

IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)

CASE NO:

In the matter between:

ANGELINA MATSHEKE

First Applicant

ZAMILE DYONASE

Second Applicant

ALBERT DYONASE

Third Applicant

ESTHER NOZILE DYONASE

Fourth Applicant

TANDIWE DYONASE

Fifth Applicant

MICHAEL DYONASE

Sixth Applicant

NOMASE KOBOKA

Seventh Applicant

NCEDO KOTI

Eighth Applicant

SIDABE MXINZELELI

Nineth Applicant

LUMKA SIKADE

Tenth Applicant

NOWALAKAZI ELISE DYEKE

Eleventh Applicant

NOWINSETHI BAMANA

Twelfth Applicant

NONKISE KETSE

Thirteenth Applicant

ZOLILE MFUNDISI

Fourteenth Applicant

THANDIMATEYISE

Fifteenth Applicant

and

THE MINISTER OF
LAND REFORM AND RURAL DEVELOPMENT

First Respondent

DIRECTOR GENERAL OF THE DEPARTMENT
OF AGRICULTURE, LAND REFORM AND
RURAL DEVELOPMENT
CHRIS HANI DISTRICT MUNICIPALITY

Second Respondent
Third Respondent

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ENOCH MGIJIMA LOCAL MUNICIPALITY	Fourth Respondent
AMATSHATSHU TRADITIONAL COUNCIL	Fifth Respondent
LWAZI/MNINAWA ZICINA	Sixth Respondent
THE REGISTRAR OF DEEDS, MTHATHA	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

THE APPLICANTS' INTERACTIONS AFFIDAVIT

I, the undersigned,

THEMBAKAZI MATSHEKE

do hereby make oath and say that:

1. I am an adult female farmer residing at portion 1 of Maties Farm, one of the Gwatyu block of farms in the Eastern Cape. I am the sister of the First applicant.
2. The facts contained in this affidavit fall within my own personal knowledge and belief, save where the contrary appears from the context. They are, to the best of my knowledge and belief, both true and correct. Where I make submissions of law, I do so on the advice of our legal representatives.
3. I have read the main affidavit by Sipesihle Mguga and the history affidavit by Dr Rosalie Anne Kingwill. I confirm the contents of those affidavits.

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I INTRODUCTION

4. This affidavit provides the details of the decades-long interactions between the applicants and the state, as explained in the main affidavit at paragraph 13. The details are split into four parts:

4.1. **PART II:** State interactions between 2013-2019

4.2. **PART III:** State interactions between 2020-2021

4.3. **PART IV:** State interactions between 2022-2023

5. Finally, this affidavit provides an overview of my personal history and connection to Maties farm.

6. In providing the information about the State interactions with the people of Gwatyu I draw both on my own knowledge as a member of the community and as the Chairperson of the Gwatyu Communal Property Association.

7. I was born in Maties, just like all of my siblings. My sister Angelina Matsheke is the first applicant in this application. I attended Forest Range Primary School until the end of Standard Four (Grade 6). After that, I moved to St Marks where I completed my High School education. During my High School years, I lived with family acquaintances in St. Marks. After finishing High School, I relocated to Cape Town to pursue higher education.

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8. Between 1993 and 1995, I attended the University of the Western Cape (UWC) to obtain a Bachelor of Arts degree in Psychology. Then in 1996, I registered for an Honours degree in Development Studies.
9. After my graduation, I secured employment at the Child Welfare in Cape Town my duties included working with street children. At the completion of that contract, I worked for another organisation that was associated with the Department of Social Development and my duties there were quite similar to what I did at Child Welfare. From 1999 to 2004 I worked at the University of Cape Town's school of public health, while there I pursued my Masters in health economics.
10. Despite studying and working in other areas of the country, I always went back home to Gwatyu for holidays.
11. I was also always involved in protecting our land rights at Gwatyu, alongside my siblings and my father.
12. Even during Nqwiliso (one of the lessees) time, when I had just arrived in Cape Town, I would call him and argue with him about what he tried to do from time to time on Maties farm. He liked to act as if he owned it.
13. The remainder of my affidavit will deal with the steps that we have taken to try to secure our land rights in Gwatyu, and the State interventions from 2013 to date (Dr Kingwill deals with the earlier state interventions in her affidavit).

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14. Ownership of the Gwatyu farms has been a contentious issue since the departure of the white farmers. The people of Gwatyu like my family have always wanted to have security of tenure in the land they have lived on for generations. As a result, we tried engaging the Department of Land Reform and Rural Development in this regard. However, our attempts have been unsuccessful.

II STATE INTERVENTION 2013-2020

15. I got more actively involved in the fight for protection of our land rights in 2013, when my sister, the first applicant, advised that one group called the ImiJelo were being allocated farms in Gwatyu.
16. We appeared to have been forgotten by the Department, so we simply continued living and farming on the land.
17. Then in 2013, we were called to the house of Gungubele, the senior traditional leader of the Amatshatshu Traditional Council since Matanzima appointed him as headman in 1982. He lives on one of the farms at Gwatyu.
18. While there are people who affiliate with the Amatshatshu on some of the farms, none of the Applicants are Amatshatshu and we certainly do not recognise the Amatshatshu as being in control of our land or Gungubele as our chief.

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19. As is set out in the History Affidavit, the Amatshatshu instituted two restitution claims over this land that were both unsuccessful. For some reason, however, the Department insisted on treating them as the representatives of Gwatyu.
20. The Department of Rural Development and Land Reform officials were present at Gungubele's house that day in 2013. During the meeting they announced to the community that 40 Gwatyu farms were allocated by the State to a group called ImiJelo.
21. We were shocked and furious. We demanded to know who Imijelo was, and which farms were being 'given' to them. During the meeting the Department refused to tell us anything more.
22. After the meeting at Gungubele's house, the community decided to convene a meeting to discuss the outcome of the meeting with the Department. During the community meeting we discussed logistics of going to Cape Town to meet with Minister Nkwinti to question him about the farms that were allocated to ImiJelo and also the status of the Gwatyu issue primarily our security of tenure.
23. I advised the community members not to travel to Cape Town but rather seek the assistance of Mr Obbey Mabena as a member of the African National Congress. I thought it would be beneficial to have him assist us in our plight for our land.
24. In November 2013 on behalf of the community Mr Mabena called and invited the Mayor of Queenstown, Ms. Nozibele Makhanda, the Councillor of Ward One Mr Thole and the officials of the local office of the Department of Rural

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Development and Land Reform and Mr Mncedisi Gungubele to discuss the security of tenure of Gwatyu specifically the issue of Imijelo.

25. On 31 December of 2013, the Mayor of Queenstown, Ms. Nozibele Makhanda, visited our community to discuss our plight. The Department was invited to the meeting but did not attend. We wanted to know who this group Imijelo was and whether she had any knowledge of them. The Mayor denied any knowledge of Imijelo or the Department's plans with them and asked anyone with knowledge of these plans to visit her office and share the information. Additionally, Mr Mabena presented the on two land holding structures that the community can establish to hold land collectively, a trust and a communal property association (CPA). After the presentation the people opted to establish a CPA.
26. A month later, on 20 January 2014, Mr Mabena, and the members of Gwatyu committee met with the Department in Queenstown to introduce himself as a person who was invited to assist and to understand the issue from the Departments perspective. I was present at this meeting. The minutes are attached marked **TM1**.
27. One of the officials explained that Imijelo had approached the department in Queenstown purporting to represent the community of Gwatyu and made a presentation of how it intended to work with the community. They proceeded to make presentations to the regional and then the provincial offices and a decision was taken to allow Imijelo to start working at Gwatyu that very month. The official expressed surprise at the fact that the Mayor denied any knowledge of these plans.

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28. The Gwatyu beneficial occupiers in the meeting made it very clear that they had never even heard of Imijelo, let alone mandated them to represent their interest and get access to their land. At the end of the meeting the officials stated that they will have to conduct a land audit before making any recommendations to the Minister about how to resolve the Gwatyu issue.
29. We never heard a word about Imijelo again, and no development plans were implemented at Gwatyu. We have no idea what happened.
30. The Department then commissioned another land audit in 2014 (**second land audit**), as they had promised us, after the Imijelo debacle. The Department again announced this at a meeting at the house of Gungubele, however.
31. To our mind, it was irregular for the Department to try and work through a traditional leader with no authority over us or our land to do the land audit. We objected and refused to participate in an audit that appeared to be designed to legitimise the Amatshatshu's authority over the land and did not take our rights as beneficial occupiers seriously, as demonstrated by consistent comments from the Department.
32. In 2014, following an earlier meeting Mr Mabena had with the Premier, a provincial delegation from the Department of Rural Development led by Ms Bahlekile Keikelame visited the Gwatyu community on 29th November 2014. At this meeting, Ms Keikelame expressed frustration in working with the community where upon she cited the instance of a land audit which they conducted in 2014 as a step in determining the status of Gwatyu farms and alleged that the people of the community did not cooperate in the process which

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was led by one of her officials who attended the meeting, Mr Sipiwo Xelisilo. In the ensuing discussion of the issue, it transpired that the said audit was not done through a proper process of consultation with the community which action resulted in the community not having confidence in the whole process. The issue was concluded by the community of Gwatyu undertaking to cooperate in a properly constituted land audit process and consequently nominated four members of the community who were to be responsible for ensuring that the process takes place without hinderance and with maximum cooperation by the community.

33. The unregistered CPA offered to mobilise the community to ensure full participation by all Gwatyu farms residents. The Department accepted the offer and as a result, the process was concluded with every community member having participated. This, notwithstanding provocative behaviour on the part of the officials of the Department. This land audit was conducted in 2015 and its findings were presented to the community in December of the same year. We were promised that a written report would follow thereafter.
34. In 2015, while waiting for the results of the audit and the response to our application for the registration of the CPA, we approached the Department of Economic Development, Environmental Affairs and Tourism (DEDEAT) for the training of the community in forming and the running of cooperatives. This Department came and conducted the training and subsequently, a number of cooperatives were formed. In our continued engagements with this Department, it offered to organize a stakeholders' meeting in which all stakeholders will discuss the development of Gwatyu farms. Invitations were extended to all

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stakeholders including government Departments and agencies; and confirmation of attendance were received from them. But on the day of the meeting, only the organizing Department i.e. DEDEAT was in attendance and NGOs, but the rest of the invitees failed to show up and they did not even extend apologies. A copy of the programme/agenda is attached hereto marked TM2.

35. At the time, we initiated the process of setting up a Communal Property Association (CPA) as we thought that the Department used the fact that we were not formally organised as an excuse to engage with the traditional leader. However, after receiving no assistance from the Department in registering the CPA, we found private attorneys to draft the constitution and applied for the registration of the CPA on 30 July 2014. The application is attached marked TM3. It included a list of members of the CPA, totalling more than 1200 people.
36. We heard nothing in response to our application, despite several attempts to follow up.
37. During this time, different officials from different Departments would arrive at Gwatyu with different contractors that brought promises of development. However, the beneficial occupiers were always ignored, and the Department insisted on only engaging with Gungubele. This even though we had, by then, organised ourselves into an association.
38. The second land audit was eventually restarted in January 2015 at our insistence given the problems with the attempt at an audit in 2014. The CPA leadership gave its cooperation.

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39. In May 2015, frustrated by the lack of response from the Department and the failed stakeholders' meeting, the CPA members decided to protest in Queenstown at the Mayor's office. At the protest we had a memorandum of demands which we handed over to the Mayor, she signed it and undertook to revert to us within 14 days after the march. We never heard back from the Mayor, even though she had signed our memorandum of demands at the protest in 2015. Prior to the date of the protest, Mr Mabena contacted the Premier informing him about this impending protest by the people of Gwatyu owing to their failure to respond to the pleas of the community. The Premier advised Mr Mabena to assure the people of Gwatyu that there is no need to protest because he himself will visit the community the following week. The Premier never showed up and there was no explanation and Mr Mabena called his office to follow up, the Premier was not available, and no one had any knowledge of what happened to the visit. A copy of the demands we gave to the then Mayor of Lukhanji is attached hereto marked TM4.
40. We were shocked when, on 25 May 2015, an official at the Queenstown office of Rural Development and Land Reform, Malerato Molokoane, posted a message on Facebook (TM5) that read:

"The sad part of this is that we were making progress with this community, Gwatyu is a farming area and they were allocated Thembani as a township. There are people who are leasing this land and we were about to agree when someone came from Mpumalanga and started confusing former farm workers that they are the rightful owners and they must kick out the lessees and claim their land, the claim which was said to be not valid by Restitution 8 years ago. It's amazing how we can play with people's emotions to achieve our mischievous goals."

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41. This was an official dealing with our rights. She did not recognise our beneficial occupation rights at all. She "blamed" us for not giving up the rights in our land to move to Thembani which is a township where we could never continue farming. She appeared to think that we had brought a restitution claim "said to be not valid by Restitution 8 years ago". It was complete nonsense. The only restitution claims over Gwatyu that had been lodged and were indeed both unsuccessful were those of the Amatshatshu.
42. The Department clearly believed that we had no rights in the land at Gwatyu.
43. In 2015, we then approached someone from the Economic Freedom Fighters (EFF) to share our frustration. He advised us to speak to the EFF Member of Parliament (MP) responsible for the Department of land reform and rural development. The MP raised our matter in Parliament and Mr Nkwintu responded by saying that he is aware of the problem and as such he has appointed a Chief Director to help the people of Gwatyu. After, that undertaking, we did not hear anything.
44. On 17 June 2015, a member of parliament from the EFF who had heard about our plight, asked a question of the Minister of Rural Development and Land Reform at the National Assembly about Gwatyu, leading to the following exchange as recorded in the Hansard minutes (TM6):

Intervention to support residents of Gwatyu Farms in Queenstown, Eastern Cape

Mr N S Matiase (EFF) asked the Minister of Rural Development and Land Reform: Whether he has made any intervention to support the aspirations of the residents of Gwatyu Farms in Queenstown, Eastern Cape, who have

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organised themselves into a communal property association, but are not getting any recognition and support from his department and other departments in the Eastern Cape; if not, why not; if so, what are the relevant details?

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: The answer to the question is, yes. In terms of the Communal Property Associations Act, the department is compelled to assist communities who want to organise themselves into communal property associations, CPAs. The department is assisting the communities to establish themselves into a CPA in full compliance with the abovementioned law. Thank you very much.

Ms N V NQWENISO: Minister, the people of Gwatyu have been consistently victimised, from the Matanzima regime of the former Transkei to this day. They have been forced into lease agreements or into working for people who have leased the land from the state. Their victimisation has gone on for far too long. Do you have any plans of formalising their land tenure rights and what is preventing the government from supporting a group of black people who want to farm on their own land productively? Thank you.

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Deputy Speaker, no, it's not a question of not wanting to assist. For example, you are talking about three groups of people, and the third group was never there before. You have to get them together, otherwise, they will fight and there will be no production and no development there and that is our experience. You have to be careful how you bring together three groups of people who are different so that they must agree that they must coexist on the land and they must then establish this CPA in order to create that governance structure.

They must also go beyond that and ask how do we manage business. That is what we have to do. It is not about victimising them, but it is about making sure that they don't fight over the land. Thank you very much.

Mr M E NCHABELENG: Deputy Speaker, hon Minister, given the answers you have given about the training that people have to go through before we can commit resources, how long will it take to implement this process given that the people in that area are ready to meet? Actually, they are ready to meet with the department. How long will it take to train them so that they can be able to stand on their own? Will it take two or three months to train them? Thank you.

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The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Deputy Speaker, no, the chief director responsible for restitution working together with the one responsible for land reform, in the Eastern Cape Province, are already working with the people. That is how we came to understand the complexity of the problem. I imagine that over the next three months they should have gone through the process, just to get them to understand and agree on the model. It's a question of modelling. Thank you very much.

45. There are a few things to note from what the Minister said:

- 45.1. The Minister acknowledges that the Department is compelled, in terms of the Communal Property Associations Act, to assist communities who want to form CPAs. He alleges that the Department is assisting the Gwatyu people in doing that. That did not happen.
- 45.2. In a later response, he says that "you are talking about three groups of people, and the third group was never there before." I do not know who the Minister is referring to as the three groups, and also which group was "never there before". This is very important, because he goes on to say that "you have to get them together, otherwise, they will fight and there will be no production and no development there and that is our experience. You have to be careful how you bring together three groups of people who are different so that they must agree that they must coexist on the land and they must then establish this CPA in order to create that governance structure".
- 45.3. This suggests the Department's view was that the beneficial occupiers of Gwatyu cannot form a CPA unless they "come together" with two other

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groups, that are not named. Read with parliamentary remarks made in 2017, it seems that the Minister was referring to us, the former lessees and "invaders" as the three groups.

46. The Department's inability to understand the difference in the legal claims to the Gwatyu land had become a constant refrain.
47. In April 2016, we decided to march on Parliament in Cape Town. We collected money as members of the CPA for travelling costs. We decided to protest on the day of the budget speech. Two days prior to the protest date, I received a call from the HOD of the provincial Department, Mr Gcasamba and he said that they want to talk to us in Gwatyu. I told him that it was too late, the people of Gwatyu were already on their way to Cape Town. He then called Mr Mabena the following day requesting that we stop the protest and come and have a meeting with them in the Eastern Cape and when Mr Mabena told him we were already on the way to Cape Town from Johannesburg then he asked if we could meet with him and his team in Cape Town at the Minister's office.
48. The meeting took place on 25 April 2016, a day before the protest and the Minister's budget speech and it started around 18:00. Upon his failure to get us to call off the protest, we were joined by the Minister's Security Advisor, Mr Dumisani Lupungela who upon failing to change our minds brought in what he presented to us as senior officials of the Department including the Surveyor-General and DDG Advocate Mngwengwe. All they were trying to get was to withdraw our protest when the Minister was presenting his budget speech. Our position was that we were not prepared to withdraw without an undertaking from

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the Department to register our CPA. We agreed to continue with the meeting on the following day, 26 April, at the provincial offices of the Department where under the chairmanship of Adv Mngwengwe, the terms of our agreement were worked out. On the basis of the undertaking by the Minister who has appointed the Ministerial Task Team, led by his Security Advisor to work with us, we decided not to protest, and we travelled back to Gwatyu. Meanwhile, Minister Nkwinti and his Deputy, Mr Skwatsha announced in Parliament that they had reached an agreement with the people of Gwatyu. The minutes of the meeting are annexed marked **TM7**.

49. Mr Lupungela told us that the Minister had required them to provide a weekly update on progress on the matter to him.
50. Then Minister Nkwinti and his Deputy Mcebisi Skhwatsha even announced in Parliament that they had appointed a task team to deal with this case and had reached an agreement with the people of Gwatyu on how to deal with the issues in Gwatyu.
51. On 28 April 2016, two days after our meeting in Cape Town, we met in Gwatyu with the high-powered delegation from Department where we discussed at length the way forward. During our discussion, they told us that the Minister is concerned about the level of poverty in Gwatyu, and he would like to implement a programme called one hectare one household for the purpose of alleviating poverty on Gwatyu farms whilst we are working on the process of the registration of our CPA. They told about two pilot sites, one in Mpumalanga and another one at Kenton On Sea in the Eastern Cape and we chose to see the

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Eastern Cape one where we were told that we are going to meet with the Task Team and the Minister himself where they will further explain the process to us. When we got there, neither the Task Team nor the Minister were there, and we could not reach them on their phones. The undertaking by the Department is set out in an action plan named "Action Plan Towards Registration of Gwatyu CPA" a copy of the plan is attached marked TM8".

52. In 2016, the then DA leader Musi Maimane announced in the media that people struggling with land issues can approach the DA for assistance. In response to that announcement, we approached the DA, and they approached our lawyers at LRC to request for the transfer of the Gwatyu matter for the DA to handle the legal process. However, after that Mr Maimane was ousted and that avenue did not go forward, but the DA MPs continued raising the matter in Parliament but to no avail.

53. A further meeting took place on 28 April 2016 in Gwatyu where a workplan was agreed upon between the ministerial task team and the CPA committee. The workplan included the following information and undertakings (I attach a copy of the minutes marked TM9):

53.1. The Second Land Audit had been completed.

53.2. The Tenure Systems and Implementation Directorate will conduct a Land Rights Enquiry to determine the tenure status of all occupants.

53.3. The terms of reference for that appointment would be done by the end of April 2016 and the tender awarded by 20 May 2016.

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- 53.4. The community will receive the completed report by 11-16 July 2016.
- 53.5. The Department will apply for the disposal of the land by 19 July 2016.
- 53.6. The CPA will be registered by 19 August 2016.
54. Another meeting between the community, the Minister and the Task Team was to take place on 30 April 2016, however the Minister and the task team did not show up for the meeting.
55. On 17 May 2016, we received notification of a field visit to Gwatyu by Deputy Minister Skwatsha on 21 May 2016. We accepted the notification with excitement. However, on 19 May 2016, we received another letter cancelling the visit. In fact, the Deputy Minister did travel to Gwatyu on those dates but instead of meeting with us, he attended the funeral of Mncedisi Gungubele's wife.
56. In the meantime, members of the CPA also visited a project at Kenton on Sea at the insistence of the Department as a proposal for what could be done at Gwatyu. The task team was supposed to meet as at the site, but they were not there. In any event, we thought the project looked promising and wrote to the Department to register our support for the proposal.
57. On 21 June 2016, we were advised by an official that a service provider was appointed to do the land rights enquiry as per the agreement at Parliament. A copy of the email is annexed hereto marked **TM10**.

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58. At the time, local officials from the Department contacted different people at Gwatyu trying to arrange meetings. This raised concerns for us that the complex situation at Gwatyu will be dealt with in an *ad hoc* manner that would only cause more chaos. We set out our concerns in correspondence to the Task Team (TM11).
59. Mr Lupungela wrote to me in my capacity as chairperson of the CPA on 29 June 2016 proposing a meeting between the task team and the Gwatyu CPA for 7 July 2016 (TM12). I responded in my capacity as the Chairperson of the CPA saying that the CPA was delighted to meet with the task team, but that 7 July would not work. She proposed 9 July 2016 instead (TM13).
60. Mr Lupungela never responded.
61. The Gwatyu people never heard a word from the task team or about the workplan again after that.
62. In addition, the Department refused to give us the second Land Audit that they confirmed had been completed by April 2016.
63. We then decided to approach the Legal Resources Centre to assist us to do an application in terms of the Promotion of Access to Information Act to see the results of the audit. At first, the Department refused to provide the Audit even in terms of PAIA.
64. Our attorneys lodged an appeal and finally, on 17 August 2018, we received a letter from the Department stating that our appeal had been upheld (TM14) and

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providing us with the second land audit. I attach, marked TM15, the information contained in the land audit about Forest Range and Maties.

65. In the meantime, the Department continued to refuse to register our CPA.
66. We had during 2017 also reached out to the office of Democratic Alliance for assistance. As a result, on 14 December 2017, MP Mbabama asked the following question of the Minister (TM16):

"Whether the Gwatyu Communal Property Association (CPA) has been established since his undertaking to set up a ministerial task team to look into the establishment of the CPA in 2016; if not, (a) why not, (b) by what date will the CPA be established and (c) what action will he take against the task team for failure to fulfil its mandate; if so, what are the relevant details?"

67. The Minister's response (TM17) dated 14 December 2017 was as follows:

"Reply:

No. The CPA has not been registered yet.

a) There are overlapping land rights between former lessees, occupiers and invaders; hence it has not yet been agreed as to who will be allocated the land in Gwatyu.

b) The date will be communicated once the land rights enquiry is concluded and it is finalised as to who will be allocated the land in Gwatyu.

c) Minister will consider the final report given the challenges faced in terms of the land rights issues and follow the necessary processes."

68. The goalposts kept being shifted. We had confirmation that the second land audit had been completed in 2016 already, but now the Minister could still do

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nothing as he was waiting on a "land rights enquiry". The can was just being kicked down the road, and all without providing us any insight into the Department's plans or actions.

69. On 21 June 2018, a member of parliament from the DA again raised our plight in plenary at the National Council of Provinces to the Deputy President. The exchange is recorded in Hansard (TM18):

"The DA visited more than 1 500 of these South Africans in the Gwatyu community and discovered first-hand the lack of government action.

An elderly man in that community was forced off his land on the very same day you were answering oral questions in the National Assembly on communal land tenure, Deputy President. Yet, the Gwatyu Communal Property Association remain unregistered, and without the ownership of the land that they have lived on for generations. While we welcome the Minister of Rural Development and Rural Reform's commitment yesterday for the land rights enquiry to be presented to the department, this promise speaks only to the delivery of a land audit and is dead silent on the registration of CPAs that is two years overdue. What plan of action does your government have to ensure that the Gwatyu CPA is registered? And if any, what is the deadline for this registration? Thank you:

The DEPUTY PRESIDENT: House Chair, the hon member talks about a specific Communal Property Association, CPA. I might not be quite aware of the details why the CPA is not registered. I will be glad to make a follow-up on that matter to understand why. When a CPA is elected the Department of Rural Development and Land Affairs becomes part of that meeting, to monitor the elections of the CPA and the term of office is determined. The CPA right from that meeting becomes a recognised entity. Why is this not recognised? I will have to find out."

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70. The man mentioned in paragraph 70 above was Mr Patsi Kili, an elderly and sickly farm dweller whom Mr. Mbhotoli (a lessee) was trying to evict, despite having found him already residing there. Unfortunately, Mr Kili eventually succumbed to his illness and passed away. However, thanks to the intervention of the CPA, he and his family were able to remain on the farm, specifically Canon Farm.
71. As appears from this exchange, the Minister had promised the day before to finally present us with the land audit (which we were refused even when making a PAIA request).
72. As I explained, we finally received that second Land Audit only in August 2018.
73. The Department approached the Democratic Alliance provincial office to facilitate a meeting between them and the CPA to discuss the audit. We raised our concerns with the quality, accuracy and information contained in the land audit and the Department agreed that a proper land rights inquiry would have to be done to establish the rights of the people at Gwatyu. It is to be noted that, in fact, the Department had already appointed a service provider in 2016 to do such a rights enquiry, but that appears never to have happened.
74. On 8 November 2018, Mr Musi Maimane who was the Leader of the Opposition at the time, addressed a question to the Minister (TM19):

“Whether her department has received the report of the inquiry into land rights at Gwatyu in the Eastern Cape from the service provider yet; if not, by what date is the report expected; if so, (a) who is the service provider, (b) why was the specified service provider selected, (c) what are the terms of reference for

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the service provider's mandate relating to the report and (d) what costs were incurred in employing the specified service provider?"

75. The reply (TM20) was revealing:

Reply:

No, the report is expected by 30 November 2018.

(a) Sonamzi Mkata Attorneys.

(b) It was their turn in the rotational system that is used by the Land Rights Management Facility in sourcing service providers that are already on their panel.

(c) The terms of reference are as follows:

- Provide a legal opinion on the tension between the Tshatshu Traditional Council, Gwatyu Emerging Farmers Union and the Gwatyu CPA;*
- Make recommendations on whether one communal property association or multiple communal property associations should be established for Gwatyu Farms;*
- Identify all occupiers and categorize them according to their tenure status e.g. former leases, former farm dwellers, invaders etc.;*
- Identify and describe disputes between land rights holders;*
- Provide recommendations regarding the resolution of disputes;*
- Search for all leases and identify invaders and verify their relationships with former lessees or farm occupiers;*
- Provide a comprehensive list of their assets including their livestock (proof to be provided e.g. branding certificate etc.);*
- Establish the number of occupiers that are keeping livestock of their relatives who are not staying on the farms;*

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- *Determine the number of sites illegally demarcated / subdivisions and, if purchased, indicate the amount paid; and*
- *Check the number of civil servants who are in occupation of Gwatyu Farms and make recommendations in line with the State Land Lease and Disposal Policy Framework.*

(d) *About R402 121.00."*

76. This response revealed that the Department had sought a legal opinion about the "tension" between the CPA and the Amatshatshu Traditional Council and another entity, the Gwatyu Emerging Farmers Union. This is a group of people in Gwatyu who were working with Mncedisi Gungubele and the Amatshatshu Traditional Council as a counter to our CPA. It is not clear what a legal opinion about a "tension" entails, but it demonstrates what we had suspected for a long time, namely that the Department was entertaining the claim of the Amatshatshu to the Gwatyu land outside of the restitution process, where they were unsuccessful. The Department also did not understand the nature of our rights: as beneficial occupiers, we do not have communal rights and it is therefore not relevant to the recognition of our land rights whether we belong to one structure or another.

77. In August 2019, the Eastern Cape provincial department produced a document entitled "Gwatyu Land Audit Report" and signed by a B Keikelame. The document, attached marked **TM21**, reads: *"All the lease contracts for those farms have expired and the current occupiers do not have a document formalizing their occupation on those farms since the expiry of those contracts but occupational rights."*

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78. This paragraph conflates the Transkei lessees, whose leases – dubious to begin with – had long expired and most of them evicted in the 1990s, with us – the beneficial occupiers. We never had leases and did not acquire “occupational rights”, whatever that means, upon the expiry of such leases. The basis for our land rights, as beneficial occupiers, is entirely different to that of the former Transkei lessees.
79. The document continues to explain that a decision was taken, “in May 2015”, for a land audit to be conducted. The document notes that the *“purpose of the audit was to check what is happening on each and every land parcel, who is in occupation, doing what, number of livestock each family has, and the number of years each family has been residing on the farm and check the non-agricultural activities that are happening on those farms”*. This information is indeed captured in the 2015 audit, whether accurately or not.
80. The findings of the audit, the document notes, were:

“There are illegal demarcations of sites which becomes the source of disputes amongst farm occupiers and former lessees.

There are overlapping land rights that suggest that Land Rights enquiry [sic] need [sic] to be done

Overgrazing that has resulted in dongas that are very dangerous to livestock and to people

Some of the occupiers are keeping livestock of their relatives that are not residing on these farms.”

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81. The document briefly notes that Ministerial Task Team that was set up in 2016 and its action points agreed with the community, without noting that none of those undertakings were honoured.
82. Finally, the document indicates that "the next milestone" is to conduct a land rights enquiry "*to confirm various land rights layers that exist as a result of the various occupational arrangements that were in place and have led to people acquiring and accumulating tenure rights in the area*". The document concludes that this should be finalised "*as a matter of urgency and confirm tenure rights for the people of Gwatyu*".
83. We came to see this draft land rights enquiry for the first time in 2021, when we were told that it only commenced in 2020, four years after it was promised. I return to it below.
84. In June 2020, we reported land invasions and possible violence resulting from the invasion to the Department but as usual, nothing was done to address the issue besides the visits by the officials that yielded no results.
85. On 08 June 2020, I addressed an email to the Department of Agriculture, Rural Development and Land Reform pleading for them to intervene, I noted the following: "*This serves to inform you of a dangerous situation that is developing around Gwatyu farms. There has been a number of cases of people coming from places like Ngcobo, Tsomo and other places who arrive on farms out of the blue, bringing livestock and building materials and the people of Gwatyu are resisting. The latest two incidents were in Maties farm where after a confrontation between farm occupants and the invaders, the invaders left only*

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to come back the next day in bigger numbers. At Sophie farm, a similar incident which came very close to a serious physical fight between the farm occupants and the invaders, amongst whom was a parolee of a murder case. As the community of Gwatyu, we are therefore concerned that unless a serious intervention by the department of Agriculture, Rural Development and Land Reform is brought to bear on this situation, people may lose their lives. We have tried to get the intervention of the police, but they refused to intervene". A copy of the email is attached hereto, marked TM22.

86. On 11 June 2020, I received an email from Ms Peliwe Z Mntukandwa informing me that the land invasion case that I reported will be handled by Mr Khaya Majavu who is the District Director for the Department's office responsible for the Chris Hani area. A copy of the email is annexed hereto marked, TM23. After the email, I received a call from Mr Majavu however, we could not talk because I was in a meeting at the time. We agreed to talk again the following day at 13:00.
87. On 12 June 2020, I sent another email to Mr Majavu informing him of the urgency of the matter. In addition, I informed him that other farms were also experiencing the same thing, including Hundelle, Willowbrook and Sinside farms. A copy of this email is annexed hereto, marked TM24.
88. During these frustrating years, land invasions increased on our land and as shown in the preceding paragraphs we raised the issue with the Department on numerous occasions. The Department's initial response was that they had

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appointed an official in the department to deal with the situation, one Mr Majavu, but he was soon reallocated to a different task.

89. On 18 July 2020, I addressed another letter to the Department. This time, I informed the department, once more, about the continued and growing problem of land invasions at Gwatyu. I indicated that "this comes after we brought this matter to your attention, and you had given us the impression that as the department you shall take the necessary steps to arrest this development that has a potential to affect innocent lives". A copy of the email is annexed marked **TM25**. No response was received. This was not the first time that we had reported the issue of land invasions to the Department. I recall informing the officials who were conducting the land audit, and they told me that the findings of the audit will inform the Department on how to deal with the issue.

90. On 16 August 2020, I wrote to the Department again expressing the bafflement of the community at the Department's refusal to deal with the continued land invasions. I noted that: *Incidents of invasions continue to occur and the latest of which occurred today on three farms. It becomes clear that the strategy that is being pursued by the Deputy Minister and his friends, the Gungubele's is enjoying precedence over law and order and the interests of Gwatyu farms. This is so because almost to the man the invaders are of the AmaTshatshu stock, Mondli Gungubele's clan that he is using to underpin his claims over Gwatyu farms, notwithstanding his previous failed attempts at claiming the farms for AmaTshatshu. In one of today's incidents, the invaders were brought in by one Skhwenkwe, who had been invited to come to stand in as a "chief" when Mondli Gungubele's uncle, Mncedisi Gungubele, who himself is*

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inexplicably treated as a "chief" over Gwatyu farms, was incapacitated. A copy that email is annexed hereto marked TM26.

91. On 31 August 2020, an official finally replied and asked for the "property description of the invaded land so that a case can be opened". I responded on the same day with the following information:

"As discussed, please see below are the names of the people alleged to have invaded Gwatyu farms: Nosipho Kanzi - Contest farm. She is the one allocating plots to invaders on this farm. Skhwenkwe Mzothana - Hillside (please see the video sent yesterday) Lwazi and Banele Sigandana - Forest Range, Ntwana (nobody knows his full names) - Willowbrook farm, Bongile (Nobody knows his full names) - Willie farm brought in by Skhwenkwe and when the people fought him, he moved him to Hillside (please see the video sent yesterday). These are just a few invasions that have been reported because from time to time, these people come and get repelled by the community and run-away e.g in Maties and Sophie farms. The videos referenced in the email discussed in this paragraph can be available upon request.

92. On 3 September 2020, I addressed more correspondence to Ms Keikelame of the Department. In it, I noted that the community members complained of the way the Department handled the issue of land invasions, amongst other things they complained that the officials did not contact all the parties concerned but rather a select group of people. A copy of the email is annexed hereto as TM27.
93. On 3 September 2020, Ms Keikelame addressed an email to me in my capacity as the CPA chair, noting that:

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- 93.1. The officials visited Hillside. They met workers of Mr Skhwenkhwe, the alleged land invader, who confirmed that they were preparing to vacate the farm as they were informed that this was an unlawful invasion. The officials indicated that they would return after 14 days to confirm that Mr Skhwenkhwe had removed everything off the land.
- 93.2. They went to Hundelle farm. One of the occupiers advised the officials that two new houses were built on the farm in around 2015 and was done at the behest of the AmaTshatshu Traditional Council, in particular Mr Mbuyiselo Ntsukumbili. There were also very recent invasions, notably by Mr Stofile Bodamo, but the occupiers had stopped any new demarcations.
- 93.3. The officials went to Contest Farm and was informed by one of the occupiers there that one Ms Nosipho Khanzi was demarcating new sites on the farm. She was at work so the officials could not meet with her. The officials went to the police station at Bridge Camp and laid charges against Mr Bodamo and Ms Khanzi "for them to stop further allocations and demarcations as well as for structures not to be built on those vacant demarcated sites". I am not sure as to what happened to Ms Khanzi as she lives far from us. A copy of the email is annexed hereto marked **TM28**.
94. The CPA chair responded. She noted that the community is more concerned with the land invasions that they have to resist themselves, at great risk to them and that their plea to the Department was to help prevent this from continuously happening—by recognising and securing our rights. I reminded the Department that overgrazing was a problem at Gwatyu in particular because of the people

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flooding into the area. I indicated that the opening of a case at the local police station did not seem like a sustainable solution.

95. As we had feared, in September 2020, five Gwatyu occupiers were arrested for fighting a land invasion by Mr Skhwenkwe Mzothana who was brought to Gwatyu by Mncedisi Gungubele. The people who were arrested were Siyabulele Khonkwane, Sihle Zulu, Sifiso Masizana, Wanda Thembani and Xolisa Daweti.

V STATE INTERVENTION: 2020-2021

96. In October 2020, the Minister announced that the Department intends to allocate 700 000 hectares of state land for redistribution. I attach a copy of the announcement marked TM29. A list of applicable farms was published – and we were shocked to discover the Gwatyu Block of farms on that list. Our land was being advertised for anyone to come and lease it.
97. We were right back to 2014. We were still invisible to the state, vulnerable to have our land taken from under our feet at any time.
98. On 20 October 2020, Ms Mntukatandwa from the East London office of the Department sent an invitation to the Gwatyu community for a meeting “to present the draft Land Rights Enquiry report”. The community members attended the meeting in great anticipation as they had been waiting for the outcome of this latest land rights enquiry hoping that this would finally lead to the transfer of the land.

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99. We were alarmed when arriving at the office, however, when we saw that Chief Gungubele, and his council was also in attendance at a meeting that we understood was meant for the beneficial occupiers of Gwatyu. We voiced our objection to the Department.
100. Our disappointment was even greater, however, when the officials at the meeting announced that they were, in fact, not there to share the report, but to discuss applications for leasing the Gwatyu Block of farms as per the government announcement.
101. As members of the CPA, we were so outraged by the suggestion that we should abandon the process of having the land transferred to us, and rather apply for leases on the land where we were, in fact, already beneficial occupiers, that we walked out of the meeting.
102. Despite promises made by the officials that they would return with more clarity as to the future of Gwatyu, nobody came out and we heard nothing further.
103. Instead, on 10 November 2020, Minister Didiza held a media briefing where she stated, in her speaking notes (TM30), that some of the state land advertised for leasing—

“is currently occupied by individuals and communities who are residing in State land without the Lease Agreements; there are communities that applied for the 30-year lease and their applications were never finalized, and those who have never applied for State land but are interested in performing agricultural activities. We indicated then that a land enquiry process will be undertaken to ascertain the status of such occupation and how such lands were given to these communities or individuals. The process will ensure that proper

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procedure for formalization and regularization is undertaken. This is a way of enabling the State to have a record of which farm is occupied by whom and what activities are being undertaken in [sic] that particular State-owned land."

104. In our case, of course, multiple land audits and rights enquiries had been done over the years, with no "formalization or regularization" ever happening.

105. On 26 November 2020, the Deputy President reported about the Department's plans to the National Assembly.

105.1. He indicated that some of the land advertised for state disposal "*is already occupied. Some is used by farmers, local communities and in certain instances, the land has been occupied illegal [sic].*"

105.2. He confirmed that "the government is currently engaged in a process of land rights enquiry, just to ascertain the status of this land occupation [...] The process will enable the state to have a record of which land is occupied by whom; how such occupation came about in the first place and what activities are being undertaken on that piece of land that is state-owned. The inquiry will also include addressing the right of farm dwellers and other affected persons as well as to ensure the proper procedures for formalisation and regularisation for those already occupying the land are undertaken where necessary".

106. I attach an extract from the Hansard minutes marked **TM31**.

107. Mr Floyd Shivambu, a member of parliament representing the EFF, responded:

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Part of the land that has been identified for this redistribution is a land in Gwatyu, in the Eastern Cape, in the Chris Hani District, which is currently occupied by farm dwellers and subsistence farmers, most of whom will not be able to meet the application criteria or a certain annual turnover and rental obligation to the state. Our question is, why are you not using parts of the constitutional obligations of public purpose – and in the public interest – repossess the land from the colonial settlers and give to our people. Is expropriation without compensation the only viable solution?

Deputy President, you are saying that there is going to be an enquiry on the land that has been advertised already, on who is there and who is not there, wasn't that supposed to be the first stage that you engaged in to, say that before you would call for applications on state land, you go and enquire who is in that land, whether is being utilised beneficially by black people? You have not done that and already people are going to make applications on land that is being utilised by people who rightfully are supposed to be the occupiers and users of that land in a manner that is consistent of the Freedom Charter of saying that 'the land must served among those who work it'. They are working it now, but your consideration does not seem to want to take the land and give to those who work it.

The DEPUTY PRESIDENT: Deputy Speaker, thank you very much hon Shivambu. You are correct; firstly, most of the land that has been advertised is in the former homeland. But there are some pieces of land that have been advertised that were in the former white areas, if we want to call it that way. But the majority of the land is in the former homeland. Of course, this land in those former homelands is land that belongs to the state which must be formally disposed, formalised and allow people to occupy it and use it. So, it's a step in the right direction. We are still continuing, and we are continuing to identify pieces of land that are in the hands of government. This is the first stage and second stage will also include land that is in the former white areas.

Hon Shivambu, there are too many ways to skin a cat. We have decided to advertise and simultaneously take this inquiry [. . .] Yes, I agree with your option of saying 'Do the inquiry first then you advertise, but you can do it simultaneously', advertise and inquire who is here? The purpose is not to penalise people but it is to dispose this land correctly and we put it correctly in our books to say there is so and so in that piece of land and we feel that the

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land is correctly utilised, even if this person has not correctly gotten the land but this time we are putting a process to give this land to this person and we document it. We are not going to chase people that are making a living on the land because our intention is to ensure that our people are given land in order to make a living, so we can't negate that purpose and objective. Those that are there now, that are utilising the land are going to be affirmed without any failure. No one is going to be chased away. If that happens, I will be happy to be the one who intervenes because, all of us are saying, let's give the land to people and let's allow people to teal the land. Let's increase our productive capacity as a country so that there is food security going forward. Thank you very much." (emphasis added).

108. I underscore the Deputy President's assurance, made before Parliament, that those using the land are going to be affirmed without any failure.

109. During this time, Hazel Friedman, a journalist for the SABC, visited the responsible office of the Department to understand the intention with the Gwatyu Farms. Ms Friedman recorded an interview with Ms Mntukatandwa as part of a Special Assignment episode that aired on 8 December 2020. The episode is available at <https://www.youtube.com/watch?v=sGuzzsnwDlk>. Ms Mntukatandwa made comments that caused us great concern. She said that:

110. The Minister's interest is to see that agricultural land is used productively, whether that is by "someone from the outside" or people already occupying the land, or "it could be just anyone" as long as they qualify for the lease. The suggestion was that the rights of the Gwatyu beneficial occupiers would be deprived from them if they are not deemed to be "productive".

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- 110.1. If a lease is granted to an outsider, she went on, the Department will make sure that the people who are on the farm do not have their rights trampled on. The lessee will be told that the occupiers have "*rights in terms of the Extension of Security of Tenure Act*" ('ESTA') while the lessee is now "*in charge of the farm*".
111. Ms Mntukatandwa made the extraordinary statement that IPILRA "*does not work on farms*", only on communal land.
112. We realised that the Department regarded us as ESTA occupiers, rather than beneficial occupiers and had every intention to either lease the land out and treat us as farmworkers or force us to lease the land on which we have beneficial occupation.
113. We had no choice at this point but to seek legal representation to protect our land against the Minister's plans. We approached the Legal Resources Centre, and, on 13 December 2020, our legal representative sent a letter to the Minister and her subordinates demanding that the Department confirms in writing within five days of receipt of the letter that they will withdraw the Gwatyu farms from the advertised list of farms. The letter is attached marked **TM32**.
114. On 21 December 2020, another member of parliament, Mr NS Matiase of the EFF, asked the following of the Minister of Agriculture, Land Reform and Rural Development:

"Whether she has included any farms falling under the Gwatyu area in the Eastern Cape in the list of farms advertised for disposal to emerging farmers;

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if not, what is the position in this regard; if so, what will happen to the black communities already living and farming in the area?"

115. The Minister responded: "Yes. *The land rights enquiry has already been conducted and priority will be given to the current occupiers (black communities) confirmed to be having land rights for occupancy and land use formalisation.*" I attach the question and answer marked **TM33**.
116. However, on 19 January 2021, Mr Mngwengwe, Chief Director: Property Management and Advisory Services in the Department, responded to our legal representative in writing (TM34) confirming that "*the Gwatyu farms will not be allocated in accordance with the advertisement*". The letter further confirmed that a "*land rights enquiry process was being finalised at the time the farms were advertised*" and that a "*preliminary report*" would be presented to the leadership of the Gwatyu community in due course. The letter went on to say that:

"it has been alleged by our officials that part of the reason the meeting of the [sic] 30 October 2020 didn't proceed well is because your clients did not want the presence of Inkosi Gungubele and members of his council in the meeting. As you may be aware, the allegiance of community members to a traditional leadership structure tends to transcend existing official boundaries since it's always a question of choice. In the absence of some referendum that confirms the leadership of a particular community, we are in no position to ignore certain leaders that assert themselves to be part of the leadership of a particular community".

117. On 22 January 2021, the Department addressed a letter to me as the chairperson of our CPA, which I attach marked **TM35**. The letter invited me to

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a meeting where the Land Rights Enquiry report of 2018 was finally going to be presented. The letter said that the Department required *"the input from stakeholders in Gwatyu"* to finalise the report and that the stakeholder that will be present are *"delegates representing the applicants of the Gwatyu CPA"*, the Enoch Mgijima Local Municipality and the Amatshatshu Traditional Council.

118. On 2 February 2021, the Legal Resources Centre responded to Mr Mngwengwe's letter (TM36) placing the following on record:

118.1. That our objection to the presence of the Amatshatshu Council delegation at the meeting of October 2020 related to the fact that the majority of Amatshatshu council members present do not reside at Gwatyu. Inkosi Gungubele was one of only two members present who do live at Gwatyu and are in fact members of the Gwatyu CPA. He was thus represented there like all other CPA members by the CPA leadership.

118.2. We deny that the Amatshatshu Traditional Council has any standing in the matter of the configuration of the land rights at Gwatyu. The letter read: *"In as far as any members of the Gwatyu CPA regard themselves as members of the Amatshatshu traditional community, they are free to do so. However, that does not afford the Amatshatshu Traditional Council any authority over the Gwatyu land and certainly not over all the other members of the CPA that occupy the Gwatyu land. Any attempts by the Traditional Council or your department to give the Traditional Council power or authority over the Gwatyu land is not based in law"*.

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118.3. We also objected to Mr Mngwengwe's statement that we "style" ourselves as a communal property association. The LRC reminded the Department that the former Minister and Deputy Minister committed in parliament in April 2016 to register the CPA and thereafter came to an agreement with the Gwatyu community as to the timeframes of doing so. That simply did not happen.

119. On 4 February 2021, the Department responded advising that "*currently, there is no single stakeholder that has authority over the Gwatyu Farms. Authority over these farms lies with the State as the landowner. With regards to the land holding entity, the Department will engage everyone concerned in a transparent manner and the people affected will have to make an informed decision based on the information that would have been provided*". The letter is attached marked **TM37**.

120. On 9 February 2021, the Minister reported to the portfolio committee on Rural Development and Land Reform on the progress of the Agricultural State Land Allocation project. In her presentation, the Minister specifically referred to Gwatyu and reported that the Department held a meeting with the "stakeholders" (referring to the 30 October meeting) but that "*the meeting was disrupted by the Gwatyu farm dwellers who rejected the presence of the Amatshatshu traditional council*". I attach a copy of the minutes/transcript marked **TM38**. This characterisation completely ignored the fact that the outrage at the meeting was about the announcement that Gwatyu farms will be advertised for redistribution. It was a distortion designed to discredit us and save the Department's skin.

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121. In her remarks, the Minister said that Gwatyu consists of "*former Transkei lessees with expired leases, Amatshatshu traditional settlement with a traditional council and Gwatyu farm dwellers who want to be registered as a Communal Property Association*". There is, of course, no "*traditional settlement with a traditional council*" at Gwatyu. There was also no acknowledgement by the Minister that we have acquired rights as beneficial occupiers.
122. The Minister indicated that an "intervention meeting" was led by the Deputy Minister and that the Department had issued an invitation to the "Gwatyu stakeholders" and was awaiting a response. We had not received an invitation at that time.
123. During the questions and answers, Mr Matiase of the EFF told the Minister that "*the Gwatyu matter should not be a political football; it is a serious matter. Of 95 farms that there are, the occupants or farm dwellers, have they been recognised in the past, have they been given leases to occupy the land and if so, why have the leases not been confirmed for about 30 years? There is the Gwatyu Communal Property Association. Is it recognised? If not, why has it not been recognised?*"
124. Ms Mbabama from the DA asked of the Minister whether the Gwatyu residents were part of the development of the plan that the Minister was referring to. She also indicated that the farm dwellers at Gwatyu had not received an invitation to a meeting as indicated by the Minister.
125. The Minister's response was riddled with inaccuracies that attempted to push the blame for the failure of the process onto us as occupiers:

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"The issue of Gwatyu has its own history. Mr Matiase rightly said for it not to be used as a political football. The Department agrees with that. The Department has been busy with this matter for quite a while. When this particular process of state land allocation ensued, it came when the Department was already busy with a land rights enquiry in the area of Gwatyu. The 95 farms referred to in Gwatyu, in relation to that land rights enquiry, the Department has now finalised it. Gwatyu has become a volatile area where it is difficult for the Department to do its work. Many times, its officials 'were sent out running there', but the Department was able, in the process led by Deputy Minister Skwatsha, to get all the necessary, important stakeholders in the area. At a particular stage, the CPA people did allow the Department to go there to do a land rights enquiry. The Department has finalised that land rights enquiry. There was a meeting where there were serious differences between the traditional authorities, the municipality, and the CPA referred to here. The Department has requested that it would like to present its land rights enquiry in a forum of the leadership of the area, instead of taking that land rights enquiry that has been finalised into a mass meeting in the area. The Department knows that some mass meetings can and have been volatile in the past. The Legal Resource Centre that represents the CPA said that the CPA does not want a meeting with the Department; it wants it to send a report. The Department insists that it needs to have that meeting, so can it explain how it reached the conclusions that it has reached. As soon as it smoothly does that, it will then be able to undertake this important work of allocation in that particular area.

A CPA becomes a CPA when it is complaint. The Department has requested to the people that are leading this entity that the Department has a workshop with the CPA to make sure that it is compliant. The Department also wants to know who stays there (on the Gwatyu farms) and who does not stay there so that there are no problems in that regard."

126. On 10 February 2021, the LRC, on our behalf, indicated our availability for a meeting to be presented with the draft land rights enquiry. In addition, our legal representatives reiterated that "while the Gwatyu farms are registered with the State, our clients' land rights as beneficial occupants are protected by the

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Interim Protection of Informal Land Rights Act 31 of 1996 from interference without their consent by any party, including the State. Their concern with the sudden involvement of the Amatshatshu Traditional Council is precisely because there is no legal basis for them to assert such authority over the land". The letter is attached marked **TM39**.

127. A meeting was set for 12 February 2021, and we confirmed our attendance. In response, Mr Pityi from the Department wrote to our legal representative stating that *"this is a step towards the right direction. Today our Deputy Minister Mcebisi Skhwatsha attended a Portfolio Committee Meeting where a Question was asked about the Planned Meeting of our Department Eastern Cape Office with the Gwatyu Beneficiaries. When the Report said we are still waiting for a Response from the Beneficiaries. That Response was very much unacceptable. I really appreciate your positive Response to our Meeting Invitation."* A copy of the letter is attached marked **TM40**.

128. The meeting proceeded virtually on 12 February 2021. The meeting was attended by the CPA chair, the Legal Resources Centre, the Amatshatshu Traditional Council, and COGTA. The spreadsheet with information captured through the land rights enquiry that had commenced in August 2020 was shared with participants for input. I attach the minutes of the meeting as captured by the Department marked **TM41**.

129. I should note that this land rights enquiry repeated largely the same information as had been captured in the previous two land audits. It is difficult to understand why the Department spent R400 000 on this enquiry.

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130. At the meeting, members of the Amatshatshu Traditional Council voiced their disapproval for not being involved in organising the land rights enquiry. Mr Somana from the council accused the Department of consulting with the Gwatyu CPA *“that is not even registered ... and the Chief [is] not recognised”*.
131. Our legal representative, Ms Wicomb, asked what legislation underpinned the land rights enquiry. Was the Department attempting to ascertain whether people had ESTA rights, IPILRA rights or some other right? The information in the enquiry was so scant that it could not be deciphered.
132. Ms Mntukatandwa, for the Department, responded that they use ESTA and IPILRA, but that the Department uses one standard questionnaire for rights enquiries regardless of the context or applicable legislation. I attach a copy of that questionnaire marked **TM42**. I am advised that information obtained through this questionnaire could not possibly provide the basis for understanding the various land rights at Gwatyu. It hardly took the process forward.
133. She proceeded to say that while the people of Gwatyu organised themselves into a CPA and lodged an application to the department for registration, the *“department will present different legal entities to the community”*. This appeared to be a new reason for why the CPA was never registered. She also said that *“the Gwatyu CPA requested the department to assist in developing the land however do not have any piece of document”*.
134. She went on: *“In the process the department received an application from Tshatshu Traditional Council claiming the Gwatyu farms however as per the*

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Restitution criteria their claim was dismissed. The department now is trying to reach an amicable solution and is communicating equally with all Gwatyu Stakeholders."

135. After the meeting, our legal representative addressed an email to the Department to clarify some of the statements made by the Department in the meeting (attached marked TM43). She wrote:

"At this juncture, it is prudent for me to establish what the legal basis is for the participation of the Amatshatshu Traditional Council in this process. As I understood from you during the meeting on the 12th, the Amatshatshu applied for the restitution of the Gwatyu land through the land claims process but were unsuccessful. They were then 'referred' to redistribution. I am not clear how they now seem to have a second bite at the cherry at the same land through the redistribution process. There is no legal basis for that, while the current occupants of Gwatyu do have IPILRA rights and therefore clear legal entitlements to the land. As such, it is in fact not a redistribution case (where the Minister might have discretion as to who the land is allocated to), but more properly falls under s25(6) of the Constitution, namely the upgrading of insecure tenure.

I also understand that an official of COGTA attended the meeting. Please could you clarify their involvement?"

136. There was no response to these questions.
137. In closing the meeting of 12 February 2021, Ms Mntukatandwa indicated that she had received a call from the portfolio committee in Parliament who indicated that they intended to visit Gwatyu to establish why the issue has not been resolved.

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138. Another meeting of the same parties was held on 19 February 2021. The purpose of the meeting was to agree on a schedule for the Department to present the draft land rights enquiry to the Gwatyu people. Shortly after the meeting, the CPA sent the Department a schedule of proposed clustering of the farms for a report back during the week of 15 March 2021.
139. It was still clear, however, that the Department was intent on placating the Amatshatshu Traditional Council through the process. Our legal representative followed up twice, on 26 February 2021 (TM44) and 10 March 2021 (TM45), imploring the Department to explain the legal basis for the Amatshatshu's participation. She wrote:

"As we pointed out in our email to you of 18 February 2021, our clients dispute the legal basis for the participation of the Amatshatshu Traditional Council in the land rights enquiry and engagement with the community for the reasons set out below. We note that the Department has thus far been unable to provide us with a satisfactory explanation for their participation, or indeed any explanation at all. This makes it difficult for my clients to continue to participate in a process that is clearly irregular. Kindly provide us with a response to our correspondence below by end of business, Friday, 12 March 2021."

140. It then transpired that the Department had tried to send a letter to our attorney on 19 February 2021 but had used the wrong address. In any event, the letter (TM46) merely stated that *"the Department is currently engaged in a Land Rights Enquiry process in Gwatyu in order to establish who has got what rights in Gwatyu and this has got nothing to do with the redistribution programme but with tenure security. The Department will engage all people affected in Gwatyu and once the land rights enquiry process is concluded then the Department will*

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be in a position to advise you on various land rights holders that exist at Gwatyu."

141. This did not answer the question we had posed. Our attorney pointed that out in a further email attached marked TM47.

142. On 25 March 2021, the Department sent out the proposed schedule for the meetings to all "stakeholders" (TM48)

143. Mr Zukile Gungubele of the Tshatshu Royal Council responded (TM49) He wrote:

"Please note that we objected to the Co-ordinators that were appointed by the CPA only. As Amatshatshu Royal Family and Gwatyu Traditional authority will only support the Co-ordinators appointed by the department where the process to appoint is inclusive of Appointees from Amatshatshu Royal Council and Gwatyu Traditional Authority. I would also like to bring it to your attention that if you decide to support the CPA co-ordinators will strengthen our suspicion of favoring CPA at our expense."

144. Our attorney addressed another email to the Department following Mr Gungubele's email (TM50). She wrote:

"Regrettably, the issues such as now again raised by Mr Gungubele will continue if the Department does not place this engagement on a firm legal footing. This is patently an attempt by the Traditional Council to assert their authority over this land. Even if there are members of the Gwatyu farms that recognise the Amatshatshu Traditional Council, that has nothing to do with their land rights or authority over the land. The legal framework empowering traditional councils does not give them powers with regards to land, as you will know."

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145. A response from the Department was received on 1 April 2021 (TM51). This time, the Department took a different line:

"The Department would like to advise that it is engaging with Chief Gungubele as the person that is residing on Gwatyu farms. As reported previously the Department is the owner of the farms in Gwatyu and is conducting the land rights enquiry in order to establish who has what rights. The Department has to use anyone and any method that will assist / allow it in reaching the people that are residing in Gwatyu. The Department does not want to see this process stuck again and would advise you not to be threatened by the participation of any stakeholder in this process as the ultimate goal of establishing the land rights will be the one that determines who has got what legal standing on the Gwatyu farms.

146. The cluster meetings were to go ahead during the week of 12 to 16 April 2021. The CPA had given its full cooperation in the process. The Department undertook to send out timely notice to Gwatyu residents by text message to ensure that people could make arrangements to attend.
147. However, by 3pm on Friday afternoon, 9 April, no text messages had reached us. The Department had not given notice to anyone by that time.
148. The CPA instructed our attorney to write to the Department, alerting them to the fact that notice had not gone out as agreed, and indicating that we thought the meetings had to be postponed for a week to at least ensure that people can make arrangements to attend. I attach a copy of the letter marked **TM52**.
149. Mr Zukile Gungubele responded on behalf of the Amatshatshu (**TM53**), insisting that the meeting must go ahead as people will have "more than 48 hours' notice"

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if the messages went out on the Saturday. Apparently, while 48 hours should have been enough for the people of Gwatyu to find out, make themselves available and arrange for attending a meeting, it was not enough time for the Amatshatshu to postpone their plans. Mr Gungubele wrote "*We already made plans and paid to participate in this meeting, and it cannot be changed in the last minute and we reserve our reight[sic] to hold those responsible for postponement to compensate us for the time and money we spent on preparing for these meetings.*"

150. The Department stayed silent until the Monday morning. They then indicated that they "*started sending messages through sms on Friday*" and that they believed that met their obligation to publicise the meetings (TM54).
151. We were very angry at how this situation was handled. We were angry at how the Department continued to kowtow to the Amatshatshu traditional council who had no say on our land. We were also angry that the Department did so little to ensure that the actual beneficial occupiers knew about the meetings and could attend.
152. As a result, on 12 April, many people from Gwatyu, including myself, decided to make our anger known to the Department and insist that they treat us with the basic respect that we deserve. We are the beneficial occupiers of Gwatyu after all.
153. We protested at the venue where the Department planned the meeting, and some people even blocked the roads. The Department phoned the police and postponed the meetings.


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154. That evening, Ms Mntukatandwa wrote to the parties (TM55) advising that the Department "*had to postpone the meetings scheduled for Gwatyu this week as the officials were welcomed with a protest and a burning fire blocking the road to the meeting venue and insults on arrival. We had to call the police to come and assist. The police advised us to postpone the meetings as the situation was not conducive for us to have a meeting.*" The email incorrectly stated that the protesters were upset because "their chairperson" had not advised them of this meeting. It was the Department that had failed to provide adequate notice of the meeting.
155. The Department called an emergency meeting for later that week to discuss the way forward. The meeting was held virtually on 16 April 2021 and the CPA was requested to provide new dates and venue proposals.
156. Once more, the CPA leadership provided the requested information for clusters and meeting points immediately. I indicated to the Department that if they wanted to still have the meetings the next week (starting 19 April), they would have to send out notice immediately. A copy of the email is annexed hereto marked **TM56**. In response Mr Pityi only wrote:

"Dear Tembakazi,

Thank you for your commitment to assist me to facilitate the finalization of the long outstanding wishes of the Gwatyu People. Many have passed on without realizing their dreams and wishes. May God Bless you Tembakazi for your sterling leadership to partner with me to resolve the long standing Gwatyu land issue."

157. The meetings did not go ahead as scheduled.

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158. The Amatshatshu Traditional Council held their own meeting on 15 April and sent the minutes to the Department. The minutes as received on 26 April 2021 are attached as TM57. The translated minutes can be made available upon request.
159. The minutes are not easy to decipher, but at the beginning of the meeting, Nkosi Dabulingwe, speaking on behalf of the Royal Family, said that when they found out that the Gwatyu farms were advertised for redistribution leases, they spoke to the provincial department who indicated that the process happened at the national level of the Department and that the provincial department was not aware of it. The provincial department, the minutes note, then wrote to the national department explaining that a land rights enquiry was already being done. Nkosi Babulingwe noted that they too wrote to the national department to make sure the land is not leased out.
160. I have set out above how the CPA also wrote to the Minister and received a response confirming that the farms were removed from the list advertised to be leased. We were not aware that the Amatshatshu had done the same and the Department did not mention anything about it to us. This has given the Amatshatshu royal family the opportunity to project to the desperate people of Gwatyu that they have the power to make the Department do its bidding.
161. On 3 May 2021, having heard nothing from Mr Pityi since the urgent meeting held on 15 April, our legal representative addressed an email to him (TM58) noting that the meetings did not happen and asking urgent information on when the Department intends to hold the meetings. Mr Pityi responded (TM59)

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alleging that a new meeting schedule had been discussed with the CPA leadership and confirmed. That was not the case.

162. On the same day, another official from the department sent a letter to me as the CPA chair. The letter was dated 29 April 2021 and proposed 24-28 May 2021 as the new dates. The CPA chair details these and the further interactions in her affidavit attached hereto. The meetings never proceeded.

163. On 7 June 2021, our legal representative wrote to the Minister of Agriculture, Land Reform and Rural Development and requested that—

163.1. the Gwatyu matter be escalated to be dealt with at a national level because of the loss of confidence from the occupiers in the officials in the provincial office;

163.2. the CPA's long- awaited registration be finalised; and

163.3. the Department confirms that the farm dwellers of Gwatyu are recognised as beneficial occupiers in terms of IPILRA.

The letter is attached marked **TM60**.

164. On 8 June 2021, the letter was brought to the urgent attention of Deputy Minister Skwatsha. The email is attached marked **TM61**.

165. No response was received. Our attorneys followed up on 2 July 2021 (**TM62**), but still there was no response.

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166. On 21 July 2021, our attorneys addressed another letter to the Minister (TM63). The letter reiterated the earlier correspondence and demanded that a response be received within seven days. The Minister did not respond.
167. Another letter was sent on 17 October 2021 to the Minister attached marked TM64. We did not even receive acknowledgement of receipt.
168. On 7 December 2021, the Department presented a report to the Portfolio Committee on Agriculture, Land Reform and Rural Development on cases that had raised concern with the committee. Gwatyu was one of them. I attach the presentation delivered by the Department that day marked TM65 and the minutes of the meeting marked TM66. The committee first debated whether they should hear the presentation since the Department provided the information to the committee so late, but eventually allowed the Department to make its presentation.
169. The presentation was, in many respects, a rewriting of history.
- 169.1. The Department started by saying that *"the Gwatyu conflict involv[es] land claims, leases, CPAs, traditional leadership etc"*. It is worth pointing out that the conflict does not involve land claims as the two restitution claims brought by the Amatshatshu were both rejected. In addition, as I have explained, the leases had been cancelled back in the 1990s. And the dispute over the authority of the Amatshatshu in the area had nothing to do with the land rights.

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169.2. The Department proceeded to provide an entirely inaccurate account to the interactions between the occupiers, the CPA, the Amatshatshu and the Department. For example, it claimed that the 2015 land audit was provided to us without the need for a PAIA request (it was not), ignored the fact it had committed in writing to register the CPA (it did so in 2016), misrepresented the role of the Ministerial Task Team, and blamed the CPA for the delay in completing the Land Rights Enquiry

170. The presentation reported what was already known – that the following categories of and rights holders reside in Gwatyu Farms:

170.1. Former farm workers left by previous lessees; relatives invited by the occupants.

170.2. In the recent years other people who reside in Gwatyu are said to have been given permission by Traditional Authority (Amatshatshu TC);

170.3. Some are referred to land invaders as there is no record of their permission to be in Gwatyu;

170.4. The Traditional Authority residence is on one of the properties; and

170.5. There were also Land Claims lodged by the Amatshatshu TC which according to the Land Claims Commission, the claim was dismissed.

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171. It is extraordinary that, after so many years and so much money spent on “audits” and “inquiries”, the information once again took us no further.
172. The Department claimed it had planned to go around Gwatyu sharing the report, but these plans had been put on hold due to the CPA's objections to the participation of the Amatshatshu Traditional Council in the process. It is regrettable that the Department persisted in placing the blame on our people for their failure to effectively secure our rights.
173. After all these years, the parties were no closer to a resolution.

VI STATE INTERVENTION: 2022-2023

174. On 6 January 2022, the Legal Resources Centre received an email advising them of the Portfolio Committee on Agriculture, Land Reform and Rural Development's plan to visit Gwatyu at the end of that month on an oversight visit. They requested a report from the LRC about their work in Gwatyu, which was provided.
175. A draft programme was shared by the committee with the LRC on 25 January 2022 (TM67). The programme indicated that the committee will meet on 1 February 2022 with various stakeholders to be briefed on the status at Gwatyu, namely Deputy Minister Skwatsha, the Eastern Cape provincial department and 'civil society organisations'. The afternoon was to be spent walking the Gwatyu farms. The programme for 2 February 2022 consisted of a meeting with the AmaTshatshu Traditional Council and the Gwatyu CPA in the morning followed by a 'public engagement' in the afternoon. Follow-up meetings were to take

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place on 3 February with the CPA and the Traditional Council. The venues were to be confirmed.

176. Our lawyers communicated this to us on that day, but it came as news to us. We were not informed of this programme at all. Our attorney thus wrote to the committee to alert them to this and asked whether a venue had been decided upon and how the committee is going about alerting community members to the impending visit.
177. An updated programme was shared on 27 January 2023. It confirmed that the meetings would take place at the offices of the Department of Rural Development in Queenstown. It also now included a meeting with King Matanzima of the AbaThembu Royal House early on the first morning. This was probably on the insistence of the chair of the committee, Kgosi Mandla Mandela, who had raised in committee meetings that the King's view on the land should be sought.
178. We were not happy with this change in the programme as we did not see what the King could contribute to a conversation about our beneficial occupation rights. But we accepted it.
179. On the Saturday prior to the visit, an email was sent (TM68) indicating that the venue for the first day of meetings had been changed to the Qamata Great Place, instead of the department's offices. We were outraged. To us, this was a clear intimidation tactic; we would be expected to assert our rights in the deeply hostile environment of the King's palace where we are regarded as

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invaders on our land. We informed our attorney that we would not go to the Qamata Great Place for the meetings on the first day.

180. On the evening of Monday, 31 January 2022, yet another email (TM69) was sent out, indicating that the committee was now no longer prepared to meet with the CPA as they were to do with the Traditional Council (and indeed the King), but would meet with the CPA *"in the presence of the CPA Members at large"*. In response, Prince Xhanti Madolo Aah!! Ngu'esilo! Of the Amatshathu Royal Council wrote: *"We have to register though our disappointment in how the planning of the program has been handled. It was without consultation of amaTshatshu and when the dates and times that have been imposed on us are changed, it is without consultation even then"*.
181. The next morning, our attorneys arrived at the Qamata Great Place expecting to address the committee about the legal issues here at Gwatyu as per the programme. Instead, they were made to wait for hours until they were finally, well after lunchtime, led into a hall packed with what they believed to be members of the Amatshatshu of Qamata.
182. Deputy Minister Skwatsha, officials from the Department namely Deputy Minister Mrs Zoleka Capa, Member of the Executive Council (MEC) of the Department of Rural Development and Agrarian Reform Mrs Nonkqubela Pieters, from COGTA and even the MEC of traditional affairs all made speeches. One after the other, they proceeded to blame the Gwatyu occupiers for the fact that the area has not been developed and tensions resolved – in our absence.

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183. Kgosi Mandela, chairing the meeting, made his allegiance crystal clear by repeatedly referring to the Amatshatshu as a legal traditional council while the CPA, he said over and over, is “unregistered”. He insisted that the Department should not speak to the CPA and the occupiers because the CPA is unregistered. He even insisted that the official present from COGTA confirm that the Amatshatshu is the gazetted authority over Gwatyu – something the official could not do.
184. When Ms Nomfundo Ntloko-Gobodo, the Chief Land Claims Commissioner, explained to the hall that the Amatshatshu’s restitution claims were unsuccessful as they had been dispossessed long before 1913, the constitutional cut-off date, Kgosi Mandela suggested to her that the cut-off date should no longer be taken seriously.
185. Finally, our legal representative, Ms Wicomb, was given a chance to speak. She explained that we had rights protected by IPILRA and the fact that the CPA was unregistered has no impact on our land rights. In other words, she explained, if we register our CPA, we would not suddenly have land rights. Our land rights come from our occupation and are protected by IPILRA. The CPA is simply a way for us to organise and engage around our rights.
186. By the time the meeting ended, it was so late in the day that the committee could not proceed to come to the farms as they were supposed to do. We had been waiting for them by the side of the road for their visit for hours. Our attorney came to meet us there and reported on what had happened. We were not surprised; we knew that the meeting at the Qamata Great Place was designed

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to undermine us. Nonetheless, we agreed to meet the next day on one of the Gwatyu farms where the programme said that the committee will meet with the CPA.

187. When we arrived there the next day, a huge white tent had been set up and people from all over Gwatyu and beyond, many not beneficial occupiers, were milling about. When the meeting was finally opened by Kgosi Mandela, we realised that he had no intention to meet with the CPA but would simply allow any person in the audience to put up their hand and talk about anything. We were outraged. He was clearly intent on erasing us and our rights.
188. CPA members left the tent and started singing and protesting outside. We insisted that we would continue to do so until the chairperson agreed to meet with the CPA. The police were called (even though we were in no way violent), and they negotiated with us that if we waited under the tree where we meet close to the tent, that the committee would come and meet with us. We agreed to do so and gathered at the tree.
189. Meanwhile, in the tent, the committee simply sat and listened as local people, one by one, talked about lack of basic services and poverty. It was unclear what the purpose of this was and I have seen no evidence of the committee doing anything about these problems raised with them subsequently. They were happy to make sure that no-one talked about the real issue at Gwatyu, namely our land rights.
190. By the time that they had finished the meeting hours later, we were still sitting under our meeting tree waiting for the committee. To our outrage, however, the

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committee got in their cars and started driving right past us. We blocked their cars for a while, trying to insist that they meet with us as agreed, but to no avail. They had no interest in hearing from us.

191. We do not know what happened during the rest of the trip.

192. In a meeting of the portfolio committee of 1 March 2022, the chairperson pointed out that the Director-General, Mr Mooketsa Ramasodi, *"had made a commitment to submit a report within seven days on interventions to be made at Gwatyu and COGTA had to also submit a report. The reports were due by 15 February 2022, but to date no reports had been received. The DG should inform the Committee on the reason for the delays"*. Mr Ramasodi, who was present, responded. The minutes (TM70) record this as follows:

"The second matter was the Gwatyu issue. He admitted that the Department had capacity issues and he was dealing with disciplinary issues also. The report that had been sent was just a presentation and there needed to be a full report accompanying it which included the short, medium, and long-term issues the Department had committed to. He had since received the full report on the land rights enquiry and this had been forwarded to the Committee and the Gwatyu report would be sent that day. The issue here had been the quality of the reports and he apologised for the lateness because he had to go through each report. A challenge in the Department was the quality of documents. A DDG was appointed to be responsible for the Gwatyu area from that day going forward."

193. The land rights enquiry that Mr Ramasodi referred to was provided to the Committee. One of the Committee members made it available to the CPA. The report is approximately 246 pages long and is therefore too large to attach. The

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report is available to the other parties and can be provided to the Court if it requires it.

194. To this day, the Department has never directly provided the report to the CPA or any of us living here at Gwatyu. We have it only because a member of Parliament provided it to us.

195. The report is superficial and includes serious factual inaccuracies. It was unlikely to give the Department the information they alleged they needed to settle the disputes at Gwatyu. It largely repeats what every other audit and enquiry said before.

196. The report does provide "recommendations" in the executive summary. It reads:

"The enquiry found that the residents of Gwatyu have no access to basic services such as education, health, infrastructure such as proper roads, electricity, telecommunication network, clean water and sanitation as well as safety and security. Due to the underdevelopment and lack of some essential municipal services, a majority of the residents owned JoJo tanks for water storage and generators for electrical power.

The interviewed stakeholders also reported that social services were only accessed in Queenstown, outside of Gwatyu. Additionally, it was further highlighted that there are no government intervention programmes to aid the dire situation in the area.

It has been discovered that there have been no major changes in the land use, people still practise agricultural activities like livestock farming and very few still practise crop farming. The rate of unemployment was very high and this like most parts of the country this attributed to the rate of crime being very high. The most prevalent of the crimes committed was theft of livestock and murder. The participants felt that the police did not have enough capacity and resources to deal with the crimes fully."

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The findings of the study concur with literature. There are still many residents without documentation and very little has been done to address this issue by the government. Equally, there is still a lot to be done in the farm regarding service delivery. This entails better education, an improved infrastructure, health services and safety. Not much has been achieved through the existing land policies, therefore this study recommends that these policies be revised. Additionally, having a strong leadership in place from both the beneficiaries and government to oversee the land reform process. It is further recommended that community structures be registered legally to allow them to contribute to the overall development of the farm.

197. Unfortunately, I am advised that those who conducted the land rights enquiry did not have a proper understanding of the land rights of people at Gwatyu. The report divides our people into those who once had a lease agreement and refers to them as people with a “legal right” to be there, and those who have never had lease agreements and therefore, according to the Report, “occupy the farm illegally”. Elsewhere, it suggests that people who have been on the land for ten years can put in land claims. I am advised that this is not the case.
198. The report provides a literature review and “analysis” of applicable land reform policies, but remarkably, does not mention IPILRA, which is the source of the protection of our beneficial occupation rights. It does acknowledge, however, that we have “occupational rights”. The Report concludes:

“Through these [land reform] policies, the government sought to introduce structures that do not alienate traditional leaders/councillors but also gives power to those on the ground. However this has not been an easy process as bureaucracy seems to hinder the implementations of policies. Furthermore the inability to implement these policies had negative bearing on the Gwatyu situations as it has prolonged the granting of legal documents, as well as the registration of Communal Property Associations (CPAs) (Sgqolana, 2018).

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Resulting in the residents of Gwatyu still not having documentation and ownership of land."

199. Interestingly, the report speculates that the refusal to register the CPA has caused membership of the structure to dwindle as it seemed that the Department was not interested in engaging with the CPA, but rather with the traditional council.

200. On 7 April 2022, the Portfolio Committee's report on its oversight visit was published (TM71). The report notes:

"the Committee has been seized with the matter of Gwatyu since 2019 and, having observed a negligible progress towards resolving the impasse, resolved to conduct an oversight visit to Gwatyu [...] The overarching aim of the visit, in addition to enforcing accountability of the Executive, was to ensure that the state land release project of the Department of Agriculture, Land Reform and Rural Development (the Department) contributes to acceleration of the redistribution of land to the landless poor and enhance security of tenure for farmers and/or households occupying the state land".

201. While the report insists that *"the committee resolved to be impartial and objective"* and *"to listen to all sides of the story"*, this was certainly not the case as I relay below. Indeed, even the report's own description of the relevant 'stakeholders', reveals the bias of the Committee.

202. The three main players that the Committee sought to engage with were:

- *Land rights holders, mainly the former farmworkers who for over three decades lived on the farms, who have attempted to register a Communal Property Association (CPA) as advised by the Department. However, at the time of the visit, the CPA had not been registered.*

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- *The AmaTshatshu Traditional Council, a recognised traditional council that has historical connections to Gwatyu and have suffered displacement from, and dispossession of, Gwatyu through racially-based policies of colonial and apartheid governments. The traditional council seeks redress of the dispossession by restoration of the land to the rightful owners, i.e. the AmaTshatshu.*
- *Black farmers, commonly referred to as lessees, who have been given leases by the former Transkei government and continued to use the land since 1982. These farmers have expressed their legal rights to the land in terms of those contracts or leases albeit that the leases have lapsed and farmers were not paying any lease fees." (emphasis added).*

203. The report correctly notes the following:

"The different groups have a basis for their claims to stronger land rights at Gwatyu. On one hand there are those whose stronger rights can be attributed to them or their forefathers being historical owners of the land prior to the dispossession by colonialist and apartheid governments and thus feel that they are entitled to redress of the loss of their land, on the other hand one finds a group that have worked under white farmers and continued to farm in their own right after the departure of white farmers when the farms were transferred to the former Transkei government. They thus have accumulated beneficial occupation/informal land rights that are recognised in law. (emphasis added).

204. The report notes the input by Ms Nomfundo Ntloko-Gobodo, Chief Land Claims Commissioner, who "reported that the land claim lodged by AmaTshatshu on Gwatyu was researched by the Commission and was found to be invalid and dismissed. The land claim did not meet Section 2 requirements of the Restitution of Land Rights Act, No 22 of 1994. The key issue was that the dispossession took place prior to 19 June 1913".

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205. The report reveals that the committee met with the AmaTshatshu Traditional Council (while refusing to meet with the CPA in the same way). The meeting is reported as follows:

The Secretary of Tshatshu Royal Council, Prince Xhanti Madolo reported that AmaTshatshu have been at the centre of the struggle against colonialism and apartheid. Their forefathers suffered in defence of their land. He detailed a comprehensive history of the AmaTshatshu and their historical jurisdictional authority over land. According to them there is sufficient history to demonstrate that they are the rightful owners of Gwatyu. The following was highlighted to the Committee:

- *There was no intention on the part of the AmaTshatshu to acquire any title deed over the land in the name of their chief or any other individual in the royal family.*
- *They recommend that the land should be transferred to a legal entity such as a Trust which will be managed by Trustees under the oversight of a Senior Traditional Leader in liaison with the Traditional Council.*
- *They do not wish to see people of Gwatyu being removed or displaced from their homes. They acknowledge that many of the people were born on the land and have nowhere else to call home.*
- *The place of the Traditional Council, as a registered Council under a recognised Traditional Leader by the COGTA, should be respected.*

While issuing of title deeds to individuals may seem politically correct, AmaTshatshu are cautious that this may have a negative effect on traditional leadership. There is also no intention to reject anyone from the land in Western Thembuland; to the contrary, people are encouraged to settle on the land and utilise it to provide for the nation.

AmaTshatshu Traditional Council urged the Portfolio Committee to consider revision of the Restitution of Land Rights Act (Act 22 of 1994) in so far as the 1913 cut-off date is concerned because the AmaTshatshu people cannot claim their land under restitution. It closes them out, yet they are the rightful owners of the land.”

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206. The committee required the Department and the Eastern Cape Department of Cooperative Governance and Traditional Affairs to complete certain follow up tasks. These tasks regrettably show that the Committee had indeed taken sides:

1. *The Department of Agriculture Land Reform and Rural Development*

(a) *The Department to submit a comprehensive plan responding to the questions of service delivery raised at the public meeting as well as meetings with traditional leaders.*

(b) *Facilitate engagements with the COGTA to address the questions of the status of land under the AmaTshatshu Traditional Council. Specifically, clarify what land was made available for control by the AmaTshatshu Traditional Council.*

(c) *Engagement with the group referring to itself as a CPA (or beneficial occupiers) with regard to their concerns in order to facilitate and conclude land rights enquiry. In doing so, engage with people with legitimate rights at Gwatyu and isolate those that may have been coopted to derail the process of confirming the rights of legitimate members of Gwatyu Community.*

2. *The Eastern Cape Department of Cooperative Governance and Traditional Leadership*

(a) *The Department to submit confirmation of the status of the AmaTshatshu Traditional Council as well as the records of their administrative area.*

(b) *The description of properties under the control of the AmaTshatshu Traditional Council."*

207. After this visit and the attitude of the Committee, we realised that government will ignore the legal framework to give our land to the Amatshatshu. We had known for years that that was the intention and had tried to use our little power

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to object to this attitude but came to realise that we were powerless unless we asked the Court to protect our rights based on the applicable legal framework.

208. The Department arranged a meeting in May 2022 to report on their plans for Gwatyu. The meeting venue was "the Great Place" at Gwatyu. The Department had not entirely bought into the idea that Gwatyu belongs to a traditional council. As CPA chair, I received an invitation and responded by insisting that the meeting be held at a neutral venue. The Department did not respond to me. A few CPA members went to the meeting, but very little transpired. Departmental officials indicated they were there because of pressure from their principals, and then spoke vaguely about plans for agriculture, water, and road upgrades in the area. The meeting lasted a mere 30 minutes and no discussion was allowed.

209. On 30 August 2022, the Portfolio Committee met once again to hear a report back from the Department on their progress since the undertakings made at the oversight visit. The opening remarks of Kgosi Mandela as chairperson of the committee, were deeply problematic. The minutes (TM72) record his statement as follows:

The Department of Agriculture, Land Reform and Rural Development (DALRRD) had had a week-long visit to Gwatyu in the Eastern Cape (EC), as they were currently facing issues on land ownership. The Department had first met with the King and the royal family, where they heard about the historical displacement of the community of Gwatyu. The work of the Department had been disturbed by violent threats against the officials by some members of the communities when the Department wanted to do research and gather information in the communities.

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The Committee had also heard that there was no legitimate communal property association (CPA) in Gwatyu. The Department had tried to intervene and meet with the community members, but it was unsuccessful. When the Department visited Gwatyu to determine the rightful owners of the land, the people of the community had their agenda to own land for their benefit. The Commission on Restitution of Land Rights had informed the Committee that there were land claims for Gwatyu from the Amatshashu Traditional Council, but the Commission had discovered that the land claims had not met the 1913 cutoff date.

The former farm workers and labour tenants also had beneficial occupation rights to the land. The status quo in Gwatyu was complex, but with the assistance of the Department of Cooperative Governance and Traditional Affairs (COGTA), it was said that the land had belonged to the Amatshashu Traditional Council since the coronation of the Chief in 1982. The rejection of land claims by any communities throughout South Africa of their ancestral land because of the 1913 cutoff date was a gross injustice to the people of Gwatyu and rural communities. The 1913 cutoff date should also be reviewed for the benefit of the people and the communities."

210. The presentation then made by Mr Mooketsi Ramasodi, Director-General of the Department, was less than truthful. Mr Ramasodi took the opportunity to blame us once again, the frustrated occupiers, for their inaction. He reported:

"Regarding land ownership and allocation. Gwatyu Land Rights Action Plan was drafted, however could not be implemented due to acts of intimidation meted to DALRRD officials by some of the community members.

The department is in the process of finalizing the land rights enquiry however the above-mentioned acts of intimidation are delaying the process. DALRRD has since reached an agreement with the South African Police Services (SAPS) for them to escort officials when finalizing this process, which is expected to resume on the first week of September 2022.

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The recognition of the Traditional Council by the Eastern Cape Government should be preceded by finalization of land rights of the different categories people on the land.”

211. The Committee was not impressed by the report of the Department and peppered the delegation with questions.
212. The response by Deputy Minister Capa was revealing. We understood him to endorse what we always feared – returning the land to the Amatshatshu. Our rights, as the beneficial occupiers, were forgotten and we were reduced to troublemakers trying to steal the land.
213. On 22 September 2022, the Portfolio Committee presented its report on the Gwatyu oversight visit to Parliament in plenary. One MP, Mr MK Montwedi of the EFF, addressed the floor after the presentation of the report:

Mr MK MONTWEDI: Thank you, House Chairperson. The portfolio committee had decided to visit Gwatyu to understand the complexity of issues and perhaps to unlock the deadlock that appeared to have hamper the department's initiatives to resolve the contestation and disputes at Gwatyu. However, during the visit the committee went straight from Queenstown and passed the Gwatyu Farms and spend the whole day with the royal family of the Matanzima and then met with government departments. The following day the committee came to Gwatyu Farms instead of meeting with the former farm workers. The committee went to have a meeting with Mondli Gungubele's uncle, Chief Mncedisi Gungubele, the Chief of AmaTshatshu people. It failed to meet with the leadership of former farm workers who have attempted to register a Communal Property Association, CPA, since 2000.

House Chair, as early as 2000, the former Department of Land Affairs in the Eastern Cape had commissioned a land rights inquiry in Gwatyu in attempt to resolve the land tenure insecurity. Fast forward to 2016, the former Minister Gugile Nkwinti established the Ministerial Task Team which undertook to

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register the Gwatyu CPA by the end of July 2016. To date the people of Gwatyu are still waiting and one can understand the frustration and anger by the community of marginalised people. They're deprived of their own land by the ANC government by refusing to confirm and register the land rights of the people who lived on the Gwatyu Farms for decades.

There appears to be attempt to impose the AmaTshatshu Traditional Council and of AbaThembu on the people of Gwatyu. Now, it's important that the Chair of the committee came here and misled this House. There are no competing claims as the Chair just said in Gwatyu. The AmaTshatshu Traditional Leadership lost claims on two occasions and their claims failed, hence today we hear some desperate members of this committee making some proposals to amend the Act in order to accommodate AmaTshatshu to lay claim over the Gwatyu land. House Chair, we as the EFF in Parliament will not sit in our benches and watch the outgoing ANC government and changes the laws to pursue their agenda of giving land to those that are in their network of patronage.

We are, therefore, calling for the finalisation of the registration of the Gwatyu CPA and the recognition of the land rights of the people of Gwatyu in particular the former farm workers who have become farmers in their own rights. The process would require an objective system of adjudicating of existing rights often overlapping rather than imposing the traditional leaders, Interim Protection of Informal Land Rights Act offers the state legal instruments which the rights can be secured.

214. ANC MP, Mr Mahlatsi responded:

"Chairperson, Hon Masipa comes here on the podium and mislead the House that we went there with an intention of handing over the land to the traditional leadership. In actual fact, Hon Masipa must indicate to this House that they went there with the intention of creating confusion amongst the communities of Gwatyu. They went there with a perception, because they undermine traditional leaders. They undermined the traditional leadership of Gwatyu. They decided to stand on the side, to choose a side and stand on the side of the unregistered CPAs. So, they must not come here and grandstand and mislead House, including Hon Montwedi. Hon Montwedi comes here to the House and

TM T.L

speaking about 1913 Land Act. When we were in section 25, EFF was vehement on the removal of the 1913 Land Act cutoff date. Today, he comes here and says we must not remove it."

215. Our land rights and our lives had become a political football.
216. Since that oversight visit from the Committee, we heard nothing from the Department about our rights. We saw on Facebook that there was a development meeting about Gwatyu in March 2023 which included traditional leaders, but we were not there (TM73).
217. There was another meeting in August 2023 at Gungubele's place with the Municipality and others. We also saw this on Facebook. We are entirely excluded.
218. Accordingly, on 18 August 2023, our attorneys wrote a letter to the Department demanding that our rights to Maties and Forest Range farms be recognised and recorded in writing. We received no response.

XI THREATS TO OUR TENURE SECURITY

219. I have related several attacks on our tenure in this affidavit and summarise these here. They are also set out in the affidavits of the individual applicants.

(a) State attempts to lease out our land

220. As I have set out, the State has attempted on at least two occasions to lease our land out to outsiders. First, it was the group Imijelo whom we know was

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offered a lease over 40 Gwatyu farms in 2014. We do not know how the lease came about or why Imijelo disappeared after we expressed our outrage to the Department and the Municipality.

221. The State attempted to do it again in 2021, when the Gwatyu block of farms were advertised for redistribution. This time, we had to instruct lawyers to ensure that our land not be leased out from under our feet.

(b) Mischaracterisation of our rights

222. The Department has consistently mischaracterised our rights, which means they could not possibly secure our rights properly as they do not understand, or refuse to acknowledge, the nature of our rights. They refer to ESTA, to the Restitution Act and sometimes to leases as the applicable mechanism by which to understand our rights. They also appear to believe that once they register our CPA, we will have rights over the land that emanate from being a registered CPA.

223. The same can be said of the various consultants that have produced audits and enquiries over the years. None of these expensive reports have brought the Department any closer to solving the impasse, as it still does not understand the connection between our land histories and occupation and the applicable legal framework.

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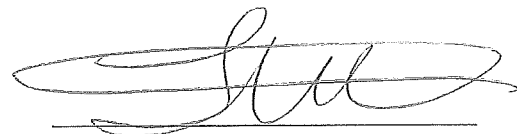
(c) The claim of the Amatshathu Traditional Council

224. I have set out in some detail the claim of the Amatshatshu Traditional Council over the farms at Gwatyu and how the Department continues to entertain the claim politically even though it was legally dismissed.

(d) Lack of services

225. Every land audit or rights enquiry done at Gwatyu over the last two decades repeated the same refrain: there are no basic services provided to the people of Gwatyu, while the roads are in such a bad state that it is hard to use them even with an SUV.

226. We cannot have tenure security without any services. That is not what the Constitution promised.

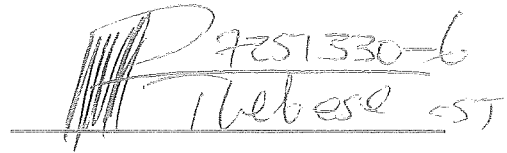


THEMBAKAZI MATSHEKE

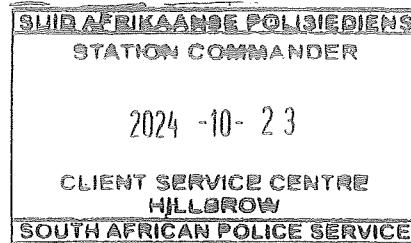
I certify that on the 23 day of October 2024 and at Hillbrow SAPS the above deponent appeared before me and that she acknowledged to me that she knows and understands the contents of the above Affidavit, which Affidavit was signed and sworn

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to in my presence in accordance with the requirements of Regulation No. R1428 dated 16 November 1984, as amended, which have been fulfilled.

 P 7251330-6
Heese ST

COMMISSIONER OF OATHS



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Summary of meeting between AFC and the Department of Rural Development and Land Affairs office in Queenstown

Dear Ms. Molokoana

Thank you and your team for receiving us at your offices on 20 January, 2014.

Just to recap on the business of the meeting:

Agenda points:

- 1 Introduction of Africa Farmers Cooperatives (AFC)
- 2 Request for information on the status of Gwatyu farms

Notes

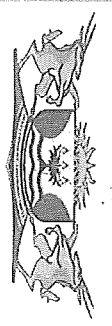
Having introduced AFC as per our presentation to the National Land Allocation and Recapitalisation Control Committee (NLARCC) gathering at Irene Lodge on the 29 August, 2013 and informing your unit about our having been invited by the Gwatyu Farmers/Community to assist with the development of the Gwatyu farms to stem the grinding poverty and unemployment plaguing the community whilst living on unused farms owing to the unresolved status of the farms, I went on to apprise you and your team about AFC's intentions and approach to the development of the Gwatyu farms and the assistance we could provide. I also appealed for your cooperation in ensuring that we give effect to the Department of Land Affairs and Rural Development's program of redressing the historical injustice visited upon our people by our oppressors more than one hundred years ago without further delay.

I expressed concern at the state of affairs wherein after 20 years of our democracy and the enabling policies for the resolution of the land issue by the Department of Land Affairs and Rural Development there are still people who can not use land they have been living on since time immemorial due to failure to find a solution to the ownership of the land. I put it to you that people were running out of patience over the matter and losing confidence in our government. I further pointed out my difficulty in understanding why it was so difficult to resolve the matter of the transfer of the farms to the people who were living on them.

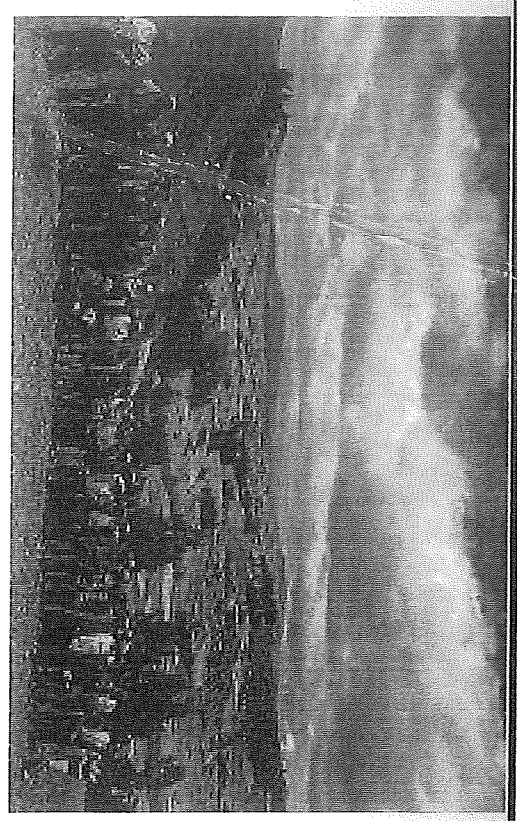
I told you about my meeting with the community, to which I had invited you and your unit and you were unfortunately unable to attend, but the Honourable Mayor graciously attended. In the said meeting, the community raised the issue of an entity going by the name of Imijelo which was busy talking with the Department of Land Affairs ostensibly on behalf of the community and this sparked a heated debate with members of the community demanding to know to whom these Imijelo people were talking in the community? The Honourable Mayor asked if there were people who were working with Imijelo who could provide more detail on the group. When no one volunteered she demanded someone knowledgeable about these Imijelo should come to her office to enlighten her as to what it was all about.

Your response

In your response you gave us a history of the problem of the Gwatyu farms and what was being done at the present moment by your unit. You explained that your unit had not been working on the matter for twenty years but for ten years. You also informed us that this Mayor was relatively new, having been in her position for about four months. Whilst expressing surprise at her ignorance of the existence of Imijelo you pointed out that the issue of the high turnover of Mayors was another factor impacting on the resolution of the problem. You also pointed out that the community of Gwatyu was also not helpful in the finding of a solution to the matter in that it was fighting within itself and unable to unite over the resolution of the matter. You explained that Imijelo had approached your office purporting to represent the community of Gwatyu and made a presentation



Province of the
EASTERN CAPE
ECONOMIC DEVELOPMENT
AND TOURISM



IGWATYU

Stakeholders Intervention workshop

DATE: 07 May 2015

TIME: 09H00-13H0

**VENUE : Public Works Conference
Centre**

Komani Office Park

13

Fwd: Application to be registered as a Provisional Communal Property Association

Thembakazi Matsheke <matsheke2000@yahoo.co.uk>

Fri 12/4/2020 9:43 AM

To: Wilmien Wicomb <wilmien@lrc.org.za>

📎 8 attachments (2 MB)

Umgaqo siseko.docx; Gwatyu list of members and original committee members.xlsx; CONSTITUTION OF Gwatyu 3 copy (1).docx; Affidavit Thembakazi.pdf; Schedule A explanation.docx; Application form.pdf; document (f) and (g) (1) explanation.docx; Section 2 explanation.docx;

FYI

Begin forwarded message:

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
Date: 31 October 2014 at 20:37:55 SAST
To: "tjsebape@ruraldevelopment.gov.za" <tjsebape@ruraldevelopment.gov.za>
Cc: Obbey Mabena <obbey1@icloud.com>
Subject: Fwd: Application to be registered as a Provisional Communal Property Association

Good day Sir

As discussed with Mr Mabena, please see below is the email that was sent by Gwatyu Communal Property Association to the DG for CPA registration.

Regards

Thembakazi on behalf of Mr Mabena

Sent from my iPhone

Begin forwarded message:

From: "Lusanda Hoffman" <lusandahoffman@lawyer4u.com>
Date: 30 July 2014 at 11:26:34 SAST
To: DGOffice@ruraldevelopment.gov.za, "Obbey Mabena" <obbey1@icloud.com>, "Thembakazi Matsheke" <matsheke2000@yahoo.co.uk>
Subject: Application to be registered as a Provisional Communal Property Association

Good Day

As per our telephonic conversation earlier this morning find attached our Application together with its Annexures.

Kindly confirm receipt hereof.

Fond regards

LUSANDA HOFFMAN

Director
 HOFFMAN & ASSOCIATES
 18 Prince Alfred
 Queenstown

Cell: 0740306969
 Cell: 0715737637
 Direct fax: 0862739387
 e-mail: lusandahoffman@lawyer4u.com

TM TIL

Fwd: Application to be registered as a Provisional Communal Property Association

Thembakazi Matsheke <matsheke2000@yahoo.co.uk>

Fri 12/4/2020 9:43 AM

To: Wilmien Wicomb <wilmien@lrc.org.za>

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Subject: Fwd: Application to be registered as a Provisional Communal Property Association

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Regards

Thembakazi on behalf of Mr Mabena

Sent from my iPhone

Begin forwarded message:

From: "lusanda hoffman" <lusandahoffman@lawyer4u.com>
Date: 30 July 2014 at 11:26:34 SAST
To: DGOoffice@ruraldevelopment.gov.za, "Obbey Mabena" <obbey1@icloud.com>, "Thembakazi Matsheke" <matsheke2000@yahoo.co.uk>
Subject: Application to be registered as a Provisional Communal Property Association

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Fond regards

LUSANDA HOFFMAN

Director
HOFFMAN & ASSOCIATES
18 Prince Alfred
Queenstown

Cell: 0740306969
Cell: 0715737637
Direct fax: 0862739387
e-mail: lusandahoffman@lawyer4u.com

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Gwatyu Communal Property Association (GCPA)

P.O. Box 9682, Queenstown, 5320

MEMORANDUM OF DEMANDS

To

The Mayor Of Lukhanji
Municipality – Chris Hani District

25th. May, 2015.

Whereas we are residents of Gwatyu Farms who have lived on these farms for generations

Whereas we have been the hewers of wood and drawers of water for the white farmers who farmed these farms during the apartheid period

Whereas when the white farmers left these farms we remained on these farms but we were never given any security of tenure so as to enable us to farm these farms in the same way as they were farmed by the white farmers

Whereas in 1994 a democratic government which undertook inter Alia to make land available to those deprived of land by the apartheid regime

Whereas amongst the pieces of legislation generated by the democratic government for purposes of assisting those who are landless and questing for land, Act 28 of 1996 was created

TM TL

Gwatyu Communal Property Association (GCPA)

P.O. Box 9682, Queenstown. 5320

Whereas we as the community of Gwatyu Farms organized ourselves into a Communal Property Association in accordance with the provisions of Act 28 of 1996 and accordingly applied for the registration of same in July 2014

Whereas to date we have not been favored with even the courtesy of an acknowledgement despite numerous attempts on our part to get attention from your office, the Department of Rural Development and Land Reform in Queenstown as well as the National office of the Department of Rural Development and Land Reform and

Whereas for twenty one years we have been told of projects to provide us with water, toilets, roads etc none of which ever reached a point of completion, we are demanding the following:

1. Recognitions and registration of the Gwatyu Communal Property Association
2. A forensic audit of all the expenditures on Gwatyu Farms over the past five years. And
3. That you reconvene the aborted and sabotaged Stakeholders Intervention Workshop organized by the Department of Economic Development, Environmental Affairs and Tourism on 7th. May, 2015 which your office, Chris Hani District Municipal Office and all other government invitees with the exception of the Department of Economic Development, Environmental Affairs and Tourism and the Department of Military Veterans, failed to attend after having confirmed your attendance.

Should we not receive a tangible response to these, our reasonable demands within fourteen (14) days we shall have no option but to consider our next options.


TM TL

Gwatyu Communal Property Association (GCPA)

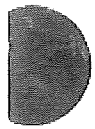
P.O. Box 9682, Queenstown. 5320

Signed.....

Thembakazi Matsheke – March Convenor and Chair. Gwatyu Communal
Property Association

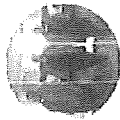
RECEIVED BY 
Nozibele Mankande
Executive Mayor.

7/04 114



Uwaky mparu
 Yhoooo khandive nalonto madam shemmm
 batyiwa zinto zabo

2y Like



Malerato Molokoane
 The sad part of this is that we were making progress with this community, Gwatyu is a farming area and they were allocated Thembani as a township. There are people who are leasing this land and we were about to agree when someone came from Mpumalanga and started confusing former farm workers that they are the rightful owners and they must kick out the lessees and claim their land, the claim which was said to be not valid by Restitution 8 years ago. It's amazing how we can play with people's emotions to achieve our mischievous goals



2y Like



Miranda Qhana
 Still Gwatyu people nango 2015 hawwww

2y Like



Phelo Tafeni
 They are swayed by this person because they lack

2014. But we also know that Ebola had a significant impact on tourism flows from various countries in the world.

At this stage it's difficult to really assess the extent to which Ebola was the biggest single factor or whether the visa requirements were also a very big factor. However, we have sufficient information to know that the measures introduced on having a negative impact. As I said the consultations with the industry as you correctly said should be ongoing, and are indeed ongoing. We appointed the review panel to examine the effectiveness of our marketing strategies and to do an external review of South African tourism.

I have shared these matters with a portfolio committee continuously and I will continue doing so because I believe that every member of the portfolio committee wants to see the best results out of tourism. Therefore, we have ongoing engagements. Good engagements. We should really be careful to avoid this kind of antagonistic approach which is not going to help us addressing some of the real problems that are in front of us. We need to look very carefully at the best way that we can achieve this balance between protecting the interests of the state security, interests of the state and continued growth of the tourism sector. Thank you.

Ms P NTOBONGWANA: Deputy Speaker, were visa regulations not discussed in Cabinet, if not, why not, if so, why did the Minister not challenged these regulations there also? What is the projected impact of new visa regulations on number of tourists annually? Thank you.

The MINISTER OF TOURISM: These visa regulations were discussed in Cabinet on the 10 of June, and Cabinet made certain decisions which I will really share with this House. And we will be looking at the impact of these regulations very carefully and we will be considering the best way of finding the appropriate balance between defending and protecting the interests of the state to allow the Department of Home Affairs to continue fulfilling its mandate and at the same time to do so in such a way that the negative impact on the tourism sector is minimised, but without, as I said again, in anyway compromising the security of the state. Thank you.

Intervention to support residents of Gwatyu Farms in Queenstown, Eastern Cape

198. Mr N S Matiase (EFF) asked the Minister of Rural Development and Land Reform:

Whether he has made any intervention to support the aspirations of the residents of Gwatyu Farms in Queenstown, Eastern Cape, who have organised themselves into a communal property association, but are not getting any recognition and support from his department and other departments in the Eastern Cape; if not, why not; if so, what are the relevant details?
NO2550E

T.M. T.L.

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Deputy Speaker, It's 198, I just want to confirm that. Am I right?

The DEPUTY SPEAKER: Sorry?

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: 198.

The DEPUTY SPEAKER: 198.

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: It's this young man in front of me [Inaudible.]

The DEPUTY SPEAKER: There is a time when you should not listen to young men sometimes. [Laughter.]

The MINISTER OF RURAL DEVELOPMENT AND LAND REFORM: Ungathi ukhe wabeva ukuba bathini, ngeke ungabamameli, Sekela Somlomo. [If you could hear what they are saying, Deputy Speaker, you would not stop listening to them.]

The answer to the question is, yes. In terms of the Communal Property Associations Act, the department is compelled to assist communities who want to organise themselves into communal property associations, CPAs.

The department is assisting the communities to establish themselves into a CPA in full compliance with the abovementioned law. Thank you very much.

The DEPUTY SPEAKER: Thank you very much, Minister. Who is standing in for hon Matiase? Okay, proceed, hon member.

Ms N V NQWENISO: Minister, the people of Gwatyu have been consistently victimised, from the Matanzima regime of the former Transkei to this day. They have been forced into lease agreements or into working for people who have leased the land from the state. Their victimisation has gone on for far too long. Do you have any plans of formalising their land tenure rights and what is preventing the government from supporting a group of black people who want to farm on their own land productively? Thank you.

TM T.L



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

Office of the Deputy Director General: Land Tenure and Administration
Private Bag X833, 184 Jeff Masemola Street, PRETORIA, 0001; Tel: (012) 312 8237
Vela.Mngwenqwe@drdlr.gov.za

MEETING BETWEEN THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM AND REPRESENTATIVES OF THE GWATYU COMMITTEE IN CAPE TOWN ON THE 26 APRIL 2016.

RESOLUTION

- 16 July 2016 will be a report back meeting in a community meeting.
- Meeting between DRDLR and CPA Committee at Gwatyu on the 28 April 2016 at 10h00 to deal with a plan and time-lines (process).
- DRDLR to present the process during the meeting of the 28 April 2016. The process will be shared from now up to 16 July 2016.
- The Committee to provide names of committee members that will participate in the joint management of this matter with the DRDLR.
- CPA registration process should be fast tracked, subject to the CPA Act requirements.
- The MTT on 1HH/1HA to make a presentation to the Gwatyu Committee on the 28 April 2016 on the programme.



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

Tenure Systems Implementation Directorate:
66 Prince Alfred Street, Queenstown 5320.
Tel: 0458 838 6297

Chris Hani & Joe Gqabi Offices
Private Bag X7189, Queenstown, 5320
Fax: 045 838 6066

ACTION PLAN TOWARDS REGISTRATION OF GWATYU CPA

STAGE 1

Property Management and Leases Directorate completed Land Audit process

Findings:

- ✓ There are illegal demarcations of sites which becomes the source of disputes amongst farm occupiers and former lessees;
- ✓ There are overlapping land rights;
- ✓ Overgrazing that has resulted in dongas that are very dangerous to livestock and to people;
- ✓ Some of the occupiers are keeping livestock of their relatives that are not residing on these farms.
- ✓ Informal sub-divisions in other farms that were done during the Transkei government in order for the properties to be used by different people for different purposes e.g. commercial farming mainly former leases), rural settlement and subsistence farming mainly farm occupiers. To name few farms affected: farm no. 273 measuring 1883.6215ha, farm no. 275 measuring 1688.867, portion 2 of farm 250 measuring 706.756 and farm 274 measuring 1526.8425ha
- ✓ Dilapidated infrastructure e.g. boundary and internal fences, diptanks for both large and small stock, main farm house and outside buildings, boreholes

STAGE 2

Tenure Systems and Implementation Directorate to conduct Land Rights Enquiry in order to determine the tenure status of all occupants on the 77 State Farms

The objectives of this project are to:

- ✓ Identify all land parcels which comprises Gwatyu farms

TM T.L

- ✓ Identify all occupants in the farms and categorize them according to their tenure status
- ✓ Provide a comprehensive list of their assets including their livestock (proof to be provide)
- ✓ Provide a considered legal opinion as to the enforceability of their land rights and make recommendations
- ✓ Identify and describe any disputes between rights holders
- ✓ Make recommendations regarding the resolution of disputes between various occupants
- ✓ Identify and make recommendations regarding any overlapping land rights
- ✓ Determine the roles of COGTA, HUMAN SETTLEMENT, DRDAR and DRDLR regarding the administration and management of the farms

Activities

The service provider will be required to:

- ✓ Conduct a comprehensive Deeds search.
- ✓ Obtain all relevant diagrams.
- ✓ Identify current users of affected farms and their rights.
- ✓ Conduct a search for all leases or agreements concluded in respect of affected farms.
- ✓ Identify all the former leases and provide status of their farms.
- ✓ Identify all former farms occupants and provide the status of those farms.
- ✓ Identify all the invaders and provide their relationships with the former leases or farm occupiers
- ✓ Determine the number of sites that were illegally demarcated and the names of occupants (expatiate on how they were accessed i.e. sales or free), if they were purchased indicate the amount paid per household
- ✓ Investigate the possibility of one - Communal Property Association (CPA) or numerous CPA feasibility and make recommendations in relation to Section 2 (1) paragraph (c) and (d) of Communal Property Association Act, 1996 (Act No. 28 of 1996).
- ✓ Interview rights holders and other knowledgeable persons.
- ✓ Interview parties to any disputes s/he may come across.
- ✓ Check the number of civil servants who are in occupation and use of Gwatyu farms

Timelines

Activity	Milestones/Proposed Date
Draft Terms of Reference and presentation at Chris Hani - DLRC	Done
Signing and approval of Terms of Reference	28/29 April 2016
Advertisement of tender, adjudication and appointment (proposed deviation)	within 14 days – (20 May 2016)
Completion and presentation of a report to the Community	11-16 July 2016

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STAGE 3 – APPLICATION FOR THE DISPOSAL OF STATE LAND PARCELS

Based on the findings of the Land Rights Enquiry report the Community of Gwatyu will apply for the disposal of the State Land and Registration of CPA

Timelines

Activity	Milestones/Proposed Date
Application for the disposal of State Land	18-19 July 2016

STAGE 4 – REGISTRATION OF GWATYU CPA

Timelines

Activity	Proposed Date
Drafting of the Constitution	18-28 July 2016
Adoption of the Constitution	29 July 2016
Registration of the Association	01 – 19 August 2016

TM T.L



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

Office of the Deputy Director General: Land Tenure and Administration
Private Bag X833, 184 Jeff Masemola Street, PRETORIA, 0001; Tel: (012) 312 8237
Vela.Mngwenqwe@drdlr.gov.za

MEETING BETWEEN THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM AND REPRESENTATIVES OF THE GWATYU COMMITTEE IN CAPE TOWN ON THE 26 APRIL 2016.

RESOLUTION

- 16 July 2016 will be a report back meeting in a community meeting.
- Meeting between DRDLR and CPA Committee at Gwatyu on the 28 April 2016 at 10h00 to deal with a plan and time-lines (process).
- DRDLR to present the process during the meeting of the 28 April 2016. The process will be shared from now up to 16 July 2016.
- The Committee to provide names of committee members that will participate in the joint management of this matter with the DRDLR.
- CPA registration process should be fast tracked, subject to the CPA Act requirements.
- The MTT on 1HH/1HA to make a presentation to the Gwatyu Committee on the 28 April 2016 on the programme.

" NOTHING FOR
US, ABOUT US,
WITHOUT US"
"AKUKHONTO
ENGENZIWA,
ISENZELWA
THINA,
NGAPHANDLE
KWETHU"

On 21 Jun 2016, at 9:31 PM,
Nomfundo Mbewana
<Nomfundo.Mbewana@drdlr.gov.z
a> wrote:

Good evening
Sisi,

With all due
respect we fully
understand that
the issues you
raised in your
previous emails
will be attended
to by the
Ministerial Task
Team.

In the
meantime can
we please move
forward with
the activities
that we agreed
on when we
met at Gwatyu
on the 28th
April. The first
activity is the
appointment of
the Service
Provider to
conduct the
Land Rights
issue. This will
assist us with
one of the areas
you raised
concerns
around, the
implementation
of the 1hh 1 ha
concept. The

TM T.L

subdivision for
the 1 ha cannot
be
implemented
until the
exercise of the
land rights is
completed.

The Service
Provider has
been
appointed.

Would you then
allow us to
introduce the
Service Provider
to the Gwatyu
CPA on a date
that you are
comfortable
with.

I am sure the
activities that
will lead to the
registration of
the CPA can run
parallel with the
other activities
that we agreed
on so that we
avoid further
delays.

Hope you will
find this in
order.

Thanks

Nomfundo
Mbewana

<image630d1f.JPG
>

TM TIL

I hereby propose the 7th of July 2016 in Gwatyu.

We would also want to collectively prepare for the possible visit of Deputy Minister Skwatsha

Regards
Dumisani Lupungela

Sent from my iPad

<image6bd970.JPG>

On 22 Jun 2016, at 01:38, Thembakazi Matsheke <matsheke2000@yahoo.co.uk> wrote:

Dear Mr Lumphungela

1. I addressed an email to you on May 4th 2016 (see copy below)
2. Contrary to the agreement between the MTT led by yourself and the Gwatyu CPA committee, I have been inundated with calls from various officials of your department in the province
3. I attach a copy of an email in which you were excluding Mr Mabena from our agreement, once again a violation of our agreement (See copy below)
4. Your people in the province have been trying to organize meetings with the community of Gwatyu behind our backs without success
5. Having failed to organize meetings behind our backs, they started communicating with me about meetings that are supposed to take place.
Needless to state that this constituted another flagrant disregard for your statement that "the Gwatyu is no longer in the hands of the province but in the Minister's office".
6. I addressed an email, requesting your recusal from the MTT, to the Minister more than a week ago and I have not yet received an acknowledgment let alone a response to such an email.
7. This morning at 12:21, I received an email from yourself requesting a date "for the follow up meeting with CPA of Gwatyu in order to that we implement the action we had agreed upon in line with agreement we signed in Cape Town."
"With regards to your request to the Minister, that will be dealt with by the Minister....."

With all due respect Mr Lumphungela, I find your latest communication disingenuous, to say the least, in that you are very economic with your response to my communication with yourself with regard to the email I addressed to yourself upon our return from Kenton on Sea which prompted the below communication I addressed to yourself which to date you have not responded to. I would therefore appeal to you to go through that email and respond accordingly to get the process we started back on track.

Hoping this time around you shall obliged.

NB: I would request any further communication between us be done in writing and directly and not via proxies.

Regards
Thembakazi Matsheke

T.M. T.L

Chairperson
Gwatyu Communal Property Association
Cell: 0815579516

*" NOTHING FOR
US, ABOUT US,
WITHOUT US"
"AKUKHONTO
ENGENZIWA,
ISENZELWA
THINA,
NGAPHANDLE
KWETHU"*

COPIES OF EMAIL REFERENCED

Dear Mr Lupungela

Just a summary of the key points of our last meeting held on April 28th. We agreed on the following:

- Gwatyu CPA matter is being handled by the office of the Minister and the CPA committee shall work with this office.
- Land rights enquiry to be conducted by Rural Development department
- Weekly progress reports to be submitted to the Minister's office every Monday
- A revised work plan to be circulated
- Gwatyu CPA to visit a farm in Kenton on Sea where One Household one hectare model is being piloted and where we were to meet with you and your team.

We did visit the farm although you were not there but there was one official from the local office responsible for the project. We liked what we saw and that was communicated to the members of the CPA which gave us authority to communicate their acceptance of it. As per our discussion, we were to report back to you as soon as we get community approval so as not to lose the the momentum on the Gwatyu project.

Your soonest response will be appreciated.

Regards
Thembakazi Matsheke
Chairperson
Gwatyu CPA
Cell: 0815579516

"Morning Obbey

I think we need to agree that we will only be dealing with one person from Gwatyu CPA

Secondly, I have been seeing so many emails being exchanged and I become more careful wrt multi communication and I immediately distance myself or take a back seat

I am answering only those emails addressed to me as a person not because I am CC'D

Regards"

TM T.L

On 22 Jun 2016, at 12:21 AM, Dumisani Lupungela
<Dumisani.Lupungela@drdlr.gov.za> wrote:

Dear Ms Matsheke

Kindly provide with a date for the follow up meeting with the CPA of Gwatyu in order to that we implement the action plan we had agreed upon inline with the agreement we signed in Cape Town

With regards to your request to the Minister, that will be dealt with by the Minister. At the moment I am expected to pursue the Ministerial mandate as directed by the Minister till further notice

I called you at about 6:57pm yesterday (21/06) unfortunate you didn't answer my call. I also called Mr Mabena twice yesterday and he had promised to come back to me

I hope to hear from you soon so that we may move Gwatyu development forward

Regards
Dumisani Lupungela
Minister's advisor

Sent from my iPad

<image4f1530.JPG>

On 21 Jun 2016, at 21:55, Thembakazi Matsheke
<matsheke2000@yahoo.co.uk> wrote:

I still don't know what you are trying to achieve. This communication seems to be in total disregard of our previous correspondences. Why are you trying so hard to go against the letter and spirit of the agreement entered into between Gwatyu CPA and the office of the Minister? If you are really committed to a way forward over the issue of the resolution of the Gwatyu problem, you shall do whatever it is that you may wish to do through the agency of the Ministerial Task Team as per the relevant agreement between the office of the Minister and the Gwatyu CPA.

We would really appreciate it if whatever you would like to communicate with us, you do so through the the MTT so as to be consistent with the said agreement.

T.M. T.L.

Fwd: GWATYU CPA

Thembakazi Matsheke <matsheke2000@yahoo.co.uk>

Fri 12/4/2020 10:28 AM

To: Wilmien Wicomb <wilmien@lrc.org.za>

Begin forwarded message:

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
 Date: 10 July 2016 at 20:11:08 SAST
 To: Hazel Friedman <hazelf@mweb.co.za>
 Subject: Fwd: GWATYU CPA

FYI - He never responded

Sent from my iPad

Begin forwarded message:

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
 Date: June 29, 2016 at 07:03:13 GMT+2
 To: Dumisani Lupungela <Dumisani.Lupungela@drdlr.gov.za>
 Cc: Nomfundo Mbewana <Nomfundo.Mbewana@drdlr.gov.za>, Sebitso Thoka <sebitso.thoka@drdlr.gov.za>, Sazimzi Nibe <Sazimzi.Nibe@drdlr.gov.za>, Peliwe Njemla <peluwe.njemla@drdlr.gov.za>, Obbey Mabena <obbey1@icloud.com>, Rendani Sadiki <Rendani.Sadiki@drdlr.gov.za>, "chris.gavor@gmail.com" <chris.gavor@gmail.com>, Thomas Ayres <Thomas.Ayres@drdlr.gov.za>, Rajendh Salig <rajendh.salig@drdlr.gov.za>, Gugile Nkwinti <Gugile.Nkwinti@drdlr.gov.za>, Max Ozinsky <Max.Ozinsky@drdlr.gov.za>, Vela Mngwengwe <vela.mngwengwe@drdlr.gov.za>, Victor Cebo Hermanus <Cebo.Hermanus@drdlr.gov.za>
 Subject: Re: GWATYU CPA

Dear Mr Lupungela

Your request for a meeting is noted with appreciation, unfortunately the 7 July, instant, is not suitable for us due to prior commitments.

I would, however, propose the 9th if that would be suitable for you and your team.

I await your response.

Regards

Thembakazi Matsheke
 Chairperson
 Gwatyu Communal Property Association
 Cell: 081 557 9516

**" NOTHING FOR US, ABOUT US, WITHOUT US"
 "AKUKHONTO ENGENZIWA, ISENZELWA THINA, NGAPHANDLE KWETHU"**

On 29 Jun 2016, at 4:59 AM, Dumisani Lupungela <Dumisani.Lupungela@drdlr.gov.za> wrote:

Dear Ms Matsheke

The MTT and the province would want to meet with the CPA of Gwatyu to discuss amongst the departmental program 1H/H - 1Ha including providing progress report wrt the agreed plan of action amongst the stakeholders

TM T.L

I hereby propose the 7th of July 2016 in Gwatyu.

We would also want to collectively prepare for the possible visit of Deputy Minister Skwatsha

Regards
Dumisani Lupungela

Sent from my iPad

<image6bd970.JPG>

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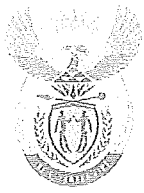
Hoping this time around you shall obliged.

NB: I would request any further communication between us be done in writing and directly and not via proxies.

Regards
Thembakazi Matsheke

TM TIL

TM14



rural development
& land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

CHIEF DIRECTORATE: LEGAL AND LEGISLATION DEVELOPMENT SERVICES
Private Bag X833, Pretoria, 0001; Tel: 012 312 9140; Fax: 012 324 2118

Reference: 9/1/291

Mr Lucky Mabasa
Legal Resources Centre
Via e-mail: luckym@lrc.org.za

Dear Mr Mabasa

**INTERNAL APPEAL IN TERMS OF THE PROMOTION OF ACCESS TO
INFORMATION ACT, 2 OF 2000: GWATYU FARMS**

The Minister of Rural Development and Land Reform considered and upheld your internal appeal in the above matter, subject to the removal of some personal information of the third parties mentioned in the record.

Therefore, please find attached the record that you requested.

Kind regards


G. J. VAN RENSBURG
ACTING DIRECTOR: CORPORATE LEGAL SUPPORT
DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
DATE: 2018-08-17



TM T.L

FOREST RANGE FARM NO 254/ RE	REGISTERED OCCUPANT	LESSEE/FARM DWELLER/PERIOD RES	CURRENT/LEASE	LAND	CURRENT	FEATURES	VELO	COM	NO. OF LIVEST	INFRASTRUCTURE	COMMENTS
	PENIPENI NOVASE	26 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		10 CATTLE 20 GOATS 7 SHEEP	6 WINDMILL-BAD TOILET-GOOD TANK-GOOD DIP-GOOD	VICTOR & NDODA KHOBOKA RESIDE IN COPINWABA, HAS LIVESTOCK ON THIS FARM THERE WAS A SHED BUT WAS VANDALISED THERE IS A SCHOOL BUT IT IS NOT IN A GOOD CONDITION EACH FAMILY ON THE FARM HAS TOILET SOME OF THE FAMILIES HAS 10/20 TANKS 5000LT FROM THE GOVERNMENT
	THEMIBEKA KHOBOKA										
	GOODIMAN KHOBOKA										
	MISO KHOBOKA										
	BONGINKOSI KHOBOKA										
	KHOBOKA NOPUKAYI	26 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		7 CATTLE 5 GOATS 1 SHEEP		
	NOXCLO KHOBOKA										
	SHABONGA KHOBOKA										
	BULELWA KHOBOKA										
	THUMELA KHOBOKA										
	MANGOLOTTI LINDIWE	14 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		10 GOATS 3 CATTLE		
	MANGOLOTTI LULEKA										
	MANGOLOTTI HUIZILE										
	MANGOLOTTI THUMEKA										
	JUM BULELANI	14 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		5 CATTLE		
	JUM HINDILE										
	JUM BULELWA										
	JUM VUVISEKA										
	KHOBOKA MUNGUTYANA	19 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		20 CATTLE 70 GOAT		
	KHOBOKA NOLINSETI										
	MATATA MANELISI										
	MONWABISI KHOBOKA										
	SIBUNZI ZANDISILE	25 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		20 GOAT		
	THENIJIMEDYONASE										
	SIPHENATHI DYONASE										
	SIHOSETHU DYONASE										
	NDODINI JAN SIMENTSHU	35 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		8 CATTLE 20 GOAT		
	ANELE N DODINI										
	ZAMIKHAYA NDODINI										
	DYONASE ALFRED	52 years	NON	NON	NON	DONGA-MODERATE	GOOD				
	DYONASE ESTHER										
	ZAMA NONDUMISO										
	BESI VELA	19 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		4 CATTLE 12 GOAT		
	ANATHI MDIZA										
	NTOMBERHAYA BESI										
	BESI JOHN MADODANA	19 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		25 CATTLE 90 GOAT		
	MANSANA BESI										
	GCINA BESI										
	FUNDISILE BESI										
	DYEKE NONALAKAZI	76 YEARS	LIVESTOCK	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD		4 CATTLE		
	FUNANI IMTHEHELELI										
	IMINAWWE DYEKE										
	NOMSA DYEKE										
	MONICA DYEKE										
	MANTOMBI DYEKE										

TM TL

REGISTERED OCCUPANT	LESSEE/FARM DWEL PERIOD	RES	CURRENT LAND	CURRENT EROSION FEATURES	VELD CON	NO. OF LIVESTOCK	COMMENTS
MBOTLOSHI VOLOFO	8 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	11 CATTLE 20 SHEEP 39 GOAT	
NORVATE MBOTLOSHI							
LIZIWE MBOTLOSHI							
UZIEKA MBOTLOSHI							
SIBONGILE MBOTLOSHI							
MASIBULELE MBOTLOSHI							
BULELANI MBOTLOSHI							
DYONASE ZAMILE	55 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	7 CATTLE	
NELISWA DYONASE							
NOBONILE DYONASE							
MORRIS DYONASE							
GUGULETHU DYONASE							
ZWELETHU DYONASE							
THEWBELA DYONASE							
NOSISI DYONASE							
DYKE KHOLEKA	54 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	5 CATTLE 8 GOAT	
SIDAPE MXINIZELELI							
BULELANI MXINIZELELI							
PHUMLANI MXINIZELELI							
ANELE MXINIZELELI							
DYONASE THOBKA	71 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	3 CATTLE 8 GOAT	
DYONASE KHAYALETHU							
DYONASE MICHAEL							
MXINIZELELI NOLUSINDISO							
DYONASE ALBERT	57 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	3 GOAT	
DYONASE ZUSAKHE							
DYONASE LOYISO							
MPOTA ALBERT	23 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	18 CATTLE 15 GOAT 20 SHEEP	
ZUKO MATSHOBA							
DYONASE NODAMUTE	69 YEARS	NON	NON	DONGA-MODERATE	GOOD		
DYONASE SIZWE							
DYONASE LULAWA							
DYONASE MAPHELO							
DYONASE THEM'BINKOSI							
SABT							
FOREST RANGE FARM NO 254 PTN 1							
REGISTERED OCCUPANT	LESSEE/FARM DWEL PERIOD	RES	CURRENT LAND	CURRENT EROSION FEATURES	VELD CON	NO. OF LIVESTOCK	COMMENTS
BILI KOLISILE	10 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	15 CATTLE 3 GOAT	EACH FAMILY ON THE FARM HAS TOILET
SIKADE LUMKA							
BILI NGENISILE							
KETSE NONDUTYU	41 YEARS	LIVESTOCK	LIVESTOCK	DONGA-MODERATE	GOOD	48 CATTLE 88 SHEEP 22 GOAT	CATTLE DIP-LICKING TOILETS-GOOD WINDMILL-GOOD
KETSE NONKASE							
KETSE BABINI							
SAVALI MKETISO							
THANDIWE KETSE							
THEMBINKOSI KETSE							
MKETSO LUNGELU							
KETSE SANSON							
SABT							
FOREST RANGE FARM NO 254 PTN 2							
REGISTERED OCCUPANT	LESSEE/FARM DWEL PERIOD	RES	CURRENT LAND	CURRENT EROSION FEATURES	VELD CON	NO. OF LIVESTOCK	COMMENTS
THEMBISILE NODDINI	28 YEARS	FARM DWEL	LIVESTOCK	DONGA-LOW	GOOD	14 CATTLE 100 SHEEP	
THANDISIZWE NODDINI							

TM P.L

SIYABULELA NDOODINI
 ANDILE NDOODINI
 LUYANDA NDOODINI

25 YEARS FARM DWEL NON NON DONGA-LOW GOOD

KOTI PHIKISILE
 NGEDO KOTI
 SITHEMBELE KOTI

LWAZI NDARALA
 NDARALA TANDISWA
 NDARALA MININAWA
 NDARALA PHELISA
 NDARALA ZODWA
 NOMATHEMBA NDARALA

34 YEARS FARM DWEL LIVESTOCK LIVESTOCK DONGA-LOW GOOD
 96 GOAT
 105 SHEEP
 79 CATTLE

SABT

FARM NO 265 PTM 1

REGISTERED OWNER

CHOTSHANA NOTOBILE
 MZIMASI MATLALENGWE
 BONILE BAKA
 KANISILE BAKA
 ALULUTHO BAKA
 PATRICIA BEKEPU
 MAVIS BEKEPU

LESSER/FARM DWEL PERIOD RSI CURRENT FARM CURRENT FARM EROSION FEATURES VEGETATION CONDITION OF LIVESTOCK INFRASTRUCTURE COMMENTS

22 YEARS LIVESTOCK LIVESTOCK DONGA-SEVERE GOOD
 19 CATTLE
 41 SHEEP
 18 GOAT

MATSHIKE SIDDO
 ANGELINA MATSHIKE
 SIPHOKAZI MATSHIKE
 ASANDA MATSHIKE
 VUYANI MATSHIKE
 BANTWINI MATSHIKE
 LIZEKA MATSHIKE
 THANDEKA MATSHIKE
 THEMBAKAZI MATSHIKE
 MANDLENKOSI MATSHIKE
 NOMSA MATSHIKE
 FEZEKA MATSHIKE
 NOMBULELO MATSHIKE

85 YEARS LIVESTOCK LIVESTOCK DONGA-SEVERE GOOD
 42 CATTLE
 35 GOAT
 28 SHEEP
 2 PIG

ZOLILE MFUNDISI
 MONICA BHASKITI
 ONKE MFUNDISI
 ZIKHONA MFUNDISI
 NONCEBA MFUNDISI
 SONWABO MFUNDISI

33 YEARS LIVESTOCK LIVESTOCK DONGA-SEVERE GOOD
 9 GOAT
 1 PIG

NDIWEZILE SIBUNZI
 BOYBOY SIBUNZI
 NOMAWETHU SIBUNZI
 THANDI SIBUNZI
 SIMVILE SIBUNZI
 NTOMBI SIBUNZI
 SANI SIBUNZI

28 YEARS LIVESTOCK LIVESTOCK DONGA-SEVERE GOOD
 3 CATTLE
 7 GOAT
 2 PIG

SABT

TM T.L

Question NW4005 to the Minister of Rural Development and Land Reform

Share this page:

14 December 2017 - [NW4005](#)



Mbabama, Ms TM to ask the Minister of Rural Development and Land Reform

Whether the Gwatyu Communal Property Association (CPA) has been established since his undertaking to set up a ministerial task team to look into the establishment of the CPA in 2016; if not, (a) why not, (b) by what date will the CPA be established and (c) what action will he take against the task team for failure to fulfil its mandate; if so, what are the relevant details?

◦ [Source](#)

◦ [Link](#)

Reply:

No. The CPA has not been registered yet.

TM T.L

a) There are overlapping land rights between former lessees, occupiers and invaders; hence it has not yet been agreed as to who will be allocated the land in Gwatyu.

b) The date will be communicated once the land rights enquiry is concluded and it is finalised as to who will be allocated the land in Gwatyu.

c) Minister will consider the final report given the challenges faced in terms of the land rights issues and follow the necessary processes.

T.M. T.L.

The process of soliciting public comments has been concluded and the department is currently considering all comments put forward as we are working towards the finalisation of the Bill. Thus, it will be premature to speculate more or less the outcome of this process and the public comments. You will realise that this matter is close to the hearts of South Africans. Thank you.

Ms C LABUSCHAGNE: Chairperson, in light of the fact that Communal Land Tenure Bill that you referred to is in progress, we are all aware that there are still problems with the Communal Property Associations, CPAs, and I would like to draw your view to the fact that there are a few distorting facts – one of is that – the government spends more money on VIP protection for politicians than land reform. There are tens of thousands of South Africans living in abject poverty in South Africa with no security of tenure.

The DA visited more than 1 500 of these South Africans in the Gwatyu community and discovered first hand the lack of government action. An elderly man in that community was forced off his land on the very same day you were answering oral questions in the National Assembly

on communal land tenure, Deputy President. Yet, the Gwatyu Communal Property Association remain unregistered, and without the ownership of the land that they have lived on for generations.

While we welcome the Minister of Rural Development and Rural Reform's commitment yesterday for the land rights enquiry to be presented to the department, this promise speaks only to the delivery of a land audit and is dead silent on the registration of CPAs that is two years overdue. What plan of action does your government have to ensure that the Gwatyu CPA is registered? And if any, what is the deadline for this registration? Thank you.

The DEPUTY PRESIDENT: House Chair, the hon member talks about a specific Communal Property Association, CPA. I might not be quite aware of the details why the CPA is not registered. I will be glad to make a follow-up on that matter to understand why. When a CPA is elected the Department of Rural Development and Land Affairs becomes part of that meeting, to monitor the elections of the CPA and the term of office is determined. The CPA right from that meeting becomes a recognised entity. Why is this not recognised? I will have to find out.

The process of soliciting public comments has been concluded and the department is currently considering all comments put forward as we are working towards the finalisation of the Bill. Thus, it will be premature to speculate more or less the outcome of this process and the public comments. You will realise that this matter is close to the hearts of South Africans. Thank you.

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While we welcome the Minister of Rural Development and Rural Reform's commitment yesterday for the land rights enquiry to be presented to the department, this promise speaks only to the delivery of a land audit and is dead silent on the registration of CPAs that is two years overdue. What plan of action does your government have to ensure that the Gwatyu CPA is registered? And if any, what is the deadline for this registration? Thank you.

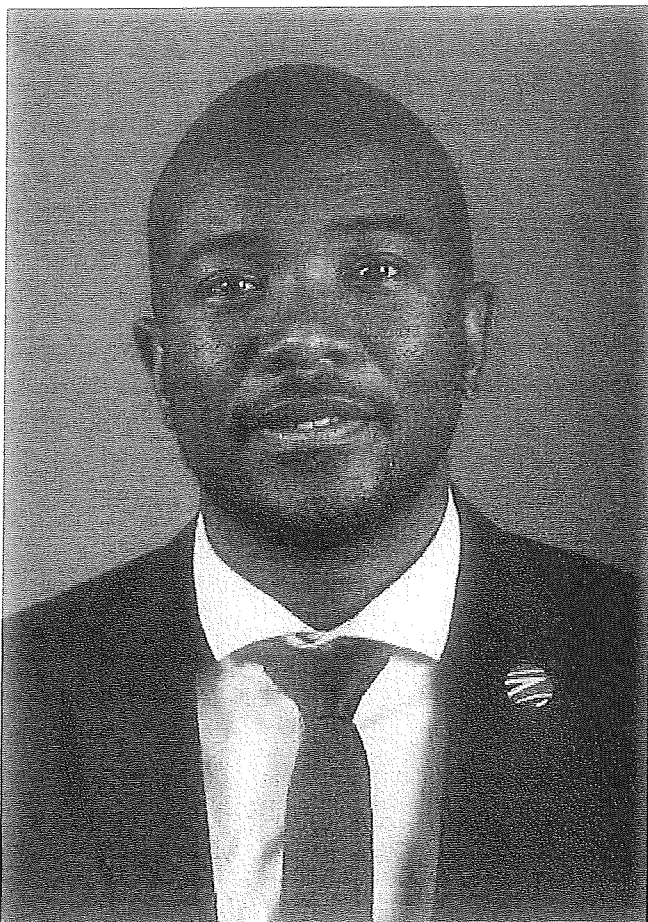
The DEPUTY PRESIDENT: House Chair, the hon member talks about a specific Communal Property Association, CPA. I might not be quite aware of the details why the CPA is not registered. I will be glad to make a follow-up on that matter to understand why. When a CPA is elected the Department of Rural Development and Land Affairs becomes part of that meeting, to monitor the elections of the CPA and the term of office is determined. The CPA right from that meeting becomes a recognised entity. Why is this not recognised? I will have to find out.

TM TIL

Question NW2852 to the MINISTER OF RURAL DEVELOPMENT AND LAND REFORM

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08 November 2018 - [NW2852](#)



[Maimane, Mr MA](#) to ask the MINISTER OF RURAL DEVELOPMENT AND LAND REFORM

Whether her department has received the report of the inquiry into land rights at Gwatyu in the Eastern Cape from the service provider yet; if not, by what date is the report expected; if so, (a) who is the service provider, (b) why was the specified service provider selected, (c) what are the terms of reference for the service provider's mandate relating to the report and (d) what costs were incurred in employing the specified service provider?

◦ [Source](#)

◦ [Link](#)

Reply:

TM T.L

No, the report is expected by 30 November 2018.

(a) Sonamzi Mkata Attorneys.

(b) It was their turn in the rotational system that is used by the Land Rights Management Facility in sourcing service providers that are already on their panel.

(c) The terms of reference are as follows:

- Provide a legal opinion on the tension between the Tshatshu Traditional Council, Gwatyu Emerging Farmers Union and the Gwatyu CPA;
- Make recommendations on whether one communal property association or multiple communal property associations should be established for Gwatyu Farms;
- Identify all occupiers and categorize them according to their tenure status e.g. former leases, former farm dwellers, invaders etc.;
- Identify and describe disputes between land rights holders;
- Provide recommendations regarding the resolution of disputes;
- Search for all leases and identify invaders and verify their relationships with former lessees or farm occupiers;
- Provide a comprehensive list of their assets including their livestock (proof to be provided e.g. branding certificate etc.);
- Establish the number of occupiers that are keeping livestock of their relatives who are not staying on the farms;
- Determine the number of sites illegally demarcated / subdivisions and, if purchased, indicate the amount paid; and
- Check the number of civil servants who are in occupation of Gwatyu Farms and make recommendations in line with the State Land Lease and Disposal Policy Framework.

(d) About R402 121.00.

TM
T.L



AGRICULTURE, LAND REFORM AND RURAL
DEVELOPMENT REPUBLIC OF SOUTH AFRICA

Eastern Cape Shared Service Centre
P.O Box 1958, East London, 5200 • Tel.: +27 43 700 7000
15 Couitts Street, Block F Ocean Terrace View, QUIGNEY, 5200
Email: Babhekile.Keikelame@drdlr.gov.za

GWATYU LAND AUDIT REPORT

1. BACKGROUND

- 1.1 Gwatyu farm area has approximately 77 state farms occupied by people with different land rights including the former farm workers who were left on those farms by the whites who owned those farms before they were taken over for consolidation into the former government of Transkei, farm occupiers, former lessees who were leasing the farms from Government of Transkei. All the lease contracts for those farms have expired and the current occupiers do not have a document formalizing their occupation on those farms since the expiry of those contracts but occupiers' rights.
- 1.2 Due to a number of disputes reported to the Department of Rural Development and Land Reform in connection with occupational rights it was then decided that there is a need for stakeholder engagement between our offices, Dept of Rural Development and Agrarian Reform and Department of Local Government and Traditional Affairs as a result in May 2015 the already mentioned Departments and Gwatyu Community members resolved that a land and rights audit will have to be conducted and that will assist us in finding solution or wayforward on the Gwatyu dispute.
- 1.3 The purpose of the audit was to check what is happening on each and every land parcel, who is in occupation, doing what, number of livestock each family has and the number of years each family has been residing on the farm and check the non-agricultural activities that are happening on those farms. During this exercise the following was discovered:

2. FINDINGS

1. There are illegal demarcations of sites which becomes the source of disputes amongst farm occupiers and former lessees.

TM T.L

2. There are overlapping land rights that suggest that Land Rights enquiry need to be done
3. Overgrazing that has resulted in dongas that are very dangerous to livestock and to people
4. Some of the occupiers are keeping livestock of their relatives that are not residing on these farms

3. CHALLENGES

1. Lack of water for human consumption
 2. Lack of Sanitation
 3. Lack of Fencing
 4. Dipping tanks and handling facilities
 5. Most importantly overlapping land rights
- 3.1 For the Department to intervene and resolve on the challenges in the area of Gwatyu, land audit was identified as the next milestone towards resolving the challenges in the area and such audit was done in the form of a questionnaire to establish the status of each farm focusing on the following:
- who is in occupation of each state farm?
 - the number of livestock?
 - number of years in occupation?
 - what led to the occupation?

Such process has since been finalised and there is a final Gwatyu Land Audit Report in place. (Annexure A) land audit report

- 3.2 The former Minister of Rural Development and Land Reform: Minister Gugile Nkwinti became involved with the Gwatyu matter after a concerned group

TM T.L

marched to Parliament on the 25 April 2016 to demand for the registration of Gwatyu CPA and the agreement that was reached with the community was that a Ministerial Task Team will be established to resolve all the issues affecting Gwatyu farms. The first meeting of the MTT was held on the 28 April 2016 at Gwatyu and the following agreements were reached with the community:

- Introduce the Gwatyu Community to one Household/one hectare Programme;
- Delegation from Gwatyu to visit 1h/1hh pilot project at Kenton on sea
- Facilitate a land rights enquiry;
- Determine whether one or two CPA's should be established

3.2.1 The members of the MTT are: Chief Financial Officer (CFO), Valuer General (VG), Chief Surveyor General (CSG), Chief Director: Security Services, Eastern Cape PSSC: Chief Director and their mandate was to coordinate all the activities towards resolving all Gwatyu issues and ultimately have long term lease agreements on those farms and get them to be productive again.

3.3 The next milestone to achieve in trying to resolve the challenges was to conduct land rights enquiry to confirm various land rights layers that exist as a result of the various occupational arrangement that were in pace and have led to people acquiring and accumulating tenure rights in the area.

4. Conclusion

Department of Rural Development and Land Reform should finalise the land rights enquiry as a matter of urgency and confirm tenure right for the people of Gwatyu so that development initiatives can be pursued with the correct and legitimate people in the area.

Signed by: B Keikelame

Date:28/08/2019

TM TIL

Dear Ms Matsheke

Your e-mail below has been received and noted. The office will investigate the matter and in the process you will also be contacted.

#StaySafe

Peliwe Z. Mntukatandwa

Director – Tenure Reform Implementation ECPSSC

Tel: 043 700 7022

Fax: 043 722 5960 / 086 593 5630

Cell: 082 577 5541

E-mail: peliwe.mntukatandwa@drdlr.gov.za

-----Original Message-----

From: Thembakazi Matsheke [mailto:matsheke2000@yahoo.co.uk]

Sent: Monday, 08 June 2020 20:44

To: Bahlekile Keikelame; Sazimzi Nibe

Cc: Sakhumzi Mkhunqe; Nqaba Bhanga; Retief Odendaal; Sazimzi Nibe; Peliwe Mntukatandwa; Sazimzi Nibe; PA.Minister@daff.gov.za; Annette Steyn;

thandekam@da.org.za; cosmin@daff.gov.za; Bahlekile Keikelame

Subject: Land invasions and possible violence in Gwatyu farms

Good day

The foregoing subject matter refers.

This is serves to inform you of a dangerous situation that is developing around Gwatyu farms. There has been a number of cases of people coming from places like Ngcobo, Tsono and other places who arrive on farms out of the blue, bringing livestock and building materials and the people of Gwatyu are resisting. The latest two incidents were in Maties farm where after a confrontation between farm occupants and the invaders, the invaders left only to come back the next day in bigger numbers. At Sophie farm, a similar incident which came very close to a serious physical fight between the farm occupants and the invaders., amongst whom was a parolee of a murder case.

As the community of Gwatyu, we are therefore concerned that unless a serious intervention by the department of Agriculture, Rural Development and Land Reform is brought to bear on this situation, people may lose their lives. We have tried to get the intervention of the police but they refused to intervene.

Your soonest response shall be greatly appreciated.

Regards

Thembakazi Matsheke - Gwatyu CPA

Cell: 0815579516

TM T.L

Cc: Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za>, Sazimzi Nibe <Sazimzi.Nibe@drdlr.gov.za>, Dudu Nghona <Dudu.Nghona@drdlr.gov.za>, Bonginkosi Zulu <bonginkosi.zulu@drdlr.gov.za>, Khaya Majavu <Khaya.Majavu@drdlr.gov.za>, Obbey Mabena <obbey1@icloud.com>, Thandeka Mbabama <mbabamatm@gmail.com>, Annette Steyn <anett@xsinet.co.za>, Nqaba Bhanga <nbhanga@mandelametro.gov.za>, Sakhumzi Mkhunqe <mkhunqessm@gmail.com>, Retief Odendaal <retiefodendaal1@gmail.com>, "MokutuleK@dalrrd.gov.za" <MokutuleK@Dalrrd.gov.za>
Subject: Re: Land invasions and possible violence in Gwatyu farms

Dear Ms Mntukatandwa

Thanks for the heads up.

I received Mr Majavu's call this afternoon but unfortunately we could not talk because I was in a meeting. We, however, agreed to link up tomorrow at 13:00.

Regards
Thembakazi

On 11 Jun 2020, at 15:38, Peliwe Mntukatandwa <peliwe.mntukatandwa@drdlr.gov.za> wrote:

Dear Ms Matsheke

Kindly be advised that the land invasion case that you have reported will be handled by Mr Khaya Majavu who is the District Director for the Department's office responsible for the Chris Hani area. Mr Majavu will contact you should he need further information. I have also copied him on this e-mail.

#Stay safe
Peliwe Z. Mntukatandwa
Director – Tenure Reform Implementation ECPSSC
Tel: 043 700 7022
Fax: 043 722 5960 / 086 593 5630
Cell: 082 577 5541
E-mail: peliwe.mntukatandwa@drdlr.gov.za

<image317e1b.JPG>

-----Original Message-----

From: Peliwe Mntukatandwa
Sent: Monday, 08 June 2020 21:05
To: 'Thembakazi Matsheke'; Bahlekile Keikelame; Sazimzi Nibe
Cc: Sakhumzi Mkhunqe; Nqaba Bhanga; Retief Odendaal; Sazimzi Nibe; Sazimzi Nibe; PA.Minister@daff.gov.za; Annette Steyn; thandekam@da.org.za; cosmin@daff.gov.za; Bahlekile Keikelame; Dudu Nghona; Bonginkosi Zulu
Subject: RE: Land invasions and possible violence in Gwatyu farms

Dear Ms Matsheke

TM T.L

TM 24

Fw: Land invasions and possible violence in Gwatyu farms - TM24

Sipesihle Mguga <sipesihle@lrc.org.za>

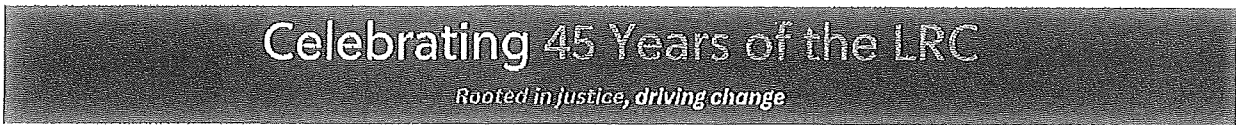
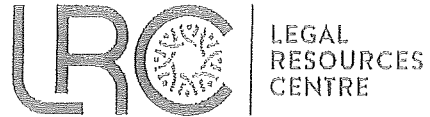
Wed 9/18/2024 12:30 PM

To: Yanela Frans <yanela@lrc.org.za>

Kind Regards,

Sipesihle Mguga
Attorney and Legacy Programme Lead

☎ +27 73 336 6199
☎ +27 46 622 9230
✉ sipesihle@lrc.org.za
🌐 www.lrc.org.za
📍 116 High Street, Makhanda 6139



From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
Sent: Friday, September 15, 2023 09:13
To: Sipesihle Mguga <sipesihle@lrc.org.za>
Subject: Fwd: Land invasions and possible violence in Gwatyu farms

Begin forwarded message:

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
Date: 12 June 2020 at 13:39:29 SAST
To: Khaya Majavu <Khaya.Majavu@drdlr.gov.za>
Cc: Obbey Mabena <obbey1@icloud.com>, Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za>, Peliwe Mntukatandwa <peluwe.mntukatandwa@drdlr.gov.za>
Subject: Fwd: Land invasions and possible violence in Gwatyu farms

Dear Majavu

As requested, please see the email below I sent to Ms Mntukatandwa and Keikelame.

Besides Maties and Sophie farms, other farms that affected by the invasions include Hundelle, Willowbrook and Sinside farms. You will learn more about the others when you meet the occupants of the mentioned farms.

Once again, can I just emphasize the urgency of this matter.

Regards
Thembakazi

Begin forwarded message:

TM T.L

I have been trying to get hold of you on 0815579516 and cannot get through, regarding the land invasion you reported. Kindly give me an alternative number to contact you on, I would like your assistance with the property description of the invaded land so that a case can be opened.

Regards

<image829786.GIF>

-----Original Message-----

From: Thembakazi Matsheke

<matsheke2000@yahoo.co.uk>

Sent: Sunday, 16 August 2020 20:20

To: COS Ministry (Thandi Moyo) <COS@dalrrd.gov.za>

Cc: MDU SHABANE <mdu.shabane@drdlr.gov.za>;

mdu.shabane@dalrrd.gov.za; Mokutule Kgobokoe

<MokutuleK@dalrrd.gov.za>; Peliwe Mntukatandwa

<peluwe.mntukatandwa@drdlr.gov.za>; Bahlekile

Keikelame <bahlekile.keikelame@drdlr.gov.za>; Sazimzi

Nibe <Sazimzi.Nibe@drdlr.gov.za>; Sithembele Vuyo

Bavuma <Vuyo.Bavuma@drdlr.gov.za>; Annette Steyn

<anett@xsinet.co.za>; Thandeka Mbabama

<mbabamatm@gmail.com>; Nqaba Bhanga

<nbhanga@gmail.com>; Khaya Majavu

<Khaya.Majavu@drdlr.gov.za>; Obbey Mabena

<obbey1@icloud.com>; Alicia Stevens

<AliciaS@dalrrd.gov.za>; mdu.shabane@dldlr.gov.za

Subject: Re: Follow up on the communications over Gwatyu CPA registration

EXTERNAL EMAIL: This email originated outside of "DRDLR Environment".

CAUTION: Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good evening

Once again, I have to draw to your attention the deteriorating situation of Gwatyu farms from the growing incidents of invasions. What baffles us is your indifference to our pleas for your intervention in this potentially life threatening situation if it is not addressed as a matter of extreme urgency. Your initial response suggested that certain individuals in your department are assigned the task of attending to the situation. When it transpired to us that there was no movement in that direction, we approached the individual concerned, Mr Majavu. He told us that he had been reassigned a different task, that of distribution of farm vouchers. Meanwhile, incidents of invasions continue to occur and the latest of which occurred today on three farms. It becomes clear that the strategy that is being pursued by the Deputy Minister and his friends, the Gungubeles is enjoying precedence over law and order and the interests of Gwatyu farms. This is so because almost to the man the invaders are of the AmaTshatshu stock, Mondli Gungubele's clan that he is using to underpin his

TM T.L

claims over Gwatyu farms, notwithstanding his previous failed attempts at claiming the farms for AmaTshatshu. In one of today's incidents, the invaders were brought in by one Skhwenkwe, who had been invited to come to stand in as a "chief" when Mondli Gungubele's uncle, Mncedisi Gungubele, who himself is inexplicably treated as a "chief" over Gwatyu farms, was incapacitated.

We would once again like to remind you as a department responsible for Gwatyu farms, you are solely responsible for anything that happens on those farms including crime and should any of these invasions result, as we fear, in any loss of life or injury of whatsoever nature, we shall hold you fully responsible. Because this is happening for no other reason than to serve the collusion between the Deputy Minister and the Gungubele family in their quest to build a claim for AmaTshatshu over Gwatyu.

Regards
Thembakazi

> On 18 Jul 2020, at 12:09, Thembakazi Matsheke
<matsheke2000@yahoo.co.uk> wrote:

>

> Good day

>

> I would hereby like to inform you about the deteriorating situation of Gwatyu with regards to the incidents of land invasions. Two more cases have just been reported to us and the community is dealing with the situation as best as it can.

>

> This comes after we brought this matter to your attention and you had given an impression that as the department you shall take the necessary steps to arrest this development that has a potential to affect innocent lives. I would like to take this opportunity to remind your department that all this is a result of the empty promises of resolving the issue of the registration of Gwatyu CPA that has been happening over the past seven years. We would also like to remind you that any loss of life resulting from these happenings shall be your department's full responsibility.

>

> I would like to remind that this the third minister we are dealing with over this matter without any joy.

>

> Regards

> Chairperson

> Gwatyu CPA

> Cell: 0815579516

>

>

TM T.L

Ms Nosipho Khanzi whom we did not even engage we could not engage with because she was at work. We then went around and could see newly demarcated sites that had no structures on them on this farm. Before we left the area, we went to open a case at Bridge Camp Police station against Mr Bodamo and Ms Khanzi for them to stop further allocations and demarcations as well as for structures not to be built on those vacant demarcated sites. All your contacts i.e Ms Smiles, Ms Nomfundo Siphatho and Mr Solomon Mboxwana advised us that these invasions have been reported to the Traditional Authority and not the Department since 2015 and this then explained why there were already fully developed and permanently occupied houses found on all the farms visited.

Lastly, upon receiving the state land audit report done in 2015 You at some point registered your satisfaction with the way things were done and even recommended that the land rights enquiry process should follow the same manner of consultation it is therefore disturbing to learn that you still have reservations with the manner in which things were done.

Regards

<image86e426.JPG>

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>

Sent: Thursday, 03 September 2020 07:51

To: Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za>

Cc: Sazimzi Nibe <Sazimzi.Nibe@drdlr.gov.za>; Peliwe Mntukatandwa

<peluwe.mntukatandwa@drdlr.gov.za>; COS Ministry <COS@dalrrd.gov.za>;

Sithembele Vuyo Bavuma <Vuyo.Bavuma@drdlr.gov.za>; MDU SHABANE

<mdu.shabane@drdlr.gov.za>; COS Ministry <COS@dalrrd.gov.za>; Khaya Majavu

<Khaya.Majavu@drdlr.gov.za>; Mokutule Kgobokoe <MokutuleK@dalrrd.gov.za>;

Nqaba Bhanga <nbhanga@gmail.com>; Obbey Mabena <obbey1@icloud.com>;

Thandeka Mbabama <mbabamatm@gmail.com>; Alicia Stevens

<AliciaS@dalrrd.gov.za>; Annette Steyn <anett@xsinet.co.za>

Subject: Re: Follow up on the communications over Gwatyu CPA registration

EXTERNAL EMAIL: This email originated outside of "DRDLR Environment".

CAUTION: Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms Keikelame

Once again, we have received disturbing reports about the conduct of your department in the affairs of Gwatyu.

According to the reports, yourself and Mr Sazi Nibe, after having asked me for details of the invaded farms, you proceeded to talk first to the alleged perpetrators before talking to the aggrieved members of the community of Gwatyu. Only went to the members of the community with fait accompli based on whatever it is you discussed with the alleged perpetrators. It would seem to us that your department is only consistent in one respect and that is being inconsistent. Throughout our interactions with your department, we always had to deal with its failure to act in consistence with acceptable procedures expected of it. For example, in 2014, you conducted a land audit which did not yield any results because its conduct was inconsistent with acceptable processes that had to be followed in conducting such an exercise. Results could only be achieved after the intervention of the CPA. Around 2018/19, once again you engaged in an exercise in Gwatyu i.e Land Rights Inquiry following the exact cause of the failure of the Land Audit and like it -the land audit- it failed. And once again, it was only through the intervention of the CPA that it could be restarted and done properly. In the same manner you are conducting your investigation of the alleged invasions, committing the same

TM T.L

mistakes that you have been committing over the years. The net effect of all this, is that whilst prolonging the agony of the people of Gwatyu, it is also costing the South African taxpayers an enormous amount of money in wasteful expenditure.

Regards
Thembakazi

On 31 Aug 2020, at 12:59, Bahlekile Keikelame
<bahlekile.keikelame@drdlr.gov.za> wrote:

Good Day,
Thank you so much for the information provided. The Department will conduct further investigation to get the required info that is not at your disposal.
Warm regards
<imagec98005.GIF>

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
Sent: Monday, 31 August 2020 12:00
To: Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za>
Cc: obbey1@icloud.com; Sazimzi Nibe <Sazimzi.Nibe@drdlr.gov.za>
Subject: Re: Follow up on the communications over Gwatyu CPA registration

EXTERNAL EMAIL: This email originated outside of "DRDLR Environment".
CAUTION: Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms Keikelame
Thank you for the email.
As discussed, please see below are the names of the people alleged to have invaded Gwatyu farms:
Nosipho Kanzi - Contest farm. She is the one allocating plots to invaders on this farm.
Skhwenkwe Mzothana - Hillside (please see the video sent yesterday)
Lwazi and Banele Siganandana - Forest Range
Ntwana (nobody knows his full names) - Willowbrook farm
Bongile (Nobody knows his full names) - Willie farm brought in by Skhwenkwe and when the people fought him, he moved him to Hillside (please see the video sent yesterday).
These are just a few invasions that have been reported because from time to time, these people come and get repelled by the community and run away e.g in Maties and Sophie farms.
Regards
Thembakazi

On 31 Aug 2020, at 09:47, Bahlekile Keikelame
<bahlekile.keikelame@drdlr.gov.za> wrote:

Good Day Ms Matsheke,

TM T.L

Fwd: Follow up on the communications over Gwatyu CPA registration

Thembakazi Matsheke <matsheke2000@yahoo.co.uk>

Sat 11/6/2021 12:32 PM

To: Wilmien Wicomb <wilmien@lrc.org.za>

Hi Wilmien

While I am compiling a summary of the land invasion incidents on Gwatyu farms, I thought I should also forward written communication between us and the department in 2020 over these invasions.

Please note that this is an old issue that has been happening over the years in Gwatyu and reported to the department but without any intervention. And the failure of the department to intervene resulted in those farms being turned into villages where anyone from anywhere can just move in and bring their livestock.

I hope this helps.

Regards
Thembakazi

Begin forwarded message:

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>
Date: 03 September 2020 at 20:43:06 SAST
To: Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za>
Cc: Sazimzi Nibe <Sazimzi.Nibe@drdlr.gov.za>, Peliwe Mntukatandwa <peluwe.mntukatandwa@drdlr.gov.za>, COS Ministry <COS@dalrrd.gov.za>, Sithembele Vuyo Bavuma <Vuyo.Bavuma@drdlr.gov.za>, MDU SHABANE <mdu.shabane@drdlr.gov.za>, Khaya Majavu <Khaya.Majavu@drdlr.gov.za>, Mokutule Kgobokoe <MokutuleK@dalrrd.gov.za>, Nqaba Bhanga <nbhanga@gmail.com>, Obbey Mabena <obbey1@icloud.com>, Thandeka Mbabama <mbabamatm@gmail.com>, Alicia Stevens <AliciaS@dalrrd.gov.za>, Annette Steyn <anett@xsinet.co.za>, Dudu Nghona <Dudu.Nghona@drdlr.gov.za>
Subject: Re: Follow up on the communications over Gwatyu CPA registration

Dear Ms Keikelame

Thank you for your response.

There are a number of issues that we would like to put into perspective here.

1. Our communication with your department regarding land invasions on Gwatyu farms was not necessarily about settlements that had been erected by the land invaders but about the acts of invasions most of which were repelled by the members of the community.
2. On the completion of the land audit of 2015, amongst the findings of the audit were problems of over grazing resulting from non-Gwatyu residents flooding Gwatyu farms with their livestock and land invasions. On both issues, in the verbal report that we were given by Mr Xelisilo and Nibe, the community was assured that the department would take steps to arrest those developments. A case in point was that of the same Nothusile Simayile you visited, who complained about somebody who came from nowhere and set up a dwelling on their farm. To date, i.e five years later, the matter has not yet been resolved.
3. In the said communication between us and your department, nowhere was any suggestion made that only certain people should be spoken to and others should not be spoken to. May we remind you that throughout our dealings with your department including on land audit which we assisted to happen in 2015, we have always been the ones to insist on the inclusion of all the residents of Gwatyu because your approaches failed precisely because you failed to adhere to the principle of an all- inclusive consultation process.
4. Your unqualified statement on the non-existence of land invasions on some farms is misplaced in your response for our reasons stated on point No.1.
5. We are not sure as to the efficacy of opening a case as stated in your response, in allaying the fears of the community with regards to the growing danger of fatal confrontations between the members of the community and the growing incidents of invasions on Gwatyu.
6. The issue of traditional leadership, on Gwatyu farms, to which Mr Nibe is an ardent advocate, should have been laid to rest in our previous meeting with the officials from your department wherein Ms Mntukatandwa put a question to Mr Nibe as to whether Gwatyu farms fell under the traditional council or not, to which Mr Nibe's response was, NO.

TM T.L

We would still like to enjoin your department to treat the issue of land invasions on Gwatyu farms with more seriousness than has been the case thus far to prevent what we fear will eventually happen and that is loss of life.

Regards
Thembakazi

On 03 Sep 2020, at 13:30, Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za> wrote:

Good Day Ms Matsheke,

Apologies for the long email, I want to give context to the accusations.

Please be advised that the report you have been given is unfounded and not true. I called to request you to give me a contact person that can take us through to the farms and not the perpetrators but unfortunately when I got your response we were already on site and you know the network challenges as a result because there was no signal to call your contact we proceeded to the farms you had mentioned relying on the maps we had with us. The first farm we visited was which was on the list you provided and invaded was Hillside which was depicted on the video you sent on Sunday showing an altercation between the parties alleged to be invaded by Mr Skhwenkhwe. Upon arrival on that farm Mr Skhwenkhwe was not even there but his workers who advised us they are preparing to vacate the farm and have started to untie the fence they had put up. I can confirm yes in-deed there was invasion on that farm and the Department will follow in 14 days to check if in deed Mr Skhwenkhwe has vacated as advised by his workers. We then proceeded to the next farms, Sophie and Manties and Forest Range in that order, no land invasion could be seen, engaged the locals not perpetrators since you had given me names and the locals had no knowledge of the allegations and no new houses nor demarcations could be seen on site. We then proceeded to Willowbrook there we met with the Headman's son not the perpetrators who also had no knowledge of any invasions around the area, we went around as well and could not see anything unbecoming.

The following day (yesterday), we proceeded to Hundelle Farm, and met with your contact and the resident of that farm Ms Nothusile Smiles who took us around and said there are only two new houses built around year 2015 and there are no new demarcations because they stopped all new allocations and demarcations done by a certain Mr Stofile Bodamo. Ms Smiles proceeded to take us to the perpetrator's house Mr Bodamo not because we asked her to but because that is what she was advised to do by whoever briefed her that we were coming as Departmental officials to take us around, be mindful that we knew nobody on site and we were guided by your contacts and we were cautious enough not to take sides therefore any engagements that were done were with your contacts and which on the other party may seem unfair because of not giving equal opportunity to both parties to respond to the allegations. As we were about to leave Mr Bodamo's place, your contact advised that a man cutting the grass across the street was in deed Mr Bodamo and it would not have been improper to pass him by when the reason for our presence on that farm was because of the allegations put against him. We indeed told him why were we were there and why we were talking to his wife and he further advised that all the demarcations that were done were done in consultation with the amaTshatshu Traditional Authority in particular Mr Mbuyiselo Ntsukumbili and that was back in 2015.

We further proceeded to Contest Farm and saw a structure shack house which looked fairly new and upon enquiring from the person we found on site, we were advised that it belonged to a certain Mr Promise whose surname is not known to his labourer we found on site, the reason we went up to the labourer was to ask when can we find your contact Mr Solomon Mboxwana. Upon finding him, he advised that the person demarcating and allocating sites on the farm is a certain

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Ms Nosipho Khanzi whom we did not even engage we could not engage with because she was at work. We then went around and could see newly demarcated sites that had no structures on them on this farm. Before we left the area, we went to open a case at Bridge Camp Police station against Mr Bodamo and Ms Khanzi for them to stop further allocations and demarcations as well as for structures not to be built on those vacant demarcated sites. All your contacts i.e Ms Smiles, Ms Nomfundo Siphatho and Mr Solomon Mboxwana advised us that these invasions have been reported to the Traditional Authority and not the Department since 2015 and this then explained why there were already fully developed and permanently occupied houses found on all the farms visited.

Lastly, upon receiving the state land audit report done in 2015 You at some point registered your satisfaction with the way things were done and even recommended that the land rights enquiry process should follow the same manner of consultation it is therefore disturbing to learn that you still have reservations with the manner in which things were done.

Regards

<image86e426.JPG>

From: Thembakazi Matsheke <matsheke2000@yahoo.co.uk>

Sent: Thursday, 03 September 2020 07:51

To: Bahlekile Keikelame <bahlekile.keikelame@drdlr.gov.za>

Cc: Sazimzi Nibe <Sazimzi.Nibe@drdlr.gov.za>; Peliwe Mntukatandwa <peluwe.mntukatandwa@drdlr.gov.za>; COS Ministry <COS@dalrrd.gov.za>;

Sithembele Vuyo Bavuma <Vuyo.Bavuma@drdlr.gov.za>; MDU SHABANE <mdu.shabane@drdlr.gov.za>; COS Ministry <COS@dalrrd.gov.za>; Khaya Majavu <Khaya.Majavu@drdlr.gov.za>;

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Thandeka Mbabama <mbabamatm@gmail.com>; Alicia Stevens <AliciaS@dalrrd.gov.za>; Annette Steyn <anett@xsinet.co.za>

Subject: Re: Follow up on the communications over Gwatyu CPA registration

EXTERNAL EMAIL: This email originated outside of "DRDLR Environment".

CAUTION: Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms Keikelame

Once again, we have received disturbing reports about the conduct of your department in the affairs of Gwatyu.

According to the reports, yourself and Mr Sazi Nibe, after having asked me for details of the invaded farms, you proceeded to talk first to the alleged perpetrators before talking to the aggrieved members of the community of Gwatyu. Only went to the members of the community with fait accompli based on whatever it is you discussed with the alleged perpetrators. It would seem to us that your department is only consistent in one respect and that is being inconsistent. Throughout our interactions with your department, we always had to deal with its failure to act in consistence with acceptable procedures expected of it. For example, in 2014, you conducted a land audit which did not yield any results because its conduct was inconsistent with acceptable processes that had to be followed in conducting such an exercise. Results could only be achieved after the intervention of the CPA. Around 2018/19, once again you engaged in an exercise in Gwatyu i.e Land Rights Inquiry following the exact cause of the failure of the Land Audit and like it -the land audit- it failed. And once again, it was only through the intervention of the CPA that it could be restarted and done properly. In the same manner you are conducting your investigation of the alleged invasions, committing the same

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