



PRESS STATEMENT

7 September 2021

VICTORY FOR BROMWELL STREET RESIDENTS IN THEIR PUSH BACK AGAINST GENTRIFICATION AS HIGH COURT DECLARES CAPE TOWN'S EMERGENCY HOUSING PROGRAMME UNCONSTITUTIONAL

In a ground-breaking judgment, the Western Cape High Court on Monday declared the City of Cape Town's emergency housing programme unconstitutional on the basis that the City's emergency housing programme is inconsistent, contradictory and has been implemented haphazardly and arbitrarily, especially in responding to the emergency housing needs of people being evicted from the well-located inner-city, Woodstock and Salt River areas. The case, which was heard before Judge Mark Sher, is a victory for poor and working class families facing the threat of homelessness and displacement as a result of eviction from well-located areas of Cape Town.

The Bromwell Street residents, a group of poor and working class families that have lived in a row of cottages on Bromwell Street in Salt River for generations, faced eviction at the hands of the current owner, the Woodstock Hub. Since 2015, the residents have resisted their eviction and challenged the constitutionality of the City of Cape Town (the City)'s emergency housing programme. The residents argued that the City's emergency housing programme (and the way it was implemented) was unconstitutional **because it unlawfully excludes the delivery of temporary emergency housing for people who are at risk of becoming homeless as a result of an eviction in inner-city Cape Town and surrounding areas, and unfairly discriminates against people evicted from private land.**

The residents argued that the City arbitrarily and unfairly discriminated against them in not offering them transitional housing as it had offered other evictees in similar circumstances. Transitional housing is a form of temporary housing provided to individuals or families who need a stable housing solution until moving onto more permanent housing. In other municipalities, transitional housing is often used to provide temporary emergency housing to people rendered homeless as a result of evictions. Instead, the temporary emergency housing the City offers to the majority of poor and working class families is in far-flung temporary relocation areas (TRAs) and incremental development areas (IDAs), like Blikkiesdorp and [Wolwerivier](#), or informal settlements, like Kampies. The residents argued that the effect of the City's temporary emergency housing programme is to displace poor and working class people from well-located areas to the urban periphery where economic opportunities, transport routes and social amenities like schools, hospitals, police stations and clinics are difficult to access.

Many of the residents, like the late Aunty Brenda Smith who recently passed away at the age of 80, lived their whole lives on Bromwell Street, resisting displacement in the face of the apartheid-era forced removals for decades and, more recently, resisting displacement as a result of the soaring rents and property prices caused by gentrification. Like many other communities in Woodstock and Salt River, the close-knit integrated group of poor and working class families who consider themselves “an extended family” were threatened by the harmful effects of gentrification.

In a nuanced and well-reasoned judgement, Judge Sher acknowledged the precarious economic position that the Bromwell Street families found themselves in as a result of gentrification and City-run regeneration processes in the Woodstock and Salt River areas, before turning to the City’s emergency housing programme.

The judge criticised the City’s “irrational” and “arbitrary” approach to the provision of temporary emergency housing for evictees, in terms of which the City offers different groups of evictees different types of emergency or transitional housing. As the judge noted (at paragraphs 157-158):

“To my mind ... this differentiation in treatment in relation to evictees in Woodstock and Salt River is unfair and unreasonable. Evictees such as the applicants who have been living in Woodstock and Salt River for many years (in some instances since their birth) are at risk of having to be relocated either to the outskirts of the City or to informal settlements outside the City, away from their workplace, educational facilities, clinics and places of religious worship, whilst other evictees will not be subjected to these same disadvantages... Consequently, in my view the differentiation in treatment which the City’s emergency housing programme affords to homeless evictees in the inner City, and in Woodstock and Salt River in particular, is not only unreasonable but also irrational, because it is arbitrary in its implementation.”

The court also criticised the City for failing to explain “*how determinations and placements are made by its officials in emergency housing eviction cases i.e how and on what basis it is decided which evictees must go where, and how allocations of emergency housing in such instances are made*” and stated that the process the City follows is “*entirely opaque*”.

The court therefore declared the City’s emergency housing programme unreasonable and unconstitutional in relation to people who may be rendered homeless as a result of their eviction in the inner City and its surrounds, and in Woodstock and Salt River in particular, and ordered the City to provide the Bromwell Street residents with temporary emergency housing or transitional housing “as near as feasible” to the homes from which the residents are being evicted from.

With a keen awareness of the current moratorium on evictions imposed as a result of the COVID-19 Lockdown regulations, Judge Sher said that the City had 12 months within which to provide this emergency or transitional housing. He also required the City to report back to the court within 4 months, providing more information about the location and suitability of the emergency or transitional housing the City will make available to the Bromwell Street residents.

Disha Govender, attorney for the residents, said:

"It has been a long journey and we are very happy that our clients' rights have been vindicated. We believe the judgment and order will go a long way to ensuring that the Bromwell residents are not displaced from the only community they have ever known and hope that it will result in systemic change at the City level in how it responds to the emergency housing needs of evictees. This case has highlighted that the City needs to proactively plan for emergency housing needs which are only growing and that it needs to be responsive and accountable to the people it is meant to serve."

Chanell Commando, the first applicant in the case, said:

"I would like to thank everyone who was with us in this fight. I would like to thank our lawyers for helping us and explaining things to us and thank those who supported us through protests and who were there through the struggle with us. I am very happy for this victory and this win because it can help people who are in the same situation as we are - people who never knew their rights - people who don't know what is happening when evictions are happening to them. I would like for the City to engage more and see where people come from because this case is not just about us, it's about what is happening in our community. I would like to also even thank the judge for seeing what this case really was and how it affected people's lives and livelihoods."

- Read the High Court judgment here: <https://jmp.sh/DH3JKKS>
- Read a media summary on the background to the case here: <https://jmp.sh/gmDs6lt>
- Read Ndifuna Ukwazi's press release from the court hearing (November 2020) here: <https://jmp.sh/bZos9kn>

Contact:

- Disha Govender, head of the Ndifuna Ukwazi Law Centre: Disha@nu.org.za / 081 832 9363
- Charnell Commando, first applicant and spokesperson for the Bromwell residents: 076 153 9033
- Yusrah Bardien, Ndifuna Ukwazi communications officer: Yusrah@nu.org.za / 082 470 1441 (Whatsapps welcome)

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