

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

Case No: 33441/13

28/3/2014

In the matter between:

DEMOCRATIC ALLIANCE OF SOUTH AFRICA
MIDDELBURG, ALEXANDER WILLEM FREDERIK
VAN DER WALT, PHILLIPUS ANDRIES

1st Appellant
2nd Applicant
3rd Applicant

and

CITY OF TSHWANE METROPOLITAN
MUNICIPALITY

1st Respondent

RAMOKGOPA, KGOSIENTSO

2nd Respondent

NGOBENI, JASON

3rd Respondent

MOSUPYOE, A W M K

4th Respondent

MPHEPHU, ADOLFUS

5th Respondent

THE MINISTER OF PROVINCIAL AND LOCAL
GOVERNMENT

6th Respondent

THE MEC: PROVINCIAL AND LOCAL
GOVERNMENT GAUTENG PROVINCE

7th Respondent

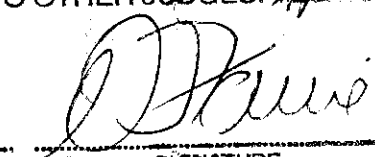
THE INDEPENDENT ELECTORAL COMMISSION

8th Respondent

JUDGMENT

FOURIE, J:

INTRODUCTION

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
(2) OF INTEREST TO OTHER JUDGES: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
(3) REVISED: <input checked="" type="checkbox"/>	
28/3/14	
DATE	SIGNATURE

[1] This application concerns the validity of the Ward Committee Elections conducted by the City of Tshwane during January/February

2012 and July 2012. The Municipality is divided into 105 municipal wards. Each municipal ward is represented by an elected ward councillor and for each ward a ward committee is also elected. During 2001 a Ward Committees Document, also referred to as a policy document, was adopted by the Municipality. It provides for a procedure whereby ward committees are to be elected. On 30 June 2011 the Municipality resolved that a proposed by-law on Public Participation: Ward Committees, Petitions, Meetings and Hearings should replace the Ward Committees Document and that the proposed by-law be approved for immediate implementation. It is common cause that the by-law was only promulgated on 1 February 2012.

[2] The relief sought by the applicants can be summarised as follows: First, the Ward Committees By-law should be declared void due to non-compliance with section 160(4) of the Constitution, 1996; Second, the ward committee elections held during January/February 2012 and July 2012 should be declared unconstitutional and invalid; Third, in view of certain shortcomings of the Ward Committees By-law, the Municipality should be ordered to comply properly with all the statutory requirements for the adoption and promulgation of a (new) ward committees by-law and to arrange, without delay, for ward committee elections to be held. Lastly, that the first to fourth respondents (the Municipality, the Executive Mayor, Municipal Manager and Speaker of the Council) be ordered to pay the costs of the application, jointly and severally, on an attorney and client scale.

[3] As far as the Ward Committee's By-law is concerned, the applicants contend that the adoption process, which preceded its promulgation, was invalid for various reasons, the most important being that the public participation requirements as stipulated in section 160(4) of the Constitution, 1996 were not complied with. The Municipality indicated that it does not persist with its contention that the by-law was properly enacted. It was therefore conceded, rightly so in my view, that the by-law is invalid and that the relief sought in this regard may be granted. What remains to be decided is whether the elections were validly undertaken and, if necessary, whether an order should be granted with regard to the adoption and promulgation of a (new) Ward Committees By-law and costs. I shall first deal with the statutory framework and thereafter consider these contentions by dealing with each of them in turn.

STATUTORY FRAMEWORK

[4] Section 156 of the Constitution provides, amongst others, that a municipality has executive authority in respect of, and has the right to administer, matters assigned to it by national or provincial legislation, including the passing and administering of by-laws. In terms of section 160(4) no by-law may be passed by a municipality unless all the members of the council have been given reasonable notice and the proposed by-law has been published for public comment.

NATIONAL LEGISLATION

[5] Section 73 of the Local Government: Municipal Structures Act No 117 of 1998 provides for the establishment of ward committees. It provides as follows in subsections (1) to (4):

- “(1) If a metro or local council establishes ward committees, it must establish a ward committee for each ward in the Municipality.*
- (2) A ward committee consists of –*
 - (a) the councillor representing that ward in the council, who must also be the chairperson of the committee; and*
 - (b) not more than 10 other persons.*
- (3) A metro or local council must make rules regulating –*
 - (a) the procedure to elect the subsection (2)(b) members of a ward committee, taking into account the need –*
 - (i) for women to be equitably represented in a ward committee; and*
 - (ii) for a diversity of interests in the ward to be represented;*
 - (b) the circumstances under which those members must vacate office; and*
 - (c) the frequency of meetings of ward committees.*
- (4) A metro or local council may make administrative arrangements to enable ward committees to perform their functions and exercise their powers effectively.”*

[6] Section 74 provides that a ward committee may make recommendations on any matter affecting its ward and has such duties

and powers as the metro or local authority may delegate to it in terms of section 59 of the Local Government: Municipal Systems Act, No 32 of 2000.

[7] Section 1 of the Local Government: Municipal Systems Act, No. 32 of 2000 defines a by-law as *“legislation passed by the council of a municipality binding in the Municipality on the persons to whom it applies.”* Sections 12 and 13 deal with legislative procedures and publication of by-laws. Section 12 provides as follows:

- “(1) Only a member or committee of a municipal council may introduce a draft by-law in the council.
- (2) A by-law must be made by a decision taken by a municipal council –
 - (a) in accordance with the rules and orders of the council, and
 - (b) with a supporting vote of a majority of its members.
- (3) No by-law may be passed by a municipal council unless –
 - (a) all the members of the council have been given reasonable notice; and
 - (b) the proposed by-law has been published for public comments in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.
- (4) Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws, provisions of –
 - (a) legislation passed by another legislative organ of State; or

- (b) *standard draft by-laws made in terms of section 14."*

[8] Section 13 provides:

"A by-law passed by a municipal council –

- (a) *must be published promptly in the Provincial Gazette, and, where feasible, also in a local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and*
- (b) *takes effect when published or on a future date determined in or in terms of the by-law."*

[9] Section 17 prescribes mechanisms, processes and procedures for community participation. It provides, *inter alia*, that a municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of a municipality and must for this purpose provide for notification and public comment procedures, where appropriate. Section 18 provides that a municipality must communicate to its community information concerning the available mechanisms, processes and procedures to encourage and facilitate community participation. Section 21 stipulates that, when anything must be notified by a municipality, in terms of this Act or any other applicable legislation, notification must be done in the local newspaper or newspapers of its area or by means of radio broadcasts covering the area of that municipality. Section 21A deals with documents which are to be made public by displaying them at the municipality's head office.

[10] On 24 June 2005 and in terms of section 120, read with section 22 of the Municipal Systems Act, Guidelines for the Establishment and Operation of Municipal Ward Committees were published (GN 965 in GG 27699). The purpose is to provide uniform and simplified guidelines to ward committee members, ward councillors and municipalities on the establishment and operation of ward committees. As far as the election procedure is concerned, reg. 9 differentiates between two election models, i.e. the sectoral and geographic model. Notwithstanding certain provisions in this regard, reg. 9(1) also provides that:

“A metropolitan or local municipality must make rules regulating the procedure to elect members to the ward committee taking into account the need for women to be equitably represented and for a diversity of interests to be represented.”

[11] In terms of reg. 9(7) certain election procedures are “*proposed*”. In terms thereof the ward councillor and administrative assistant (if applicable) must ensure that meetings are fully representative of almost all villages/stakeholders, an attendance register is completed, only registered voters may participate and women are equitably represented.

PROVINCIAL LEGISLATION (GAUTENG)

[12] On 19 March 1999 the Rationalisation of Local Government Affairs Act, No. 10 of 1998 for Gauteng came into operation. The purpose of this Act (section 2) is to rationalise the legislative and administrative

framework within which the local sphere of government may conduct its affairs in relation to, amongst other things, the making and issuing of by-laws. In section 1 a by-law is defined as follows:

“any law made by a municipal council and includes a code or procedure.”

[13] Section 3 thereof provides that any person applying or interpreting this Act must give a construction which is consistent with the purpose thereof, taking into account the particular purpose, role and circumstances of the local government concerned. It also provides that the provisions must be considered in the light of any other law governing a municipal council and in a manner that favours a reasonable interpretation of the relevant laws that avoids conflict between them.

[14] Section 7 thereof stipulates the procedure for making by-laws. Subsections (1) to (6) provide as follows:

“(1) To make a by-law, a municipal council must pass a resolution declaring its intention to this effect.

(2) After the resolution has been passed, the municipal council must –

(a) announce its intention to make by-laws by notice in the Provincial Gazette, and where these exist, in one or more newspapers circulating in the area concerned;

(b) specify the following in the notice:

- (i) *that comment is being sought on a draft by-law;*
 - (ii) *in summarised form, what the draft by-law deals with;*
 - (iii) *the person to whom or place where enquiries relating to the draft by-law may be directed;*
 - (iv) *subject to subsections (7) and (8), the place where, time when and the circumstances and manner in which a copy of the draft by-law may be obtained or displayed for inspection;*
 - (v) *the period for comment on the draft by-law which must be no less than one month from the date of the notice; and*
 - (vi) *the person with whom or place where comments on the draft by-law may be lodged;*
 - (c) *at any time before making the by-law consultations with any relevant interest groups may be held in any forum, including the holding of an enquiry; and*
 - (d) *the comments received and the content of consultations must be considered before making the by-law.*
- (3) *The municipal council has not made a by-law within one year of the announcement referred to in subsection (1)(b), that by-law cannot be made unless the procedure provided for in subsection (1) is repeated.*

- (4) *The provisions of subsections (1)(b) and (2) do not apply in respect of –*
 - (a) *any by-law which the public interest requires to be made without delay; and*
 - (b) *an amendment to correct a textual error.*
- (5) *The provisions of subsection (1) to (3) apply in respect of amending or appealing any by-law, with such changes as may be required by context.*
- (6) *A by-law comes into operation on the date of its publication in the Provincial Gazette or such other date specified in the Provincial Gazette.*

VALIDITY OF WARD COMMITTEE ELECTIONS

[15] It is common cause that the officials of the Municipality initially laboured under the misapprehension that the elections would be regulated by the Ward Committees By-law which was adopted on 30 June 2011, but only promulgated on 1 February 2012. In an attempt to address this dilemma the Municipal Manager (third respondent) released a media statement on 20 January 2012 in which the following was said:

“Although the promulgation of the current by-law for the ward committee elections has not gone through yet, this however did not create a vacuum for the successful execution of ward committee elections as the current elections are being done in terms of an existing Council approved policy. The promulgation of the by-law was delayed and the City Manager is investigating the cause of delay and will ensure that the by-law is promptly promulgated.”

The “*Council approved policy*” is a reference to the Ward Committees Document which was already adopted during 2001. At the commencement of the council meeting on 26 January 2012 the Speaker (fourth respondent) gave an oral report on the status of the elections which were held from 16 to 25 January 2012. She also indicated that, although the by-law was by then not yet promulgated, *“this however did not create a vacuum for the successful execution of Ward Committee Elections as the current Ward Committee Elections are being conducted in terms of the existing Council approved policy.”*

[16] This brings me to the following question: what is the legal status of the Ward Committees Document with regard to ward committee elections? The main thrust of the argument presented on behalf of the applicants is that this document had to be promulgated to have legal effect. In answer to this contention it was argued on behalf of the respondents that the said document remained binding and effective until validly amended or repealed by a subsequent one. It was also pointed out that in terms of section 73(3) of the Municipal Structures Act a municipality was only required to make rules regulating the procedure to elect members of a ward committee and, so it was argued, the Ward Committees Document (or policy) should be regarded, on a proper interpretation thereof, to embody such rules. I shall now consider both arguments.

[17] When one considers the provisions of the Municipal Structures Act (including Schedule 1, Part 2 in respect of ward elections) it appears that

the procedure to elect members of a ward committee is not expounded in the Act itself. Section 73(3) provides that a local council must make rules regulating such a procedure. The only requirement in this regard relates to women to be equitably represented and a diversity of interests to be taken into account. It is therefore possible that the rules of municipalities may differ, subject to the requirements referred to above.

[18] As far as the Municipal Systems Act is concerned, it also appears that the provisions of this Act do not address the procedure to elect members of a ward committee. Section 12 determines legislative procedures with regard to by-laws and the publication thereof as required by section 13. Having regard to the definition in section 1, a by-law means legislation passed by the council and therefore, strictly interpreted, it may, but does not necessarily include rules and orders referred to in section 12(2)(a).

[19] To provide uniform and simplified guidelines for the establishment and operation of municipal ward committees in all the provinces, the regulations referred to above were published on 24 June 2005. As far as the election procedure is concerned, reg. 9(1) also provides (as already stipulated in section 73(3) of the Municipal Structures Act) that a municipality must make rules regulating the procedure to elect members of a ward committee. Nowhere in the national legislation or these regulations is the "*procedure to elect*" prescribed, save to provide that a municipality must make rules to regulate this procedure.

[20] However, in the provincial legislation (Gauteng) a specific procedure for making by-laws and the promulgation thereof is provided for in section 7 of the Rationalisation of Local Government Affairs Act. There appears to be a link between the provisions of section 7 and the procedure for making rules to elect members of a ward committee. The linking clause is the definition of a by-law as it appears in section 1. This includes a “*procedure*”.

[21] The word “*procedure*” is not defined in the Act. The correct approach should therefore be to determine the ordinary grammatical meaning of this word, unless that would lead to some absurdity or inconsistency. In the Shorter Oxford English Dictionary, 6th Edition (2007) the word “*procedure*” is described, *inter alia*, as follows:

“... *the fact or manner of proceeding; a system of proceeding; conduct, behaviour, ... (a) LAW the formal steps to be taken in a legal action; the mode of conducting judicial proceedings; (b) POLITICS the mode of conducting business in parliament.*”

In Van Rhyn Deep GM Co Ltd v Director of Labour 1915 WLD 94 at 96 it was pointed out that “*procedure*” may, in a wide sense, mean that branch of legislation which provides for the enforcement, as distinct from the conferring, of rights.

[22] In the present context it appears that the grammatical and ordinary sense of the word “*procedure*” is to indicate a manner or system

of proceeding or steps to be taken in connection with the enforcement of a statutory or constitutional right. Therefore, the “*procedure to elect*” as referred to in section 73(3) of the Municipal Structures Act as well as in reg. 9(1) of the Guidelines for the Establishment and Operation of Municipal Ward Committees should be interpreted to mean that certain steps are to be taken to implement the right to elect members of a ward committee. If this interpretation is applied to those sections (in the national and provincial legislation) where the word “*procedure*” appears in relation to the election of members of a ward committee, a consistency with regard to meaning, contents and context becomes apparent.

[23] The reason why the Provincial Legislature has decided to include “*procedure*” in the definition of a by-law is to ensure that in Gauteng all procedures of a formal nature, involving the exercise of a legislative power by a municipality, must be made subject to the procedure for the making of a by-law as prescribed in section 7. This interpretation is in accordance with the purpose of the Act as set out in section 2 and the provisions of section 3. Furthermore, there is no conflict between this interpretation and the national legislation referred to above, more particularly the provisions of section 73(3) of the Municipal Structures Act. Therefore, rules (of a procedural nature in the sense referred to above) having a legislative character are subject to the provisions of section 7 of the Rationalisation of Local Government Affairs Act and will, after its publication, also enjoy the status of a by-law.

[24] There is also another important consideration to be taken into account with regard to this interpretation. In terms of section 152(1) of the Constitution one of the objects of local government is to provide democratic and accountable government for local communities. Section 72(3) of the Municipal Structures Act provides that the object of a ward committee is to enhance participatory democracy in local government. Section 17 of the Municipal Systems Act also provides for mechanisms, processes and procedures for community participation. Public participation is an important element of democracy. In Doctors for Life International v Speaker of the National Assembly 2006 (6) SA 416 (CC) par 115 Ngcobo J said the following in this regard:

“(P)articipation by the public on a continuous basis provides vitality to the functioning of representative democracy. It encourages citizens of the country to be actively involved in public affairs, identify themselves with the institution of government and become familiar with the laws as they are made.”

Having regard to these considerations, the interpretation suggested above also takes into account core values of our society, such as regular elections and a multiparty system of democratic government. It is therefore to be expected that the procedure to implement these values should be duly promulgated.

[25] This brings me back to the contents of the Ward Committees Document. It is important to point out the following: Paragraph 5 indicates that *“Council has to regulate the elections”*. Paragraph 6

specifically refers the *“electoral procedure that will regulate the elections of ward committees”*. It also refers to the *“electoral process”* which includes an identification process, selection process and a ward meeting. Paragraph 7 deals with *“procedures for ward committees”* in terms whereof certain regulatory procedures are to be applied with regard to, *inter alia*, term of office, vacation of office and filling of vacancies. It therefore appears that a substantial part of this document relates to procedure, in the form of rules or directives, having a legislative character, to implement the right to elect members of a ward committee. It comes as no surprise that the deponent on behalf of the respondents also refers to this document in paragraph 22 of the answering affidavit as an *“Electoral Procedure to regulate the elections of ward committees”*.

[26] Having regard to all these considerations, it appears that the Ward Committees Document is a “procedure” as referred in the definition of a by-law in section 1 of the Rationalisation of Local Government Affairs Act. It should therefore follow that the provisions of section 7 also apply to this document. There is no evidence that the procedure stipulated in section 7 of the Rationalisation of Local Government Affairs Act was followed. To the contrary, it appears to be common cause that this document was never promulgated. It therefore never came into operation as determined by section 7(6) of the said Act. The implications are obvious: the ward committee elections for January/February 2012 and also July 2012 were conducted in the absence of any valid regulatory framework and should therefore be declared unconstitutional and invalid.

[27] If I have misdirected myself in holding that the Ward Committees Document is subject to the provisions of section 7 of the Rationalisation of Local Government Affairs Act, there is another reason why the ward committee elections should be declared invalid. As already pointed out above, section 73(3) of the Municipal Structures Act provides that a municipality must make rules regulating the procedure to elect members of a ward committee. This provision appears to be peremptory. The words “*rules regulating*” are indicative of an intention to invest these rules with legislative powers. It is a requirement of both the common-law and statute that subordinate legislation, even if it has been validly enacted, is not of binding force and effect in law until it has been promulgated. The purpose of promulgation is to notify those who will be, or may be, affected by the legislative enactment in question of its import and effect (National Police Service Union v Minister of Safety and Security 2000 (3) SA 371 (SCA) at 378D-E).

[28] The common-law position appears from the following passage in Byers v Chinn and Another 1928 AD 322 at 327:

“The learned Judge-President laid down the general proposition that: ‘Before a law or any regulation or by-law having the force of law can become operative, it must be duly promulgated.’ The rule is supported by numerous decisions of the Courts of South Africa besides those quoted by the Local Division and is founded on the common-law.”

In my view the common-law position equally applies to rules which are intended to have the force of law as indicated by the provisions of section 73(3) of the Municipal Structures Act.

[29] The statutory requirement for promulgation is to be found in section 16 of the Interpretation Act, 33 of 1957 which provides:

"When any by-law, regulation, rule or order is authorised by any law to be made by the President or a Minister or by the Premier of a province or a member of the Executive Council of a province or by any local authority, public body or person, with the approval of the President or a Minister, or of the Premier of a province or a member of the Executive Council of a province, such by-law, regulation, rule or order shall, subject to the provisions relative to the force and effect thereof in any law, be published in the Gazette." (My emphasis.)

[30] The following should be pointed out with regard to this provision: First, the qualification *"with the approval of"* apparently only applies when such approval, as a procedural requirement, is stipulated by the enabling Act, or other law, but is probably not intended to be a general qualification for publication. In this regard one should remember that when municipal councils make legislation, they do so in accordance with original legislative powers conferred on them by the Constitution (section 156). Second, the further qualification *"subject to the provisions ..."* appears to allow for certain exceptions. In my view these exceptions are not applicable to the present matter, notwithstanding the provisions of section 21 and 21A of the Municipal Systems Act. Notification and the displaying

of documents referred to in those sections apply, in my view, to documents other than those containing rules which are intended to have legislative power. Or, to put it differently, rules which are intended to have legislative power should also be promulgated. Therefore, as far as the common-law and section 16 of the Interpretation Act are concerned, the Ward Committees Document, which contains rules of a legislative nature, should have been published in the Provincial Gazette. The failure to comply with these common-law and statutory directives also render the said document of no force and effect.

INTERDICTIONARY RELIEF

[31] As indicated in paragraph 2 above, the applicants also apply for an order that the first respondent be ordered to take the necessary steps for the adoption and promulgation of a (new) Ward Committees By-law and to, without delay, arrange for a ward committees election to be conducted. The nature of this relief appears to be that of a final interdict, in the form of a *mandamus*.

[32] In the present context this would mean an order to compel the performance of a specific statutory duty and to remedy the effects of an invalid election. Such an order is usually granted when a statutory body has failed or refused to fulfil a statutory obligation or to perform a constitutional duty (cf. Wildlife Society of Southern Africa & Others v Minister of Environmental Affairs and Tourism of the RSA & Others 1996 (9) BCLR 1221 (Tk) and Fullimput 221 v Minister of Safety and Security &

Others 2006 (10) BCLR 1202 (T)). It has not been alleged in the papers before me that the first respondent has refused or failed to comply with its statutory duty as stipulated in section 73(3) of the Municipal Structures Act. It is common cause that the officials of the municipality initially laboured under the misapprehension that the elections would be regulated by the Ward Committees By-law which was adopted on 30 June 2011, but only promulgated on 1 February 2012. When the Municipal Manager realised this was a mistake, he released a media statement indicating that the elections would be conducted in terms of the Ward Committees Document (another mistake) which was already adopted during 2001. Notwithstanding all these mistakes, the Municipality still attempted to fulfil its statutory obligations. This is an important consideration to take into account in deciding whether the applicants are entitled to a *mandamus*. In my view they are not, as it has not been demonstrated that a right (with regard to compliance of a statutory duty) has already been infringed or that it will in future be infringed. The first respondent should be afforded the opportunity to first take a decision whether to further comply with its statutory obligations and constitutional duty, or not.

[33] It was argued on behalf of the respondents that if an order declaring the elections invalid were to be granted, then an order suspending the effect thereof should also be considered, leaving the elections of 2012 intact until the next round of elections which will take place between 2015 and 2016. Orders usually are effective from the date upon which they are made. However, in terms of section 172(1)(b)(ii) of

the Constitution a Court may, when deciding a constitutional matter, grant an order suspending the declaration of invalidity. Generally speaking, a Court must take into account the interests of the successful litigant on the one hand and, on the other, the potential disruption of the administration that would be caused by a lacuna (cf. J & Another v Director-General, Department of Home Affairs & Others 2003 (5) SA 621 (CC) at 630B). In this regard one should consider whether an immediate order of invalidity will create a lacuna that would cause uncertainty, administrative confusion or potential hardship. In this regard one should also take into account whether the remaining powers of the first respondent will continue to give adequate effect to the purpose of the legislation. In this regard, section 17 of the Municipal Systems Act makes provision for mechanisms, processes and procedures to facilitate community participation. I should also take into account that, without properly constituted ward committees the first respondent will still be able to function effectively and there is no evidence to suggest that a temporary lacuna will create uncertainty, administrative confusion or potential hardship. For these reasons I am not convinced that an order for suspension should be granted.

COSTS


[34] The last issue to be considered relates to the question of costs. The applicants are seeking a punitive costs order against the first four respondents. It was argued that the way in which the ward committee elections were conducted is so far removed from what can be expected from a public institution, that a special order for costs is warranted. I do

not agree with this submission. In AA Alloy Foundry (Pty) Ltd v Titaco Projects (Pty) Ltd 2000 (1) SA 639 (SCA) at 648E it was pointed out that, in considering a punitive costs order, a Court should warn itself against using hindsight in assessing the conduct of a party. In the present matter there is evidence of bureaucratic bungling and an opportunistic attempt to rectify it, but not to the extent that a punitive costs order is justified. It will also be unnecessary to order the second, third or fourth respondents to pay the costs of this application. Therefore, in my view, the usual order should follow against the first respondent only.

[35] In the result I make the following order:

1. The By-law on Public Participation: Ward Committees, Petitions, Public Meetings and Hearings of the City of Tshwane Metropolitan Municipality as published on 1 February 2012 in the Extraordinary Provincial Gazette No. 21 is declared invalid and void due to non-compliance with section 160(4) of the Constitution, 108 of 1996, read with section 12(3)(a) and 13(a) of the Municipal Systems Act, 32 of 2000 and also read with section 7(1) and (2) of the Rationalisation of Local Governments Affairs Act, 10 of 1998 (Gauteng Province);
2. The Ward Committee Elections for the City of Tshwane Metropolitan Municipality, conducted during 2012, are all declared unconstitutional and invalid;

3. The first respondent is ordered to pay the costs of the application.



D S FOURIE
JUDGE OF THE HIGH COURT

Date: 27 March 2014