

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**CC CASE NO: 108 /2013**

**SCA CASE NO: 412/2013**

**KZN HC CASE NO: 3329/2013**

**In the matter between:**

**JABULANI ZULU AND 389 OTHERS**

**Applicants**

**and**

**eTHEKWINI MUNICIPALITY**

**First Respondent**

**MINISTER OF POLICE**

**Second Respondent**

**MEC FOR HUMAN SETTLEMENTS AND PUBLIC  
WORKS OF THE PROVINCE OF KWAZULU-NATAL**

**Third Respondent**

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**AFFIDAVIT IN SUPPORT OF THE  
APPLICATION FOR CONDONATION**

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I, the undersigned, **Olive James**, do hereby make oath and say:

1.

I am an Assistant State Attorney in the employ of the State Attorney  
(KwaZulu-Natal).

2.

The State Attorney (KwaZulu-Natal) is the attorney of record for the second and third respondents herein.

3.

I have been and am responsible for the handling of the file relating to the application at our offices.

4.

The content of this affidavit is true and correct and save where I state otherwise or the context indicates the contrary, within my personal knowledge and belief.

5.

Papers in the application for leave to appeal to this Court were served on our offices on **23 August 2013**.

6.

On **26 August 2013** I sought instructions from the second and third respondents as to whether to oppose the application.

7.

On **28 August 2013** I received instructions from both the second and third respondents to oppose the application.

8.

On the same day I addressed a brief to Junior Counsel retained by the second and third respondents to draft the necessary answering affidavit for such purpose.

9.

Junior Counsel attended to consultations and to draft the answering affidavit and same was forwarded to Senior Counsel on the **5 September 2013** to settle.

10.

Senior Counsel was due to prior commitments unavailable to do so either on **5 or 6 September 2013** and recommended that I seek an indulgence from the attorneys for the applicant, the **Legal Resources Centre** (“the **LRC**”) until **13 September 2013** for such purpose.

11.

I immediately contacted **Emma Broster** of the **LRC** and she agreed to the requested indulgence until **13 September 2013**.

12.

A copy of my email to **Ms Broster** and her response thereto confirming our agreement are annexed hereto marked “**OJA**”.

13.

I immediately contacted the Registrar of this Court and informed him of the indulgence that had been agreed upon.

14.

I subsequently established that the papers in the application were lodged with the Registrar on **27 August 2013** and that the period for the delivery of the answering affidavit expired on **10 September 2013**.

15.

Arrangements have been undertaken to ensure that the second and third respondents' answering affidavit and this affidavit are lodged with the Registrar by Friday **13 September 2013**.

16.

On the instructions of the second and third respondents I seek condonation for the delay in the delivery of their answering affidavit.

17.

I respectfully submit *inter alia* that:

- 17.1. the period of the delay in the delivery of the answering affidavit will be relatively short and not likely to be in excess of three (3) days;
- 17.2. the applicants are unlikely to suffer any prejudice by reason of such delay;
- 17.3. the refusal of this application for condonation would occasion serious and significant hardship and prejudice to the second and third respondents in that the application would be determined without regard to their answering affidavit;
- 17.4. the second and third respondents have advanced reasonable grounds of opposition to the application and enjoy reasonable prospects of successfully opposing the same;
- 17.5. the delay in the preparation and delivery of the answering affidavit was not deliberate but arose by reason of the circumstances set out above;
- 17.6. the second and third respondents have demonstrated good cause for the condonation sought by them;
- 17.7. it is and would be in the interests of justice for condonation to be granted.

**WHEREFORE** on behalf of the second and third respondents herein, I humbly pray that it may please this Honourable Court to condone the delay in the delivery of the second and third respondents' answering affidavit and to grant such other, further or *alternative* relief as this Honourable Court may deem meet in the circumstances.

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**OLIVE JAMES**

**I CERTIFY THAT** the Deponent has acknowledged that she knows and understands the contents of this Affidavit which was signed and sworn to before me at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2013 under compliance with the Regulations contained in Government Notice No R1258 dated 21 July 1972 (as amended).

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**COMMISSIONER OF OATHS**