



KRIEK WASSENAAR & VENTER ING

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Ons verw: PJ Wassenaar/es/ QB0861

U verw:

26 May 2021

**SEDIBENG WATER
MAHIKENG**

URGENT

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Sir / Madam

SAKELIGA NPC / SEDIBENG WATER

IN RE: NOTICE TO DISCONTINUE WATER SERVICE TO NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY AND OTHERS DATED 25 MAY 2021

1. We refer to the telephone conversation between your Mr Mbadamana and writer on 26 May 2021. We act on instructions of Sakeliga NPC ("Sakeliga").
2. Writer confirms that during our telephonic conversation, he attempted to engage with your organisation regarding your decision of 25 May 2021 to terminate the supply of *operational and maintenance* services to the Ngaka Modiri Molema District Municipality, Ditsobotla Local Municipality, Mahikeng Local Municipality and Ratlou Local Municipality. A copy of the decision our client received this afternoon is attached hereto as annexure **AA1**.
3. Our client represents various businesses and residents who reside and conduct business in the municipal areas of Mahikeng Local Municipality, Ratlou Local Municipality and Ditsobotla Local

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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

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Municipality. These residents will be directly affected by your decision to terminate the supply of *operational and maintenance services*.

4. During our conversation writer questioned to what extent a public participation process had been followed before the making of your decision, to which your Mr Mbadamana confirmed that you did not. We confirm that writer informed you that your organisation, as a national public entity in terms of schedule 3 part A in terms of the Public Finance Management Act 1 of 1999, is required to follow the prescripts of the Promotion of Administrative Justice Act 3 of 2000 before taking an administrative decision such as your impugned decision of 25 May 2021.
5. Our Mr Wassenaar also informed your offices that all organs of state and public entities are bound to the principles of co-operative governance as set out in section 41 of the Constitution as read with the Intergovernmental Relations Framework Act 13 of 2005. In this regard your Mr Mbadamana responded that your offices have *sent letters* to the Department of Water and Sanitation as well as the respective municipalities, and that *everybody is aware* of your decision and that your organisation wanted to *sit around the table* but that they failed to respond.
6. In this regard we informed your offices that you are in fact required to approach the court to settle your dispute with the municipalities before drastic measures which will prejudice the public, such as the one your offices have undertaken, are undertaken. In terms of section 41 of the Constitution read with the Intergovernmental Relations Framework Act 13 of 2005, you are required to take remedial action to avoid disputes of this nature. When writer enquired whether you have solicited the assistance of the Minister of Cooperative Governance and Traditional Affairs or the MEC for Cooperative Governance in the North West, your office merely avoided the question.
7. It is clear that your offices have failed to follow a proper process in terms of both the Intergovernmental Relations Framework Act 13 of 2005 as well as the Promotion of Administrative Justice Act 3 of 2000.
8. Lastly, our offices informed you that government, which includes your organisation as a national public entity, has a constitutional duty in terms of section 27 (1) (b) to provide the public with sufficient water. Accordingly, our offices informed you of your duty to approach the court before taking any decision which would result in government acting in contravention of its constitutional duties towards the public.

9. It is accordingly clear that your decision of 25 May 2021 is unlawful and furthermore in breach of section 27 (1) (b) of the Constitution.
10. **Our client therefore requires that you provide the following by no later than 10h00 on 27 May 2021:**
 - 10.1 **A written withdrawal of your decision of 25 May 2021;**
 - 10.2 **An undertaking that you will provide written instructions to all staff and contractors of Sedibeng Water to continue with the supply of bulk water, operational and maintenance services to Ngaka Modiri Molema District Municipality, Ditsobotla Local Municipality, Mahikeng Local Municipality and Ratlou Local Municipality, which instruction must be communicated by no later than close of office on 28 May 2021;**
11. Failing receipt of a written undertaking to comply with the demands set out in paragraph 10 above, our client will approach the High Court on an urgent basis in order to, *inter alia*, obtain an interdict prohibiting your offices from terminating the supply of bulk water, operational and maintenance services to the affected municipalities. In such an event, and specifically seeing our attempts to resolve the issue without approaching the courts, our client will be applying for a special punitive cost order as between attorney and client.
12. We implore you to withdraw your decision and await your response by 10h00 tomorrow.

Yours sincerely,



KRIEK WASSENAAR & VENTER ING
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Elektronies geteken
Electronically signed



GENERAL NOTICE

ATTENTION: ALL STAFF – MAHIKENG REGION

DATE: 25 MAY 2021

SUBJECT: NON-PAYMENT AND SUSPENSION OF OPERATION AND MAINTENANCE SERVICES IN NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

The above subject refers.

Following unproductive oral and written engagements with Ngaka Modiri Molema District Municipality to service their ever-growing debt for the Operations and Maintenance service by Sedibeng Water.

Sedibeng Water has taken a firm decision to suspend all the Operations and Maintenance services to the municipality, until the district municipality change their posture on their refusal to pay for the afore mentioned services. Sedibeng Water cannot continue to offer services for free at the detriment of its financial health.

You are therefore directed to suspend all Operations and Maintenance services at Lehurutshe, Mahikeng and Ratiou Local Municipalities, as of the 1st June 2021. Further suspension of services for Bulk Water Supply must be effected at Ditsobotla Local Municipality's Itsoseng Plant, effective from 1st July 2021.

This enforcement shall remain in place until further notice or when directed otherwise.

Issued by


MR SIBONGISENI MBADAMANA – Pr Tech Eng
REGIONAL MANAGER - MAHIKENG

DATE: 25/05/2021