

PRESS RELEASE – 16 APRIL 2012

High Court suspends Con Court's eviction order in Blue Moonlight case

City of Johannesburg given extension to provide alternative accommodation

The Johannesburg High Court has temporarily suspended the execution of a Constitutional Court eviction order, made against the residents of 7 Saratoga Avenue in Berea, Johannesburg. The order, dated 1 December 2011, had directed the occupiers to vacate their homes by no later than yesterday, 15 April 2012. The Constitutional Court had also declared the City of Johannesburg's housing policy unconstitutional, and directed the City to accommodate the occupiers in temporary shelter by no later than 1 April 2012 (read the Constitutional Court judgment [here](#)).

The High Court decision is a victory for the residents because the City had not met the Constitutional Court's deadline. The residents faced homelessness if evicted. The execution of the Constitutional Court eviction order is suspended until 2 May 2012 and the City is ordered to provide shelter to the occupiers by 30 April 2012. The City is required to report back to the residents on its progress, and a site visit has also been ordered to examine the proposed new accommodation.

The Constitutional Court had dismissed an earlier application by the residents, to extend the deadline for eviction (read the CALS/SERI press release [here](#)). This was after the City's legal representatives undertook, in front of the Court, that the occupiers would be accommodated by 15 April – the date of eviction.

But by last Thursday 12 April, the undertaking still had not been fulfilled. Blue Moonlight Properties, the owner of 7 Saratoga Avenue, nonetheless made clear that it would evict the occupiers whether or not alternative accommodation had been provided.

Represented by the Centre for Applied Legal Studies (CALs), the occupiers were forced to bring urgent contempt proceedings in the High Court. They asked for the eviction to be suspended until the Mayor of Johannesburg, the City Manager and the City's Director of Housing, appeared in Court to explain why the Constitutional Court's order had not been obeyed.

In its answering affidavit, the City admitted that, despite its undertaking to the Constitutional Court, it could not provide the occupiers with accommodation before 25 April 2012.

Kathleen Hardy, CALS attorney for the residents, said: *"We are very happy with the outcome of the application. We are relieved that our clients' rights have been protected and that they will not be rendered homeless. However, the application would not have been necessary had the City meaningfully engaged with us on the provision of alternative accommodation from December 2011. We continue to engage with the City to ensure that our clients will be protected and accommodated by 2 May 2012."*

According to Jackie Dugard, executive director of the Socio-Economic Rights Institute of South Africa (SERI), *"It is disappointing that the City had to be brought to court twice to ensure this outcome. It is also unfortunate that the City's promises to the Constitutional Court – made as recently as 30 March 2012 – were broken. We are, however, very relieved that the City is now performing on its obligations to provide access to housing for very poor residents of Johannesburg."*

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