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**Informal trading by-laws - inner city Johannesburg - Operation Clean Sweep - South Gauteng High Court**

SERI represents the South African Informal Traders Forum (SAITF) and over 1 200 informal traders who were forcibly removed from their trading sites as part of the Mayor's "Operation Clean Sweep" campaign, undertaken by the City of Johannesburg and the JMPD between 30 September and 31 October 2013.

On 19 November 2013, SAITF and other informal street traders launched an urgent application (Part A) for an order stating that they are

## South African Informal Traders Forum and Others v City of Johannesburg and Others ('SAITF')

permitted to trade in a manner consistent with sections 9 and 10 of the City's Informal Trading By-Laws, at the locations they occupied immediately before their removal. The traders argued that they are in a desperate situation, have no income and are in fear of losing their homes. They needed to return to their livelihoods urgently and could not wait till March 2014 to be heard, which was likely if an ordinary course of action is taken.

The traders further requested that the City be directed to re-erect the trading stalls removed, or alternatively to permit the traders to continue trading on the sites where those stalls previously stood. Further, if the City believed there had been a contravention of the informal trading by-laws and wanted to remove a trader or group of traders, or impound their goods, it must provide written notice of the contravention to each trader and give them 2 days to cure the contravention. If the contravention is not cured, then the City must give the trader(s) a further day to remove their goods and vacate the trading location.

Part B of the application was a request for an order reviewing and setting aside the City's decision to implement "Operation Clean Sweep" by removing the traders from their trading locations, not permitting them to return after they complied with a 'verification and re-registration' process, and relocating their trading rights to as yet unidentified 'alternative designated trading areas' (and to prohibit them from trading in the interim).

The urgent application (Part A) was heard on 26 November 2013 in the South Gauteng High Court. The City wanted to consolidate the SAITF and SANTRA applications, and have them dismissed because of a lack of urgency. On 27 November, Judge Ramarumo Monamo consolidated the two cases and struck the urgent application from the roll for lack of urgency, ordering each party to pay costs.

On 29 November, SAITF and the 1 200 traders applied for leave to appeal the High Court decision to the Constitutional Court. On 2 December the Court issued directions to the City and the other respondents, directing them to file an opposing affidavit on or before 3 December if they wish to oppose the urgent application for interim relief. According to the Chief Justice, the opposing affidavit must set out why the interim relief sought by the traders in terms of Part A of the High Court application should not be granted pending the determination of Part B. On 4 December the City filed its notice to oppose and answering affidavit.

The Constitutional Court heard the matter on 5 December. The same day it handed down an order interdicting the City from interfering with the traders at the locations they previously occupied, pending the determination of Part B of the application.

On 4 April 2014 the Constitutional Court handed down its judgment setting out the reasons for granting the interim order. Evoking the spirit of Nelson Mandela, Acting Chief Justice Dikgang Moseneke condemned Operation Clean Sweep as an act of "humiliation and degradation" which rendered thousands of people, and their children, destitute. The Court expressed concern that the City had described the eviction of several thousand informal traders as "convenient" and instead characterised Operation Clean Sweep as "indiscriminate" and "flawed", finding that the City had "gone about achieving its objectives in flagrant disregard of the traders' rights". The City had resisted the traders' application to be restored to their stalls on the sole ground that it was not urgent, and said that they could claim damages later for any loss caused by the evictions. The Court found that this attitude "may well border on the cynical".

- SERI press statement (4 April 2014) [here](#) (/images/SAITF\_Press\_release\_4April2014.pdf).
- Constitutional Court judgment (4 April 2014) [here](#) (/images/SAITF\_Judgment\_CC.pdf).
- Constitutional Court media summary (3 April 2014) [here](#) (/images/CCT\_173-13\_SAITF\_and\_Others\_v\_City\_of\_Johannesburg\_and\_Others\_\_CCT\_174-13\_SANTRA\_v\_City\_of\_Johannesburg\_and\_Others\_clean.pdf).
- Press statement (5 December 2013) [here](#) (/images/SAITF\_Press\_release\_5Dec2013\_final.pdf).
- Constitutional Court order (5 December 2013) [here](#) (/images/CCT\_173-13\_\_CCT\_174-13\_.pdf).
- Heads of argument for the SAITF applicants (5 December 2013) [here](#) (/images/SAITF\_CC\_Heads\_FINAL.pdf).
- Media summary issued by the Constitutional Court (4 December 2013) [here](#) (/images/CCT\_173-13\_SAITF\_and\_Others\_v\_City\_of\_Johannesburg\_and\_Others\_\_CCT\_174-13\_SANTRA\_v\_City\_of\_Johannesburg\_and\_Others\_clean.pdf).
- Directions from the Constitutional Court (4 December 2013) [here](#) (/images/Directions\_CCT\_173-13\_and\_CCT\_174-13\_04-12-13-1.pdf).
- City's notice to oppose and answering affidavit (4 December 2013) [here](#) (/images/CoJ%20affidavit%20-%20ConCourt.pdf).
- Directions from the Constitutional Court (2 December 2013) [here](#) (/images/CCT\_173-13\_Directions\_02-12-13.pdf).
- SERI press release on application for leave to appeal (2 December 2013) [here](#) (/images/Con\_Court\_Press\_release\_2Dec13\_FINAL.pdf).
- Con Court application for leave to appeal (29 November 2013): notice of motion [here](#) (/images/SAITF\_CC\_NM\_Final\_2.pdf)and founding affidavit [here](#) (/images/SAITF\_CC\_FA\_final\_2.pdf).
- SERI press statement (27 November 2013) [here](#) (/images/SERI\_Press\_release\_27Nov13.pdf).
- Order (27 November 2013) [here](#) (/images/SAITF\_SANTRA\_order\_27Nov13.pdf).
- Heads of argument (25 November 2013) [here](#) (/images/SAITF\_Heads\_final.pdf).
- SAITF replying affidavit: Part A (24 November 2013) [here](#) (/images/SAITF\_RA\_241113.pdf).
- City of Johannesburg notice of motion (22 November 2013) [here](#) (/images/NOTICE\_OF\_MOTION\_ito\_Rule\_11\_read\_with\_Rule\_6-14\_Santra\_22\_11\_13.pdf)and supporting affidavit (22 November 2013) [here](#) (/images/Supporting\_Affidavit\_COJ\_v\_SANTRA\_and\_SAITF\_22\_11\_13.pdf).
- Notice of motion and founding affidavit (19 November 2013) [here](#) (/images/SAITF%20Application\_Nov13.pdf).
- Annexures: A [here](#) (/images/SAITF%20Annexure%20A.pdf), B-G [here](#) (/images/SAITF%20Annexures%20B-%20G.pdf), G-L1 [here](#) (/images/SAITF%20Annexures%20G%20-%20L1.pdf), L1-R1 [here](#) (/images/SAITF%20Annexures%20L1%20to%20R1.pdf)and R1-S [here](#) (/images/SAITF%20Annexures%20R1%20to%20S.pdf).
- SERI press release (14 November 2013) [here](#) (/images/Press\_release\_14\_November\_2013\_FINAL.pdf).
- Letter of demand (14 November 2013) [here](#) (/images/SERI\_Letter\_of\_Demand\_14\_November\_2013.pdf).





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