



## PRESS STATEMENT

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# JUDGE HEARS THAT REMOVAL OF GREEN POINT TENNIS CLUB OCCUPIERS' HOMES CONTRAVENES RIGHT TO HOUSING IN URGENT COURT APPLICATION

On Friday 3 September, almost two weeks after the City of Cape Town dismantled and confiscated the tents, informal structures and personal possessions of 21 people living on a piece of vacant City-owned land next to the Green Point Tennis Club, Acting Judge Tessa le Roux of the Western Cape High Court heard arguments in the occupiers' urgent court application.

The occupiers, who are represented by Ndifuna Ukwazi Law Centre, launched the application early last week arguing that the City used obscure provisions of the [By-law relating to Streets, Public Places and the Prevention of Noise Nuisances](#) (2007) to circumvent occupiers' constitutional protections and effect an illegal eviction in direct conflict with section 26(3) of the Constitution and the Prevention of Illegal Eviction From and Unlawful Occupation of Land Act 19 of 1998 (PIE Act). The occupiers asked for their belongings to be returned and for them to be allowed to re-erect their tents and shelters.

The City's confiscation of shelters and tents on 23 August, which left occupiers destitute in cold and rainy weather, amounted to an illegal eviction. The City's actions were conducted without a court order, despite this being a requirement of the PIE Act and in conflict with a national moratorium on evictions imposed as part of the COVID-19 Lockdown regulations. While the City returned some tents to the occupiers in response to widespread criticism earlier this week, the City's law enforcement officials prevented occupiers from re-erecting their shelters.

In court, Advocate Ranjan Jaga, acting on behalf of the Green Point Tennis Club occupiers, argued that the City's actions amounted to an illegal eviction and infringed occupiers' constitutional right to housing. He argued that the City's actions were a calculated attempt to circumvent the provisions of the PIE Act and COVID-19 Lockdown regulations, and were in clear conflict with the City's own policies which state that "[t]ents will not be removed during the national lockdown". As Advocate Jaga put it:

*"We submit that in removing the applicants' homes, the City has contravened section 26(3) of the Constitution. ... We submit that a bylaw can never trump the provisions of the Constitution."*

Section 26(3) of the Constitution is clear - no one may be evicted without a court order authorising such an eviction after considering all the relevant circumstances. In this case, the

City had not obtained an eviction order. Advocate Jaga argued that judicial oversight in eviction proceedings is of paramount importance to avoid situations where the government acts with impunity, and to prevent unjust and inhumane actions such as the apartheid forced removals.

In her arguments on behalf of the City, Advocate Roseline Nyman claimed that the City's actions were entirely justified in terms of its by-laws. She implied that the City's actions were necessary to curb "criminal" and anti-social behaviour and that the City's raid on the occupiers was conducted because residents of Green Point and Sea Point "don't want" the occupiers in their area. She later claimed that the City "can't have an informal settlement in a public place", even though section 2 of the PIE Act states that it applies to "all land throughout the Republic".

At the conclusion of arguments, Acting Judge Le Roux reserved judgment. She noted that she will watch the video footage of the City's demolitions and confiscations before handing down judgment.

Jonty Cogger, attorney for the occupiers said:

*"I am deeply concerned that the City of Cape Town thinks that the vile public prejudice of some Sea Point and Green Point residents against street-based people can ever be a legitimate reason to deprive poor and vulnerable people of their tents and personal possessions. This is not unlike Apartheid-era forced removals where the government used 'anti-social behaviour' to evict poor Black and Coloured people from 'Whites-only' urban areas. I am appalled that the City has used similar arguments 27 years into our constitutional democracy."*

- Read Ndifuna Ukwazi's press release on the occupiers' eviction here: <https://jumpshare.com/v/rybnkfUOlpxZQj3BjqzT>
- Read Ndifuna Ukwazi's press release on the City's confiscation of a street-based womxn's life-sustaining medications here: <https://jumpshare.com/v/8jUnuqtuwillpdsqYmxXS>

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**ENDS**

**ISSUED BY NDIFUNA UKWAZI**