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****COHRE and CLC Joint Media Statement****

Human Rights Organisations welcome judgment in the South African Constitutional Court

The Geneva-based Centre on Housing Rights and Evictions (COHRE) and the Cape Town-based Community Law Centre (CLC) at the University of the Western Cape welcomed the judgment that was handed down in the Constitutional Court today in the case of Various Occupiers v City of Johannesburg and others, in which COHRE and the CLC intervened as joint amici curiae.

The Constitutional Court overturned the Supreme Court of Appeal ruling, noting that the SCA "should not have granted the order of ejection ... in the absence of meaningful engagement." As part of an Inner City Regeneration Strategy, the City of Johannesburg has attempted to evict residents of so-called "bad buildings" in terms of the National Building Regulations and Standards Act (NBRA). The City used this apartheid-era legislation to evict residents on grounds of health and safety concerns without consulting residents and without considering all relevant circumstances - such as the probability that residents would be made homeless.

Jean du Plessis, Deputy Director of COHRE, said: "Today's judgment is a landmark victory for the more than 67,000 low-income residents of Johannesburg who risk overcrowded living conditions with poor sanitation and the constant threat of eviction, in order to be near livelihood opportunities. It affirms that public authorities must engage seriously and in good faith with the affected occupiers with a view to finding humane and pragmatic solutions. Such 'respectful', 'face-to-face' engagement gives effect to the constitutional value of human dignity, as well as the right of access to adequate housing enshrined in the Constitution."

The Court further held that the City is obliged to consider the availability of suitable alternative accommodation or land in deciding whether to proceed with an eviction in terms of National Building Regulations and Standards Act. Du Plessis said, "COHRE hopes this will serve as an incentive to authorities to regard evictions as an absolute last resort, to be preceded by genuine efforts to restore buildings and render them safe for occupation in order to provide accommodation to people close to their place of work."

The judgment also found that section 12(6) of the NBRA, which makes it a criminal offence for occupiers to remain in occupation after a local authority has issued a notice to vacate the premises, is in violation of section 26(3) of the Constitution.

Section 26(3) declares that no one may be evicted from their home without an order of court made after considering all the relevant circumstances. The Court cured the constitutional defect in the legislation by reading in provisions providing for judicial oversight of such evictions.

Dr. Lilian Chenwi, Senior Researcher at the Community Law Centre, said: “Today’s judgment gives effect to South Africa’s constitutional commitment to respect and protect housing rights and is also in accordance with relevant international legal standards. In all evictions, local authorities must take the housing rights of people seriously and seek reasonable ways to avoid the devastation of homelessness by engaging meaningfully with the affected communities.”

“The judgment is another vivid illustration of the significance of the right to housing in the South African constitution to those living in precarious conditions”, Chenwi said.

The judgment also ordered the City of Johannesburg to pay the costs of the applicants in the High Court, the SCA and the CC.

The applicants, approximately 400 occupiers of buildings in Johannesburg’s Inner City, were represented by CALS/Wits Law Clinic and Webber Wentzel Bowens, with Paul Kennedy SC and Heidi Barnes as counsel. Advocates Geoff Budlender, Omphemetse Mooki and Richard Moultrie were instructed by the Legal Resources Centre on behalf of the amici curiae, the Centre on Housing Rights and Evictions (COHRE) and the Community Law Centre (CLC) at the University of the Western Cape.

Issued by the Centre on Housing Rights and Evictions (COHRE) and the Community Law Centre (CLC)

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