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“You never learn anything by doing it right.”

CITY OF JOHANNESBURG: BILLING CHAOS AND “UNLAWFUL” PROPERTY RATES

Residents whose properties fall within the boundaries of the City of Johannesburg (“COJ”) are still reeling from every property owner’s worst nightmare, after a host of problems plaguing the COJ continued to end up on their doorsteps. Municipal administration has spent the last few years in court struggling to recover from a range of issues which included: i) incorrect stand- and physical addresses, ii) exorbitant and incorrect billing amounts, iii) deeds transfers that were not updated on the billing system, iv) estimated meter readings, v) wrongly printed statements, vi) incorrect cut-offs (water and electricity),vii) delays in issuing clearance figures and other problems.

From the point of view of the COJ, it has addressed these issues and is on the road to “recovery”, but further complaints and heartaches from residents have continued to be widely publicised in all forms of the media.

This month, the Supreme Court of Appeal (“SCA”) held that the COJ unlawfully increased the rates on business, commercial- and industrial properties in 2009/2010.

A budget providing for a 10% increase in rates had been tabled and advertised for public comment, however the COJ subsequently decided to implement a rates increase of 28%. The SA Property Owners' Association took the matter to court and judgement was delivered in their favor.

The Court concluded that the COJ's decision to impose the additional 18% was irrational and unfairly discriminated against the owners of affected properties. Referencing the Constitution, the SCA made what it deemed a “just and equitable” order and declared that the municipality had acted unlawfully in imposing the additional 18%, failing to comply with the Municipal Systems Act, the Municipal Finance Management Act and the Municipal Property Rates Act.

Law & Laughter

ATTORNEY: Doctor, how many of your autopsies have you performed on dead people?
WITNESS: All of them. The live ones put up too much of a fight.

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ACCESS TO COMPANY INFORMATION: WHAT THE NEW COMPANIES ACT ALLOWS

According to the Companies Act any person, regardless of whether he has a beneficial interest in the securities of a company or not, has the right to inspect the securities and directors register of a private company and the members register of a non-profit company.

The North Gauteng High Court recently confirmed that the refusal by any company to grant access to its share register upon request constitutes a criminal offence.

In this case, a local newspaper's request to three companies to view their share registers remained unanswered for over a year. This led to an application to the High Court. The Court proceeded to find in the newspaper's favor, explicitly stating that the companies gave no reasons why the newspaper should not be allowed access to certain of their records.

The companies argued that the newspaper did not have the right under the Companies Act to access their share registers. However, in handing down its judgment, the court held that under the 1973 Act, access to a members register was granted to any person, provided the prescribed fee was paid. In the 2008 Act the only difference is a name change, in that a profit company must have a "securities" register which was the members register under the 1973 Act.

The court accordingly went on to conclude that the refusal by the three companies contravened the provisions of the 2008 Act and amounted to criminal conduct on the part of all three entities.

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