



OFFICE OF THE REGIONAL LAND CLAIMS COMMISSIONER: GAUTENG

No. 9 Bailey Lane, Arcadia, 0007 | Private Bag X 03, Arcadia, 0007

Tel: (012) 310 6500 | Fax: (012) 323 0312

Enquiries: Desiree Tsholofelo Kgole
Telephone: (012) 310 6500/6578

Dear Mr / Ms Kirthi Peramaul

LAND CLAIMS ENQUIRY – REMAINDER OF THE FARM DOORNPOORT 295, REG DIV JR, GAUTENG

We refer to your land claim enquiry dated **18th August 2020**.

We confirm that there are land claims against the properties as per attached list. It should be noted that the claims were received during two lodgement periods and as a result different requirements will be applicable. The first lodgement period closed on the 31st of December 1998 and the 2nd lodgement period was from the 1st of July 2014 to the 27th of July 2016.

Claims lodged during the first lodgement period were lodged in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) and claims lodged during the 2nd lodgement period were lodged in terms of the Restitution of Land Rights Amendment Act, 2014 (Act No. 15 of 2014) ("the Amendment Act") which, amongst others, reopened the lodgement of claims for a period of five years.

The claim/s lodged during the first lodgement period were lodged by **Mahlangu MJ** before **31 December 1998** and the claim/s lodged during the second lodgement period were lodged by **Fakude Sibusiso Micheal and others as per attached list** from the 1st July 2014 to 27th July 2016.

With regard to the claims lodged before the 31st of December 1998 by **Mahlangu MJ**, we confirm that the claims have been accepted by the Regional Land Claims Commissioner as compliant with the requirements of the Restitution of Land Rights Act, 1994. As a result, you need to comply with section 11 (7) of the Restitution of Land Rights Act, 1994 by informing (giving one month's notice) to the Commission on Restitution of Land Rights before you sell, exchange, donate, lease, subdivide, rezone or develop the property.

With regard to the claim lodged during the 2nd lodgement period by **Fakude Sibusiso Micheal and others**, the validity of the Amendment Act was challenged in the Constitutional Court. The Constitutional Court found the Amendment Act to be invalid because of the failure of Parliament to facilitate public involvement as required by the Constitution. The Amendment Act ceased to be law on 28 July 2016.

The Constitutional Court ordered that the claims that were lodged between 1 July 2014 and 27 July 2016 are validly lodged, but it interdicted the Commission from processing those claims until the Commission has finalised the claims lodged by 31 December 1998 or until Parliament passes a new law providing for the re-opening of lodgement of land claims. Parliament was given until 27 July 2018 to pass such a law.

Parliament has so far not been able to pass new legislation and has instead approached the Constitutional Court for an extension until 29 March 2019 and the application was rejected. As a result the Commission will, unless directed otherwise until by the Constitutional Court, not be processing claims lodged between 1 July 2014 until 27 July 2016 until all the claims lodged on or before 31st December 1998 are finalised and or a new Act is passed by Parliament and signed into law by the

President. In the meantime, the Commission through the Chief Land Claims Commissioner has been ordered to report the progress of all the outstanding land claims on six months basis for monitoring by the court. The Commission will communicate widely once we have been granted permission to begin dealing with these claims lodged during the 2nd lodgement period.

It is important to note that the provisions of section 11 (7) of the Restitution of Land Rights Act, 1994 do not apply to claims lodged during the 2nd lodgement period until after the Commission has accepted the claim for investigation and published its details in the Government Gazette. That will only be done on the happening of the event in the previous paragraph.

For further enquiries please contact

Solomon Maruma at solomon.maruma@drdlr.gov.za , telephone 012 310 6588

Edith Mokgoko at Edith.mokgoko@drdlr.gov.za , telephone 012 310 6573.

Yours faithfully



MR. L.J. BOGATSU

CHIEF DIRECTOR

OFFICE OF THE REGIONAL LAND CLAIMS COMMISSION

GAUTENG PROVINCE

DATE:

2020 - 10 - 24





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Other claimants who also lodged their claims on the farm **DOORNPOORT 295 JR**

R/3/116/260/66192	FAKUDE SIBUSISO MICHEAL	2015-06-02
R/3/116/260/72998	KGATLE RATSIE ISMAEL	2015-06-23
R/3/116/260/160263	MATSHIKA DUMILE SOLOMON	2016-07-05



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1. Section 11(7) of the Restitution of Land Rights Act provides as follows:

11 (7) Once a notice has been published in respect of any land -

(a) no person may in an improper manner obstruct the passage of the claim

aA) no person may sell, exchange, donate, lease, subdivide, rezone or develop the land in question without having given the regional land claims commissioner one month's written notice of his or her intention to do so, and, where such notice was not given in respect of

- (i) any sale, exchange, donation, lease, subdivision or rezoning of land and the Court is satisfied that such sale, exchange, donation, lease, subdivision or rezoning was not done in good faith, the Court may set aside such sale, exchange, donation, lease, subdivision or rezoning or grant any other order it deems fit;**
- (ii) any development of land and the Court is satisfied that such development was not done in good faith, the court may grant any order it deems fit;**

The above section has been misinterpreted to mean that once a claim has been lodged the land owner cannot sell, donate, develop, lease, exchange or donate. While in actual fact it means the land owner cannot do those things listed in (i) above after a notice of claim has been published in a government gazette notice without giving one month notice of your intention to do so to the Regional Land Claims Commissioner having a jurisdiction over such land and/or property.

After the claim has been found to be valid the office must publish a gazette notice of claim first in a government gazette notice, and if anyone wants to do anything listed in (i) above must give a written notice to the RLCC.