

Evicted community appeals to Constitutional Court

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A Gauteng community's appeal to the Constitutional Court has turned the spotlight on the need for municipalities to consult when evicting squatters.

Following weeks of protests, members of an informal settlement at Bapsfontein, near Pretoria, filed papers with the Constitutional Court this week, requesting leave to appeal against a high court judgment that enables the Ekurhuleni Metropolitan Municipality to remove them from land where some of them have lived for 20 years.

The community was told in January that the land on which they lived was unsafe because it is dolomitic and prone to sinkholes. Community members said they had not been given official eviction papers and the municipality planned to move them to Cloverdene and Zenzeni, more than 30km from Bapsfontein, where most of them work. At the heart of their Constitutional Court case is the council's failure to consult them, which experts say is common in evictions.

"Residents don't object to being moved," said Nqobizitha Mlilo, an attorney from Lawyers from Human Rights who is representing the community. "But there must be sufficient consultation.

If their average monthly income is R1 500 and they have to spend R500 on transport, it's a significant dent. Don't just come and demolish their homes, consult them in a way that's genuine and meaningful."

Consultation

Lauren Royston, a coordinator at non-profit organisation Urban Landmark, said the major issues facing informal-settlement evictees were finding alternative areas for relocation and meaningful engagement. "There are consultation requirements in law," said Royston.

"Municipalities often say they've consulted, but that doesn't mean that there has been meaningful engagement with the community." She pointed out that the number of informal settlements in South Africa had grown from 300 in 1994 to 2 600 in 2011.

Mzwanele Zulu, the vice-chairperson of the Informal Settlement Network, also emphasised the constitutional requirement of consultation. "Not consulting the community is a violation of their human rights," he said. "We need to engage to ensure that we are not disadvantaging the disadvantaged by moving them too far away, for example."

In the past year there has been a string of squatter evictions, particularly relating to the Fifa World Cup. They include the eviction of settlers around the Moses Mabhida Stadium in Durban, the inhabitants of Blikkiesdorp in Cape Town and shack-dwellers in Sandown, who claimed police burned

their shacks. In Bapsfontein community members questioned why they were being forced out while local farmers and industry were allowed to remain.

Ekurhuleni Metropolitan Municipality did not respond to questions.