



**Kabinde Inc.**  
Attorneys

Office No. 618  
The South African State Theatre  
320 Pretorius Street  
Pretoria  
0001

Tell: 012 755 3141  
Cell: 071 553 2427  
Fax: 086 569 7994  
Email: [mxolisikabindeinc.co.za](mailto:mxolisikabindeinc.co.za)  
P.O.Box 12521 The Tramshed 0126

TO : The Mayor, City of Tshwane: Steven Makgalapa  
Isivuno Building,  
Cnr Lilian Ngoyi & Madiba Street  
Pretoria  
Email: [citymanager@tshwane.gov.za](mailto:citymanager@tshwane.gov.za)

AND TO : City of Tshwane Municipal Manager  
Isivuno Building,  
Cnr Lilian Ngoyi & Madiba Street  
Pretoria

AND TO : MMC Environment And Agriculture Management  
Counsellor Dana Wannenburg  
Isivuno Building,  
Cnr Lilian Ngoyi & Madiba Street  
Pretoria  
Email: [DanaW@tshwane.go.za](mailto:DanaW@tshwane.go.za)

AND TO : Counsellor Cllr. Abel Tau  
Isivuno Building,  
Cnr Lilian Ngoyi & Madiba Street  
Pretoria  
Email: [AbelT@tshwane.gov.za](mailto:AbelT@tshwane.gov.za)

AND TO : Office of the Speaker, City of Tshwane  
3200 Madiba Street  
Second Floor, Block a  
West Wing, Tshwane House  
Pretoria, 0001

AND TO : Legal Department of Tshwane Metro Potitan Municipality  
Tshwane House,  
320 Madiba Street,

*DIRECTOR MXOLISI KABINDE BCOM LAW, LLB (UP)*

*COMPANY REGISTRATION:2017/132053/21*



**Kabinde Inc.**  
Attorneys

Office No. 618  
The South African State Theatre  
320 Pretorius Street  
Pretoria  
0001

Tel: 012 755 3141  
Cell: 071 553 2427  
Fax: 086 569 7994  
Email: [mxolisik@kabindeinc.co.za](mailto:mxolisik@kabindeinc.co.za)  
P.O.Box 12521 The Tramshed 0126

Pretoria, Gauteng,  
227 Andries Street, Pretoria

Our Ref: MR KABINDE  
Your Ref:  
Date: 12 NOVEMBER 2019

Dear Sirs

**RE: LETTER OF DEMAND IN RE HAMANSKRAAL WATER CRISIS**

1. We refer to the above matter and herein confirm that we act on behalf of Fair and Equitable Society hereinafter referred to as our client and is commonly known as FES a non-profit organisation established and registered in terms of the Non-profit organisation Act 71 of 1977 with registration number 2019/439220/08.
2. Our client's *locus standi* in these proceedings is founded on the following provisions of the Bill of Rights of the Constitution of the Republic of South Africa, 1996 ("the Constitution"):
  - 2.1. Section 38(a) which is the right to on one's behalf, approach a competent court upon infringement and or threat of infringement of a right in the Bill of Right by:
  - 2.2. Section 38(b) which is the right to on behalf of anyone who cannot act in their own name approach a competent court upon infringement and or threat of infringement of a right in the Bill of Right. Our client is in this instance acts on behalf of the residents of Hammanskraal, who have been, and continue to be affected by the lack of good quality domestic water supply and who for lack of resources to access legal services, or a lack of awareness of their constitutional and statutory rights, cannot individually bring these proceedings in Court.
  - 2.3. Section 38(d) which is the right to when acting in Public interest approach a competent court in order to get redress upon infringement and or threat of infringement of a right in the Bill of Rights

**DIRECTOR MXOLISI KABINDE BCOM LAW, LLB (UP)**

COMPANY REGISTRATION:2017/132053/21



**Kabinde Inc.**  
Attorneys

Office No. 618  
The South African State Theatre  
320 Pretorius Street  
Pretoria  
0001

Tell: 012 755 3141  
Cell: 071 553 2427  
Fax: 086 569 7994  
Email: [mxolisi@kabindeinc.co.za](mailto:mxolisi@kabindeinc.co.za)  
P.O.Box 12521 The Tramshed 0126

3. It is common cause that since 2015, the residents of Hammanskraal have been forced to consume water which has been found to be contaminated and not fit for domestic use or human consumption.
4. It is common cause that in terms of a Council for Scientific and Industrial Research report commissioned by the Department of Water and Sanitation appended hereto as **Annexure "A1"**, it has been found that the drinking water samples that have been collected at Temba Water Treatment works, Kekana Primary School and Refentse Clinic, are not compliant with the SANS: 241 determinants such as nitrate+nitrate, and as such, can cause chronic health to the residents of Hammanskraal.
5. Despite numerous requests for a meeting and/or detailed plan outlining the action to be taken by the City of Tshwane in addressing the Hammanskraal water crisis, City of Tshwane has refused and/or neglected to provide our client with, OUTA and the Hammanskraal residents forum with such a plan.
6. It is due to the following reasons that we make a demand:
  - 6.1. Your refusal to provide the community and community organisations with feedback on a plan of action;
  - 6.2. Your failure to comply with the constitutional and statutory obligations, including the Water Service Act 108 of 1977 to ensure that the residents of Hammanskraal, its surrounding communities and/or other informal settlements within Hammanskraal area are provided with access to quality domestic water supply.
7. In light of the above we now have instructions to demand as we hereby do:
  - 7.1. That the City of Tshwane ceases and desists from providing the Residents of Hammanskraal with contaminated water and/or water which is not safe for human consumption and
  - 7.2. That (10) days upon receipt of this letter, the city provides the residents of Hammanskraal with clean water safe for human consumption.
8. Upon your failure to accede to our demands we have instructions to Approach the High Court with an application seeking the following declaratory orders:
  - 8.1. That the City of Tshwane be declared to have failed to take reasonable measures to fulfil the right to access to water afforded to the residents of Hammanskraal;

**DIRECTOR MXOLISI KABINDE BCOM LAW, LLB (UP)**

COMPANY REGISTRATION:2017/132053/21



**Kabinde Inc.**  
Attorneys

Office No. 618  
The South African State Theatre  
320 Pretorius Street  
Pretoria  
0001

Tell: 012 755 3141  
Cell: 071 553 2427  
Fax: 086 569 7994  
Email: mxolisi@kabindeinc.co.za  
P.O.Box 12521 The Tramshed 0126

8.2. That the City of Tshwane be declared to be in breach of its Constitutional obligations in respect of providing clean and safe water services to the residences of Hammanskraal in terms of Section 27 of the Constitution in that:

8.2.1. The water services which are provided to the residents concerned ("the water services") result in a breach of the aforementioned residents' right to dignity, their right to freedom and security, right to an environment that is not harmful to their health or well-being, and their right to clean drinking water;

8.2.2. The City of Tshwane has not given priority to the basic needs of the residents concerned in respect of water services;

8.2.3. The City of Tshwane has not ensured that all the residents concerned have access to clean drinking water, which is free from pollutants and/or harmful bacteria;

8.2.4. The water services which are provided to the residents concerned does not meet standard health requirements; and

8.2.5. The water services are not environmentally sustainable.

8.3. That the City of Tshwane be hereby declared to be in breach of their constitutional and statutory obligations by not having taken steps to plan and implement the provision of clean drinking water to the residents of Hammanskraal,; and

8.4. We will further seek the Court to direct the City of Tshwane to:

8.4.1. within thirty (30) days of the date of granting the declaratory order above, prepare and make available to the Applicants and residents of Hammanskraal, a plan for the provision of clean drinking water in those areas of Hammanskraal, indicating what steps will be taken, where they will be taken, and when they will be taken;

8.4.2. Within thirty (30) days of the date of the declaratory order, to file with the above honourable Court a report under oath, addressing the matters referred to in paragraph 8.4.1 above.

8.4.3. Within three (3) months from the date of the declaratory order, to take reasonable measures to implement the aforementioned plan;

**DIRECTOR MXOLISI KABINDE BCOM LAW, LLB (UP)**

COMPANY REGISTRATION:2017/132053/21



**Kabinde Inc.**  
Attorneys

Office No. 618  
The South African State Theatre  
320 Pretorius Street  
Pretoria  
0001

Tel: 012 755 3141  
Cell: 071 553 2427  
Fax: 086 569 7994  
Email: [mxolisi@kabindeinc.co.za](mailto:mxolisi@kabindeinc.co.za)  
P.O. Box 12521 The Tramshed 0126

We hope that you will give our demand due consideration and respond accordingly,  
having regard to the rights and needs of the residents of Hammanskraal.

Yours Faithfully

Kabinde Attorneys  
Per: Mxolisi Kabinde

DIRECTOR MXOLISI KABINDE BCOM LAW, LLB (UP)

COMPANY REGISTRATION:2017/132053/21