

The Star

JOBURG

The Star

WITH ANNA COX

.....



HOW CAN WE HELP?

MetroWatch is a service by *The Star* for ratepayers whose complaints about bad service or treatment from local government agencies and departments have fallen on deaf ears.

Fax 011-836-6186 or e-mail metrowatch@inl.co.za, telling Anna about your problem. Include your contact details, and attach any images

Old debt liability: court set to rule

The Star Early Edition 31 Mar 2017 +1 more ANNA COX @annacox

THE burning issue of new owners being held liable for previous owners' municipal debts and municipalities withholding services to new owners for the old debts are to be heard by the Constitutional Court in May.

This landmark case will have far-reaching consequences for millions of residential and business property owners, the property industry and the municipalities.

New Ventures Consulting and Services (NVC), also known as the Municipal Debt Specialist, has been driving the litigation against Ekurhuleni and Tshwane to ensure the cor-

rect interpretation and implementation of section 118 of the Municipal Systems Act.

NVC launched and funded these applications on behalf of its clients as these municipalities had interpreted section 118 in a manner that allowed them to "visit the sins of a predecessor in title upon innocent third parties".

In effect, they attempted to hold the new owner of a property liable for the previous owner's municipal debt.

In November last year, the high court in Pretoria held that the conduct of Ekurhuleni and Tshwane was

unlawful and declared that it was constitutionally invalid for these municipalities to hold the new owner of a property liable for the previous owners' municipal debts on that property – and thereafter to refuse to supply or suspend municipal services or refuse to enter into consumer agreements with the new owner.

In compliance with the constitution, this matter was referred to the Constitutional Court for confirmation. Thereafter, the municipalities filed appeals.

The confirmation application and the appeal applications are now set down to be heard in that court on

May 23.

“Our ground-breaking case has been closely followed by various interested parties as it has potentially far-reaching effects upon every municipality, every property owner and every mortgage bond holder in South Africa,” said Peter Livanos of NVC.

“S118 of the Municipal Systems Act has been very contentious and controversial since its enactment in 2000, with various court challenges being launched over the past 16 years.

“Unfortunately, none of these court challenges have dealt directly with the constitutional invalidity of s118. We are confident that this court case will be a landmark and historic one as it should settle the interpretation of s118 once and for all.

“This legal certainty should provide clear direction to all involved in local government, including the Minister of Co-operative Governance and Traditional Affairs, the SA Local

Government Association and all municipalities.”

Livanos advises residents to pay using the words “under protest” if any municipality tries to force innocent parties to pay or sign an acknowledgement of debt.

“We have no doubt that after the Constitutional Court hands down its judgment, all municipalities will be obliged to refund the public.”

In a shock move last year, the Supreme Court of Appeal ruled that new property owners could be held liable for historic debts dating back 30 years.

However, the judge stated that he had ruled only on the legality of S118 and not on the constitutional implications of the by-law. This finding was based on the court’s interpretation of Section 118 as interpreted against the backdrop of the South African common law relating to hypothecs, he said.

The public will be updated via:

@mrpeterlivanos or www.municipaldebtc.co.za. Press releases from: www.municipaldebtc.co.za/press-releases-2 and www.facebook.com/livanosgroupnvc

Case will have far-reaching consequences

