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Our reference / Ons verwysing:
Your reference / U verwysing:

9 OCTOBER 2018

Dear members of the eMalahleni community,

IN RE: SAVE EMALAHLENI ACTION GROUP – MANDATORY INTERVENTION ORDER INTO THE AFFAIRS OF THE EMALAHLENI LOCAL MUNICIPALITY (“ELM”)

1. The SAVE EMALAHLENI ACTION GROUP (“Save eMalahleni”) made legal history today when they became the first community group in South Africa to obtain a court order against a Provincial Executive to compel them to comply with their constitutional obligations to intervene into the affairs of a municipality as provided for in Section 139(5) of the Constitution.
2. This order brings an end to an epic saga that started in February 2017 when Eskom implemented bulk electricity interruptions to the ELM. Save Emalahleni successfully intervened and caused Eskom to suspend their bulk electricity interruptions to the Emalahleni Local Municipality.
3. On 16 October 2017, Save Emalahleni directed a letter of demand to all

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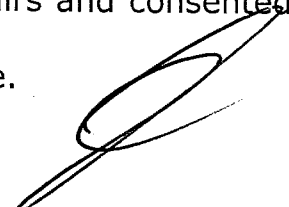
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spheres of government in terms whereof they demanded that the Provincial and National Executives intervene into the affairs of the ELM, who experienced a serious crisis in their financial affairs and was unable to pay their debt to Eskom.

4. The intervention demand was followed up on 18 October 2017 by a comprehensive submission on behalf of the community to Eskom urging Eskom not to implement bulk electricity interruptions to the ELM.
5. Save eMalahleni also obtained an interdict in December 2017 to prevent Eskom from implementing bulk electricity interruptions to the ELM.
6. The Provincial and National Executives failed to respond to our letter of demand, which left Save Emalahleni with no option but to issue an application against all spheres of government compelling them to intervene into the affairs of the ELM as provided for in Section 139(5) of the Constitution.
7. The Provincial Executive and the ELM opposed our application, which was eventually enrolled for hearing from 9 to 11 October 2018.
8. Up and until the eve of the hearing of this application the ELM persisted that there is no crisis in their financial affairs, and that they are able to pay their creditors as and when it becomes due. On the 28th of September 2018 the ELM capitulated in dramatic fashion through the submissions of their legal team, wherein they openly conceded that there is indeed a serious crisis in their financial affairs and consented to a mandatory intervention by the Provincial Executive.



9. The Provincial Executive, who up until this morning denied that there is a crisis in the financial affairs of the ELM, now agreed to the mandatory intervention order.
10. On 9 October 2018 the parties agreed to an order that included the following, namely that:
 - 10.1 the Province Executive is compelled and directed to intervene into the affairs of the ELM by way of a mandatory intervention within 3 (three) days after the date of the court order;
 - 10.2 the Provincial Executive is compelled and directed to request the Municipal Financial Recovery Service ("MFRS"), which is a division of Treasury, to commence with the preparation of a recovery plan;
 - 10.3 the MFRS is compelled and directed to prepare and submit the recovery plan within 90 (ninety) days;
 - 10.4 the ELM and the Provincial Executive are jointly and severally ordered to pay all the cost of Save eMalahleni, including the costs of our expert herein.
11. Our further advises will follow in due course.

Yours faithfully,

JOHAN COETZEE INC.

Per:

