IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

Case No.: UM192/2022

In the matter between:

SAKELIGA NPC	**First applicant**
CENTRE FOR GOOD GOVERNANCE AND SOCIAL JUSTICE NPC	**Second applicant**
BAREND LOURENS SNYMAN	**Third applicant**

and

DITSOBOTLA LOCAL MUNICIPALITY	**First respondent**
THE MUNICIPAL MANAGER / ACTING MUNICIPAL MANAGER OF THE DITSOBOTLA LOCAL MUNICIPALITY	**Second respondent**
PREMIER OF THE NORTH WEST PROVINCE	**Third respondent**
PROVINCIAL EXECUTIVE OF THE NORTH WEST PROVINCE	**Fourth respondent**
MEMBER OF THE EXECUTIVE COUNCIL: NORTH WEST PROVINCE: COOPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS	**Fifth respondent**
MEMBER OF THE EXECUTIVE COUNCIL: NORTH WEST PROVINCE: FINANCE	**Sixth respondent**

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	**Seventh respondent**
MINISTER: NATIONAL DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	**Eighth respondent**
MINISTER: NATIONAL DEPARTMENT OF FINANCE	**Ninth respondent**
MINISTER: WATER AND SANITATION	**Tenth respondent**
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	**Eleventh respondent**
ESKOM SOC LTD	**Twelfth respondent**
MAGALIES WATER BOARD	**Thirteenth respondent**
THE ADMINISTRATOR: DITSOBOTLA LOCAL MUNICIPALITY	**Fourteenth respondent**

REPLYING AFFIDAVIT
SECTION 139(7) APPLICATION

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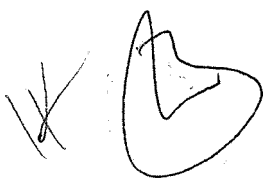
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I, the undersigned,

CHRISTO BESTER

hereby make oath and say that:

1 I am the same deponent to the supplementary founding affidavit in this application with full and further particulars set out therein.

2 I remain duly authorised to continue with this application, together with the third applicant.

3 The facts set out herein are true and correct, and such facts fall within my personal knowledge unless the contrary is indicated by the context.

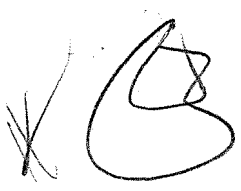
4 Terms defined in the founding affidavit and supplementary founding affidavit shall bear the same meaning in this affidavit.

INTRODUCTION

5 The application is opposed by the third, fourth, fifth and sixth respondents only, being the provincial executive respondents.

6 No other respondent has filed an answering affidavit:

6.1 The eighth respondent, the Minister of COGTA, initially filed a notice of intention to oppose (at p 667) but withdrew this notice and filed a notice to abide (at p 671). The State Attorney addressed a letter on behalf of the Minister of COGTA to the applicants' attorneys requesting a period of three weeks to file an explanatory affidavit. This request was respectfully



declined on behalf of the applicants' attorneys due to the Minister's non-opposition and his failure to act positively in terms of section 139(7) of the Constitution thereby compelling the applicants to urgently proceed with the application. Copies of the State Attorney's letter and the applicants' attorneys' reply thereto are attached marked **DD1** and **DD2**, respectively;

6.2 The ninth respondent, the Minister of Finance, filed a notice of intention to oppose but failed to file an answering affidavit within 15 days as ordered by this court in the Provincial Intervention Order. In any event, in the light of the withdrawal of the Minister of COGTA's opposition to this application, the Minister of Finance cannot oppose the application due to the principle of collective responsibility.

7 The application remains urgent for the reasons set out in the papers filed to date and herein below.

8 I have read the answering affidavit deposed to by Dr Mokotedi Samuel Bole, in his capacity as the fifth respondent, and on behalf of the third, fourth, fifth and sixth respondents (collectively, the "**provincial executive**" / "**provincial respondents**") on 7 May 2024.

9 I do not intend to deal with every allegation contained in the answering affidavit. My failure to deal with any specific allegation must be seen as a denial thereof insofar as such allegation does not specifically accord with the facts set out in my founding affidavits and I request the court to read any such allegation in the context of the applicants' affidavits as a whole.



10 Before replying *seriatim* to the answering affidavit:

10.1 Firstly, I deal with the content of the April 2025 quarterly report ("**the sixth report**") which was filed after the amended notice and supplementary founding affidavit were filed;

10.2 Secondly, I show that the provincial respondents' answering affidavit largely repeats the content of the sixth report and that, in any event, both confirm that the provincial executive has failed to discharge its obligations under section 139 of the Constitution and the Provincial Intervention Order such that the relief sought in the present application is warranted;

10.3 Finally, I set out the further acts of violence which occurred in May 2025, which provide further grounds in support of the urgency of the matter.

THE SIXTH REPORT – APRIL 2025

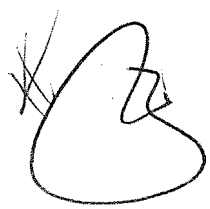
11 The sixth report (at p 518) relates to the period January to March 2025.

12 It was filed on 7 April 2025 by Mr Gabanakgosi, who also describes himself as the Lead PER. Mr Gabanakgosi is, in fact, the secondary PER.

13 The sixth report is also addressed to the fifth respondent and the provincial executive who clearly had regard thereto when preparing the provincial respondents' answering affidavit.

14 In the summary in paragraph 3 of the report, Mr Gabanakgosi states that:

14.1 Ditsobotla was placed under mandatory intervention in line with section 139(5)(a) and (c) of the Constitution since May 2023;



14.2 The implementation period of the MFRP is a three-year period broken down into consecutive phases:

14.2.1 Rescue phase (1 year, i.e. May 2023 – May 2024);

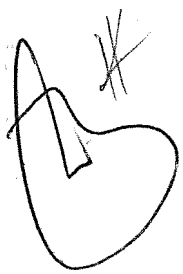
14.2.2 Stability phase (1 year, i.e. May 2024 – May 2025); and

14.2.3 Sustainability phase (6 months to 1 year, i.e. May 2025 to Nov 2025 / May 2026).

15 According to the MFRP and Mr Gabanakgosi's report (confirmed under oath), Ditsobotla ought to have completed the 'stability phase' and ought to be now entering the 'sustainability phase'. It is not. Rather, Mr Gabanakgosi states that by June 2025 only 66% of the rescue phase will be achieved.

16 As background, Mr Gabanakgosi states that:

> *The term of January to March 2025 was dominated by inclement weather, political and administration instability, court battles for determining municipal leadership and disruption of work resulting in closing of municipal offices. These factors posed a safety and security risk to municipal properties, staff, councillors and the PER team.*
>
> *Pursuant to what transpired above, eighteen (18) working days were lost due to closure of municipal offices, while (10) days were lost to inclement weather resulting in flooding that caused disaster. The disaster led to the collapse of informal settlements, especially mud houses, and the lack of access to villages due to poor roads and stormwater drainage infrastructure.*
>
> *Isolated electricity outages from both municipal and Eskom supply areas were reported. Water shortages were reported for most of the term especially on the Klipveld Water scheme, due to electricity breakdowns from both Ngaka Modiri Molema District Municipality (NMMDM) power*



supply line and that of Ditsobotla Local Municipality (DLM) towards the waterworks unit.

Most of the achievements of this term were recorded from the Finance pillar and Institutional pillar due to the ability of the intervention units to execute their duties remotely, and the specialist personnel that were deployed to the municipality since February 2025.

With the intension (sic) to strengthen support to DLM, several intervention events were undertaken as follows:-

> *All Heads of Department convened in DLM to adopt activities and support DLM with special focus on service delivery on 21 January 2025.*

> *The Premier and the MECs convened a political engagement in DLM on 21 January 2025.*

> *The Deputy Minister of Cooperative Governance (DCOG) visited the district on 23 January 2025.*

> *The Service Delivery Councillors' Workshop was held on 6 February 2025 and continued 11 February 2025 via virtual meeting.*

17 The sixth report euphemistically refers to the violence that occurred at the municipality and the dispute between the two factions within the municipal council which resulted in two mayors, two speakers and two municipal managers as mere "*political and administration instability*".

18 The PER has failed to provide an open and honest account to this court of what is occurring at Ditsobotla in accordance with paragraph 3 of the Provincial Intervention Order.

19 The table in respect of the service delivery pillar is not comparable to the table used in previous reports for this pillar. Nevertheless, having regard to the report, it is clear that there has not been any concrete progress made towards resolving

the financial crisis in the municipality or providing basic services. The provincial intervention remains a "talk shop" of strategies, planning, meetings and proposals with no urgency to comply with the provincial executive's obligations and duties under section 139(5) of the Constitution, as directed by paragraph 2.1 of the Provincial Intervention Order.

THE PROVINCIAL RESPONDENTS CONFIRM THE NEED FOR NATIONAL INTERVENTION

20 The provincial respondents oppose this application on the narrow basis that the application is premature. Whilst this is denied, this also entirely misses the mark.

21 The standard by which the application must be determined is whether the provincial executive (i) cannot, (ii) does not, or (iii) does not adequately, exercise the powers or perform the functions referred to in section 139(5) of the Constitution. Should the court find that either one of these three criteria is met, then the court is obliged to grant the relief sought in the amended notice of motion.

22 Section 139(5) (a) and (c) of the Constitution provide that the provincial executive must:

22.1 Impose a recovery plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, which:

22.1.1 Is to be prepared in accordance with national legislation; and



22.1.2 Binds the municipality in the exercise of its legislative and executive authority, but only to the extent necessary to resolve the crisis in its financial affairs;

22.2 If the municipal council is not dissolved in terms of section 139(5)(b), assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement the recovery plan.

23 This is made abundantly clear by the content of the Provincial Intervention Order which requires the provincial executive to exercise the powers and perform the functions referred to in section 139(5) as a matter of urgency and to assume responsibility for the MFRP.

24 The recovery plan is the MFRP. The provincial executive has wholly failed to impose the MFRP on Ditsobotla or to assume responsibility for its implementation:

24.1 The provincial respondents state unequivocally in paragraph 134.1 of their answering affidavit that:

24.1.1 a critical challenge inhibiting the speedy implementation of the MFRP is the recognition of section 151(2) of the Constitution; and

24.1.2 the "concurrent" management of Ditsobotla Local Municipality by its own municipal council and the provincial executive creates a tug of war in some instances.

25 Section 151(2) of the Constitution provides that the executive and legislative authority vests in the municipal council.

26 The statement made in paragraph 134.1 of the provincial respondents' answering affidavit is an indictment on the provincial executive's ability to exercise the powers or perform the functions referred to in section 139(5) of the Constitution. The provincial executive wholly misunderstands the constitutional obligation imposed on them by the Constitution, the MFMA and the Provincial Intervention Order and, as such, cannot, has not, and has not adequately exercised the powers and performed the functions in section 139(5) of the Constitution.

27 In aggravation of the aforesaid, as a result of this misunderstanding, the provincial executive has allowed the municipal council to ride roughshod over the PER, the implementation of the MFRP and the provincial executive's constitutional authority, as confirmed in the Provincial Intervention Order.

28 There are thus four *de facto* centres of power in the municipality, the PER (of which there are apparently two Lead PERs), the two warring factions within the municipal council and the provincial executive.

29 The provincial executive has delegated the implementation of the MFRP to the PER and has failed to step-in to properly exercise its authority in the municipality.

30 As to the call for patience, this is a hollow argument. Neither the provincial executive nor the PER have placed any plan before the court to get the MFRP back on track in order to complete the rescue phase of the MFRP within a reasonable amount of time. The PER and the provincial executive have occupied



themselves with endless "talk shops", strategies and planning, where the Constitution and the Provincial Intervention Order require direct and immediate action to be undertaken "as a matter of urgency" – all the while being ambivalent about the harm and suffering caused to the residents of Ditsobotla and the daily infringement on their constitutional rights.

31 Moreover, one must consider the call for patience, and the assertion of the application being premature, within the context of the extended history of decay at the municipality spanning more than 10 years, as detailed in the founding affidavit (pages 53-79, paragraphs 71 to 101), of which I provide a short summary below.

32 The Finance Minister, through National Treasury, periodically publishes "*National Treasury: The state of local government finances and the financial management report*" (the "**Treasury report**"), which details the financial health of South Africa's municipalities, and which reveals that (a) Ditsobotla has been identified as a municipality in financial distress since 2013 and (b) Ditsobotla has been under some form of intervention in terms of section 139 of the Constitution in 2013, 2014, 2016 and 2017. All interventions have failed and proven entirely ineffective.

33 The COGTA report, dated 24 August 2020, confirms that Ditsobotla is, because of financial crisis, in serious and persistent material breach of its obligations to provide basic services and to meet its financial commitments.



34 In respect of Ditsobotla, the COGTA report further highlights the following concerns:

34.1 The appointment of senior officials is marred by controversy and irregularity; (Paragraph 5.1.14(a) of the COGTA report) It appears that Ditsobotla has been under prior intervention / administration; (Paragraph 5.1.14(a) of the COGTA report) Municipal employees have been dismissed without disciplinary processes, creating tension between the Municipality and Labour; (Paragraph 5.1.14(a) of the COGTA report) Only two of six senior management positions are filled, being the Municipal Manager and Chief Financial Officer; (Paragraph 5.1.14(a) of the COGTA report) The work of the Municipal Public Accounts Committee ("MPAC") is not properly resourced and the committees' reports are not processed by the Municipal Council; (Paragraph 5.1.14(a) of the COGTA report) Serious and damning allegations exist against key office bearers; (Paragraph 5.1.14(a) of the COGTA report) Ditsobotla experiences community protests which result in closure of the Municipal Offices; (Paragraph 5.1.14(a) of the COGTA report) Employees are on strike in protest against the Municipal Manager; (Paragraph 5.1.14(a) of the COGTA report)

34.2 Ditsobotla's financial position is dire: The approved budget is not cash-backed; (Paragraph 5.1.14(b) of the COGTA report) Ditsobotla is "not financially viable"; (Paragraph 5.1.14(b) of the COGTA report) Ditsobotla fails to pay its creditors and fulfil other commitments; (Paragraph 5.1.14(b) of the COGTA report) There are serious cash flow challenges;



(Paragraph 5.1.14(b) of the COGTA report) There is an ever-increasing creditor balance, in violation of section 65(2)(e) of the MFMA, which requires that "all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement"; (Paragraph 5.1.14(b) of the COGTA report) Ditsobotla owes Eskom R627,717,201, of which R607,004,485 (97%) is overdue; (Paragraph 5.1.14(b) of the COGTA report) Attorneys have been appointed to conduct a forensic investigation into the loss and embezzlement of integrated national electrification plan ("INEP") funds; (Paragraph 5.1.14(b) of the COGTA report) Supply chain management receives no attention because the position of the supply chain management manager is vacant; (Paragraph 5.1.14(b) of the COGTA report) Ditsobotla does not run on a proper municipal IT system; (Paragraph 5.1.14(b) of the COGTA report) Ditsobotla has received three consecutive disclaimer audit opinions for the financial years 2016 / 2017 to 2019 / 2020. (Paragraph 5.1.14(b) of the COGTA report).

34.3 Persistent and material breach of Ditsobotla's service delivery obligations: There are generally incidents of non-compliance with service delivery commitments by Ditsobotla; (Paragraph 5.1.14(c) of the COGTA report) Ditsobotla does not collect refuse; (Paragraph 5.1.14(c) of the COGTA report) Communities had to dispose of their own refuse which led to violent protests; (Paragraph 5.1.14(c) of the COGTA report) Access roads are not maintained; (Paragraph 5.1.14(c) of the COGTA report) Internal roads have deteriorated to a point where most tarred roads have informally turned into gravel roads. (Paragraph 5.1.14(c) of the COGTA report)

34.4 At the end of the COGTA report, the COGTA MEC (i.e. the fifth respondent) makes the following recommendation:

"It is recommended that the Provincial Executive Council mandate the MEC of COGTA working with the MEC of PT to develop a Municipal Recovery Programme focusing on ... [Ditsobotla]...".

35 In August 2020, the fifth respondent recognised the need to place Ditsobotla under mandatory intervention. Yet, the provincial executive did nothing. It was only after this application was instituted in 2022, and while it was pending, that the provincial executive placed Ditsobotla under mandatory intervention. For two years, the residents of Ditsobotla had to languish under a collapsed and corrupt municipality while the provincial executive dragged its feet.

36 Now, the need for national intervention is obvious as the provincial executive continues to drag its feet and the residents continue to languish under a supine provincial executive.

37 The residents of Ditsobotla cannot stand idly by and hope in vain that the provincial executive will come to some realisation and take action. The provincial executive has failed to do so, even in the face of a court order compelling them to comply with their constitutional duties and obligations.

38 The application is not premature and, the applicants submit that each of the three criteria warranting the intervention of the national executive in the stead of the provincial executive is met.

FURTHER ACTS OF VIOLENCE AND FACTIONALISM REQUIRING URGENT NATIONAL INTERVENTION

39 On or about 4 May 2025, and three days prior to the fifth respondent deposing to the answering affidavit, there was again a violent shootout at the offices of the Ditsobotla Local Municipality, in which one person was shot and seriously wounded.

40 The incident was allegedly caused when a new security company, appointed by Mr Bojosinyane arrived at the municipal offices at 04h00 in the morning to assume duties at the municipality when a confrontation broke out with the existing security at the municipality, which confrontation resulted in the shooting.

41 The incident is confirmed in the affidavit of Mr Jan Coetzee, a copy of which is attached hereto, marked **DD3.**

42 The applicants are advised that the evidence in Mr Coetzee's affidavit constitutes hearsay evidence. The applicants will request that the respondents agree to admission hereof as contemplated in section 3(1)(a) of the Law of Evidence Amendment Act 45 of 1988, failing which, the applicants respectfully request that such evidence be admitted by court in the interests of justice as contemplated in section 3(1)(c) of the Law of Evidence Amendment Act. In this regard, the applicants submit that:

42.1 These remain urgent proceedings in which hearsay evidence is more readily accepted;

42.2 The evidence is tendered for the purpose of showing that the national intervention in the affairs of Ditsobotla is urgently required due to the

propensity for entrenched factional disputes, with no sign of resolution, to spill over into public violence, endangering lives;

42.3 The nature and probative value of the evidence is good as the incident is well-reported and appears in no fewer than three separate media publications - none of which have been denied or gainsaid by Ditsobotla or any municipal officials;

42.4 The applicants have no direct contact with the perpetrators or victims and cannot obtain evidence from the persons directly involved. The municipal worker who confirmed the incident agreed to confirm the incident to Mr Coetzee on condition of anonymity for fear of victimisation and possible retribution;

42.5 The provincial executive has elected not to disclose these facts to the court but rather to skirt them;

42.6 The incident is confirmed in news articles and is broadly and the incident in March 2025 is euphemistically acknowledged by the PER in the sixth report as "*political and administration instability*";

42.7 There is no prejudice to any party by the admission of such evidence and it is in the interest of justice that evidence of such incidents be admitted and considered by the court in its consideration of the state of affairs at Ditsobotla, particularly the lawlessness at the municipal council and the failure by the provincial executive to acknowledge the dire state of affairs and take any positive steps to remedy the situation.



THE ALLEGATIONS CONTAINED IN THE PROVINCIAL EXECUTIVE'S ANSWERING AFFIDAVIT

43 I shall now deal *seriatim* with only those allegations contained in the provincial executive's answering affidavit in need of a reply. Where any allegation contained in the provincial executive's answering affidavit is contrary to what is stated in either the founding affidavit or this replying affidavit, such allegation is denied.

Ad paragraphs 1 and 2 thereof

44 The content of these paragraphs is noted. Even now, the opposition to this application is delegated to a head of department and the plight of the residents of Ditsobotla does not receive the attention of the MEC.

Ad paragraph 3 thereof

45 The content of this paragraph is denied. The correctness of the legal advice furnished to the provincial executive is specifically denied.

Ad paragraph 4 thereof

46 Save to deny that the content of the provincial executive's answering affidavit is true and correct, the remainder of the content of this paragraph is noted.

47 Dr Bole, the deponent to the provincial executive's answering affidavit, has no direct knowledge of the evidence tendered in the answering affidavit and any such knowledge is qualified as being "*to the best of [his] knowledge*".

Ad "INTRODUCTION"

Ad paragraphs 5 and 6 thereof

48 I admit that there has been a collapse of basic services in Ditsobotla.

49 I deny any insinuation or inference that the provincial executive is actively observing the affairs in Ditsobotla.

50 As has been extensively set out in the affidavits filed by the applicants, it was only after the application was instituted in 2022, and while it was pending, that the provincial executive placed Ditsobotla under mandatory intervention.

Ad paragraphs 7 and 8 thereof

51 It appears from the reports filed, that there have been various PER's.

52 I deny that the MFRP has been or is being implemented. There remains a financial crisis in Ditsobotla and that the municipality is still not providing basic municipal services.

53 The causes of the 'challenges' that exist in Ditsobotla have been dealt with in the founding papers. In any event, such challenges were identified and foreseen in the MFRP and ought to have been taken into account when developing the MFRP (see MFRP, supplementary founding affidavit, p 130-131).

Ad paragraph 9 thereof

54 The content of this paragraph is denied. The quarterly reports, and the undisputed facts set out in the founding papers, confirm that the provincial executive has failed to implement the MFRP.



Ad "A SYNOPSIS OF THE RESPONSIBILITIES OF THE PER REGARDING THE IMPLEMENTATION OF THE MUNICIPAL FINANCE RECOVERY PLAN"

Ad paragraph 10 thereof

55 The content of this paragraph is denied.

56 Subject to the aforesaid denial, I point out that in dealing with each of the subparagraphs the deponent provides no primary facts or evidence and fails to attach a single document that he references. The allegations are further quite clearly not within his personal knowledge.

57 Notwithstanding the above, and for the sake of completeness, I proceed to deal with the alleged responsibilities outlined in the provincial respondents' answering affidavit.

Ad "(a) Provide the strategic leadership and guidance necessary to ensure the effective and efficient implementation of the Financial Recovery Plan"

Ad paragraphs 11 and 12 thereof

58 The content of these paragraphs is denied.

59 Notwithstanding the aforesaid denial, a review of the special development framework masterplan and guiding the development of the roads and water masterplan, fleet management plan and waste masterplan is insufficient when action is required to stem the tide of daily infringement of fundamental constitutional rights in Ditsobotla.



Ad "(b) Reporting to the Member of the Executive Council for Finance and Cooperative Governance, Human Settlement and Traditional Affairs ("COGHSTA"), Municipal Council and the Provincial Executive Council ("EXCO") (where necessary) on progress made"

Ad paragraph 13 thereof

60 Save to admit that the respective PERs filed the quarterly reports, the remainder of the content of this paragraph is denied.

Ad "(c) Engaging with internal and external stakeholders"

Ad paragraph 14 thereof

61 The content of this paragraph is denied.

Ad "(d) Develop and approve protocols and intervention plan for execution of the terms of reference"

Ad paragraph 15 thereof

62 The content of this paragraph is denied.

Ad "(e) Assess and ensure that reports required for decision-making in the municipality are aligned to the Financial Recovery Plan and the objectives of this intervention"

Ad paragraph 16 thereof

63 The content of this paragraph is denied.

Ad "(f) Undertake quality assurance processes required to submit monthly performance progress reports in terms of the prescribed framework to Member of the Executive Council for Finance, NT MFRS, EXCO and Municipal Council on implementation of the FRP"

Ad paragraph 17 thereof

64 The content of this paragraph is denied.

65 Notwithstanding the above denial, I ask rhetorically which municipal manager chairs the Technical Steering Committee and which political leadership of the municipality chairs the Political Oversight Committee?

66 To the extent that such committees exist, they are ineffective.

Ad "(g) Attend meeting with Council, mayoral/executive committee and top management to ensure decisions are consistent with the strategic objectives of the recovery plan"

Ad paragraph 18 thereof

67 The content of this paragraph is denied.

68 Again, I ask rhetorically which faction's council meeting has the PER been attending?

69 The deponent to the answering affidavit does not state that he was also in attendance at the council meeting of 31 March 2025 and personally saw the PER at that meeting.

Ad "(h) Maintain a record of decisions taken by Council and the Executive/Mayor and implementation of the FRP"

Ad paragraph 19 thereof

70 The content of this paragraph is denied.

71 According to the deponent to the answering affidavit, the PER is required to keep a record of decisions taken by (i) Council; (ii) the Executive/Mayor; and (iii) the implementation of the FRP. Apart from the bald statement that the PER is keeping record of decisions by the Council (which statement is itself inadmissible hearsay evidence), the deponent is silent on the PER keeping records of decisions by the Executive/Mayor and the implementation of the FRP.

72 In the absence of any documentary evidence (which ought to exist and be available to the deponent), the only conclusion is that the PER is not maintaining records of any decisions being taken by Council, the Mayor/Executive and implementation of the FRP.

Ad "(i) All the reports for decision making by any delegated authority including Municipal Council and Executive/Mayor must be processed by the Executive/Mayor and/or Accounting Officer with the concurrence of the Provincial Executive Representative (PER)"

Ad paragraph 20 thereof

73 The content of this paragraph is denied.

74 In the absence of any documentary evidence (which ought to exist and be available to the deponent), the only conclusion is that the PER is not maintaining such reports.

75 In any event, there ought to have been more decisions taken since the appointment of the PER apart from the Council sittings of 5 August 2024 and 31 March 2025 (more than six months apart).

Ad "(j) PER must analyse the monthly bank and budget statements of the Municipality for monitoring purposes and as an internal control measure"

Ad paragraph 21 thereof

76 The content of this paragraph is denied.

77 If, as the deponent states, the monthly section 71, quarterly section 52 and MFRP reports are being compiled, then these reports have not been compiled since the appointment of the PER.

78 In the absence of any documentary evidence (which ought to exist and be available to the deponent), the only conclusion is that the PER is not compiling such reports. In any event, this statement by the deponent constitutes inadmissible hearsay evidence.



Ad "(k) Consult and provide strategic leadership and direction to the Accounting Officer and the relevant staff in the implementation of the financial recovery plan"

Ad paragraph 22 thereof

79 The content of this paragraph is denied.

80 This bald statement by the deponent constitutes inadmissible hearsay evidence. There is no confirmation of the number or nature of the directives issued to the Accounting Officer or whether the Accounting Officer complied with such directives.

Ad "(l) Responsible for developing and ensuring implementation of appropriate governance systems, processes and procedures"

Ad paragraph 23 thereof

81 The content of this paragraph is denied.

82 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

83 The chaos caused by the two warring factions at the municipality shows that there is no appropriate governance systems, processes and procedures and that the PER and, concomitantly, the provincial executive have failed in this respect.



Ad "(m) Work closely with Municipal Finance Recovery Services ("MFRS") and other government stakeholders in the revision and implementation of municipal finance recovery plan for the municipality"

Ad paragraph 24 thereof

84 The content of this paragraph is denied.

85 This bald statement by the deponent constitutes inadmissible hearsay evidence.

Ad "(n) Provide strategic guidance, assistance and leadership to the Accounting Officer on the review and re-allocation of resources and responsibility to municipal staff with regard to implementation of the financial recovery plan"

Ad paragraph 25 thereof

86 The content of this paragraph is denied.

87 These statements are deliberately vague.

Ad "(o) Provide strategic guidance, assistance and leadership to the Accounting Officer on the review and re-allocation of resources and responsibilities to municipal staff with regard to implementation of the financial recovery plan"

Ad paragraph 26 thereof

88 The content of this paragraph is denied.

Ad "(p) Ensure and oversee the execution by the Accounting Officer of the functions referred to in Section 67(1)(h) and Schedule 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), read with any

other relevant legislative provisions dealing with disciplinary matters, including criminal, disciplinary and civil action"

Ad paragraph 27 thereof

89 The content of this paragraph is denied.

90 The provincial executive concedes that it has not intervened in the manner intended in section 139(5) of the Constitution.

91 In a municipality plagued by rogue municipal workers, the deponent provides no information or insight into the number or nature of disciplinary proceedings or civil action instituted in the municipality.

92 Indeed, not even the civil proceedings in respect of the municipal manager Bojosinyane is mentioned.

Ad "(q) Assist the Executive/Mayor and the Accounting Officer in the development of human resources capacity to a level that enables it to perform its functions and exercise its functions in an economic and accountable way"

Ad paragraph 28 thereof

93 The content of this paragraph is denied.

94 This bald statement by the deponent constitutes inadmissible hearsay evidence.

95 Notwithstanding the generality of the aforesaid denial, this is but one example of the provincial intervention being rendered nugatory without further action by the provincial executive. Instead, the municipality and its officials are left to ignore the PER and do as they please.



Ad "(r) Assist in the recruitment and selection process for the appointment of Senior Managers including the Accounting Officer in the municipality"

Ad paragraph 29 thereof

96 The content of this paragraph is denied.

97 This bald statement by the deponent constitutes inadmissible hearsay evidence.

98 Notwithstanding the generality of the aforesaid denial, there is no information as to who or in what capacity the external resources, acting directors and specialists acted.

Ad "(s) Provide strategic and technical support to ensure meaningful public participation and stakeholder engagement in the affiars of the municipality"

Ad paragraph 30 thereof

99 The content of this paragraph is denied.

100 This statement by the deponent constitutes inadmissible hearsay evidence. There is no evidence that the deponent personally attended such meetings/workshops or from where he obtained this information.

101 Notwithstanding the generality of the aforesaid denial, vague information regarding "meetings" without any information as to the purpose of the meeting, compiled action lists or any implementation following from such meetings is unable to address the collapse of Ditsobotla. All talk and no action.

Ad "(t) To confirm and certify in the periodic reports to the Member of the Executive Council for Finance on progress with the provincial intervention and

the implementation of the financial recovery plan that all decisions of Council, Executive/Mayor and Accounting Officer are consistent with the approved financial recovery plan"

Ad paragraph 31 thereof

102 The content of this paragraph is denied.

103 This statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

104 The quarterly reports to the court show that the implementation of the MFRP has stalled. The provincial executive has failed to take any action to ensure the implementation of the MFRP.

Ad "(u) To identify challenges and propose solutions to ensure provisions of uninterrupted basic services to the community and prudent financial management"

Ad "Electricity Supply"

Ad paragraph 32 thereof

105 The content of this paragraph is denied.

106 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

107 Apart from a long-term solution (which is unconfirmed whether it has been approved by the Department of Energy), there is no plan to address the power outages which last for weeks on end.

Ad "Waste Management"

Ad paragraph 33 thereof

108 The content of this paragraph is denied.

109 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

110 An estimated completion date of June 2026 for the drafting of an integrated waste management plan is an unacceptable timeline. The provincial respondents brazenly expect the residents of Ditsobotla to live in filth for another year while they draft, rather than implement, a waste management plan. There is no reason that this is necessary. An existing plan at a functional municipality can and ought to have been, adapted and adopted within days, not years.

111 The provincial executive is not handling the intervention with the urgency intended in the Provincial Intervention Order. There is not even an estimated timeline of when the PER expects to finalise drafting the waste management plan. The timeline is simply "pie in the sky" and neither the court nor the residents of Ditsobotla can rely on this unacceptable estimated timeline as a realistic and realisable timeline.

Ad "Water Services"

Ad paragraph 34 thereof

112 The content of this paragraph is denied.

113 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

114 There is no explanation as to what the identified challenges are or entail and what will be changed by the NMMDM to address those challenges. The deponent fails to set out what the estimated time of completion is as per the NMDDM integrated development plan.

115 There is no reason why an emergency plan cannot be adopted and implemented while the service level agreement with NMMDM is negotiated.

Ad "(v) To optimise the reduction of operational expenditure and increase revenue for the Municipality"

Ad "Reduction of Operational Expenditure"

Ad paragraph 35 thereof

116 The content of this paragraph is denied.

117 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.



118 There is no indication of which contracts were identified for termination or what the saving is expected to be for the municipality.

119 There is further no explanation as to why this process has taken two years just to identify problematic contracts for the municipality.

Ad "Increase in revenue"

Ad paragraph 36 thereof

120 The content of this paragraph is denied.

121 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

122 There is simply no financial information provided to show an increase in revenue.

Ad "(w) To approve and ensure implementation of internal controls, procedures and systems for good governance, prudent financial management and effective service delivery in compliance with statutory prescripts"

Ad paragraph 37 thereof

123 The content of this paragraph is denied.

124 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided, including audited financials or audit reports. There is not even proof of submission to the auditor-general.

125 The integrated national electrification programme provides capital subsidies to address the electrification backlog of permanently occupied residential dwellings. There is no evidence that this grant is being spent and on what projects. If anything, the municipal managers request for assistance to the DSA to assist with funding for a new substation undermines this bald allegation.

Ad "(x) To prepare and present progress at meetings of the oversight and inter-governmental relation structures of government"

Ad paragraph 38 thereof

126 The content of this paragraph is denied.

127 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

128 There are no minutes of meetings, resolutions or any indication of what decisions have been made or steps taken.

Ad "(y) To review policies, by-laws, strategies, programmes and plans"

Ad paragraphs 39 and 40 thereof

129 The content of this paragraph is denied.

130 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

131 There are no minutes of council meetings, resolutions or publications in the provincial gazette to show which policies have been reviewed and which by-laws have been adopted.

132 A December 2025 expected adoption date is unacceptable. These are basic policies which any properly experienced and qualified HR professional can draft, adopt and implement within the first month.

133 Or, the municipality can simply adopt the same policies as a successful municipality. There is no need to re-invent the wheel.

Ad "(z) To assign and delegate responsibilities to any appointed support team"

Ad paragraph 41 thereof

134 The content of this paragraph is denied.

135 This bald statement by the deponent constitutes inadmissible hearsay evidence. It is unsupported by any documentary evidence which ought to have been provided.

136 Besides establishing such a committee, there is no indication that such committee has met, conducted any business, adopted any decisions or actually conducted any business.

137 The apparent mandate of the committee is also limited to the MFRP. This is unexplained as it should relate to the restoration of basic municipal services and resolving the financial crisis in the municipality in line with the Provincial Intervention Order.

Ad "SERIATIM RESPONSE"

Ad paragraphs 42 to 47 thereof

138 The content of these paragraphs is noted.

Ad paragraph 48 thereof

139 Save to deny that the applicants are not entitled to relief in terms of section 139(7) of the Constitution, the content of this paragraph is noted.

Ad paragraph 49 thereof

140 The content of this paragraph are noted.

Ad paragraph 50 thereof

141 Save to note the provincial respondents' admission, the remainder of the content of this paragraph is denied.

142 The application is not premature. Two years later and the implementation of the MFRP is still in the starting blocks with no physical signs of improvement in the municipality.

143 The common cause facts confirm the applicants' entitlement to the order that they seek.

Ad paragraph 51 thereof

144 The content of this paragraph are denied.

145 There is no reason why the residents of Ditsobotla ought to languish while the provincial executive dithers with the implementation of the MFRP and fails to take

any decisive action. It is a complete abrogation of the constitutional duties and obligations which rest on the provincial executive.

Ad paragraph 52 thereof

146 The content of this paragraph is denied.

147 The allegations in this paragraph are contradicted by the quarterly reports. In spite of two years of the MFRP, there has been no improvement in either the provision of basic services or the financial crisis in the municipality which led to the Provincial Intervention Order.

Ad paragraph 53 thereof

148 The content of this paragraph is denied.

149 As demonstrated in the supplementary founding affidavit, the provincial executive, specifically Dr Bole, ignores the applicants and other interested parties.

Ad paragraphs 54 to 67 thereof

150 The content of these paragraphs is noted.

Ad paragraph 68 thereof

151 The content of this paragraph is denied. The applicants persist with the facts set out in the founding papers.

Ad paragraphs 69 to 71 thereof

152 The content of these paragraphs is noted.

Ad paragraph 72 thereof

153 The content of this paragraph is denied.

154 The cooperation of the municipal council is not voluntary, but mandatory. The provincial executive's authority supersedes the authority of the municipal council whilst under mandatory intervention.

155 The PER and the provincial executive clearly misconstrue the extent of their powers and duties under section 139 of the Constitution and section 139 of the MFMA.

156 The effect is that the municipal council has continued to run rampant and the provincial executive has permitted the corruption, looting and financial mismanagement at Ditsobotla to continue under its watch, with no end in sight. This is an intolerable situation necessitating national intervention.

Ad paragraphs 73 to 75 thereof

157 The content of these paragraphs is noted.

Ad paragraph 76 thereof

158 The content of this paragraph is denied.

159 The timeline of six years contemplated that the rescue phase would be completed within one year. Two years later, there is no indication of when the rescue phase will be completed.



160 The estimated timeline of six years is now closer to eight years due to the lost past two years (at best and assuming it is implemented at full steam, which is not the case).

161 For the reasons stated above, the residents of Ditsobotla have been patient for more than 10 years.

162 The applicants specifically deny that paragraph 84 of the supplementary founding affidavit acknowledges that "*steady but positive movement*" has been made toward rescuing Ditsobotla. Further, this is a political narrative which is not supported by the data in the quarterly reports. Paragraph 84 sets out the data contained in the fourth report which undermines this narrative. The deponent to the answering affidavit is deliberately misreading the supplementary founding affidavit in order to create a false impression.

Ad paragraph 77 thereof

163 The content of this paragraph is denied.

164 I have dealt with these allegations herein above.

Ad paragraph 78 thereof

165 The content of this paragraph is denied.

166 The provincial respondents miss the point. At the commencement of the MFRP it was intended to be fully implemented over a period of six years, with the rescue phase being completed in year one. This has not occurred and there are no signs that even the rescue phase will be completed in the near future.

Ad paragraph 79 thereof

167 The provincial respondents acknowledge that there are individuals in the municipal council in Ditsobotla who contributed and are still contributing to the rot that exists.

168 The provincial respondents have clearly identified specific individuals involved in and contributing to the "rot" but have failed to take any action to remove such individuals from the council.

169 This is a clear admission that the provincial respondents are not complying with their constitutional duties under section 139(5) of the Constitution as directed by this court. It is contemptuous.

170 It is unclear whether the deponent is referring to the event in March 2025 when there were two mayors, two speakers and two municipal managers or a similar event that occurred sometime in the past which led to an unidentified judgment by His Lordship Mr Justice Gura.

171 The statement that the constitution does not cater for the pandemonium at Ditsobotla is yet another admission that the provincial respondents misconstrue the purpose of section 139(5) of the Constitution and their powers thereunder. This again indicates that the provincial executive has failed and is wholly inadequate to intervene in the affairs of Ditsobotla in the manner intended by section 139(5) of the Constitution.

172 Save as stated above, the content of this paragraph is denied.



Ad paragraph 80 thereof

173 The content of this paragraph is denied.

174 In spite of the provincial respondents' denial, the provincial respondents' fail to state what steps they took to remedy the delay in the implementation of the rescue phase of the MFRP. The only conclusion is that the provincial executive has failed to take any steps to adequately intervene in the affairs of Ditsobotla, despite the abduction of the PER, Mr Sigidi.

Ad unnumbered paragraph (between paragraphs 80 and 81) and paragraph 81 thereof

175 The content of these paragraphs is noted.

Ad paragraph 82 thereof

176 Save to note the admission in respect of the first report, the remainder of the content of this paragraph is denied.

177 The deponent fails to state who the appointed municipal manager is. The dispute between the two municipal managers has been set out in the supplementary founding affidavit.

Ad paragraph 83 thereof

178 The content of this paragraph is denied.

179 The deponent fails to state whether the internal audit function is now properly staffed.

Ad paragraph 84 thereof

180 The content of this paragraph is noted.

Ad paragraph 85 thereof

181 The content of this paragraph is admitted. The deponent again misses the point. The provincial executive was required to step in and take direct steps when the implementation of the MFRP was hampered. It failed to do so and continues to fail.

Ad unnumbered paragraph (between paragraphs 85 and 86) to paragraph 87 thereof

182 The content of these paragraphs is noted.

Ad paragraph 88 thereof

183 The content of this paragraph is denied.

Ad paragraphs 89 to 112 thereof

184 The content of these paragraphs is noted.

Ad paragraph 113 thereof

185 Save to note the admission in this paragraph, the remainder of the content of this paragraph is denied.

186 This statement by the deponent constitutes inadmissible hearsay evidence. There is no evidence that the deponent personally attended such meetings or from where he obtained this information.



Ad paragraphs 114 to 116 thereof

187 The content of these paragraphs is noted.

Ad paragraph 117 thereof

188 The content of this paragraph is denied.

189 Again, we ask rhetorically, which municipal manager caused confusion?

190 There is no indication that the rescue phase is on course or by when it is anticipated to be achieved.

Ad paragraph 118 thereof

191 The content of this paragraph is denied.

Ad paragraphs 119 to 128 thereof

192 The content of these paragraphs is noted.

Ad paragraph 129 thereof

193 Save to note the admission in this paragraph, the remainder of the content of this paragraph is denied.

Ad paragraph 129.1 thereof

194 Save to note the admission in this paragraph and that the applicants' complaints are valid, the remainder of the content of this paragraph is denied.

Ad paragraph 129.2 thereof

195 The content of this paragraph is admitted. It is denied that the provincial executive wishes to further engage with the applicants. Notwithstanding the aforesaid, no amount of meaningful engagement can compel the provincial respondents to comply with their constitutional obligations in terms of section 139(5).

Ad paragraph 130 thereof

196 Save to note the admission in this paragraph, the remainder of the content of this paragraph is denied.

Ad paragraph 131 thereof

197 Save to note the admission in this paragraph, the remainder of the content of this paragraph is denied.

Ad paragraph 132 thereof

198 The content of this paragraph is denied.

199 This allegations in this paragraph by the deponent constitute inadmissible hearsay evidence. No documentary evidence is provided to support the allegations.

200 The "gradual progress" is denied and is not supported by the facts on the ground, and as has been addressed in the affidavits filed by the applicants and the people of Ditsobotla. Even assuming a "gradual progress" (which I deny), this is wholly inadequate to address the financial crisis in Ditsobotla. Rather, the allegations



confirm that in spite of the passage of two years, the financial crisis in Ditsobotla remains and that most of the interventions described are awaiting approval or mere proposals.

201 Had the provincial executive properly intervened in accordance with section 139 of the Constitution, the Provincial Intervention Order and the rescue phase of the MFRP, then Ditsobotla ought to now have a properly funded budget.

202 The majority of the government department creditors are provincial departments of which the provincial respondents are in charge. The provincial executive ought to have seen to it that the debts owed to Ditsobotla are paid timeously and that any dispute in respect thereof is resolved, which they clearly have not been.

203 In aggravation of the aforesaid, the provincial respondents do not place any budget or cash projection before the court or provide any financial information before the court from which the financial health of the municipality can be assessed.

204 It is concerning that the PER has proposed cutting security costs in the light of the violent incidents at the municipality without any corresponding allegation that the threat posed by violent municipal officials has dissipated. In light of the ongoing factional violence within the municipality, this clearly cannot be the case.

205 Fundamentally, the deponent does not state how cutting the four service providers addresses the "rot" that exists in the municipality as described by the provincial respondents in paragraph 79.1 of the answering affidavit.

206 The provincial respondents alarmingly describe the equitable share revenue of the municipality as a "grant" and then proceed to state that such revenue was

used to make a once-off payment to SARS. There is no description of what the total tax debt is that is owed to SARS or whether the municipality has concluded a payment plan with SARS or how the municipality intends to settle its tax debt.

Ad paragraph 133 thereof

207 The content of this paragraph is denied.

208 Given the provincial respondents' acknowledgement of such challenges in March/April 2024, the provincial respondents do not state what they did to ensure that the remedial action in the memorandum was implemented or to ensure that such challenges were alleviated.

209 The applicants' and civil society's engagements with the *inter alia* the provincial executive was conducted in good faith. As demonstrated by supplementary founding affidavit, the same cannot be said of the provincial executive. The applicants and civil society raised detailed concerns which required action. No action was taken by the provincial executive.

210 The provincial respondents concede that the problem of vandalism can only be resolved by the South African Police Service, which falls under the national executive. This concession militates in favour of the relief sought by the applicants.

211 It is specifically denied that the provincial executive is a responsive government. This is demonstrated by the provincial executive's actions, rather than their words.



Ad paragraph 134 thereof

212 But for the admission in the first sentence hereof, the content of this paragraph is denied.

213 The allegations in this paragraph by the deponent constitute inadmissible hearsay evidence. No documentary evidence is provided to support the allegations.

214 The provincial executive again misconstrues the purpose of section 139 of the Constitution and its powers thereunder. Section 151 of the Constitution is not an impediment to the remedy contained in section 139 of the Constitution. There is no concurrent management by the municipal council. The municipal council is, rather, bound by the provincial executive in the intervention such that there can never be a "tug of war".

Ad paragraph 135 thereof

215 Save to note the admission in this paragraph, the remainder of the content of this paragraph is denied. Legal argument will be advanced at the hearing of this application in this regard.

216 The provincial respondents' admission in respect of the lived experience of residents in Ditsobotla is, with respect, damning to any opposition to this application and any bald allegation that the provincial executive is adequately exercising the powers and performing the functions contemplated in section 139(5) of the Constitution.

217 The provincial executive is deliberately ignorant of the facts and is unfeeling of the daily infringement of constitutional rights in Ditsobotla. Instead, the provincial executive expects the residents of Ditsobotla to continue to live without basic municipal services, thereby adversely affecting their health, environment and any prospect of economic development or advancement.

218 The inescapable facts are that any form of local government in Ditsobotla has collapsed and the provincial executive in the North West are unwilling to, or worse, incapable of, rescuing the municipality in the interests of the community of Ditsobotla.

Ad paragraph 136 thereof

219 Save to note the admission in this paragraph, the remainder of the content of this paragraph is denied.

220 The provincial executive ought to know exactly how much Ditsobotla is spending and on what. The statement that the provincial executive does not know how much Ditsobotla has spent on the litigation is an admission that the provincial executive has no financial control in Ditsobotla and is not resolving the financial crisis in Ditsobotla.

221 There are no agendas, minutes or resolutions provided in respect of the section 147 meetings. Nevertheless, this shows that the national executive ought reasonably to be aware of the failed intervention of the provincial executive thereby obliging the national executive to act in terms of section 139(7) of the Constitution.



222 The provincial respondents' admission in respect of the chaos and acts of violence at Ditsobotla is, with respect, damning to any opposition to this application and any bald allegation that the provincial executive is adequately exercising the powers and performing the functions contemplated in section 139(5) of the Constitution.

223 Even in the face of this application, the provincial executive fails to take action.

Ad paragraph 137 thereof

224 The content of this paragraph is denied.

CONCLUSION

225 The applicants persist with the relief sought in the amended notice of motion.

DEPONENT

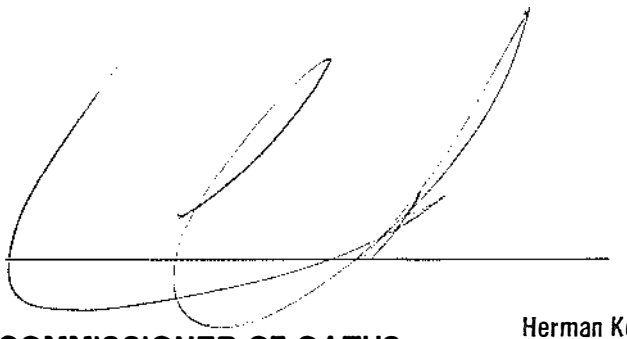
I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

a. he knows and understands the contents of this affidavit;

b. he has no objection to taking an oath;

c. he considers the oath to be binding on his conscience.

THUS signed and sworn before me, at Pretoria on this the 16th day of May **2025**, the Regulations contained in Government Notice No. R1648 of 19 August 1977 (as amended) having been fully complied with.



COMMISSIONER OF OATHS

FULL NAMES:

BUSINESS ADDRESS:

DESIGNATION:

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the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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Your ref	:	**R Eloff/QB1021**
Date	:	**05 May 2025**

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Val de Grace
PRETORIA

PER EMAIL: rohann@kriekprok.co.za

RE: SAKELIGA NPC & 2 OTHERS // DITSOBOTLA LOCAL MUNICIPALITY & 13 OTHERS

1. We refer to the above matter and in particular the 8th Respondent's Notice to Oppose dated 15 April 2025.

2. We hereby advise that we have been instructed to withdraw same and a Notice in this regard has already been dispatched for service and filing.

3. It is our further instructions from the 8th Respondent that we, as we hereby do, seek an indulgence from yourselves for an extension to file an Explanatory Affidavit. In this regard, we seek such an indulgence for a period of fifteen (15)

court days.

4. We trust that the above is in order and await to hear from you herein.

Yours faithfully

I SEKGOTA (MR)
For: STATE ATTORNEY MAHIKENG

KRIEK WASSENAAR & VENTER ING
PROKUREURS - ATTORNEYS

DD2

Our Ref: R Eloff / QB1272
Your ref: 0955/21/P3

6 May 2025

STATE ATTORNEY – MAHIKENG
MMABATHO

By email: lsekgota@justice.gov.za

Sir / Madam

SAKELIGA NPC & OTHERS / DITSOBOTLA LOCAL MUNICIPALITY & OTHERS

CASE NO: UM192/22

1. We refer to your letter dated 5 May 2025 as well as the notice of withdrawal filed on behalf of the Minister of Cooperative Governance and Traditional Affairs ("**your client**" or the "**Minister**") in respect of the urgent application which is enrolled for 9 May 2025.

2. We note the request in your letter for an indulgence to file an explanatory affidavit on behalf of the Minister within 15 court days.

3. While our clients welcome the Minister's sensible withdrawal of his opposition to our clients' application, regrettably, the filing of an explanatory affidavit is insufficient for the Minister to comply with his constitutional duties under section 139(7) of the Constitution of the Republic of South Africa, 1996.

4. The Minister is, no doubt, well aware of the crisis in the Ditsobotla Local Municipality ("**Ditsobotla**"), which reached a new low point over the weekend when security teams of the two ostensible municipal managers engaged in a gunfight, resulting in one of the security officials being critically wounded. The open criminality and unabashed lawlessness in the governance of the municipality call for urgent intervention. For ease of reference, we attach an SABC news article hereto confirming the incident.

5. Any intention to rescue Ditsobotla has fallen by the wayside in favour of petty politics, amplifying the need for urgent action on the part of the Minister, either of his own volition or compelled by order of court.

6. The circumstances in Ditsobotla clearly require positive action by *inter alia* the Minister, as part of the national executive, to urgently intervene in Ditsobotla to restore governance, and law and order in Ditsobotla.

7. We suggest that any time or effort which the Minister intends to expend in respect of an explanatory affidavit would be better spent by complying with the Minister's constitutional duties under section 139(7) of the Constitution. Such a course would, in fact, render the need to file any further affidavits wholly redundant, would mitigate the incursion of further unnecessary legal costs and, most importantly, would benefit the community of Ditsobotla.

8. Under the circumstances, absent any positive action on the part of the Minister, our clients have no choice but to proceed with the application to compel the urgent intervention of the national executive in Ditsobotla.

9. Our client respectfully cannot agree to a postponement of the matter in order to allow the Minister an opportunity to file an explanatory affidavit.

10. In this respect, further, we point out that in terms of the court order granted in this matter on 6 October 2023, the respondents were afforded 15 days within which to file their affidavits. The time periods were set by order of the court.

11. There is no prejudice to the Minister should our clients pursue the relief sought in the absence of the Minister's explanatory affidavit. The Minister will have ample opportunity to place such facts on record as the Minister may wish when filing his reports to court in terms of the proposed relief sought by our clients. Conversely, the Minister's request ignores the needs of the residents of Ditsobotla, who are, in essence, requested to languish under dysfunctional local and provincial governments while the Minister crafts his explanatory affidavit.

12. Any request for a postponement will be opposed, and our clients will, at a minimum, request and seek a cost order against the Minister in the event of a postponement.

13. Notwithstanding the above, in view of the fact that the Minister is no longer opposing the application and so as to avoid an adverse cost order against the Minister caused by the Minister's delay or postponement of the hearing of the urgent application, we suggest that the

Minister merely comply with his abidance and that the matter not be delayed under such circumstances.

14. For the reasons stated above, our clients welcome any positive action by the Minister to restore good governance in Ditsobotla. However, our clients cannot agree to conduct that prejudices or prolongs the suffering of the residents of Ditsobotla. We trust that the Minister will act responsibly and in the interests of the community of Ditsobotla rather than to their detriment.

Yours faithfully,

KRIEK WASSENAAR & VENTER ING
ROHANN ELOFF – SENIOR ASSOCIATE
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Security guard shot as rival firms clash at NW municipality offices



Crime scene tape and bullet casings

Image Credits : SABC-News-Shooting-@SAPolice-1

Lizette Labuschagne
4 May 2025, 17:13 [SAST]

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(https://api.whatsapp.com/send?text=Security%20guard%20shot%20as%20rival%20firms%20clash%2...guard-shot-as-rival-firms-clash-at-nw-municipality-offices%2F)
(https://www.linkedin.com/sharing/share-offsite/?url=https%3A%2F%2Fwww.sabcnews.com%2Fsabcnews%2Fsecurity-guard-shot-as-rival-firms-clash-at-nw-municipality-offices%2F)

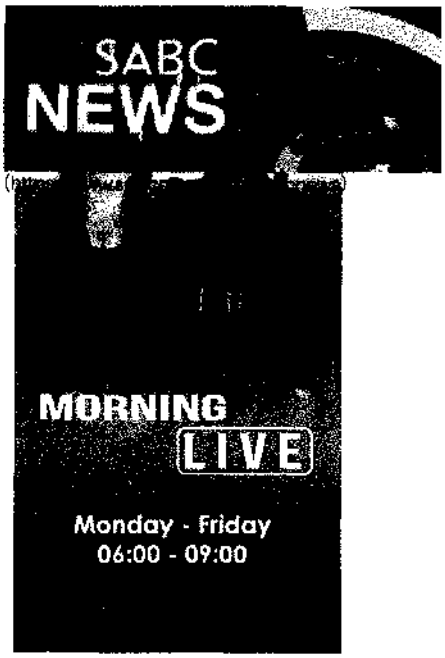
1 minute

A security guard has been seriously wounded in a shootout between two security companies at the offices of the Ditsobotla Local Municipality in Lichtenburg, in the North West.

It appears that a newly appointed security company, contracted by the municipality, arrived to assume their duties when a confrontation erupted with the existing security team already guarding the building.

Provincial police spokesperson Adele Myburgh says a case has been opened and investigations are underway.

Authorities are probing charges of attempted murder, trespassing, malicious damage to property, and the unlawful discharge of a firearm.



MOST READ

Durban residents start campaign to remove homeless and drug addicts (https://www.sabcnews.com/sabcnews/durban-residents-start-campaign-to-remove-homeless-and-drug-addicts/)

NPA to appeal decision to grant Ace Ngcobo, wife bail in fraud case (https://www.sabcnews.com/sabcnews/npa-to-appeal-decision-to-grant-ace-ngcobo-wife-bail-in-fraud-case/)

Four killed in Plettenberg crash(https://www.sabcnews.com/sabcnews/1033582-2/)

E-hailing drivers say operating in fear amid attacks (https://www.sabcnews.com/sabcnews/e-hailing-drivers-say-operating-in-fear-amid-attacks/)

LIVE: Joint memorial service for three police constables (https://www.sabcnews.com/sabcnews/live-joint-memorial-service-for-three-police-constables/)

DPP withdraws the murder charge against a disabled child's mother (https://www.sabcnews.com/sabcnews/dpp-withdraws-the-murder-charge-against-a-disabled-childs-mother/)

Emoji's used by Judge Mbenenge in texts to Mengo scrutinised (https://www.sabcnews.com/sabcnews/emojis-used-by-judge-mbenenge-in-texts-to-mengo-scrutinised/)

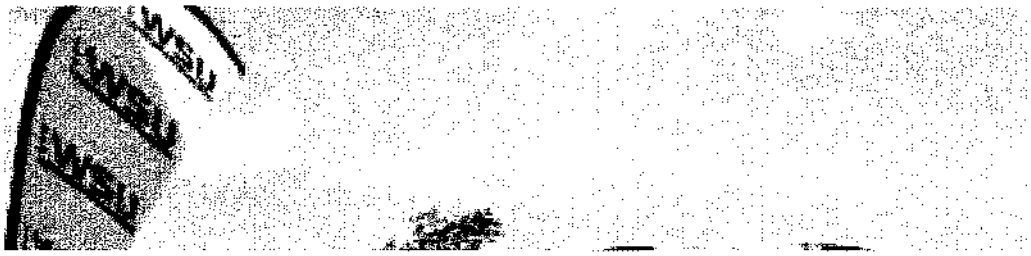
ConCourt to rule on Citizenship Act(https://www.sabcnews.com/sabcnews/concourt-to-rule-on-citizenship-act/)

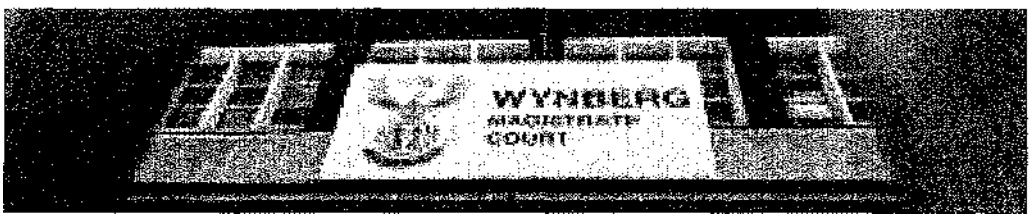
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DD3

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

Case no: UM192/22

In the matter between:

SAKELIGA NPC	**First applicant**
CENTRE FOR GOOD GOVERNANCE AND SOCIAL JUSTICE NPC	**Second applicant**
BAREND LOURENS SNYMAN	**Third applicant**
and	
DITSOBOTLA LOCAL MUNICIPALITY	**First respondent**
THE MUNICIPAL MANAGER / ACTING MUNICIPAL MANAGER OF THE DITSOBOTLA LOCAL MUNICIPALITY	**Second respondent**
PREMIER OF THE NORTH WEST PROVINCE	**Third respondent**
AND ELEVEN OTHER RESPONDENTS (AS PER NOTICE OF MOTION)	**Fourth – Fourteenth respondent**

AFFIDAVIT

I, the undersigned,

JAN HENDRIK COETZEE

(ID NO: 640223 5106 087)

do hereby make oath and say that:

1 I am an adult male farmer working as such and residing on Hibernia Farm, Lichtenburg, 2740.

2 The facts set out herein are true and correct, and such facts fall within my personal knowledge unless the contrary is indicated by the context.

3 The purpose of this affidavit is to provide information about a shootout that occurred on 4 May 2025, where a security guard was shot and seriously wounded as two security companies clashed at the offices of the Ditsobotla Local Municipality in Lichtenburg, North West.

4 I have been reliably informed of the following details of the incident:

4.1 The shootout occurred on 4 May 2025 in the early hours of the morning, at approximately 04h00 a.m.

4.2 The shootout took place at the offices of the Ditsobotla Local Municipality in Lichtenburg, North West Province.

4.3 The shootout appears to have been caused when a new security company, appointed by Mr OT Bojosinyane, and contracted by the municipality, arrived to assume their duties at the municipality. A confrontation erupted with the existing security team of Ditsobotla, who were already guarding the municipal offices. The existing Ditsobotla security team could not fend off Mr Bojosinyane's security group. During the confrontation, one of the security guards was shot and seriously wounded.

4.4 Police subsequently arrived on the scene and the weapon was confiscated.



5 I have read the article by Lizette Labuschagne dealing with the incident titled "*Security guard shot as rival firms clash at NW municipality offices*". The article was published by SABC News on 4 May 2025. A copy of the SABC article is attached, marked JC1.

6 Furthermore, I have read the article by Ruhan Friedrichs dealing with the incident published by Netwerk24 on 5 May 2025. A copy of the Netwerk24 article is attached, marked JC2.

7 I confirm that though I am not a direct witness, as I was not personally a witness to the shooting, I have no reason to doubt the accuracy of the information told to me regarding the incident, which information I verily believe is correct. I acquired this knowledge by talking to other members in the Ditsobotla community and from a municipal worker employed by Ditsobotla (who confirmed the incident to me under the condition of anonymity for fear of victimisation and retribution). The information which I received from the members of the community and the aforesaid municipal worker is confirmed in the news articles referred to above.

8 The occurrence of the incident has not been denied by the Ditsobotla Local Municipality, which has raised an air of secrecy around the incident. I suspect that the municipality's silence in respect of the incident is an attempt to keep the incident quiet due to the ongoing litigation relating to the intervention in the municipality.

9 I respectfully state that it is in the interests of justice to admit the aforesaid evidence and request the court to do so.

_____

DEPONENT

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED:

(a) He knows and understands the contents of this affidavit;

(b) He has no objection to taking an oath;

(c) He considers the oath to be binding on his conscience.

THUS signed and sworn to before me at _____ on this ____ day of _____ 2025, and that the provisions of the Regulations contained in Government Notice R 1258 of the 21st July, 1972, (as amended) and Government Notice R1648 on the 18th August 1977 (as amended) have been complied with.

_____

COMMISSIONER OF OATHS

JC1



Crime scene tape and bullet casings

Image Credits: SABC-News-Shooting-@SAPolice-1

Lizette Labuschagne
4 May 2025, 17:13 [SAST]

(https://www.facebook.com/sharer/sharer.php?u=https%3A%2F%2Fwww.sabcnews.com%2Fsabcnews%2Fsecurity-guard-shot-as-rival-firms-clash-at-nw-municipality-offices%2F)
(https://twitter.com/intent/tweet?text=Security%20guard%20shot%20as%20rival%20firms%20clash%2guard-shot-as-rival-firms-clash-at-nw-municipality-offices%2F)
(https://api.whatsapp.com/send?text=Security%20guard%20shot%20as%20rival%20firms%20clash%2guard-shot-as-rival-firms-clash-at-nw-municipality-offices%2F)
(https://www.linkedin.com/sharing/share-offsite/?url=https%3A%2F%2Fwww.sabcnews.com%2Fsabcnews%2Fsecurity-guard-shot-as-rival-firms-clash-at-nw-municipality-offices%2F)

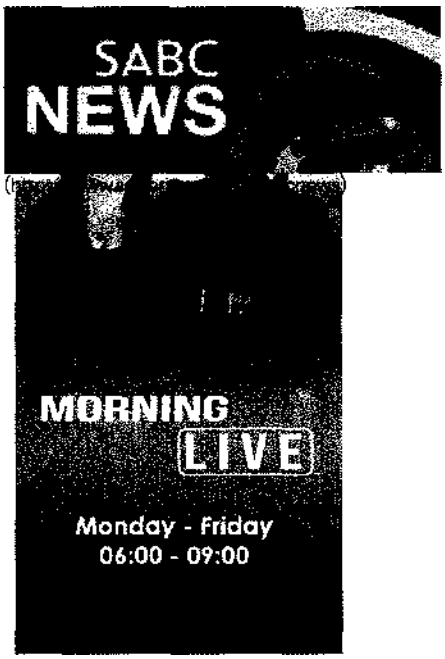
1 minute

A security guard has been seriously wounded in a shootout between two security companies at the offices of the Ditsobotla Local Municipality in Lichtenburg, in the North West.

It appears that a newly appointed security company, contracted by the municipality, arrived to assume their duties when a confrontation erupted with the existing security team already guarding the building.

Provincial police spokesperson Adele Myburgh says a case has been opened and investigations are underway.

Authorities are probing charges of attempted murder, trespassing, malicious damage to property, and the unlawful discharge of a firearm.



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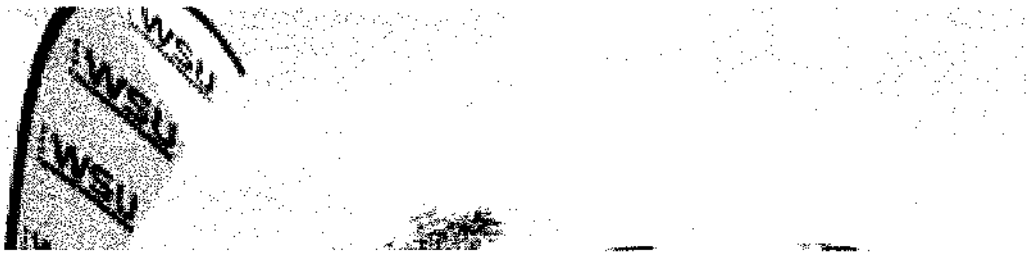
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Lichtenburg-fiasko duur voort: sekuriteitswag ernstig gewond in 'leiersdispuut'

Deel

05 Mei

Susan Cilliers

Kommentaar Boekmerk

NETWERK24

03:43



https://www.netwerk24.com/netwerk24/nuus/munisipaliteite/lichtenburg-fiasko-duur-voort-sekuriteitswag-ernstig-gewond-in-leiersdispuut-20250505

Die tragiese gesig van 'n bankrot munisipaliteit: Die beeld van generaal Koos de la Rey in Lichtenburg se dorpsplein met die afgebrande stadsaal en museum in die agtergrond. Die geboue is geruime tyd gelede in 'n brand vernietig, maar die munisipaliteit het nie geld om herstelwerk te doen nie. Foto: Susan Cilliers

Voortslepende faksiegevegte binne die ANC het glo daartoe gelei dat 'n sekuriteitswag Sondagoggend ernstig gewond is in 'n skietery tussen twee sekuriteitsmaatskappye by die munisipale gebou in Lichtenburg.

Dienste stort al vir jare op bykans elke vlak in duie by dié beleërde munisipaliteit in Noordwes.

Kol. Adéle Myburgh, polisiewoordvoerder in die provinsie, sê 'n sekuriteitsmaatskappy wat onlangs aangestel is, en 'n ander sekuriteitsmaatskappy het Sondag omstreeks 05:00 slaags geraak toe die nuut aangestelde sekuriteitsmaatskappy by die munisipale gebou opdaag. "Die twee maatskappye is blykbaar deur twee verskillende mense aangestel. Die situasie hou verband met konflik binne die munisipaliteit en faksiegevegte."

Een van die sekuriteitswagte is ernstig gewond. Volgens Myburgh ondersoek die polisie 'n saak van poging tot moord.

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"Een van die sekuriteitsmaatskappye het ook klagte van betreding en opsetlike saakbeskadiging teen die 'nuwe' maatskappy ingedien omdat die maatskappy glo slotte gebreek het om by die gebou in te kom. 'n Saak van die onregmatige afvuur van 'n vuurwapen is ook aanhangig gemaak."

Willie Pretorius, DA-raadslid in die Ditsobotla-munisipaliteit wat ook Coligny en die omliggende omgewing bedien, sê die gebeure het waarskynlik verband met 'n magstryd ná 'n beslissing in Maart in die hooggeregshof in Mmabatho.

https://www.netwerk24.com/netwerk24/nuus/munisipaliteite/lichtenburg-fiasko-duur-voort-sekuriteitswag-ernstig-gewond-in-tjelersdispuut-20250505

Luidens die bevel mag Olaotse Theophilus Bojosinyane hom nie as munisipale bestuurder voordoen nie. Die bevel het ook bepaal dat Molefe Witness Morutse en Manana Emily Bogatsu hulle nie as onderskeidelik burgemeester en speaker van Ditsobotla mag voordoen nie.

Verlede week het die hooggeregshof in Mmabatho gelas dié status quo moet geld ondanks enige appèlprosesse totdat die uitkoms van die appèlprosesse bekend is.

Rasupang Clarius Mooketsi, wat as waarnemende munisipale bestuurder aangestel is, moet dus voortgaan in sy pos, het die hof gelas. Die bevel het gekom nadat die Ditsobotla-munisipaliteit 'n vroeëre besluit om Boyosinyane as munisipale bestuurder aan te stel, ter syde gestel het.

Die hof het op 30 April bevind indien die Maart-bevel dat die bogenoemde drie persone nie in hul onderskeie poste mag dien nie, hangend 'n appèlproses omgekeer word, sal dit tot verdere onbestendigheid in die Ditsobotla-munisipaliteit lei.

Daarom dan die beslissing dat die bevel staan ondanks 'n appèlproses en tottyd en wyl dié proses afgehandel is.

"Die omstandighede in Ditsobotla is duidelik wanordelik," het die hof bevind. "Die handhawing van die bevel sal duidelikheid en bestendigheid bring terwyl die appèlproses nog aan die gang is. Indien die bevel nie gehandhaaf word nie, sal inwoners in Ditsobotla verder ly onder diensleweringsprobleme weens bestuursdispute in die munisipaliteit. Die dispuut rondom leierskap en die duplisering van leierskap in Ditsobotla woed al sedert 2022."

Pretorius sê Boyosinyane weier steeds om afstand te doen van sy pos as munisipale bestuurder, al is daar nou reeds 'n waarnemende munisipale bestuurder (Mooketsi). Pretorius vermoed dit is wat gelei het tot die konflik Sondagoggend tussen sekuriteitsmaatskappye, wat vermoedelik afsonderlik deur verskillende faksies aangestel is.

Die Ditsobotla-munisipaliteit se kommentaar sal bygevoeg word sodra dit ontvang word.

Die name van die betrokke sekuriteitsmaatskappye is nie bekend nie.

– susan.cilliers@24.com

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