

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



Case Number: 26913/15

Date: ~~1 November 2016~~

18/11/2016

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES/NO	
(2) OF INTEREST TO OTHERS JUDGES: YES/NO	
(3) REVISED	<input checked="" type="checkbox"/>
18/11/16	
DATE	SIGNATURE

In the matter between:

TIMELENI TAXI ASSOCIATION

Applicant

and

**THE SENIOR MANAGER: REGISTRATION
AND MONITORING, PROVINCIAL REGULATORY
ENTITY (MPUMALANGA PROVINCE**

First Respondent

**OPERATING LICENSE BOARD (DISTRICT OF
EHLANZENI)**

Second Respondent

TWIN CITY DEVELOPMENT (PTY) LTD

Third Respondent

WHITE HAZY TAXI ASSOCIATION

Fourth Respondent

JUDGEMENT

DU PLESSIS, AJ

1.

This is an application by the Applicant in terms of which it seeks several declaratory orders in the following terms:

- 1.1. *On proper reading of the National Land Transport Act, No 5 of 2009, the Taxi Associations have been reduced to voluntary associations and the individual taxi operators do not have to be members of taxi associations to operate in terms of their operating licenses or permits;*
- 1.2. *The members of the Applicant, whose names are listed in **Annexure TTA1** to the Applicant's founding affidavit, had a right in terms of Section 18 of the Constitution of the Republic of South Africa, 1996 to associate and constitute themselves into the Applicant as they did;*
- 1.3. *The conduct of the First and Second Respondent of requiring individual taxi operators, including members of the Applicants to furnish the Provincial Regulatory Entity (PRE) and the Licensing Board with letters of recommendation from registered taxi association for the purposes of issue or renewal of operating licenses or permits or for any assistance relating to their operation as taxi operators is not provided for in the National Land Transport Act, No 5 of 2009 and is therefore unlawful;*
- 1.4. *The insistence by the Fourth Respondent that the members of the Applicant listed in **Annexure TTA1** to the Applicant's founding*

affidavit, "its members despite them having renounced such membership, violates the rights of the said members of the Applicant to freedom of association as contained in Section 17 of the Constitution;

- 1.5. From the outset it needs to be said that the Applicant conceded that prayers 1, 2 and 4 referred to above are to a large extent the confirmation of the current statutory and constitutional state of the status of taxi owners and taxi associations and that it is not appropriate for this court to grant such declaratory orders. The orders are somewhat inelegantly drafted but I shall deal with the orders as they stand and as explained in court because of the importance of this application for the applicants in particular and also the interest that the Taxi fraternity might have in the judgement.;
- 1.6. I shall give the order below today and shall hand down my reasons for the order in due course.

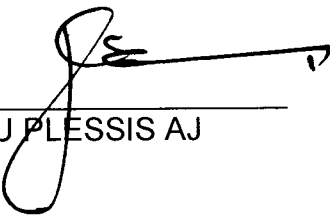
2.

As a consequence, I make the following declaratory order:

- 2.1. Applications for operating licenses or permits ,including applications for the renewal or transfer of operating licenses or permits, lodged in terms of the National Land Transport Act No 5 of 2009, as read with the regulations to the National Land Transport Act 5 of 2009

with the First Respondent , the Registration and Monitoring, Provincial Regulatory Entity of Mpumalanga Province and/or with the second Respondent , the Operating License Board of the District of Ehlanzeni, within the province of Mpumalanga, does not require letters of recommendation from any party , including a registered taxi association , as a pre-requisite for the acceptance of such applications , for the consideration of such applications and for the issue of such license or permit.

2.2. Costs of the application to be paid by the First Respondent.



DU PLESSIS AJ

BE MTHIMUNYE (ATTORNEY)

For the Applicant

Instructed by Baphasile Mthimunye Attorneys

ADV P FERREIRA

For the First Respondent:

Instructed by Sam Ledwaba Attorneys

Rivonia

Judgement delivered on:

18 November 2016