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# THE MEC AND THE RHA

## The public must come first

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THE MEC for Human Settlements is given the powers to establish a rental housing tribunal (RHT) in the province and to appoint members in terms of the Rental Housing Act 50 of 1999 as amended (RHA). In appointing members who are qualified to carry out the mandate of the RHA, the MEC must ensure that each applicant does in fact have the necessary skills, experience, expertise and exposure to rental housing matters; property management or housing development matters and consumer matters pertaining to rental housing or housing development matters.

The general notion is that once a provincial RHT is established and its members and support staff appointed, the RHT is a creature on its own. Indeed, it is independent of the MEC in so far as the judicial or quasi-judicial processes are concerned. The MEC cannot interfere in the mediation or hearing of cases or the outcome of a complaint.

There is no legal constraint that prevents the MEC from entering into a service contract with each member and support staff, holding each accountable for her or his time, service delivery, competency, expertise and integrity. Such powers should not be delegated to departmental staff. In fact, delegation is not possible since the RHA creates a direct nexus

between the MEC and the persons she or he appoints to the RHT.

Perhaps, at the very inception, the process of appointing members could be outsourced to an independent body to ensure proper legal compliance and to prevent nepotism or discrimination. MECs are pre-occupied with myriad of responsibilities and have to rely on staff to initiate certain processes, prepare reports and finalise matters. Staff who wish to be in 'control' of a situation or comfortable with certain persons or do not want to be challenged, will inevitably recommend persons over whom some measure of control can be exerted. The result is that the public suffers and the MEC's integrity and commitment are compromised.

Western Cape and Gauteng RHTs are examples of rigorous processes involved in appointing members who satisfy the requirements of the RHA. The human settlements portfolio committee is not just a rubber stamp and the MEC a mere spectator. The result, the public receives excellent service, particularly from the members. The decisions of these RHTs by way of mediations and rulings, some of which have been challenged in courts, show competency, dedication and deep understanding of the RHA and common law procedures.

Salim Patel and Trevor Bailey, chairpersons of the Western Cape and Gauteng RHTs respectively, give direction to their members and staff. It is not unusual to find them working late afternoons on RHT matters and even occupied with RHT work over weekends. It would be unthinkable to find them: -

- not in charge of the affairs of the RHT
- doing personal work at the RHTs,
- keeping the public waiting for hours,
- using RHT staff to run personal errands,
- concerned with the number of complaints recorded for the year,
- rushing through mediation and hearing,
- claiming remuneration for work not done,
- not present for mediation or hearing or meetings on scheduled times and days,
- 'double-booking' their time to the RHT and to private work, with the RHT receiving scant attention,
- using funds with the co-operation of senior management staff to attend courses for personal and selfish reasons.

These would be acts of neglect of duty and corruption they would not tolerate.

Patel and Bailey have hands-on experience and demand a high standard of behaviour and responsibility from

their colleges and support staff. It is the quality and time each complaint is given that matters to them and not how impressive statistics look in the quarterly report to the MEC. Perhaps, they may not be appointed to serve another term because of their courage and dedication.

The MEC for Human Settlements is the most valuable and powerful person regarding the provincial RHT and the chairperson is the most significant catalyst in achieving the mandate of the RHA. The public must come first (*batho pele* principles) and personal work and self-aggrandisement should not be the reasons for serving on the RHT.

"Eight Batho Pele principles were developed to serve as acceptable policy and legislative framework regarding service delivery in the public service. These principles are aligned with the Constitutional ideals of:

- Promoting and maintaining high standards of professional ethics;
- Providing service impartially, fairly, equitably and without bias;
- Utilising resources efficiently and effectively;
- Responding to people's needs; the citizens are encouraged to participate in policy-making; and
- Rendering an accountable, transparent, and development-oriented public administration."

The two need each other to realise the *batho pele* principles so that landlords and tenants may be better served. They need to ensure a strong democracy, serving the government in their respective capacities and the public without fear or favour.