

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

CASE NO: CCT  
CASE NUMBER A QUO: 1413/2009 NWHC

In the matter between:

**PONTSHO DOREEN MOTSWAGAE** **First Applicant**

**FOURTEEN OTHERS** **Second to Fifteenth Applicants**

and

**RUSTENBURG LOCAL MUNICIPALITY** **First Respondent**

**PROMPTIQUE TR 9 CC** **Second Respondent**

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**NOTICE OF MOTION  
APPLICATION FOR LEAVE TO APPEAL**

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**TAKE NOTICE THAT THE APPLICANTS** hereby apply to this Honourable Court for an order in the following terms:-

1. That leave be granted to the Applicants to appeal to the Constitutional Court against the whole of the judgment and order granted by the Honourable Mr Justice Hendricks on 15 September 2011 under case number 1413/2009 NWHC in the North West High Court, in which an order was made dismissing the Applicants application and granting the relief sought by the First Respondent in a counter application;

2. That the costs of this application, as well as costs in the application for leave to appeal to the Supreme Court of Appeal under case no SCA 113/2012, be costs in the appeal;
3. That such directions be issued for the finalisation of this matter as the court may deem appropriate.

**TAKE FURTHER NOTICE THAT** in the appeal, an order will be sought in the following terms:

4. That the appeal be upheld with costs;
5. That the orders of the High Court granted on 15 September 2011 under case number 1413/2009 NWHC, be set aside, and be replaced with the following order:
  - 5.1. An order declaring that the first Respondent's implementation of the Tlhabane female hostel renewal project is unlawful insofar as it involves the disturbance of the peaceful possession by the Applicants of their properties at Tlhabane and/or the destruction of the Applicants' homes at Tlhabane.
  - 5.2. An order interdicting the First and Second Respondents from implementing the Tlhabane female hostel renewal project, more specifically to refrain from digging trenches in the Applicants' properties or to destroy the Applicants

homes, without the permission of the Applicants or a court order authorizing them to do so.

5.3. That First Respondent pay the costs of the Applicants on the scale as between attorney and client.

**TAKE FURTHER NOTICE** that the grounds upon which the application is based are set out in the accompanying affidavit of First Applicant.

**TAKE FURTHER NOTICE THAT** within **10 (ten) days** of receipt hereof, Respondents may file an answering affidavit in which they may state whether they consent to leave being granted, or, if they oppose leave being granted, they may set out the grounds for their opposition.

**TAKE FURTHER NOTICE THAT** the applicants appoint the address of their attorneys given below, as address where they will receive all process and correspondence herein.

Signed at Pretoria on this \_\_\_\_\_ day of May 2012.

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**LEGAL RESOURCES CENTRE  
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**TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT  
BRAAMFONTEIN  
JOHANNESBURG**

**AND TO: VAN VELDEN DUFFY  
Attorneys for First Respondent  
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