

PRESS STATEMENT  
24 May 2012

**Con Court hands down Saratoga judgment**

*High Court to enforce Con Court orders in future*

The Constitutional Court today handed down its reasons for dismissing an application by the occupiers of Saratoga Avenue on 30 March 2012. The application was to enforce the Court's order in *City of Johannesburg v Blue Moonlight Properties*, which required that the City of Johannesburg provide the indigent occupiers of Saratoga Avenue with temporary shelter by 1 April 2012. The occupiers were forced to bring the application or face homelessness. Less than a month before the scheduled eviction, the City had not identified where or how the occupiers – including 23 minors – would be accommodated, nor had the City engaged meaningfully with them.

Justice Froneman held that the Constitutional Court is not the appropriate forum to enforce or vary the orders it gives on appeal, unless it declares a statute unconstitutional, or makes a detailed supervisory order which may require variation in light of changed circumstances. Otherwise, a party should approach the court in which the case was first considered.

He also held that, because the City's legal representatives had undertaken in their answering affidavit that the order would be complied with, no case of non-compliance with the order had been made out.

After the application was dismissed on 30 March 2012, the City did in fact fail to comply with the Constitutional Court's order, confirming the occupiers' fears that they would be rendered homeless. The occupiers then brought contempt proceedings in the High Court, which delayed the occupiers' eviction until 2 May 2012. By this time, the City was able to provide the occupiers with temporary shelter – a month after it promised the Constitutional Court it would do so. The occupiers moved into their new homes on 30 April 2012.

Bonita Meyersfeld, director of the Centre for Applied Legal Studies (CALs), the attorneys for the Saratoga Avenue occupiers, said "The Constitutional Court's judgment creates certainty about what is to be done when an organ of state disobeys one of its orders. The *Blue Moonlight* story confirms the importance of meaningful engagement on the part of the City regarding the needs of indigent people living in Johannesburg who face imminent eviction and therefore homelessness. The judgment also clarifies the steps that must be taken to ensure the implementation of Constitutional Court orders. In the circumstances, we are grateful that the High Court came to the occupiers' assistance, and that this proved to be the right course of action."

Read more on the case [here](#).

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