

STATUTORY NOTICE 2579

NOTICE OF EXPROPRIATION

Issued by the eThekweni Municipality in terms of Section 9(3) of the Housing Act, 1997 (Act No. 63 of 1997), read with Sections 1, 6 to 15 and 18 to 23 of the Expropriation Act, 1975 (Act No. 63 of 1975).

TO: Estate Late Jabulani Johannes Hlengwa

AND TO: All other persons claiming any right to or interest in the land described in this Notice of Expropriation whether by virtue of registration or otherwise, and particularly any lessee, buyer or builder contemplated in Section 9(1)(d) of the Expropriation Act, 1975. NOTICE is hereby given in terms of Section 7, read with Section 5(2) of the Expropriation Act No. 63 of 1975 (the Act) that the eThekweni Municipality (the Municipality), being unable to purchase the said land on reasonable terms through negotiation with the owners of the land and having obtained the permission of the member of the Executive Committee of the Province of KwaZulu-Natal responsible for housing matters in that province on 17 October 2008, hereby expropriates the land described hereunder under powers vested in it by Section 9(3) of the Housing Act No. 107 of 1997 (the Housing Act) and Section 5 of the Act, for public purposes, in particular for the purposes of a national housing programme as defined in Section 1 of the Housing Act.

The land being expropriated is the following:

Remainder of Portion 600 of the Farm Woody Glen No. 1247, Registration Division FT, Province of KwaZulu-Natal, measuring 18,6156 hectares, held under Title Deed No. T1516/1933.

PLEASE NOTE THE FOLLOWING:

The date of expropriation shall be the date 14 days after the service of this Notice with effect from which date, where applicable, ownership of the said land will pass to the Municipality. The date upon which the Municipality will take possession of the said property shall be the date 14 days after the date of service of this Notice, or such other date as may be agreed upon between the Owner(s) and the Municipality in terms of Section 8(3) of the Act, or a date determined in terms of the provisions of Section 8(5) of the Act, as the case may be. Where land is expropriated, with effect from the date of possession of the land

by the Municipality, but not before such date, the Owner(s) will be relieved of the obligation to take care of and maintain the land and to pay taxes and other charges thereon, and will no longer be entitled to the use of and any income from the land. Where the property has been partially expropriated, at the request of the Owner(s) this notice shall be deemed to include the remainder of the property or part thereof in terms of Section 2 of the Act, provided that the Municipality is satisfied that such remainder has been rendered useless by the expropriation. The costs of the survey required and the survey itself will be borne and undertaken by the Municipality. In terms of section 10(1) of the Expropriation Act, 1975, read with section 25(3) of the Constitution of the Republic of South Africa, 1996, the Municipality hereby offers compensation to the Owners in the sum of R448 000 (Four Hundred and Forty Eight Thousand Rand) for the land hereby expropriated which compensation is determined in terms of section 12(1) of the Expropriation Act, 1975, read with section 25(3) of the Constitution of the Republic of South Africa Act, 1996, together with the sum of R27 400 in terms of section 12(2)(b) of the Expropriation Act. PAYMENT of the compensation offered will be made in terms of section 11 of the Expropriation Act, 1975. ATTENTION is drawn to the fact that if a lessee has a right by virtue of a lease contemplated in section 9(1)(d)(i) of the Act, in respect of the land expropriated of which the Municipality has no knowledge on the date of this Notice, the aforementioned offer of compensation may be withdrawn. YOUR ATTENTION is directed to the provisions of Section 9(1) and 12, (in particular subsections 3(a)(ii) and (4) highlighted below) of the Act and in particular to the obligations which you must comply with under the said sections. For your convenience, the sections are reproduced here (please read Municipality where it states 'Minister' or 'State'). Duties of owner of property expropriated or which is to be used by State. –

(1) An owner whose property has been expropriated in terms of this Act, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Minister a written statement indicating if any compensation was in the notice of expropriation offered for such property, whether or not he

accepts that compensation and, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up; if no such compensation was so offered, the amount claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up; if the property expropriated is land and any amount is claimed in terms of paragraph (a) or (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land; if the property being expropriated is land- which prior to the date of notice was leased as a whole or in part by unregistered lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof, if it is in writing, or full particulars of the lease, if it is not in writing; which, prior to the date of notice, was sold by the owner, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof; on which a building has been erected which is subject to a builder's lien by virtue of a written building contract, the name and address of the builder, and accompanied by the building contract or a certified copy thereof; indicate the address to or at which you desire that further documents in connection with the expropriation may be posted or delivered. Provided that the Minister may at his discretion extend the said period of sixty days, and that, if the owner requests the Minister in writing within thirty days as from the date of notice to extend the said period of sixty days, the Minister shall extend such period by a further sixty days.

(2)

(3) You are hereby requested, within sixty (60) days of the date of this notice, to - (a) deliver or cause to be delivered to the Municipality at the address stated hereunder the title deeds of the property hereby expropriated or, if such document is not in your possession or under your control, the name and address of the person in whose possession or under whose control it is;

(b)

Basis on which compensation is to be determined. –

(1) The amount of compensation to be paid in terms of this Act to an owner in respect of property

expropriated in terms of this Act, or in respect of the taking, in terms of this Act, of a right to use property, shall not, subject to the provisions of subsection (2), exceed - in the case of any property other than a right, excepting a registered right to minerals, the aggregate of - the amount which the property would have realized if sold on the date of Notice in the open market by a willing seller to a willing buyer, and an amount to make good any actual financial loss caused by the expropriation; and in the case of a right, excepting a registered right to minerals, an amount to make good any actual financial loss caused by the expropriation or the taking of the right: Provided that where the property expropriated is such nature that there is no open market therefor, compensation therefore may be determined - on the basis of the amount it would cost to replace the improvements on the property expropriated, having regard to the depreciation thereof for any reason, as determined on the date of notice; or in any other suitable manner. Notwithstanding anything to the contrary contained in this Act there shall be added to the total amount payable in accordance with subsection (1), an amount equal to - ten per cent of such total amount, if it does not exceed R100 000; plus five per cent of the amount by which it exceeds R100 000, if it does not exceed R500 000; plus three per cent of the amount by which it exceeds R500 000, if it does not exceed R1 000 000; plus one per cent (but not amounting to more than R10 000) of the amount by which it exceeds R1 000 000.

(3) (a) Interest at the standard interest rate determined in terms of section 26 (1) of the Exchequer Act, 1975 (Act No. 66 of 1975), shall, subject to the provision of subsection (4), be payable from the date on which the State takes possession of the property in question in terms of section 8 (3) or (5) on any outstanding (1): Provided that - in a case contemplated in section 21 (4), in respect of the period calculated from the termination of thirty days from the date on which- the property was so taken possession of, if prior to that date compensation for the property was offered or agreed upon; or such compensation was offered or agreed upon, if after that date it was offered or agreed upon, to the date on which the dispute was settled or the doubt was resolved or the owner and the buyer or the mortgagee or the builder notified the Minister in terms of the said section 21 (4) as

to the payment of the compensation money, the outstanding portion of the amount so payable shall, for the purposes of the payment of interest, be deemed not to be an outstanding amount; and if the owner fails to comply with the provision of section 9 within the appropriate period referred to in the said section, the amount so payable shall during the period of such failure and for the purpose of the payment of interest be deemed not to be an outstanding amount.

(b) Interest payable in terms of paragraph (a) shall be deemed to have been paid on the date on which the amount has been made available or posted to the owner concerned. Any deposit, payment or utilization of any amount in terms of section 11(1), 20 (2) or 21 (1) or (4) shall be deemed to be a payment to the owner, and no interest shall in terms of paragraph (a) be payable on any such amount as from the date on which it has been so deposited, paid or utilized.

(4) If the owner of property which has been expropriated occupies or utilizes that property or any portion thereof, no interest shall, in respect of the period during which he so occupies or utilizes it, be paid in terms of subsection (3) on so much of the outstanding amount as, in the opinion of the Minister, relates to the property or utilized. In determining the amount of compensation to be paid in terms of this Act, the following rules shall apply, namely - no allowance shall be made for the fact that the property or the right to use property has been taken without the consent of the owner in question; the special suitability or usefulness of the property in question for the purpose for which it is required by the State, shall not be taken into account if it is unlikely that the property would have been purchased for that purpose on the open market or that the right to use the property for that purpose would have been so purchased; if the value of the property has been enhanced in consequence of the use thereof in a manner which is unlawful, such enhancement shall not be taken into account; improvements made after the date of notice on or to the property in question (except where they were necessary for the property maintenance of existing improvements or where they were necessary for the property maintenance of existing improvements or where they were undertaken in pursuance of obligations entered into before that date) shall not be taken into account; no allowance shall be made for

any unregistered right in respect of any other property or for any indirect damage or anything done with the object of obtaining compensation therefore; any enhancement or depreciation, before or after the date of notice in the value of the property in question, which may be due to the purpose for which or in connection with which the property is being expropriated or is to be used, or which is a consequent of any work or act which the State may carry out or perform or already has carried out or performed or intends to carry out or perform in connection with such purpose, shall not be taken into account; Account shall also be taken of - any benefit which will ensure to the person to be compensated from any works which the State has built or constructed or has undertaken to build or construct on behalf of such person to compensate him in whole or in part for any financial loss which he will suffer in consequence of the expropriation or, as the case may be, the taking of the right in question; (ii) any benefit which will ensure to such person in consequence of the expropriation of the property or the use thereof for the purpose for which it was expropriated or, as the case may be, the right in question was taken; Any relevant quantity of water to which the person to be compensated is entitled or which is likely to be granted to him, in terms of the provisions of the Water Act, 1956(Act No. 54 of 1956), or any other law. COMMUNICATION with the Municipality in connection with any matter arising from or related to this Notice of Expropriation must be conducted with the Contact Person whose name is set out at the foot of this Notice and whose contact details are also set out there. Formal Notices required to be served on the Municipality must be delivered to the address provided in the Contact details at the foot of this Notice.

HEAD: HOUSING ETHEKWINI MUNICIPALITY

Date: 23 January 2009
cc Registrar of Deeds, Private Bag X9028, PIETERMARITZBURG, 3200

CONTACT PERSON:
Ronell Visser (Mrs)

CONTACT DETAILS:

Physical Address: 90 Shepstone Road, New Germany

Postal Address: PO Box 49, Pinetown, 3600. **Tel:** 031 311 6516, **Fax:** 031 311 6522

e-Mail address:
visser@durban.gov.za