

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**Case No: CCT \_\_\_\_\_**

SCA Case No: 1028/2018

High Court Case No: 10354/17

In the matter between:

TELKOM SA SOC LIMITED

Applicant  
(Appellant in the court a quo)

and

CITY OF CAPE TOWN

First Respondent  
(First Respondent in the court a quo)

HILDA ISABEL KALU NO in her capacity as  
THE EXECUTRIX OF THE ESTATE  
LATE BIRCH KALU

Second Respondent  
(Second Respondent in the court a quo)

---

**APPLICATION FOR LEAVE TO APPEAL**

---

**TAKE NOTICE** that the applicant applies for an order in the following terms:

- 1 That leave to appeal be granted against the order of the Supreme Court of Appeal handed down on 25 September 2019 in the matter of *Telkom SA SOC (Ltd) v City of Cape Town* (1028/2018) [2019] ZASCA 118 (25 September 2019) in which it dismissed

Telkom's appeal against the judgment and order of the Western Cape High Court in Case No. 10354/17.

2 In the event that leave to appeal is granted, that this Court grants an order in the following terms:

2.1 upholding Telkom's appeal;

2.2 declaring:

2.2.1 the City of Cape Town Municipal Planning By-law 2015 (*the By-law*);  
and

2.2.2 the City of Cape Town's Telecommunications Infrastructure Mast Policy (*the Telecommunications Policy*)

unconstitutional and invalid to the extent that they require the City's consent for the erection of any telecommunications infrastructure in its area of jurisdiction.

3 That the costs of this application be costs in the cause of the appeal.

4 Further or alternative relief.

5 **TAKE FURTHER NOTICE** that the accompanying affidavit of GEORGE CANDIOTES shall be used in support of this application.

**TAKE FURTHER NOTICE** that the applicant has appointed Hogan Lovells (South Africa) Inc. with its address at 140 West Street, Sandton, Johannesburg as the address at which it will accept notice and service of all process in these proceedings.

**TAKE FURTHER NOTICE** that if you intend opposing these proceedings, you are required to:

- (a) notify the applicant's attorneys in writing before **30 October 2019** of such intention and, in such notice, you are required to appoint an address at which you will accept notice and service of all documents in these proceedings; and
- (b) file your opposing affidavit if any, within 10 days from the date on which this application is lodged.

**TAKE NOTICE FURTHER** that if no such notice of intention to oppose is given, the applicant shall request the Registrar to place the matter before the Chief Justice to be dealt with in terms of Rule 11(4).

DATED at \_\_\_\_\_ on this the \_\_\_\_\_ day of OCTOBER 2019.

---

**Hogan Lovells (South Africa) Inc.**  
Applicant's Attorneys  
140 West Street  
Sandton  
JOHANNESBURG  
P O Box 78333 Sandton City 2146  
Docex 7 Sandton Square  
Telephone: 011 523 6035  
Telefax: 086 674 1351  
Email: [veronica.vurgarellis@hoganlovells.com](mailto:veronica.vurgarellis@hoganlovells.com)

REF: I38286/V Vurgarellis

TO:

**THE REGISTRAR  
CONSTITUTIONAL COURT  
BRAAMFONTEIN**

AND TO:

**WEBBER WENTZEL**

Respondent's Attorneys  
15th Floor, Convention Tower Heerengracht  
Foreshore, Cape Town, 8001  
PO BOX 3667, Cape Town  
8000, South Africa  
Telephone: 021 431 7311  
Telefax: 021 431 8311  
Email: [phila.vanda@webberwentzel.com](mailto:phila.vanda@webberwentzel.com)  
Ref: Phila Vanda/ Ryan Smith 3020180

***SERVICE BY EMAIL***