



# Centre for Environmental Rights

Advancing Environmental Rights in South Africa

Mr Linda Bernard Tshabalala  
Municipal Manager  
Dr Pixley Ka Isaka Seme Local Municipality

By email: [mm@pixleykaseme.gov.za](mailto:mm@pixleykaseme.gov.za); [records@pixleykaseme.gov.za](mailto:records@pixleykaseme.gov.za)

cc: Mr Peter Dacomb  
The Practice Group  
[peter@practicegroup.co.za](mailto:peter@practicegroup.co.za)

Your ref: 15/4/1/2  
Our ref: Mabola/CH/ZO

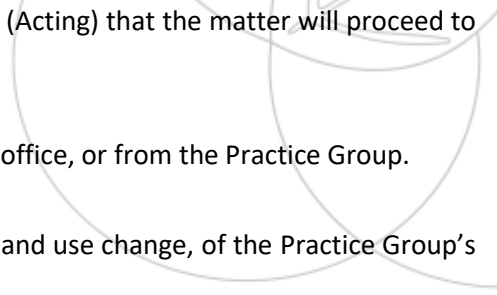
15 March 2019

Dear Mr Tshabalala

**APPLICATION FOR CHANGE IN LAND-USE (IN TERMS OF REGULATION 18 OF THE SPLUM REGULATIONS), IN RESPECT OF PORTION 1 OF YZERMYN 96 HT, IN THE DR PIXLEY KA ISAKA SEME LOCAL MUNICIPALITY AND THE GERT SIBANDE DISTRICT MUNICIPALITY, MPUMALANGA**

1. We refer to the UPDATE ON OUTCOME OF THE TRIBUNAL SITTING REGARDING THE MATTER: CHANGE OF LAND USE OVER PORTION 1 OF THE FARM YZERMYN 96, REGISTRATION DIVISION HT, MPUMALANGA PROVINCE issued by Office of the Municipal Manager, Dr Pixley Ka Isaka Seme Local Municipality ('the Municipality') dated 30 November 2018 (copy attached, marked Annexure A).
2. Pursuant to that Outcome, on behalf of Atha Africa Ventures (Pty) Ltd, the Practice Group lodged an appeal and on 29 January 2019, on behalf of the Mining and Environmental Justice Community Network of South Africa (MEJCON-SA), groundWork, Earthlife Africa Johannesburg, Birdlife South Africa, Endangered Wildlife Trust, Federation for a Sustainable Environment, Association for Water and Rural Development (AWARD) and Bench Marks Foundation, the CER submitted a petition to intervene in that appeal.
1. The following day, on 30 January 2019, we were copied on a letter addressed by the Practice Group to the Municipal Manager (Acting) in which the Practice Group stated that it had been informed telephonically by the Municipality that the 30 November 2018 Outcome was erroneously communicated to the land development applicant (Atha-Africa) as ostensibly being a decision of the Tribunal; that such decision was not an official decision of the Tribunal; and that the matter will be submitted to the Municipal Planning Tribunal to conduct its hearing as contemplated in the local municipal by-law in due course.

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Johannesburg: 9th Floor, Southpoint CNR, 87 De Korte Street, Braamfontein, 2001, South Africa  
Tel 021 447 1647 (Cape Town) | Tel 010 442 6830 (Johannesburg)  
Fax 086 730 9098  
[www.cer.org.za](http://www.cer.org.za)

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3. The Practice Group requested confirmation from the Municipal Manager (Acting) that the matter will proceed to the Municipal Planning Tribunal for a hearing.
  4. We have not received any further communication either from your good office, or from the Practice Group.
  5. We request that you kindly advise us of the status of the application for land use change, of the Practice Group's appeal and of our clients' petition to intervene in that appeal.

Yours sincerely

**CENTRE FOR ENVIRONMENTAL RIGHTS**



per:

**Catherine Horsfield**  
**Attorney**

**Programme Head: Mining**

Direct email: [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**Peter Dacomb**

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**From:** Mercy <mercyp@pixleykaseme.gov.za>  
**Sent:** Tuesday, 18 December 2018 3:24 PM  
**To:** Eric Basson; Peter Dacomb; praveer.tripathi@athagroup.in  
**Subject:** Letter to adress the rezoning issues  
**Attachments:** Letter with Tribunal concerns.pdf

Attached please receive the letter and attend to the listed issues

Kind regards

**Mercy Phetla**  
**Acting Municipal Manager**  
**Associate General Accountant – AGA(SA)**  
**Dr Pixley Ka Isaka Seme Local Municipality**  
**Volksrust**  
**Tel : 017 734 6142**  
**Fax : 017 734 6134**  
**Email: mercyp@pixleykaseme.gov.za**

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DR. PIXLEY KA ISAKA SEME LOCAL MUNICIPALITY  
OFFICE OF THE MUNICIPAL MANAGER  
PRIVATE BAG X9011, VOLKSRUST 2470

2018 -11- 30

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**DR. PIXLEY KA ISAKA SEME LOCAL**  
Private Bag c/o Adelaide Tambo Street  
Privaatsak X9011 & Dr Nelson Mandela Drive  
**VOLKSRUST VOLKSRUST**  
2470 2470

All correspondence to be addressed to  
**THE MUNICIPAL MANAGER**

Alle korrespondensie moet gerig word aan  
**DIE MUNISIPALE BESTUURDER**

Yonke imibhalo kumele iqondiswe  
**KUMPHATHI KAMASIPALA**

## OFFICE OF THE MUNICIPAL MANAGER

ENQUIRES: Ms MM Phetla

30 November 2018

### TO WHOM IT MAY CONCERN

#### UPDATE ON THE OUTCOME OF THE TRIBUNAL SITTING REGARDING THE MATTER- CHANGE OF LAND USE OVER PORTION 1 OF THE FARM YZERMYN 96, REGISTRATION DIVISION HT, and MPUMALANGA PROVINCE

The above matter refers;

During the sitting of Dr Pixley Ka Isaka Seme Local Municipality joint Municipal Planning Tribunal (the Tribunal) on 14 November 2018, the Tribunal resolved to struck (remove) the subject application from the list of matter that were put up for consideration by it, because of the following reason:-

**The applicant was neither the owner of the land over application was lodged nor authorized by the owner to lodge the subject application. The application therefore had no Locus Standi to represent the owner before the Tribunal.**

It must be noted that the Tribunal is a creature of instruction and it is therefore carrying out its mandate based on applicable legislation. Your attention is drawn to the provision of section 90 subsection (1) & (2) of the Chief Albert Luthuli, Dipaleseng, Lekwa, Mkhondo and Msukaligwa Municipal by-law on Spatial Planning and Use Management, 2016, which states:-

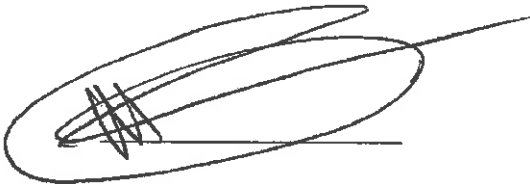
#### **90 information required**

- (1) Any application required in term of this By-Law must be completed on a form approved by the council, signed by the applicant and submitted to the Municipality

- (2) Any application referred to in subsection (1) must be accompanied by-
- a) If the applicant is not the owner of the land, a power of attorney signed by the owner authorizing the applicant to make the application on behalf of the owner and if the owner is married in community of property a power of attorney signed by both spouses;
  - b) If the owner of the land is a company, closed corporation or owners' association, proof that the person is authorized to act on behalf of the company, closed corporation, body corporate or owners' association;
  - c) If the owner of the land is a trust, the application must be signed by all the trustees;

The applicant did not provide a power of attorney appropriately signed by the relevant owner(s) reflected on the Deed of Transfer that was submitted by the applicant as part of the application documentation. The Tribunal was therefore in no position to proceed with the application that was not sanctioned by the owner.

Yours faithfully,



**MM PHETLA**

**MUNICIPAL MANAGER (Acting)**

DR PIXLEY KA ISAKA SEME LOCAL MUNICIPALITY OFFICE OF THE MUNICIPAL MANAGER PRIVATE BAG X9011, VOLKSRUST 2470
2018 -11- 3,0
TEL: 017 734 6101 FAX: 086 630 2209 EMAIL: mm@pixleykaseme.gov.za

30/11/2018

**DATE**