



PRESS RELEASE
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CITY OF CAPE TOWN CONTINUES TO USE CONSTITUTIONALLY SUSPECT BY-LAWS TO THREATEN, INTIMIDATE & ILLEGALLY EVICT OCCUPIERS

On 19 September 2021, in one of the largest crackdowns on vulnerable occupiers, the City of Cape Town's Law Enforcement Unit confiscated and dispossessed approximately 100 occupiers living on the Sydney Street parking lot in District 6 of their homes and personal belongings. Many of the occupiers have made a home there for at least two years, some even up to 10 years. A number of the occupiers, who are presented by the Ndifuna Ukwazi Law Centre, will be challenging the City's use of obscure provisions of the City's by-laws 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).

Reminiscent of the City's Law Enforcement officer's inhumane raid on over 20 people living on vacant City-owned land next to the Green Point Tennis Courts (where judgment in respect of the City's conduct is awaited), the City used the same constitutionally suspect by-law to confiscate the vulnerable occupiers tents, loaded them onto trucks and sent to Ndabeni, an hour's walk away from District 6. The confiscation of the occupiers' homes amounted to an illegal eviction that was carried out by the City's law enforcement officers without a court order, which is a requirement in terms of the Constitution and the PIE Act. The City Law Enforcement officers' actions are also in blatant contempt of the Disaster Management Regulations, which prohibits evictions for the duration of the National State of Disaster of the COVID-19 pandemic.

The City charged the occupiers with contravening a range of by-laws. Some of the occupiers were charged with contravening the By-law relating to Streets, Public Places and the Prevention of Noise Nuisances (the same by-law that is subject to a constitutional challenge for infringing a range of constitutional rights and discriminating against people experiencing homelessness) and the Informal Trading By-law. Other occupiers were absurdly charged with contravening the Coastal By-law 'to block or impede coastal access land or deface infrastructure relating to coastal access land' where the fine is R2 000 despite the fact that District 6 is approximately 4km away from the coast.

The City of Cape Town did not provide alternative shelter to the occupiers, leaving them out in the cold. Lead applicant in the case, Ruwayda Davids, said: *"I am currently sleeping under only one plastic sail and I awoke on the morning of Monday 20 September, ice cold and drenched in rain."*

In addressing concerns about whether the parking lot on which the occupiers were living forms part of the District 6 land restitution process, Jonty Cogger, attorney for the occupiers, said:

“The City has stated that the land occupied is subject to District 6 land restitution processes. However this does not justify the City of Cape Town circumventing the laws meant to ensure just process and protection of people’s rights. It does not justify the City’s cruel, undignified and inhumane treatment of vulnerable people. The City of Cape Town is still required to follow legal processes outlined by the PIE Act to evict anyone. It is not lost to us that the City of Cape Town is demolishing homes in the same way the apartheid government demolished homes and removed people of colour from this area in 1968. We must emphasise that it is not the intention of these occupiers to interfere with the restitution process of District 6 which has faced untenable delays since 1998. Especially in the context of state failure to address the housing crisis and speedily act on the restitution process at District 6, one should not tolerate any statements by the state that attempts to pit oppressed people against each other in their equally valid claims to just and equitable land and housing.”

The City continues to use obscure by-laws to raid, intimidate and illegally evict vulnerable street-based people and unlawful occupiers - despite a multitude of court cases challenging the by-law’s constitutionality

This is not the first time the City has been taken to court over its treatment of the poor. In August 2020, in the *South African Human Rights Commission (SAHRC) and Others v City of Cape Town and others*, the City conceded that it was not entitled to evict and demolish in respect of occupied structures. [The City of Cape Town lost this case, with specific costs.](#) Earlier in 2020, the SAHRC released a damning report on the City of Cape Town’s COVID-19 Shelter For Street-based People in Strandfontein, citing gross human rights violations and ultimately leading to its closure.

Ndifuna Ukwazi Law Centre are representing clients in two other cases against the City of Cape Town which refer to its treatment of vulnerable occupiers and people struggling with homelessness. The more recent case involving the illegal eviction of 21 occupiers living on the a piece of vacant land next to the Green Point Tennis Club is currently being considered by Judge Tessa Le Roux, with judgment expected this week (27 September - 1 October 2021), is eerily similar to the case of the occupiers in District 6. Ndifuna Ukwazi also represents eleven people experiencing homelessness who are challenging two of the City’s by-laws on the basis that they discriminate against, and infringe on the constitutional rights of homeless people. In this case, the applicants have also suffered repeated raids by the City’s law enforcement officers - in what can only be construed as an attempt to intimidate and threaten them.

On 22 August, the City’s law enforcement officers confiscated personal belongings of people struggling with homelessness living in Hope Street, including one woman’s antiretrovirals (a potentially life-saving chronic medication whose efficacy is severely diminished if the patient does not take it every day). The proliferation of these raids suggests that the City is using these by-laws to crackdown against unlawful occupiers and street-based people across the City.

- Read Ndifuna Ukwazi's press release on the Green Point Tennis Club's 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/8jUnuqtuwlIpdsqYmxXS>

Contact:

- Danielle Louw, Ndifuna Ukwazi Law Centre attorney: Danielle@nu.org.za / 072 957 9711
- Jonty Cogger, Ndifuna Ukwazi Law Centre attorney: Jonty@nu.org.za / 083 442 2136
- Yusrah Bardien, Ndifuna Ukwazi communications officer: Yusrah@nu.org.za / 082 470 1441 (Whatsapps welcome)

ENDS

ISSUED BY NDIFUNA UKWAZI