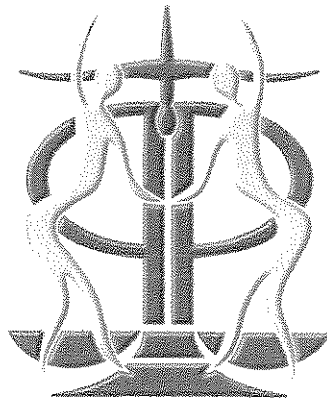


**REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION
182(1)(b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH
AFRICA, 1996 AND SECTION 8(1) OF THE PUBLIC PROTECTOR
ACT, 1994**



**PUBLIC PROTECTOR
SOUTH AFRICA**

REPORT NO.36 OF 2009/10

**REPORT ON AN INVESTIGATION INTO AN ALLEGED FAILURE BY THE DR
JS MOROKA MUNICIPALITY TO ASSIST MR DS SOKHULU TO AMEND HIS
DEED OF GRANT**

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Executive Summary

- (i) The Public Protector investigated a complaint by Mr SD Sokhulu (the Complainant) who alleged that in 1997 he submitted his Deed of Grant to the Dr JS Moroka Local Municipality (the Municipality) for the Municipality to assist in changing the surname reflected on the document from Sithole to Sokhulu. The Complainant alleged that on several occasions he approached the Municipality to check on progress in this regard, but each time he was told to come back again.
- (ii) It was found that:
 - (a) The Complainant submitted his Deed of Grant to the Municipality after receiving information that people who wanted to effect changes to their deed documents should forward them to the Municipality and that such changes would be effected free of charge;
 - (b) The Deed of Grant was lost while in the possession of the Municipality; and
 - (c) A Deed of Grant that had been issued by the Deeds Registrar in the Complainant's old surname could not be traced.
- (iii) The remedial action to be taken is that:
 - (a) The Municipality must assist the Complainant to amend his Deed of Grant to reflect his correct surname of Sokhulu; and
 - (b) The Municipality should bear the cost of the application.

REPORT ON AN INVESTIGATION INTO AN ALLEGED FAILURE BY THE DR JS MOROKA MUNICIPALITY TO ASSIST MR DS SOKHULU TO AMEND HIS DEED OF GRANT

1. INTRODUCTION

- 1.1 This report is submitted to Mr S. D. Sokhulu and to the Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs in the Mpumalanga Provincial Government and the Council of the Dr JS Moroka Local Municipality in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994 (the Public Protector Act).
- 1.2 The report deals with an investigation into an alleged failure by the Dr J S Moroka Municipality (the Municipality) to assist Mr SD Sokhulu (the Complainant) to effect a change of surname on his Deed of Grant.

2. THE COMPLAINT

- 2.1 In 2005 the Public Protector received a complaint from the Complainant that in 1997 an announcement was made that people who wanted to effect amendments to their deed documents should submit them to the then Mbitane Transitional Local Council offices and that the amendments would be effected free of charge.
- 2.2 The Complainant alleged that he submitted his Deed of Grant together with a letter from the Department of Home Affairs in which he was advised that his application for authority to assume the surname of Sokhulu was approved.

2.3 The Complainant stated that he followed up on numerous occasions to establish whether the document was amended, but received no positive response.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR TO INVESTIGATE THE COMPLAINT

3.1 The institution of the Public Protector was established by section 181(1) of the Constitution as one of the Chapter 9 institutions mandated to support and strengthen constitutional democracy. The operational requirements of the Public Protector are provided for by the Public Protector Act.

3.2 In terms of section 182(1) of the Constitution the Public Protector has the power to investigate any conduct in state affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in an impropriety or prejudice.

3.3 While the allegation made by the Complainant against the Municipality was referred to the Public Protector outside the two year period provided for in section 6(9) of the Public Protector Act, a decision was taken to investigate the complaint, as the Complainant was of the view that the Municipality was attending to the matter, while it remained unresolved.

4. THE INVESTIGATION

4.1 The investigation was conducted in terms of sections 6 and 7 of the Public Protector Act and comprised the following:

4.1.1 Consultation with the Complainant;

4.1.2 Correspondence with the Municipality; and

4.1.3 Interview with the Acting Municipal Manager and other Municipal officials.

5. CORRESPONDENCE WITH THE MUNICIPAL MANAGER

5.1 Written correspondence was submitted to the Municipal Manager in which he was requested to investigate the alleged undue delay to finalise the matter.

5.2 The Municipal Manager responded and stated that while there was a general delay experienced with the issuing of Deeds of Grant for beneficiaries in the whole of Siyabuswa B, he was not aware of the circumstances regarding the Complainant's Deed of Grant. He stated that the official who handled the matter was on suspension and requested additional details of the complaint.

5.3 No response was received from the Municipality despite numerous reminders sent by the Public Protector.

6. MEETINGS WITH THE MUNICIPAL MANAGER AND OTHER OFFICIALS

6.1 A meeting with officials of the Municipality was subsequently held comprising Ms Mathibela (the Acting Municipal Manager), Mr Mawela (the Acting Community Development Services Manager), Mr Skosana and Mr Mabhena, to discuss the Complainant's matter.

6.2 The Acting Community Development Services Manager was delegated to look into the matter and to respond to the enquiry by the Public Protector. He later reported that the Complainant's Deed of Grant could not be traced.

- 6.3 Another meeting was held on 22 July 2009 with the Acting Municipal Manager, the Acting Community Development Services Manager; Mr Skosana, the Director Technical Services and Mr Mtsweni, Senior Officer Housing and Land Development wherein the following issues were confirmed on record:
- 6.3.1 The Complainant's original Deed of Grant could not be traced and was not in his file; and
- 6.3.2 The Complainant was advised to pay a sum of R290.00 for the services of a conveyancer to resolve the matter.
- 6.4 The Municipality reported further that the Department of Human Settlement was currently engaged in the process of assisting residents of Siyabuswa with the issuing of Deeds of Grant.
- 6.5 The Municipality would approach the Department of Human Settlement to request that the issuing of the Complainant's Deed of Grant should be prioritised.

7. FINDINGS

- 7.1 The Complainant submitted his Deed of Grant at the Municipality following an announcement by the Municipality that people who wanted to amend their deed documents should submit them at the Municipal offices and that changes would be effected free of charge.
- 7.2 The Municipality failed to render the required assistance and the original Deed of Grant could not be traced.

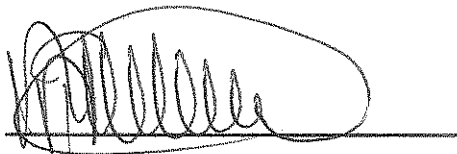
8. REMEDIAL ACTION TO BE TAKEN

In terms of section 182 (1) (c) of the Constitution and section 6(4)(c) (ii) of the Public Protector Act, the following remedial action must be taken :

- 8.1 The Municipality must assist the Complainant to amend his Deed of Grant to reflect his correct surname of Sokhulu; and
- 8.2 The Municipality should bear the cost of the application.

9. CONCLUSION

- 9.1 The Municipality must report to the Public Protector on the progress regarding the implementation of paragraph 8 above, within three months of receipt of this report.



ADV T N MADONSELA
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA

DATE: 23/02/2010

Assisted by: Ms N Mtsweni, Siyabuswa Office