IN THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
(REPUBLIC OF SOUTH AFRICA)

CASE NUMBER: 308/2012
NORTH WEST HIGH COURT CASE NUMBER: 1776/2010

In the petition matter of:

MAGALIESBURG PROTECTION ASSOCIATION Applicant

and

MEC: DEPARTMENT OF AGRICULTURE, CONSERVATION, ENVIRONMENT & RURAL DEVELOPMENT IN NORTH WEST PROVINCIAL GOVERNMENT 1ST Respondent

CHIEF DIRECTOR: ENVIRONMENTAL COMPLIANCE DEPARTMENT OF AGRICULTURE, CONSERVATION, ENVIRONMENT AND DEVELOPMENT NORTH WEST PROVINCIAL GOVERNMENT 2ND Respondent

KGASWANE COUNTRY LODGE (PTY) LTD 3RD Respondent

1ST & 2ND RESPONDENTS ANSWERING AFFIDAVIT TO THE PETITION (APPLICATION FOR LEAVE TO APPEAL)

I, the undersigned;

THAMI MAMOGODI MIRIAM MATSHEGO

Do hereby make oath and say:

1. I am the Chief Director: Environmental Compliance in the Department of Agriculture, Conservation, Environment and Rural Development, North West Provincial Government. I

T.M.M. JS

am duly authorised to depose to this affidavit on behalf of the second respondent (in my capacity as the acting Chief Director and in my official capacity) and the MEC: responsible for the Department of Agriculture, Conservation, Environment and Rural Development, North West Provincial Government ("first respondent"). Mr Moremi, the former Chief Director, who has since joined the National Government, deposed to the answering affidavit in the Court a quo. I have read and familiarised myself with the papers in this matter and I am able to depose to this affidavit in the circumstances under which I do herein.

2. Save where otherwise stated or where the context indicates to the contrary, the facts herein contained are within my personal knowledge and belief both true and correct. If I make legal submissions in this affidavit, I have obtained same from my and MEC's legal representatives, the advice which we accept as correct. For the purpose of this affidavit, I will refer to myself and the MEC as the respondents. Where necessary, I will interchangeably refer to the first respondent as the MEC.

3. This affidavit is filed in opposition of the petition or application for leave to appeal that has been launched with the above Honourable Court by the applicant. The basis of the opposition is that there are no reasonable prospects on appeal or for leave to appeal to be granted. It is my respectful submission that the application became academic and moot when the applicant's urgent application to stop further construction of the lodge was dismissed by the Court a quo.

T. M. M. JS

THE PREVIOUS URGENT APPLICATION

4. As pointed out by the applicant in the affidavit in support of the application for leave to appeal, the application which form the subject matter of this application for leave to appeal was commenced with by the applicant in the North West High Court by way of an urgent application interdicting and restraining the third respondent from continuing with the construction activities that were been undertaken in respect of the Kgaswane Country Lodge ("the lodge") pending the finalisation of the review in Part B of the same application.

5. In Part B, the applicant sought an order that the decision of the second respondent ("Chief Director") granting an ex post facto authorisation to the third respondent to construct a lodge, in a Magaliesburg protected area, be reviewed and set aside. In addition thereto, the applicant sought an order that the lodge that has already been constructed be demolished.

DISMISSAL OF THE URGENT APPLICATION

6. Part A of the urgent application, was dismissed by the Court on the basis that construction of the lodge was already at an advanced stage and in fact, 90% of the construction had already been completed. The Court also found that in so far as the allegation by the applicant that the construction will negatively impact on the environment, the Court found that where 90% of the construction had already been completed, and substantial removal of the grass and plants has taken place, and no further erosion of the environment is

T.M.M. JS

anticipated, an interdict cannot be granted in the circumstances. The Court also found that the applicant has failed to satisfy the requirements of an interim interdict and has also failed to demonstrate the harm that it would suffer which would be irreparable if the interdict were not granted.

7. Despite the dismissal of the urgent application, and despite the full knowledge of the applicant that 98% of the construction had been completed at the time when the urgent application was dismissed, instead of the applicant abandoning the Part B of the application (review application), and withdrawing the application, it persisted with the review with the full knowledge that the relief that it sought would be academic, in view of the fact that it had failed to interdict the third respondent from continuing with the construction.

8. In the meantime, the third respondent continued with the construction and completed the remaining 2%. When the review application was heard, construction had been completed, with some furniture installed in the buildings, in order for the lodge to be opened to the public.

DISMISSAL OF THE REVIEW APPLICATION

9. When the review application was heard, the applicant repeated the same argument it advanced before the urgent Court that the lodge had not been completed despite evidence to the contrary that the lodge had in fact been completed. The applicant could not produce

T.M.M. JS

proof to Court that the lodge had not been completed. In the applicant's own version, it had been denied access to the site. The applicant's version was that it only flew over the lodge and observed that there were some work in progress that still needed to be done. The applicant could not point out which work still needed to be done and contrary to that allegation, the third respondent provided evidence that there was no work in progress in so far as construction was concerned, and that in fact the buildings had already been painted, fitted with doors, windows and some furniture already installed in the buildings.

10. The department's environmental inspector also visited the site as part of his compliance visits and confirmed that construction had been completed, and some furniture had been installed. The confirmatory affidavit of the environmental inspector was filed to that effect.

11. The applicant, persisted in the review with seeking for an order that the lodge must be demolished despite that it had been completed and ready to commence business.

12. It was argued on behalf of the first and second respondents during the review that the section 24G rectification decision, regularising the unlawful activities that were commenced by the third respondent was taken in full compliance with the law and was therefore not susceptible to attack on review. The applicant's persistence that the lodge should be demolished was irrational and disproportionate, especially when its construction was ex post facto authorised by the authorization that was granted by the Chief Director.

T.W.M. JS

13. An administrative decision is lawful until set aside on review. Even on review the Court considers disproportionality in the event the decision is set aside. In certain circumstances, the Court refuses to set aside an administrative decision that was taken improperly due to the disproportionate nature such an order would give effect to. This was a classic case where even if the Court could have found that the decision of the Chief Director was reviewable, would have still refused to set it aside for the reasons alluded to above.

14. The reasons advanced by the Court a quo in refusing to set aside the Chief Director's decision are not irrational, nor are they unlawful. The decision of the Chief Director is also not irrational, nor was it unlawful. It is permitted in terms of section 24G of NEMA.

15. When the applicant realise that its grounds of review had no legal or factual basis, it resorted to a new ground of biasness. This ground of review could not be motivated in the supplementary affidavit, nor was it seriously argued at the hearing of the application. This ground of review simply had no merit. The Court a quo correctly rejected this ground of review. Each ground of review relied upon by the applicant was dealt with the Court a quo. The Court a quo correctly found that none of them had merit. The Court a quo correctly dismissed the review application and as well as the application for leave to appeal. There are no reasonable prospects on appeal.

16. The applicant had in fact conceded in its founding affidavit that the granting or dismissal of its urgent application was decisive and would impact directly on whether the review application would be proceeded with or not. I also respectfully submit that indeed, the

T.M.M. JS

outcome of the urgent application was decisive on whether the review application would be proceeded with or not.

17. The crux of the applicant's application is found in paragraph 17 of the founding affidavit, which the applicant had failed to draw this Honourable Court to. The significant concession in that paragraph is that if the interdict is not granted, the order of demolishing would be difficult or impossible to obtain. I submit the applicant was correct in this regard, and was therefore bound by what it pleaded under oath in its founding affidavit. I reproduce paragraph 17 hereunder:

> *"17 Since the construction of the Kgaswane country lodge is not yet complete and ongoing construction operations will continue to cause harm to the environment within the MPE, the applicant seeks interdictory relief pending the outcome of the aforesaid review proceedings. In addition, the applicant contends that it is entitled to interdict relief on the basis that the relief the applicant seeks in the review ("namely the demolishing of the lodge") will become difficult if not impossible to attain if construction activities are permitted to continue to completion."*

18. With this concession by the applicant in mind, it was ill-advised and impractical for the applicant to persist with the review, and ask for an order of demolishing when it failed to motivate in its founding papers. It is also hard to understand, given the concession made by the applicant in paragraph 17 of the founding affidavit, that the applicant still persists with the petitioning of the above Honourable Court for leave to appeal. Both the application for review in the Court a quo, and the petition to the above Honourable Court are an abuse of the Court process. It was for this reason among others that a cost order was warranted against the applicant.

T. M. M. JS

19. It is respectfully submitted that in this matter, so much water has gone under the bridge, and that no order of demolishing could be granted by the Court in the circumstances such as this because such an order would be disproportionate and harmful. In any event, I am advised that the applicant must make out a case in the founding affidavit. The lodge is fully completed and ready to open its doors to the public. It is conceivable that by the time this Court considers this petition, the lodge could possible be fully operational, conducting its business in full steam.

CONSTITUTIONAL ISSUES DID NOT ARISE FROM THE APPLICANT'S PAPERS

20. In so far as costs are concerned, the applicant did not raise any constitutional issues which merited any constitutional attack on any of the provisions and can therefore not claim any protection in so far as it being required to pay the costs. The decision by the applicant to persist with the review application after the dismissal of the urgent application was unreasonable and reckless. In the circumstances, the costs were correctly awarded against the applicant.

21. The allegations in the affidavit in support of leave to appeal do not take the matter any further because the applicant had failed to pass the first hurdle, that there are reasonable prospects on appeal. In any event, my failure to deal with allegations in the affidavit of the applicant, is not an admission of same. The aforesaid allegations have already been dealt

T.M.C.C. JS

with in answering affidavits filed in the Court a quo. It must be noted that in the affidavit to the petition, the applicant is still saying that the lodge is not complete. In this regard, the applicant is misleading the Court under oath

22. I deny that there is any misdirection committed by the Learned Judge. The copy of the judgment is already attached to the applicant's petition, as well as the judgment refusing leave to appeal. It is not necessary for me to traverse them in detail. They speak for themselves.

23. I now turn to deal with the merits of the Applicants' averments paragraph by paragraph.

AD THE APPLICANT'S AFFIDAVIT IN SUPPORT OF THE PETITION

24. AD PARAGRAPH 1

The allegations herein are noted.

25. AD PARAGRAPH 2 THEREOF

Save to deny that the allegations herein are both true and correct. The remainder of the allegations herein are noted.

26. AD PARAGRAPHS 3, 4, AND 5 THEREOF

Save to state that on 17 March 2009, the Environmental Management Framework ("EMF") was gazetted as part of the adoption thereof in terms of Regulation 72(2) of the

T.M.M. JS

Environmental Impact Assessment Regulations, 2006. The remainder of the allegations herein are noted.

27. AD PARAGRAPHS 6 AND 7 THEREOF

The allegations herein are admitted.

28. AD PARAGRAPH 8 THEREOF

The allegations herein are noted.

29. AD PARAGRAPHS 9 TO 17 THEREOF

The allegations herein are admitted.

30. AD PARAGRAPH 18 THEREOF

Save to state that the Applicants have not made out a case for leave to appeal from this Honourable Court. The remainder of the allegations herein are noted.

31. AD PARAGRAPHS 19 TO 23 THEREOF

31.1 Save to deny that the effect of the reservation of the Magaliesberg Nature Area was that no one could, in the absence of a permit, use the land for any purpose other than what was being used before the proclamation, the contents herein are noted.

31.2 The remainder of the allegations herein are admitted.

T.M.M. JS

32. AD PARAGRAPHS 24 AND 25 THEREOF

The allegations herein are admitted.

33. AD PARAGRAPHS 26 AND 27 THEREOF

33.1 Save to state that the adoption of the EMF on 17th March 2009 did not have retrospective effect and could not be taken into account authoritatively when the appeal was dealt with by the 1st Respondent. Save to deny any implied averment that EMF is a decision making tool to be complied with, instead the EMF expressly in clause 2.1 states that –

"It must be understood that EMF is a decision support and not decision making tool."

33.2 The remainder of the allegations herein are noted.

34. AD PARAGRAPH 28 THEREOF

The allegations herein are noted.

35. AD PARAGRAPHS 29 AND 30 THEREOF

The allegations herein are noted.

36. AD PARAGRAPHS 31 TO 33 THEREOF

The allegations herein are noted.

T.M.M. JS

37. AD PARAGRAPHS 34, 35, 36, 37 AND 38 THEREOF

The allegations herein are noted.

38. AD PARAGRAPH 39 THEREOF

38.1 Save to state that allegations pertaining to the letter being received by the secretary of the Mountain Club do not fall within the 1st and 2nd Respondent's knowledge and therefore cannot be admitted nor denied.

38.2 Save to state that the normal procedure is that applications are submitted first, then upon getting a reference number from the Department and in the acknowledgement of receipt thereof, the applicant for authorisation would be informed as to what studies and process is to be followed.

38.3 It is therefore disingenuous for the Applicant to state that the application was submitted before they were informed and the public participation process was done, as the public participation process will follow after the submission of the application. At this stage it is difficult to comment on the contents of the letter to the Mountain Club as its contents are not known to the 1st and 2nd Respondents.

38.4 The remainder of the allegations herein are noted.

T.W.M. JS

39. AD PARAGRAPH 40 THEREOF

39.1 Save to deny any implied averment that the Applicant was not aware that the Application was submitted as the Applicant was informed in October 2008 and requested to submit comments. Save to deny any implied impact and non compliance as alleged in the letter. The Applicant is put to the proof thereof.

39.2 The remainder of the allegations herein are noted.

40. AD PARAGRAPH 41 THEREOF

40.1 Save to state that there is no provision in law that requires or places any obligation on either the 1st or 2nd Respondent to consult specifically with the Applicant. Save to deny that the Applicant was not consulted.

40.2 The Applicant was specifically send a letter which according to the Environmental Assessment Practitioner, proof of delivery of Waybill No. 5499791 dated 10th October 2008 delivered to the Applicant's address, annexed to the Environmental Assessment Practitioner's report dated 30th October 2008.

40.3 The remainder of the allegations herein are denied and applicant is put to the proof thereof.

T. W. M. JS

41. AD PARAGRAPH 42 THEREOF

The allegations herein are admitted.

42. AD PARAGRAPH 42 THEREOF

The allegations herein are denied and Applicant is put to the proof thereof.

43. AD PARAGRAPH 43 THEREOF

The allegations herein are admitted.

44. AD PARAGRAPH 44 THEREOF

The allegations herein are admitted.

45. AD PARAGRAPH 45 AND 46 THEREOF

45.1 Save to state that the EMF was not adopted and gazetted as at the time of making decision by the 2nd Respondent. It is trite law that in appeals and review matters, the relevant authority is confined to the facts and the law applicable as at the time the relevant authority made a decision.

45.2 Furthermore, save to state that the decision of the 2nd Respondent took into account the RSDF and in considering the bundle of documents in the record of decision by 2nd Respondent the RSDF was included and 1st Respondent considered it.

45.3 The remainder of the allegations herein are denied.

46. AD PARAGRAPH 47 THEREOF

46.1 Save to state that the Applicant has indicated that it has been denied access into the Kgaswane lodge area and as such has not been able to verify that averments in the report by Lesekha Consulting. Save to state that on receipt of the application for rectification the 3rd Respondent was directed to embark on certain studies in order for the rectification application to be considered. Save to state that the authorisation by the 2nd Respondent was issued with certain conditions and stipulations.

46.2 The remainder of the allegations herein are denied.

47. AD PARAGRAPHS 48 AND 49 THEREOF

Save to deny that the 3rd Respondent's Environmental Assessment Practitioner did not consult or engage the Applicant. I reiterate the contents of paragraph 20 herein above. The remainder of the allegations herein are denied. The Applicant is put to the proof thereof.

48. AD PARAGRAPHS 50 TO 60 THEREOF

The allegations herein are noted.

49. AD PARAGRAPH 61TO 64THEREOF

49.1 Save to deny that the court a quo, erred in finding that the 1st and 2nd Respondent were obliged to take the EMF into account.

49.2 Paragraph 62

46.2.1 Save to state that the learned Judge President correctly found as she did in paragraph 49 of the judgement, when she held that-

"In view of the provisions of Regulation 72(2) referred to above, it can therefore not be expected of the Chief Director and the MEC to have taken the EMF of the MPE area into account when considering the ex post facto application, because the EMF was not yet applicable."

46.2.2 The remainder of the allegations herein are denied.

49.3 Paragraph 63

49.3.1 Save to state that the learned Judge President correctly found as she did in paragraph 51 of the judgement, when she held that-

"...I find that it was not necessary for the MEC, in considering the section24G application, to apply the EMF of the MPE area. Circumstances would have been different had the development not yet commenced at the MPE area, because then it would have been expected of the MEC to consider the three steps required in the application of the activity framework of the EMF referred to in paragraph 40 above."

49.3.2 The Applicants forget the important fact that the EMF was not yet applicable as at the time the 2nd Respondent took a decision, hence it could not have been expected of the 2nd Respondent to apply a document which determined that development of a lodge in the MPE is desirable or undesirable whilst it was not yet law.

T.M.M. JS

49.3.3 Furthermore, it is denied that there was no basis for a distinction between applications for authorisation made before construction and applications made for *ex post facto* authorisation.

49.4 Paragraph 64

49.4.1 Save to state that the learned Judge President correctly found as she did in paragraph 50 of the judgement, when she held that-

> "As to whether or not the *EMF of the MPE area should have been considered by the MEC on appeal because of the fact that it had become operational when he was seized with the appeal, is an issue that has to be considered by establishing whether or not the EMF of the MPE area could be applied retrospectively, in that regard.*

49.4.2 Save to state that if the MEC was to take the EMF into account in his decision on appeal, such would have the effect of applying the EMF to a set of facts which preceded its coming into operation. This would have the effect of giving the EMF retrospective effect.

49.4.3 Save to state that the EMF was not a relevant consideration as it was not of force and effect as at the date of the decision of the 2nd Respondent, which is the subject of the appeal which is sought to be reviewed.

50. AD PARAGRAPH 65 AND 68 THEREOF

50.1 Save to deny that the EMF was not considered. Save to reiterate that as at the date of decision the EMF was not adopted and could not be relied upon or referred to

T.M.M. JS

authoritatively. Save to reiterate that the EMF expressly states that it is a guiding tool.

50.2 Save to state that the adoption of the EMF on 17th March 2009 did not have retrospective effect and could not be taken into account authoritatively when the appeal was dealt with by the 1st Respondent. Moreover it was considered a decision making as a tool which resulted in the 3rd Respondent being requested to commission and embark on other specialist studies as part of the research.

50.3 The remainder of the allegations herein are noted.

51. AD PARAGRAPH 69 THEREOF

51.1 Save to state that in as much as the EMF is a relevant factor which must be given proper and careful consideration. The EMF was not applicable yet as the learned Judge President found in paragraph 49 of the judgement.

51.2 The Applicants want a situation where the principle of legal certainty does not exist as one would not know which prospective legislative framework would be applicable. This would make it difficult for citizens to know with sufficient particularity which standard and instrument they would be judged on, thus it would be undesirable for such a situation to obtain.

T.M.M. JS

52. AD PARAGRAPHS 72 TO 75 THEREOF

The allegations herein are admitted.

53. AD PARAGRAPH 76 THEREOF

The allegations herein are denied.

54. AD PARAGRAPHS 77 to 78 THEREOF

54.1 Save to state that the EMF was not adopted and gazetted as at the time of making decision by the 2nd Respondent. It is trite law that in appeals and review matters, the relevant authority is confined to the facts and the law applicable as at the time the relevant authority made a decision.

54.2 The remainder of the allegations herein are noted.

55. AD PARAGRAPHS 79 AND 84 THEREOF

55.1 Save to state that regard was had to the EMF, however, EMF could not be quoted or relied on with authority as it was not adopted and gazetted as at the time the 2nd Respondent made a decision.

55.2 Furthermore, save to state that the learned Judge President in paragraph 53 correctly went further to state that-

T.W.M. JS

"However, this does not necessarily imply that in the circumstances, the MEC was obliged to consider and apply the EMF of the MPE area which was not in force and effect at the time the application was considered by the Chief Director."

55.3 The remainder of the allegations herein are denied.

56. AD PARAGRAPH 85 THEREOF

The allegations herein are admitted.

57. AD PARAGRAPHS 86 -87 THEREOF

The allegations herein are denied.

58. AD PARAGRAPHS 88 - 89THEREOF

58.1 Save to state that the development objectives, targets, indicators and management guidelines set in the EMF are not relevant and could not be taken into account as it was not operative at the time of the decision by the 2nd Respondent.

58.2 The remainder of the allegations herein are noted.

59. AD PARAGRAPHS 90 TO 93 THEREOF

59.1 Save to state that the learned Judge President correctly found as she did in paragraph 84 of the judgement, when she held that-

"...there was an obligation on the Chief Director and the MEC to establish and satisfy themselves that:

(i) Kgaswane has compiled report containing the issues referred to in section 24G1(a) to (b);

T.M.M. TS

(ii) *If such report was compiled... whether or not there are factors that would have an impact on the environment occasioned by the development of the Lodge in the MPE areas;*

(iii) ..."

59.2 Save to state that the learned Judge President correctly found as she did in paragraph 85 of the judgement, when she held that-

"*I am satisfied that the Chief Director and the MEC have considered all the relevant factors necessary for the purpose of granting the environmental authorisation.* "

59.3 The remainder of the allegations herein are noted.

60. AD PARAGRAPHS 94 TO 98 THEREOF

60.1 Save to state that there is no provision in law that requires or places any obligation on either the 1st or 2nd Respondent to consult specifically with the Applicant. Save to deny that the Applicant was not consulted.

60.2 The Applicant was specifically send a letter which according to the Environmental Assessment Practitioner, proof of delivery of Waybill No. 5499791 dated 10th October 2008 delivered to the Applicant's address, annexed to the Environmental Assessment Practitioner's report dated 30th October 2008.

60.3 Furthermore, save to state that the learned Judge President correctly found as she did in paragraph 53 of the judgement, when she held that-

T.M.M. JS

"I am of the view that the Applicant cannot succeed on this ground of review as he did have an opportunity to make submissions on appeal to the MEC."

60.4 The remainder of the allegations herein are denied and applicant is put to the proof thereof.

61. AD PARAGRAPHS 99 TO 104 THEREOF

61.1 The allegation that the MEC was biased, was raised for the first time in the supplementary affidavit not because the record dispatched to the applicant in terms of Rule 53 revealed the existence of bias, but because the applicant raised it as an after thought. Firstly, the minutes that the applicant refer to in support of this allegation, have at all relevant times been in possession of the applicant before the review was filed.

61.2 In the subsequent meetings including the in loco inspections that were conducted jointly with the MEC, no reference of bias was made. When the internal appeal was lodged with the MEC, no reference of bias was made or raised as one of the grounds of appeal. The above mentioned objections to the ground of review based on "bias" were raised in the answering affidavit of the respondents, and the applicant could not meaningfully deal with them except for a bare and bald denial. The failure by the Court a quo to deal with this ground of review, does not take the matter further. In the judgment refusing leave to appeal, the Court a quo deal with this ground meaningfully and also rejected it.

62. AD PARAGRAPHS 104 TO 115 THEREOF

62.1 Save to state that *Section 32(2) of NEMA* gives the court a discretion to decide not to award costs against an applicant if the court is of the opinion that the person or group of persons acted reasonably out of a concern for the public interest or in interest of protecting the environment and had made due effort to use other means available for obtaining the relief sought.

62.2 Save to state that the learned Judge President correctly found as she did in paragraph 98 of the judgement, when she held that-

> " *Section 32(2) of NEMA gives the court a discretion to decide not to award costs against an applicant if the court is of the opinion that he or she "acted reasonably out of concern for the public interest or interest of protecting the environment and had made due effort to use other means available for obtaining the relief sought". In this case I am of the view that the applicants acted unreasonably by approaching the MEC and the Court with a demand for the destruction or demolition of the Lodge without seeking other avenues or suggesting other effective mitigating measures ... The applicant turned a blind eye to the directives and conditions determined by the Chief Director and issued in accordance with section 24G(2) of NEMA."*

62.3 Save to state that since the decision to award costs in a review application which centred largely around NEMA, was based on section 32(2) which does not require that the court must first find the application to be "frivolous, vexatious or manifestly inappropriate".

62.4 The remainder of the allegations herein are denied.

T.M.M. JS

63. AD PARAGRAPHS 116 TO 125 THEREOF

I respectfully agree with the Court a quo that the relief sought by the applicant would have no practical effect, given the concession made by the applicant in paragraph 17 of the founding affidavit reproduced above, that an order of demolishen would be impossible to attain.

64. AD PRAYER THEREOF

The allegations herein are denied. It is submitted that the Applicant has not made out a case for the relief set out in the notice of motion.

WHEREFORE, the 1st and 2nd Respondent respectfully prays that the Applicant's case be dismissed with costs.

DEPONENT

THUS DONE, SIGNED AND SWORN BEFORE ME AT MMABATHO ON THIS THE 29 DAY OF MAY 2012, AFTER HAVING ASKED THE DEPONENT THE FOLLOWING QUESTIONS: -

1.QUESTION: DO YOU KNOW AND UNDERSTAND THE CONTENTS OF THIS DOCUMENT?

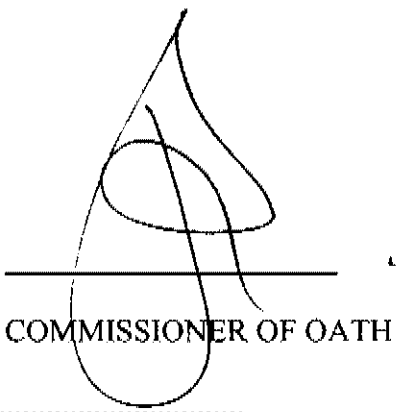
ANSWER: YES

2. QUESTION: DO YOU HAVE ANY OBJECTION TO TAKING THE PRESCRIBED OATH?

ANSWER: NO

3. QUESTION: DO YOU REGARD THE CONTENTS THEREOF AS BINDING ON YOUR CONSCIENCE?

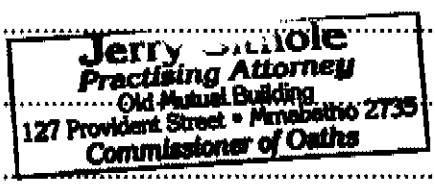
ANSWER: YES



COMMISSIONER OF OATH

NAME : .....

ADDRESS : .....



.....

.....

DESIGNATION .....