

Makhanda Office

116 High Street • Makhanda • 6139 • South Africa
Tel: (046) 622 9230 • Fax: (046) 622 3933 • Email: amandam@lrc.org.za • www.lrc.org.za
PBO No. 930003292
NPO No. 023-004

LRC

Legal Resources Centre

Your Ref: Makana Municipality
Our Ref: Ezihagweni//Makana Municipality

Mr Moppo Mene
Municipal Manager

Makana Municipality
City Hall
High Street
Makhanda
6139

Per email: mmene@makana.gov.za

And to: Mr Kellelo Makgoka
Waste Management Officer
Per email: kelellom@makana.gov.za

And to: Mr Phumzile Smile
Per email: PhumzileSmile@makana.gov.za

Cc: Ms Nomandla Mbanjwa
Legal Services (Makana)
Per email: nmbanjwa@makana.gov.za

8 February 2022

Dear Sir/Madam


**RE: EZIHAGWENI STREET COMMITTEE AND ANOTHER // MAKANA MUNICIPALITY
AND OTHERS - GRAHAMSTOWN HIGH COURT - CASE NO. 2021/2020**

1. We refer you to the above matter, in which a settlement agreement was reached and made an order of court on 9 September 2021.
2. In terms of the court order, the municipality was directed to:

- a) Clean up seven unofficial dumpsites listed on annexure A of the court order and provide three plastic refuse bags per household per week within 14 days of the court order (i.e. by 30 September 2021).
 - b) Identify all other unofficial dumpsites within 30 days of the court order (i.e. by 22 October 2021) and clean, clear and remove all waste at the identified dumpsites within 120 calendar days of the court order (i.e. by 8 January 2022).
 - c) Conduct a comprehensive audit, within three months of the court order, assessing the waste management needs in the municipality (i.e. by 9 December 2021) and provide our offices with a report thereon within three weeks (i.e. by 30 December 2021)
3. In respect of paragraph (a) above, during site visits on 30 September 2021, 13 October 2021, 26 November 2021 and 21 January 2022, we found that only the “Kellekete” and “TEM Mrwetyana east” sites had been cleared. Other sites had been graded and covered with soil, but the waste had not been removed. This is a breach of the National Environmental Management: Waste Act 59 of 2008 (NEMWA) and is a breach of the court order. Furthermore, three plastic refuse bags per household per week are not being issued. Other sites had not received any attention whatsoever.
 4. In respect of paragraph (b) above, more than three months have passed since the deadline for producing the list, and despite numerous requests, this has still not happened. More than a month has passed for all identified dumpsites to be *cleared*, and this has definitely not happened.
 5. In respect of paragraph (c) above, more than a month has passed since the report should have been shared with us, and nothing has been received.
 6. On 13 October 2021 and 15 November 2021, we sent emails to Ms. Mbanjwa, urging the municipality to comply with the court order. On 25 November 2021, we also sent Mr. Mene, Mr. Smile and Mr. Makgoka, an email urging them to act. We did not receive a response.
 7. The municipality has now failed to implement the court order. It is in breach of the court order in material terms.

8. We therefore demand that the municipality complies with all aspects of the court order by **Friday 18 February 2022** failing which, we will immediately approach the court for appropriate relief. Specifically, our clients demand that you:
- 5.1. Clear the remaining 5 dumpsites identified on annexure A to the court order;
 - 5.2. Supply the correct number black bags that need to be supplied;
 - 5.3. Produce the list of all illegal dumpsites;
 - 5.4. Provide a plan, that is budgeted and with clear timeframes, to clear the dumpsites identified; and
 - 5.5. Produce the comprehensive audit regarding Makana's waste management needs and share the report with our offices.
9. At a meeting with Ms. Mbanjwa and Mr. Smile at the LRC's offices on 30 September 2021, the municipality undertook to provide the following information:
- 6.1. A complete list of the existing, functioning fleet used for refuse removal;
 - 6.2. An organogram setting out the number of employees employed by the municipality responsible for refuse collection, and their employment levels;
 - 6.3. A schedule of refuse collection with the number of receptables provided and their location; and
 - 6.4. Details of the programme to educate the community on waste management.
- This has still not been provided and we therefore request that it be provided forthwith.
10. In the event that our client is forced to return to court to ensure compliance with the court order, we shall seek further relief, including an order directing the municipality to make the information available. We will also seek a further costs order against the municipality. We sincerely hope further litigation will not be necessary and you will provide us with this information and comply with the court order.
11. We await your urgent response.

Yours faithfully,


LEGAL RESOURCES CENTRE
Per: CAMERON MCCONNACHIE