

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT 105/10

In the matter between:

EVERFRESH MARKET VIRGINIA (PTY) LIMITED
[Previously known as WILD BREAK 166 (PTY) LTD]

Applicant

and

SHOPRITE CHECKERS (PTY) LIMITED

Respondent

REPLYING AFFIDAVIT

I, the undersigned, **CHARL VAN EETVELDT**, do hereby make oath and state.

1.

I am the attorney of record of the applicant and authorized to depose to this affidavit in reply to the respondent's answering affidavit.

2.

I will limit the submissions in this affidavit to that dealing only with the principal contention raised on behalf of respondent in the affidavit deposed to by Francois Ferreira.

3.

It is correct, as stated for on behalf of respondent, that the Court *a quo* arrived at its decision by application of what it considered to be applicable and binding legal principles.

4.

However, and underlying this application is the contention by applicant that such application of legal principles deprives applicant of its right to equal protection and benefit of the law. That is the very reason why these proceedings have been initiated in this forum.

5.

The factual background against which applicant contends the above is clearly set out in the factual matrix as contained in the founding papers as well as in the submissions stated by me in those papers.

6.

Respondent is accordingly not correct in contending, as it does, that applicant has failed to furnish grounds for seeking the relief which it does in this application, which relief by implication requires a deviation from the existing legal principles which the Court *a quo* found applicable.

