Joburg council ordered to rebuild homes

Kashiefa Ajam, July 17 2010
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The Johannesburg High Court has ordered the City of Joburg and its metro police department to rebuild the homes in Kliptown they destroyed while carrying out an eviction notice last month.

But the council is adamant: the families who lived in those houses in the Freedom Charter informal settlement were living there illegally.

On June 28, metro police officers arrived in their droves. They ordered the families to leave - but they had no court order to back up the claims.

The officers told the residents they had to leave their homes because they were unlawful occupiers - a claim the residents denied.

The residents claimed they had resided on the property for several years with the permission of the council, pending the upgrade of the Freedom Charter informal settlement - an upgrade from which they were supposed to benefit. In response the JMPD evicted the residents and the families onto the streets.

Two days later, the Socio-Economic Rights Institute of South Africa (SERI), on behalf of the residents, filed an urgent application in the High Court. The application sought an order compelling the municipality to restore the residents' possession of the land they had occupied, and to rebuild the homes.

On July 8, the court ordered the council and the metro police to reconstruct the homes of the people who had been unlawfully evicted.

The court directed that the evicted residents be provided with "habitable dwellings that afford (the residents) shelter, privacy and amenities at least equivalent to those which were destroyed". According to the order, the dwellings must be constructed - at council expense - on the same site as the residents' previous homes, by next Thursday.

In the meantime, the residents have been allowed to reconstruct temporary shelters on the sites.

"The evictions took place without a court order, which is a flagrant violation of the constitution, which states that 'no one may be evicted from their home or have their home demolished without a court order made after considering all the relevant circumstances," said Teboho Mosikili, an attorney from SERI.

"The city's lawless actions must be condemned. Poor people, including women and very young children, had to endure the hardship of sleeping on the streets or squatting with neighbours in very cold weather. We hope that court orders like this one will deter the city from taking the law into its own hands again."

The council, meanwhile, was actively engaged with its legal counsel to address the existing unlawful occupancy in Kliptown, said city spokesman Virgil James, and it was taking steps to ensure future invaders were interdicted from doing so.

"The applicants are unlawful occupants on the site. The city's housing department aims to upgrade and renew all aspects of the urban environment of Kliptown and has made considerable progress towards this end," James said.

"It is critical to note that for development to happen and succeed, illegal structures on the land are to be removed." He added that the applicants' victory should be seen as "nothing more than an interim measure, really, with respect to the order of court, which we will observe".

"Our bylaws as well as the court are there to prevent widespread illegal occupation of land," James said.

"The housing department has meaningfully engaged the community as to what is transpiring in terms of existing developments, and further what is expected of them.

"However, for the most part, persons and sometimes communities still elect to be obstructive, thus making the success of housing delivery projects a huge challenge for the city," he said.

(Source: www. iol.co.za)