

HLANO PRESS RELEASE DATED 20 FEBRUARY 2024

1. Because of the housing payment boycotts that preceded the first democratic elections in 1994, and in recognition thereof, the Free State Department of Human Settlements (“Department”) settled the Homeowners affected by the payment boycotts and who had taken loans from the major banks; they received unencumbered title to their homes.

2. For similarly situated Homeowners of Hlano Financial Services (Pty) Ltd (“Hlano”), the Department provided an undertaking in 2014 (“2014 Undertaking”), that it will settle their obligations to Hlano. However, after ten (10) years, the Department has dismally failed to adhere to its 2014 Undertaking.

3. This failure by the Department undermines the legislative measures adopted by Parliament, flowing from the Bill of Rights:
 - 3.1 The right to housing:
 - 3.1.1 section 26(2) of the Constitution to achieve the progressive realisation of the right of access to housing.

 - 3.1.2 The Housing Act of 1997, together with the National Housing Code of 2000.

3.2 The right to equality:

3.2.1 Section 9 of the Constitution provides the right of equal treatment.

3.2.2 Section 6 of the Equality Act prohibits unfair discrimination.

4. There is no rational basis for the Department to have paid only the Homeowners of the Banks and not do so for the Homeowners who took loans from Hlano, as it violates their rights to equality before the law.

5. The Homeowners are prejudiced:

5.1 Their right to housing is violated by the Department's failure to pay and thereby to secure their tenure over their homes. Their homes remain subject to bonds, or have not been transferred to them, only because the Department has not, to date, effected payment. Simply put, the homes they have lived in for over two decades are simply not their own (outright).

5.2 The Homeowners live in, maintain, and improve their homes without the certainty that they will ultimately secure unencumbered title over the occupied properties. They cannot sell their properties to tailor their homes to their lifestyles – whether by upscaling, downsizing or moving to different areas altogether.

5.3 They are also unable to use their properties as collateral to raise money. This lack of access to credit causes considerable hardship and undermines their rights.

5.4 It undermines their ability to transfer their wealth to their beneficiaries, thereby perpetuating the inability to create and transfer wealth building to the next generation.

6. The National Department of Human Settlement (“national department”) conceded in its submission to the National Assembly on 31 September 2021 that there is a direct causal link between a Contractual Borrowers dignity and possession of their unencumbered title deeds:

“...giving a right of ownership and restoring dignity to beneficiaries that have stayed for years without receiving proof of ownership...”

7. In *Soobramoney*¹ the Constitutional Court found:

“... These conditions already existed when the Constitution was adopted and a commitment to address them, and to transform our society into one in which there will be human dignity, freedom and equality, lies at the heart of our new constitutional order. For as long as these conditions continue to exist that

¹ *Soobramoney v Minister of Health (KwaZulu-Natal)*.

aspiration will have a hollow ring..."

8. Hlano is also prejudiced as it:

8.1 has relied on the terms of the National Housing Code of 2000 ("2000 Code") as well as the 2014 Undertaking and trusted that the Department would give effect to their terms.

8.2 cannot be expected or required to continue to carry this debt – and thus to fulfil the Government's obligation to promote access to housing – to its detriment.

9. Finally, the failure to pay timeously is detrimental to the public interest and is irrational because the subsidy amount increases annually for every year that the Department delays paying its obligations, their total liability increases.

10. In conclusion:

10.1 The Department's failure to pay is a breach of its statutory and/or contractual obligations to act in an accountable manner and is irrational and unconstitutional.

10.2 Hlano has a clear right to be paid, and due to the Department's stubborn failure to adhere to its statutory and contractual obligations, Hlano had no option left but to turn to the courts.

11. For further information, you can send an e-mail to info@hlano.co.za.