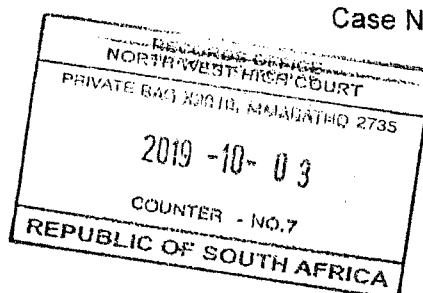
ADDRESS:

JOHANNES JACOBUS VAN DEN MERWE
Commissioner of Oaths
HB Forum
13 Stamvrug Street
Val De Grace
Ex Officio Practising Attorney
Republic of South Africa

COMMISSIONER OF OATHS

Annexure A

IN THE HIGH COURT OF SOUTH AFRICA
NORTHWEST DIVISION, MAHIKENG

Case No: UM 169/19

In the matter between:

SAKELIGA NPC

First Applicant

JACOBUS JOHANNES ROOTMAN

Second Applicant

JACOBUS PHILIPPUS SNYMAN

Third Applicant

and

KGETLENGRIVIER LOCAL MUNICIPALITY

First Respondent

THE MUNICIPAL MANAGER,
KGETLENGRIVIER LOCAL MUNICIPALITY

Second Respondent

IDEAL PREPAID (PTY) LTD

Third Respondent

THE MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

Fourth Respondent

THE MINISTER OF FINANCE

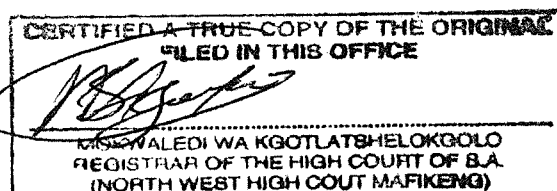
Fifth Respondent

THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR LOCAL GOVERNMENT,
NORTHWEST PROVINCE

Sixth Respondent

THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR FINANCE IN THE NORTH
WEST PROVINCE

Seventh Respondent



Documents Filed by:
Nicolene Neethling
Tel: (018) 381 0180/1/2
Cell: 082 597 3962

NOTICE OF MOTION

PART A

KINDLY TAKE NOTICE that the Applicants intend to apply to the above Honourable Court on **Thursday 31 October 2019 at 10h00** or as soon thereafter as the matter may be heard, alternatively on such a date as may be determined by the Duty Judge or Registrar in terms of the Practice Directive of the above Honourable Court for urgent applications, for an order in the following terms:

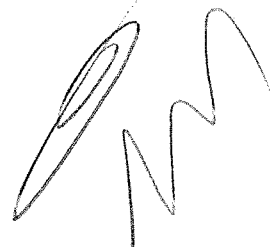
1. That Part A of the application be declared to be urgent within the ambit of Rule 6(12) of the Rules of the above Honourable Court and that non-compliance with the rules of Court in respect of form, service and time be condoned;
2. That the First and Second Respondents be interdicted immediately to issue notices to customers of municipal services and/or to rate payers to the effect that payment for such services and rates and taxes be made to the Third Respondent and be paid into bank accounts of the Third Respondent;



- 3 -

3. That the Third Respondent be interdicted immediately from collecting payment from customers and/or rate payers in respect of municipal services rendered by the First Respondent and in respect of rates and taxes and such payments to be made into the bank accounts of the Third Respondent;
4. That the First and Second Respondents be ordered to only collect payment in respect of municipal services and rates and taxes from customers and/or rate payers after delivery of a tax invoice by the First Respondent for such services and/or rates and taxes to customers and/or rate payers and only to collect such payments for payment into the bank account of the First Respondent;
5. The relief sought in prayers 2, 3 and 4 above serve as an interim interdict pending the finalisation of Part B of the application;
6. That the costs in respect of Part A of this Notice of Motion be reserved to be determined by the Court adjudicating Part B of this application;
7. Further and/or alternative relief.

KINDLY TAKE NOTICE that if any of the Respondents intends to oppose the relief under Part A of the application, such Respondents are to give notice of their intention to oppose **16:00 on 9 October 2019** and to file their Answering Affidavits by **16:00 on 18 October 2019**.

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a series of loops and a final vertical stroke.

- 4 -

TAKE FURTHER NOTICE that the First and Second Respondents' attention are drawn to the Notice in terms of Rule 53(1)(b) of the B part of this Notice of Motion and called upon to dispatch to the Registrar of this Honourable Court of the record of proceedings not to be delayed as a result of the proceedings which are the subject matter of Part A of the Notice of Motion, but to proceed independently within 15 (fifteen) days after receipt of the Notice of Motion.

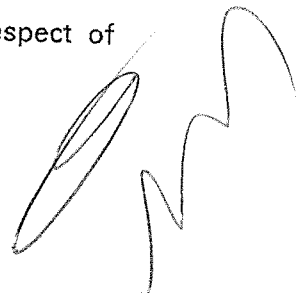
TAKE FURTHER NOTICE that the affidavit of **PIET LE ROUX**, together with confirmatory affidavits will be used in support of this application.

KINDLY ENROL THE MATTER ACCORDINGLY.

PART B

KINDLY TAKE NOTICE that the Applicants intend to apply to the above Honourable Court at the date to be arranged to determine by the designated Judge, alternatively the Judge-President of the above Honourable Court for an order in the following terms:

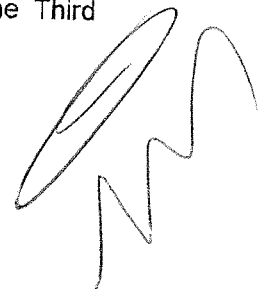
1. That the B part of this application be declared to be urgent within the ambit of Rule 6(12) of the Rules of the above Honourable Court and that non-compliance with the Rules of Court in respect of

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a series of loops and a final vertical stroke.

- 5 -

form, service and time periods be condoned;

2. That any decision by the First Respondent and/or the Second Respondent in terms of which the Third Respondent was appointed to manage all aspects of the billing of customers of the First Respondent in respect of any utilities or other services (except for electricity), including sewerage, refuse/ waste removal, rates and taxes be declared unlawful and be reviewed and set aside;
3. That any contract entered into by and between the First Respondent and/or the Second Respondent on behalf of the First Respondent with the Third Respondent as a consequence of the decision referred to above and in respect of which the Third Respondent was appointed to manage all aspects of service delivery, billing and invoicing of customers of the First Respondent in respect of water, sewerage, refuse/ waste removal and rates and taxes be declared invalid and be set aside;
4. That the First and Second Respondents be finally interdicted to issue notices to customers of municipal services and/or to rate payers to the effect that payment for such services and rates and taxes be made to the Third Respondent and be paid into bank accounts of the Third

A handwritten signature in black ink, consisting of a large, stylized 'N' or 'M' shape with a vertical line extending downwards from the center.

- 6 -

Respondent;

8. That the Third Respondent be finally interdicted from collecting payment from customers and/or rate payers in respect of municipal services rendered by the First Respondent and in respect of rates and taxes and such payments to be made into the bank accounts of the Third Respondent;
5. That the First and Second Respondents to ordered to only collect payment in respect of municipal services and rates and taxes from customers and/or rate payers after delivery of a tax invoice by the First Respondent for such services and/or rates and taxes to customers and/or rate payers and only to collect such payments for payment into the bank account of the First Respondent;
6. Just and equitable relief in terms of section 172(1)(b) of the Constitution and/or in terms of section 89(1) of PAJA;
7. That the costs of this application, including the cost in respect of Part A of the Notice of Motion, to be paid by the First Respondent, together with any other Respondents that oppose Part B of this application jointly and severally, which costs to include the costs of the employment of two counsel;

A handwritten signature in black ink, consisting of a large, stylized 'O' followed by a series of loops and a final vertical stroke.


- 7 -

8. Further and/or alternative relief.

KINDLY TAKE FURTHER NOTICE that if any of the Respondents intend to oppose the relief sought in Part B of the Notice of Motion, such Respondents are to give notice of their intention to oppose by not later than **11 October 2019**.

KINDLY TAKE FURTHER NOTICE that the First and Second Respondents are called upon to show cause why the decisions and any contract mentioned herein are not to be reviewed and corrected and be set aside and are called upon to dispatch within 15 (fifteen) days after receipt of this Notice of Motion to the Registrar in terms of Rule 53(1)(b) the record of proceedings with reference to the said decisions and conclusion of the agreements together with such reasons that they are in law required and to notify the Applicants that the Respondents have done so.

KINDLY TAKE FURTHER NOTICE that the Respondents are required to deliver their answering affidavits, if any within thirty (30) days after the Applicants have amended the notice of motion or supplemented their affidavits in terms of Rule 53(4).

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'Z' shape followed by a vertical line and a wavy line.

- 8 -

KINDLY TAKE FURTHER NOTICE that the Applicants will rely on the affidavit of **PIET LE ROUX** annexed hereto, together with confirmatory affidavits in support of the application.

SIGNED AT MAHIKENG ON THIS THE 2nd DAY OF OCTOBER 2019.



KRIEK WASSENAAR & VENTER INCORPORATED
ATTORNEYS FOR APPLICANTS
FIRST FLOOR
NOREX HOUSE
79 RAUCH AVENUE
GEORGEVILLE
PRETORIA
TEL: 0128034719
EMAIL: peter@kriekprok.co.za
REF: P Wassenaar / QB0393
C/O SMIT STANDTON INC
29 WARREN STREET, MAHIKENG
TEL: 018 381 0180 FAX: 086 274 6253
EMAIL: litigation1@smitstanton.co.za

REF: N Neethling / _____

TO: THE REGISTRAR OF THE HIGH COURT
NORTHWEST PROVINCE
MAHIKENG

AND TO: KGETLENGRIVIER LOCAL MUNICIPALITY
FIRST RESPONDENT
CNR. SMUTS & DE WIT STREETS
KOSTER
NORTHWEST PROVINCE

BY SHERIFF



- 9 -

**AND TO: THE MUNICIPAL MANAGER
KGETLENGRIVIER LOCAL MUNICIPALITY
SECOND RESPONDENT
CNR. SMUTS & DE WIT STREETS
KOSTER
NORTHWEST PROVINCE**

BY SHERIFF

**AND TO: IDEAL PREPAID (PTY) LTD
THIRD RESPONDENT
SANDGATE PARK
16 DESMOND STREET
KRAMERVILLE
SANDTON**

BY SHERIFF

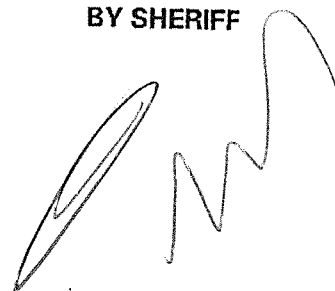
**AND TO: THE MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
FOURTH RESPONDENT
C/O THE STATE ATTORNEY
SALU BUILDING,
316 THABO SEHUME STREET, PRETORIA**

BY SHERIFF

**AND TO: THE MINISTER OF FINANCE
FIFTH RESPONDENT
C/O THE STATE ATTORNEY
SALU BUILDING,
316 THABO SEHUME STREET, PRETORIA**

BY SHERIFF

**AND TO: THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR LOCAL GOVERNMENT,
NORTHWEST PROVINCE
SIXTH RESPONDENT
C/O THE STATE ATTORNEY
FIRST FLOOR, EAST GALLERY, MEGA CITY COMPLEX,
CNR SEKAME ROAD & DR JAMES MOROKA DRIVE,
MMABATHO, 2735**

BY SHERIFF

- 10 -

AND TO: THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR FINANCE IN THE LIMPOPO PROVINCE
SEVENTH RESPONDENT
C/O THE STATE ATTORNEY
FIRST FLOOR, EAST GALLERY, MEGA CITY COMPLEX,
CNR SEKAME ROAD & DR JAMES MOROKA DRIVE,
MMABATHO, 2735

BY SHERIFF

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a series of loops and a final upward stroke.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA NORTH WEST DIVISION, MAHIKENG	
Private Bag X2010, Mmabatho 2705	
2019 -11- 01	
NWD-NW IN THE HIGH COURT OF SOUTH AFRICA	
(NORTH WEST DIVISION, MAHIKENG)	
GRIFFIER VAN DIE HOOGE RECHTERSHOF VAN SUID-AFRIKA NOORD-NOORD-OOS DIVISIE, MAHIKENG	

Annexure B

CASE NO: UM 169/2019

Held at MMABATHO on this the 31st day of OCTOBER 2019
BEFORE the Honourable Madam Justice LEEUW JP

In the matter between:

SAKELIGA NPC

1st Applicant

JACOBUS JOHANNES ROOTMAN

2nd Applicant

JACOBUS PHILIPPUS SNYMAN

3rd Applicant

And

KGETLENGRIVIER LOCAL MUNICIPALITY

1st Respondent

THE MUNICIPAL MANAGER,
KGETLENGRIVIER LOCAL MUNICIPALITY

2nd Respondent

IDEAL PREPAID (PTY) LTD

3rd Respondent

THE MINISTER OF COOPORATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

4th Respondent

MINISTER OF FINANCE

5th Respondent

THE MEMBER OF EXECUTIVE COMMITTEE FOR
LOCAL GOVERNMENT, NORTH WEST PROVINCE

6th Respondent

THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR FINANCE IN THE NORTH WEST PROVINCE

7th Respondent

HAVING HEARD ADV LUSENGA on behalf of the First to Third Applicants, ADV LUSEMBA on behalf of the First and Second Respondents and ADV DE BRUYN on behalf of the Third Respondent and having read the Notice of Motion and other documents filed of record;

IT IS ORDERED

(By consent)

PART A

1. THAT: Pending the finalisation of Part B of the Application:

- 1.1 The first and Second Respondents be and are hereby interdicted immediately to issue notices to customers of municipal services and/or to rate payers to the effect that payment for such services and rates and taxes be made to the Third Respondent and be paid into bank accounts of the Third Respondent, including any and all collections related to the purchase of prepaid electricity managed by the Third Respondent.
- 1.2 That the instruction by the First Respondent to the Third Respondent for purpose of collecting payment from customers and/or rate payers for municipal services rendered by the First Respondent (excluding collection of payment of pre-paid electricity through the Third Respondent's pre-paid meter system) and in respect of rates and taxes and that such payments to be made into the bank accounts of the Third Respondent, be suspended immediately,

0043

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION,
MAAMATHE

Private Bag X2010, Maamatho 2720.

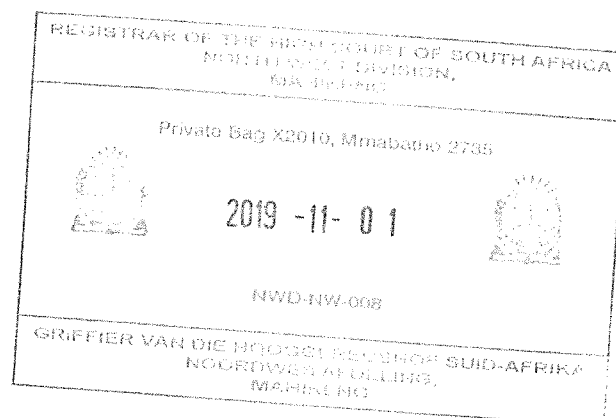
2019 -11- 01

NWD-NW-006

GRIFFIER VAN DIE HOOGTEKORT VAN SUID-AFRIKA
NORD-OWES-DEELING,
MAAMATHE

- 1.3 That the Third and Second Respondents be and are hereby ordered to only collect payment in respect of municipal services and rates and taxes from customers and/or rate payers after delivery of a tax invoice by the First Respondent for such services and/or rates and taxes to customers and/or rate payers and only to collect such payments (excluding payments in respect of prepaid electricity managed by the Third Respondent) for payment into the bank account of the First Respondent.
2. THAT: The orders made in terms of paragraph 1.1 – 1.3 above serve as an interim interdict pending the finalisation of Part B of the application.
3. THAT: The costs in respect of Part A of the Application are reserved to be determined by the Court adjudicating Part B of this application;

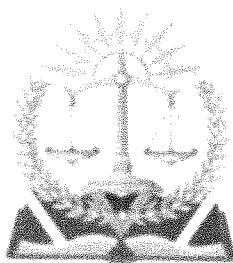
S S Inc.



BY THE COURT

REGISTRAR OF THE HIGH COURT
NORTH WEST DIVISION
MAMENING

REGISTRAR



Annexure C

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

CASE NO: UM 169/2019

Held at MMABATHO on this the 14th day of MAY 2021

BEFORE the Honourable Madam Justice DJAJE

In the matter between:

SAKELIGA NPC

JACOBUS JOHANNES ROOTMAN

JACOBUS PHILIPPUS SNYMAN

And

KGELETLENGRIVIER LOCAL MUNICIPALITY

THE MUNICIPAL MANAGER, KGETLENGRIVIER
LOCAL MUNICIPALITY

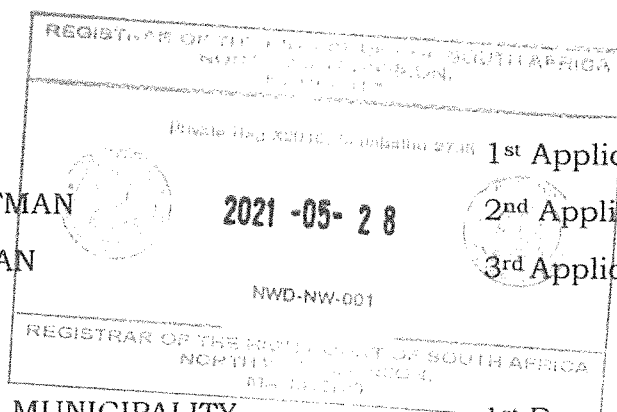
IDEAL PREPAID (PTY) LTD

THE MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

THE MINISTER OF FINANCE

THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR LOCAL GOVERNMENT, NORTH WEST PROVINCE

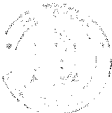

THE MEMBER OF THE EXECUTIVE COMMITTEE
FOR FINANCE, NORTH WEST PROVINCE

1st Applicant2nd Applicant3rd Applicant1st Respondent2nd Respondent3rd Respondent4th Respondent5th Respondent6th Respondent7th Respondent

HAVING HEARD MS NEETHLING on behalf of the First to Third Applicants and having read the Notice of Motion and other document filed of record;

IT IS ORDERED

1. THAT: The First and Second Respondents be and are hereby compelled to dispatch the record of proceedings of the First Respondent to the Registrar of the above Honourable Court within 14 (Fourteen) days of receipt of this Order; and
2. THAT: The First Respondent pay the costs of this application on an Attorney and client scale.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA NORTH WEST DIVISION PRETORIA	
Private Reg. 20010, Companies 2746	
	
2021-05-28	
NWD-NW-001	
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA NORTH WEST DIVISION PRETORIA	

BY THE COURT

REGISTRAR OF HIGH COURT
NORTH WEST DIVISION
PRETORIA
REGISTRAR

S S Inc.

[Handwritten signature]

mosire tsiane
ATTORNEYS

ATTORNEYS, CONVEYANCERS & NOTARIES

Ground Floor, 85 Afrisport Building, Temba

P.O.Box 18

Temba, 0407

Tel: (011) 318 0645

(012) 717 7987

Fax2Email: 086 760 6216

Email: mosiretsiane@lantic.net

VAT NO: 4790243937

Your ref/U verw:

Enquiries: Mr Tsiane

Our ref/Ons verw:

Mr NGAKE/KLM3980/019

26TH MAY 2021

KRIEK WASSENAAR & VENTER INC
1ST FLOOR, NOREX HOUSE
RAUCHLAAN, RAUCH AVENUE
GEORGEVILLE
PRETORIA
0184

Email: peter@kriekprok.co.za

Dear Sir

RE: KGETLENGRIVIER LOCAL MUNICIPALITY- IDEAL PREPAID (PTY) LTD /
SAKELIGA NPC / JACOBUS JOHANNES ROOTMAN / JACOBUS PHILIPPUS SNYMAN
CASE NUMBER: NUMBER: M26/2021

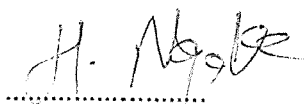
We refer to the matter above, especially court order dated 1st March 2021.

We have been instructed by our client to request your indulgence to submit requested documents not later than 4th June 2021.

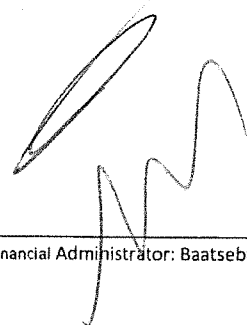
We confirm that bulk of the documents has already been compiled and we will see to it that it reaches your offices before the 4th June 2021.

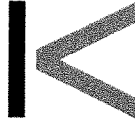
We hope the above is in order and we thank you in advance.

Yours faithfully



Mosire Tsiane Attorneys





0048

Annexure E

KRIEK WASSENAAR & VENTER ING

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0393

Your ref: Mr Ngake/KLM3980/019

26 May 2021

**MOSIRE TSIANE ATTORNEYS
GROUND FLOOR
85 AFRISPORT BUILDING
TEMBA**

By e-mail: mosiretsiane@lantic.net

Sir/Madam

SAKELIGA NPC / KGETLENGRIVIER LOCAL MUNICIPALITY – IDEAL PREPAID (PTY) LTD

1. We refer to your letter of 26 May 2021.
2. Our client is willing to provide your client with an indulgence for the delivery of the complete record by 4 June 2021 as requested. You are welcome to serve the records by e-mail if same is available in digital format.

Yours faithfully

KRIEK WASSENAAR & VENTER ING

PÉTER WASSENAAR – DIREKTEUR / DIRECTOR

(f) 086 596 8516

(e) peter@kriekprok.co.za

Elektronies gemaak
Elektronies gesig

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685

Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)
Bygestaan deur/assisted by Tertia Johanna Wassenaar (LLB), Kayla Oosthuizen (LLB);
Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)

• Reg: 2012/030418/21

DocDate 20210507



Elbie Swanepoel

From: Harris Ngake <harrisngake@yahoo.com>
Sent: 07 June 2021 15:20
To: Elbie Swanepoel
Subject: Kgetlengrivier Local Municipality / Sakeliga
Attachments: Communication Ideal-min.pdf

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping stroke extending to the right.



0050

Annexure G

KRIEK WASSENAAR & VENTER ING

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0393

Your ref: Mr Ngake/KLM3980/019

8 June 2021

**MOSIRE TSIANE ATTORNEYS
GROUND FLOOR
85 AFRISPORT BUILDING
TEMBA**

By e-mail: mosiretsiane@lantic.net

Sir/Madam

SAKELIGA NPC / KGETLENGRIVIER LOCAL MUNICIPALITY – IDEAL PREPAID (PTY) LTD

1. We refer to the telephone conversation between writer and your Mr Ngake on 7 June 2021.
2. We confirm that you have requested additional time until Wednesday, 9 June 2021, to deliver a complete record of your client's decision. We confirm that we have agreed to a further indulgence.
3. During our conversation, your Mr Ngake also mentioned that your client is struggling with the collating of the record, apparently because the second respondent is in possession of your client's file.
4. Writer has noted the contents of your email of 7 June 2021, to which some portions of the a purported record has been rendered. Accordingly, we are required to bring the following to your attention:
 - 4.1 Your client has been called in terms of rule 53 (1) to render a record of your client's decision. This requires the delivery of reasons for your client's decision as well as a complete record relating to the reasons and making of the decision;
 - 4.2 Your client is but one of two respondents, and you are therefore required to render a copy of the record to our client and the registrar and make a copy available to the

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685

Direkteure / Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)
Bygestaan deur / assisted by Tertlia Johanna Wassenaar (LLB), Kayla Oosthuizen (LLB),
Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)

• Reg: 2012/030418/21
DocDate 20210507



second respondent. All parties require *identical* copies of the record in order to draw their affidavits (see *Helen Suzman Foundation v Judicial Service Commission* 2018 (4) SA 1 (CC));

- 4.3 Even though our client is willing to accept electronic delivery of the record, same is not a waiver of the requirement that a complete and clearly defined record be delivered to the registrar and all parties as is required by rule 53. We cannot accept receipt of a piecemeal delivery of the record and must insist that your offices deliver your client's record in such a manner as to ensure that all parties receive an identical copy of the record and that all parties can determine whether or not their copy is complete. On gleaning the nature of the part record you have forwarded to us on 7 June 2021, we would expect that your record either be bundled in such a way as to ensure that identical copies are received or sufficiently indexed and paginated. We also refer you to rule 53(3);
- 4.4 If your client does not have complete reasons and/or a complete record or otherwise cannot provide complete reasons and/or a complete record, your client will be required to deliver an affidavit in terms of rule 35(12) stating why same is not in your client's possession and in such event to state its whereabouts, if known.
5. We await the delivery of your client's record in terms of rule 53.

Yours faithfully



KRIEK WASSENAAR & VENTER ING
PÉTER WASSENAAR – DIREKTEUR / DIRECTOR
(f) 086 596 8516
(e) peter@kriekprok.co.za
Elektronies geteken
Electronically signed

**IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)**

Case no. UM169/19

In the matter between:

SAKELIGA NPC

FIRST APPLICANT

JACOBUS JOHANNES ROOTMAN

SECOND APPLICANT

JACOBUS PHILIPPUS SNYMAN

THIRD APPLICANT

AND

KGETLENGRIVIER LOCAL MUNICIPALITY

FIRST RESPONDENT

**THE MUNICIPAL MANAGER,
KGETLENGRIVIER LOCAL MUNICIPALITY**

SECOND RESPONDENT

IDEAL PREPAID (PTY) LTD

THIRD RESPONDENT

**THE MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS**

FOURTH RESPONDENT

THE MINISTER OF FINANCE

FIFTH RESPONDENT

**THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR LOCAL GOVERNMENT,
NORTHWEST PROVINCE**

SIXTH RESPONDENT

**THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR FINANCE IN THE NORTH
WEST PROVINCE**

SEVENTH RESPONDENT

A handwritten signature in black ink, consisting of a large, stylized 'M' or 'N' shape with a loop at the top and a long, sweeping tail.

INDEX

ITEM NO:	DESCRIPTION	PAGES
42.1.	Council Resolution	N/A
42.2.	Agreement concluded between First Respondent and Third Respondent	1 – 94
42.3.	All powers, delegations for authority granted by the First Respondent to the Third Respondent to act on its behalf	N/A
42.4.	All communications and/or correspondent between the First Respondent, the Second Respondent and Third respondent	95 – 158
42.5.	Communication between First, Second, Fourth, Fifth, Six Respondents relating to appointment of Third Respondent	N/A
42.6.	Compliance with Local Government Municipal System Act 32 of 2000, MFMA 56 of 2003 and PFMA 1 of 1999	159 – 264
42.7.	Reasibility Study	N/A
42.8.	Submissions Made by First Respondent	N/A
42.9.	Submissions made to Council of First Respondent	N/A
42.10.	All minutes of meetings/or resolutions passed by Council – January 2015 – January 2020	N/A

SIGNED AT _____ ON THIS THE ____ DAY OF JUNE 2021.


 MOSIRE TSIANE ATTORNEYS
 ATTORNEYS FOR APPLICANT
 GROUND FLOOR, STAND 85
 AFRISPORT BUILDING
 TEMBA, 0407
 TEL: 011 318 0645
 012 717 7987
 FAX: 012 717 8307

Email: mosiretsiane@lantic.net

REF: KLM3980/019

C/O KGOMO ATTORNEYS

56 SHIPPARD STREET

MAFIKENG

TEL: (018) 381 0495

FAX: (018) 381 0496

EMAIL: info@kgomoattorneys.co.za

AND TO: THE REGISTRAR
THE ABOVE HONOURABLE COURT
MAHIKENG

AND TO: KRIEK WASSENAAR & VENTER INCORPORATED
ATTORNEYS FOR THE FIRST APPLICANT
NOREX HOUSE
79 RAUCH AVENUE
GEORGEVILLE
PRETORIA
TEL: 012 756 7566
EMAIL: peter@kriekprok.co.za
REF: QB0393
C/O SMIT STANDTON INCORPORATED
29 WARREN STREET
MAHIKENG
TEL NO: (018) 381 0180
FAX NO: 086 274 6253
EMAIL: litigation1@smitstanton.co.za
REF: N NEETLING

[Handwritten signature]
10/06/2021
13h01

AND TO: GUNZENHAUSER ATTORNEYS
ATTORNEYS FOR THE THIRD RESPONDENT
ATRIUM ON 5TH, 9TH FLOOR
CNR 5TH AND MAUDE STREET, SANDTON
TEL: 011 282 0854
E-MAIL: werner@mglaw.co.za
REF: W JANSE VAN RENSBURG / 100001B
C/O MAPONYA ATTORNEYS
OFFICE CB29, 1ST FLOOR
MEGACITY SHOPPING CENTRE
CNR SEKAME ROAD & DR JAMES MOROKA DRIVE
MMABATHO
TEL: 018 384 2823
E-MAIL: thabiso@maponya.co.za

[Handwritten signature]

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)

Case no. UM169/19

In the matter between:

SAKELIGA NPC

FIRST APPLICANT

JACOBUS JOHANNES ROOTMAN

SECOND APPLICANT

JACOBUS PHILIPPUS SNYMAN

THIRD APPLICANT

AND

KGETLENGRIVIER LOCAL MUNICIPALITY

FIRST RESPONDENT

**THE MUNICIPAL MANAGER,
KGETLENGRIVIER LOCAL MUNICIPALITY**

SECOND RESPONDENT

IDEAL PREPAID (PTY) LTD

THIRD RESPONDENT

**THE MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS**

FOURTH RESPONDENT

THE MINISTER OF FINANCE

FIFTH RESPONDENT

**THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR LOCAL GOVERNMENT,
NORTHWEST PROVINCE**

SIXTH RESPONDENT

**THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR FINANCE IN THE NORTH
WEST PROVINCE**

SEVENTH RESPONDENT

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large, sweeping loop.

RESPONDENT AFFIDAVIT IN TERMS OF RULE 35(12)

I, the undersigned

JOSEPH RAMOKATANE MOGALE

do hereby state under the oath as follows:

1.

I am an adult male employed at Kgetlengrivier Local Municipality as Municipal Manager, with business address Cnr Smuts & De Wit Street, Koster.

2.

This affidavit is disposed with as a response to the request for documents.

3.

AD Paragraph 4.2.1

The documents referred to in these paragraphs are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown.

4.

AD Paragraph 4.2.2

The documents referred to in these paragraphs are thereto attached as **Annexure "A"** in the bundle of indexed documents from page 1-94.

5.

AD Paragraph 4.2.3



The documents referred to in these paragraphs are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown.

6.

AD Paragraph 4.2.4

The documents referred to in these paragraphs are thereto attached as **Annexure "B"** in the bundle of indexed documents from page 95-158.

7.

AD Paragraph 4.2.5

The documents referred to in these paragraphs are not available.

8.

AD Paragraph 4.2.6

The contract was acquired through the Municipal Supply Chain Management (SCM) Regulation 32 of 2005. Attached Documents of compliance hereto attached as **Annexure "C"** in the bundle of indexed document from page 159-264.

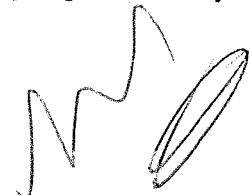
9.

AD Paragraph 4.2.7, 4.2.8, 4.2.9, 4.2.10

The documents referred to in these paragraphs are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown.

10.

I however advise that the search of documents which are not available is ongoing, and if they are found at the later stage, they will be gladly handed in.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large, loopy flourish.

SIGNED AT _____ ON THIS THE _____ DAY OF JUNE 2021.

Deponent

I certify that the deponent has acknowledged that she/he knows and understand the contents of this declaration which was sworn to/ affirmed before me and the deponents' signature/ thumb print/mark was placed thereon in my presence.

COMMISSIONER OF OATHS: _____

FULL NAME: _____

DESIGNATION (RANK) AND AREA FOR WHICH APPOINTED: _____

BUSINESS ADDRESS: _____

DATE: _____

PLACE: _____

A handwritten signature in black ink, consisting of stylized, overlapping loops and strokes, located in the bottom right corner of the page.



Annexure I

0059

KRIEK WASSENAAR & VENTER ING

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0393

Your ref: Mr Ngake/KLM3980/019

11 June 2021

**MOSIRE TSIANE ATTORNEYS
GROUND FLOOR
85 AFRISPORT BUILDING
TEMBA**

URGENT

By e-mail: mosiretsiane@lantic.net

Sir/Madam

SAKELIGA NPC / KGETLENGRIVIER LOCAL MUNICIPALITY – IDEAL PREPAID (PTY) LTD

1. We refer to the indexed record bundle your offices served on our offices at Pretoria on 10 June 2021. An 'affidavit' in terms of rule 53(12) was included in the bundle. This document however was not commissioned or signed by Mr Mogale.
2. We require that a complete and signed affidavit be rendered as a matter of urgency. We do not deem your delivery of records to be complete until such time as your client has complied. We are willing to accept an electronic service of the affidavit once commissioned and signed.
3. Our client's rights remain reserved, which rights include the right to deem the date of delivery of your record to be the date on which your client has fully complied with the rules. We will be consulting with counsel in the forthcoming week.

Yours faithfully

KRIEK WASSENAAR & VENTER ING
PÉTER WASSENAAR – DIREKTEUR / DIRECTOR
(f) 086 596 8516
(e) peter@kriekprok.co.za
Electronies gemaak
Electronies gemaak

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685

Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)
Bygestaan deur/assisted by Tertla Johanna Wassenaar (LLB), Kayla Oosthuizen (LLB);
Konsultante / Consultants: Catherina Elizabeth Plenaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)
• Reg: 2012/030418/21
DocDate 20210507



mosire tsiane
ATTORNEYS

ATTORNEYS, CONVEYANCERS & NOTARIES

Ground Floor, 85 Afrisport Building, Temba

P.O.Box 18

Temba, 0407

Tel: (011) 318 0645

(012) 717 7987

Fax2Email: 086 760 6216

Email: mosiretsiane@lantic.net

VAT NO: 4790243937

Your ref/U verw:

Enquiries: Mr Tsiane

Our ref/Ons verw:

Mr NGAKE/KLM3980/019

17TH JUNE 2021

KRIEK WASSENAAR & VENTER INC
1ST FLOOR, NOREX HOUSE
RAUCHLAAN, RAUCH AVENUE
GEORGEVILLE
PRETORIA
0184

Email: peter@kriekprok.co.za

Dear Sir

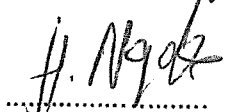
RE: KGETLENGRIVIER LOCAL MUNICIPALITY- IDEAL PREPAID (PTY) LTD /
SAKELIGA NPC / JACOBUS JOHANNES ROOTMAN / JACOBUS PHILIPPUS SNYMAN
CASE NUMBER: NUMBER: M26/2021

The above matter refers.

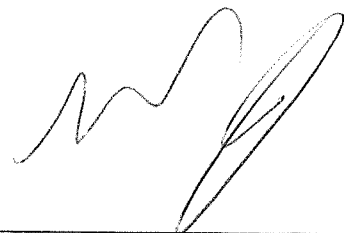
Please find attached signed affidavit for your attention.

We hope the above is in order.

Yours faithfully



Mosire Tsiane Attorneys



IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)

Case no. UM169/19

In the matter between:

SAKELIGA NPC

FIRST APPLICANT

JACOBUS JOHANNES ROOTMAN

SECOND APPLICANT

JACOBUS PHILIPPUS SNYMAN

THIRD APPLICANT

AND

KGETLENGRIVIER LOCAL MUNICIPALITY

FIRST RESPONDENT

THE MUNICIPAL MANAGER,
KGETLENGRIVIER LOCAL MUNICIPALITY

SECOND RESPONDENT

IDEAL PREPAID (PTY) LTD

THIRD RESPONDENT

THE MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS

FOURTH RESPONDENT

THE MINISTER OF FINANCE

FIFTH RESPONDENT

THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR LOCAL GOVERNMENT,
NORTHWEST PROVINCE

SIXTH RESPONDENT

THE MEMBER OF THE EXECUTIVE
COMMITTEE FOR FINANCE IN THE NORTH
WEST PROVINCE

SEVENTH RESPONDENT

HS
JRM

RESPONDENT AFFIDAVIT IN TERMS OF RULE 35(12)

I, the undersigned

JOSEPH RAMOKATANE MOGALE

do hereby state under the oath as follows:

1.

I am an adult male employed at Kgetlengrivier Local Municipality as Municipal Manager, with business address Cnr Smuts & De Wit Street, Koster.

2.

This affidavit is disposed with as a response to the request for documents.

3.

AD Paragraph 4.2.1

The documents referred to in these paragraphs are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown.

4.

AD Paragraph 4.2.2

The documents referred to in these paragraphs are thereto attached as **Annexure "A"** in the bundle of indexed documents from page 1-94.

5.

AD Paragraph 4.2.3

HS [Signature] JAM

The documents referred to in these paragraphs are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown.

6.

AD Paragraph 4.2.4

The documents referred to in these paragraphs are thereto attached as **Annexure "B"** in the bundle of indexed documents from page 95-158.

7.

AD Paragraph 4.2.5

The documents referred to in these paragraphs are not available.

8.

AD Paragraph 4.2.6

The contract was acquired through the Municipal Supply Chain Management (SCM) Regulation 32 of 2005. Attached Documents of compliance hereto attached as **Annexure "C"** in the bundle of indexed document from page 159-264.

9.

AD Paragraph 4.2.7, 4.2.8, 4.2.9, 4.2.10

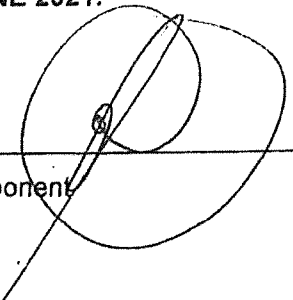
The documents referred to in these paragraphs are not available and/or cannot be found after a diligent search by the Respondent and their whereabouts are unknown.

10.

I however advise that the search of documents which are not available is ongoing, and if they are found at the later stage, they will be gladly handed in.

A large, stylized handwritten signature in black ink, appearing to be a combination of initials and a surname, possibly 'J. M. van der...'.

SIGNED AT Koster ON THIS THE 15 DAY OF JUNE 2021.


Deponent

I certify that the deponent has acknowledged that she/he knows and understand the contents of this declaration which was sworn to/ affirmed before me and the deponents' signature/ thumb print/mark was placed thereon in my presence.

COMMISSIONER OF OATHS: 

FULL NAME: Hermanus Stephanus de Beer

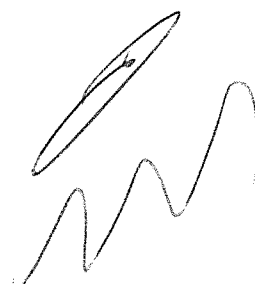
DESIGNATION (RANK) AND AREA FOR WHICH APPOINTED: ULO

BUSINESS ADDRESS: 44 Palam str Koster

DATE: 2021-06-15

PLACE: Koster





Rohann Eloff

From: Jonathan White <jon@mglaw.co.za>
Sent: Monday, 21 June 2021 14:41
To: Rohann Eloff
Cc: Michelle Mndau; Michal Gunzenhauser
Subject: SAKELIGA NPC AND OTHERS / KGETLENGRIVIER LOCAL MUNICIPALITY AND OTHERS (OUR CLIENT – IDEAL PREPAID (PTY) LTD) / OUR REF: J WHITE/231A / YOUR REF: P WASSENAAR/QB0393

Dear Sir,

SAKELIGA NPC AND OTHERS / KGETLENGRIVIER LOCAL MUNICIPALITY AND OTHERS
(OUR CLIENT – IDEAL PREPAID (PTY) LTD)
OUR REF: J WHITE/231A
YOUR REF: P WASSENAAR/QB0393

We refer to the above matter and our email hereunder.

Kindly revert to us urgently.

**We are fully geared for Coronavirus - Online consults available. [More Info](#)*

Kind Regards,



Any sharing, dissemination, distribution, or reproduction of any part of this confidential email or any attachments is prohibited. Any views/opinions expressed are solely of the sender and do not necessarily represent those of MG Law.

Dear Sir,

SAKELIGA NPC AND OTHERS / KGETLENGRIVIER LOCAL MUNICIPALITY AND OTHERS
(OUR CLIENT – IDEAL PREPAID (PTY) LTD)
OUR REF: J WHITE/231A / YOUR REF: P WASSENAAR/QB0393

We refer to the above matter and our telephonic conversation held on even date and enclose hereunder our letter dated 3 June 2021.

Kindly provide writer hereof with confirmation of whether the record of proceedings have been filed by the First and Second Respondent.

The record has not been served on our correspondent.

**We are fully geared for Coronavirus - Online consults available. [More Info](#)*

Kind Regards,



Any sharing, dissemination, distribution, or reproduction of any part of this confidential email or any attachments is prohibited. Any views/opinions expressed are solely of the sender and do not necessarily represent those of MG Law.

----- Forwarded message -----

From: **Jonathan White** <jon@mglaw.co.za>

Date: Thu, Jun 10, 2021 at 5:09 PM

Subject: SAKELIGA NPC AND OTHERS / KGETLENGRIVIER LOCAL MUNICIPALITY AND OTHERS (OUR CLIENT – IDEAL PREPAID (PTY) LTD) / OUR REF: J WHITE/231A / YOUR REF: P WASSENAAR/QB0393

To: <peter@kriekprok.co.za>

Cc: Michal Gunzenhauser <michal@mglaw.co.za>, Michelle Mndau <legalsecretary1@mglaw.co.za>

Dear Sir,

SAKELIGA NPC AND OTHERS / KGETLENGRIVIER LOCAL MUNICIPALITY AND OTHERS
OUR CLIENT – IDEAL PREPAID (PTY) LTD)
OUR REF: J WHITE/231A
YOUR REF: P WASSENAAR/QB0393

We refer to the above matter.

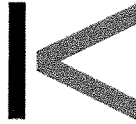
Kindly find enclosed hereto our letter of even date.

**We are fully geared for Coronavirus - Online consults available. [More Info](#)*

Kind Regards,



Any sharing, dissemination, distribution, or reproduction of any part of this confidential email or any attachments is prohibited. Any views/opinions expressed are solely of the sender and do not necessarily represent those of MG Law.

**KRIEK WASSENAAR & VENTER ING**

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0393

Your ref: J White/231A

22 June 2021

MG LAW INC
UPPER GRAYSTON OFFICE PARK
150 LINDEN STREET
SANDTON

By e-mail: jon@mglaw.co.za
michal@mglaw.co.za
legalsecretary1@mglaw.co.za

Sir/Madam

SAKELIGA NPC / KGETLENGRIVIER LOCAL MUNICIPALITY – IDEAL PREPAID (PTY) LTD

1. We refer to your letter of 10 June 2021.
2. The attorneys for the first and second respondents on 10 June 2021 delivered a record of proceedings in excess of 264 A4 pages. From the filing notice we can glean that your offices will also be served with a copy. Our offices will however provide you with a downloadable link to the full served record along with this letter. The documents delivered do not include any records relating to the council's 2019 decision under review. The first respondent has filed an 'affidavit'. A commissioned copy of the affidavit was only served by email on 17 June 2021. We have demanded that the first and second respondents comply with rule 53 in ensuring proper service and filing of the record on all parties as well as the registrar. We have yet to receive a response.
3. We have noted that your client intends to supplement your papers. Please however note that our client also has the right to supplement papers and we request that you hold your own file over pending receipt of our supplemented affidavits.
4. We will provide you with further feedback once we are in a position to do so. Writer will be consulting with counsel this week regarding the record.

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685

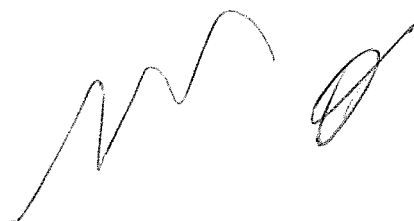


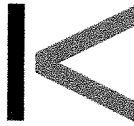
Yours faithfully



KRIEK WASSENAAR & VENTER ING
PÉTER WASSENAAR – DIREKTEUR / DIRECTOR
(f) 086 596 8516
(e) peter@kriekprok.co.za

Elektronies geteken
Electronically signed





0069

Annexure M

KRIEK WASSENAAR & VENTER ING

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0393

Your ref: Mr Ngake/KLM3980/019

26 August 2021

**MOSIRE TSIANE ATTORNEYS
GROUND FLOOR
85 AFRISPORT BUILDING
TEMBA**

By e-mail: mosiretsiane@lantic.net

Sir/Madam

SAKELIGA NPC / KGETLENGRIVIER LOCAL MUNICIPALITY – IDEAL PREPAID (PTY) LTD

1. We refer to the above matter and the court order of 14 May 2021, which is attached hereto for ease of reference.
2. We have considered the rule 53 record which your client has made available and the affidavit filed by your client. It is our view that your client has not properly disclosed the record of proceedings and complied with the order of court. In several instances your client states that the documents cannot be found whilst such documents are official documents which must be in your clients' possession or your client must know what the whereabouts are of the documents. The record you have presented fails to make provision for the following:
 - 2.1 Copies of the first respondent's municipal council's decisions to appoint the third respondent to provide services to the first respondent;
 - 2.2 Copies of all powers and delegations of authority by the first respondent to the third respondent to act on its behalf;

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 3rd Floor, HB Forum Building, 13 Stamvrug Road, Val de Grace, Pretoria 0184
(p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685

Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)
Bygestaan deur/assisted by Tertia Johanna Wassenaar (LLB), Kayla Oosthuizen (LLB);
Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)
• Reg: 2012/030418/21
DocDate 20210507



- 2.3 Communication between the first respondent, second respondent and the third respondent regarding the appointment of the third respondent, with specific reference to the period of January 2018 – December 2019;
- 2.4 Communication between the first respondent, second respondent, fourth respondent, fifth respondent, sixth respondent and/or the seventh respondent regarding the appointment of the third respondent;
- 2.5 The feasibility study done by the first respondent for the appointment of the third respondent;
- 2.6 All submissions made by the first respondent alternatively the second respondent to the seventh respondent and/or the fifth respondent regarding the future budgetary implications of the appointment of the third respondent;
3. All minutes of meetings and/or resolutions passed by the council of the first respondent for the period of 1 January 2015 up and until 1 January 2020.
4. Your client should also note that our client is of the view that your record has failed to address the issues under review and that it has been burdened with records which do not directly relate to the review application. For example as annexure C to paragraph 8 of your clients affidavit, approximately 200 pages of documents are attached that relates to the Ulundi Municipality that have no relevance to the proceedings at all. This just demonstrates that your client has not applied its mind at all to the documents that should be disclosed. Such is contemptuous of the order of court.
5. This results in various delays and not that we and our client had to consider a cumbersome record which is not properly prepared and irrelevant and not useful.
6. Our client hereby demands that your client file a proper record of proceedings by no later than **10 September 2021**. If your client fails and/or refuses to file a proper record, our client will bring an application in the High Court in order to strike your client's defence, alternatively for an order to again compel your client to deliver a proper record of proceedings or contempt of court. In any event, our client will be applying for a special punitive cost order.

7. We await your response by **10 September 2021**.

Yours faithfully



KRIEK WASSENAAR & VENTER ING
PÉTER WASSENAAR – DIREKTEUR / DIRECTOR
(f) 086 596 8516
(e) peter@kriekbrok.co.za

Elektronies geteken
Electronically signed



Elbie Swanepoel

From: Elbie Swanepoel
Sent: 26 August 2021 08:43
To: mosiretsiane@lantic.net
Subject: SAKELIGA NPC / KGETLENGRIVIER LOCAL MUNICIPALITY – IDEAL PREPAID (PTY) LTD
Attachments: Court order dated 2021-05-14.pdf; Mosire Tsiane Attorneys sent 2021-08-26.pdf

Sensitivity: Private

Good day,

We refer to the above and attach hereto a letter for your attention.

Regards,



ELBIE SWANEPOEL

Kriek Wassenaar & Venter Ing

Regsekretaresse / Legal Secretary

• (t) (+27) 12 803 4719 • (f) (+27) 86 596 8516

• (a) 3de Vloer / 3rd Floor, HB Forum Gebou / Buidling, Stamvrugstraat 13 Stamvrug Street, Val de Grace, Pretoria, 0184

• (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg: 2012/030418/21