



OCR NEWSLETTER

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CHILDREN'S FIRE DEATH FANS FURY

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By Zohra Mohamed Teke and Simone Samuels

The dilapidated West Point building pictured after a fire tore through it on Friday. Picture: Gcina Ndwalane

KwaZulu-Natal's housing department is facing calls for criminal charges against it after the deaths of two children in a fire at its West Point Lodge on Durban's embankment.

It also faces appeals for the immediate closure of the "unsafe" 12-storey building in Margaret Mcadi Avenue (Victoria Embankment). And residents said it was sad that two children had to die before the provincial government got involved in their long-running saga.

Tenant rights group, the Organisation of Civic Rights (OCR), raised the need for criminal charges against the Department of Human Settlements. But Human Settlements MEC, Ravi Pillay, described the suggestion as "absolutely ridiculous", saying there was no basis for criminal charges to be brought against the department over Friday's fire.

The pair, aged one-and-half and three, were said to have been locked in the second floor flat by their mother who went out on errands.

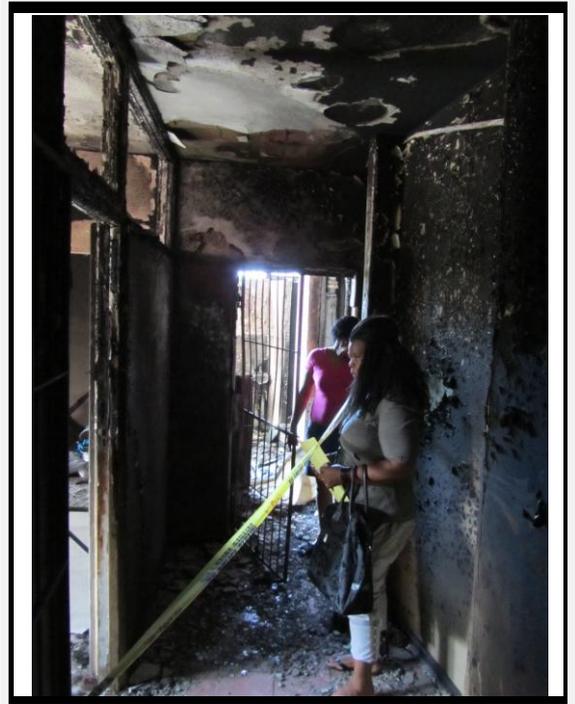
OCR chairman, Dr Iqbal Mohamed, said the department had for eight years ignored properties it owned, and had allowed them to become unfit for human occupation.

"We are to hold a meeting with the current MEC this week, who is proactive and regarded as someone who does not wish to see tenants being displaced. But we want the building to be closed down immediately as it poses a safety and health risk to tenants in the current state. The department needs to rehouse those tenants pending the process over the building's future," Mohamed said.

Pillay said in response he would meet tenants on Tuesday to discuss a way forward, including immediate steps that needed to be taken.

"We are engaging in good faith and will consider our options. This issue of inner city poverty is a national concern and one that I will be raising at that level later this month. While we seem to be addressing rural poverty, we are not developing an effective policy framework on the inner city poor, and although this is not an easy solution, we will engage with stakeholders to unpack this with the financial constraints that we face," Pillay added.

*Abridged version, courtesy of the Daily News



Tenants' representative Karen Applegreen with Pretty Gumede (OCR) at the apartment where two children burnt to death.

THE RENTAL HOUSING AMENDMENT BILL - RADICAL CHANGES PROPOSED

Towards the end of 2011, OCR responded to the proposed changes to the Rental Housing Act. In its submission, the OCR opposed the granting of powers to the provincial Tribunals to evict tenants, contending that it was unconstitutional. The national parliament's portfolio committee on human settlements' attention was also drawn to other relevant matters that needed urgent solution.

The chairperson of the committee accepted that such matters can be raised and, in fact, asked for the Bill to be re-drafted to include provisions to protect poor tenants. The re-drafted Bill was published in March 2012 for public comments.



Ms. Dambuza said: "A lot of poor people still rented because government had not reached a point where it could provide everyone with the two-room houses," (minutes of January 18, 2012).

Beauty Nomhle Dambuza, Chairperson of the human settlements' portfolio committee

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OCR is indebted to MISEREOR for its partnership

Court restores tenants' rights



From left: Zandile Mpanda, Ntombintathu Limana, Bulelwa Beme, Nokuzola Bofela and Nomfundo Mayaba

Landlords prevented from interfering

Abdul Aziz Building

NTOMBINTATHU Limana and four other tenants who lodged a complaint of unfair practice with the KwaZulu Natal Rental Housing Tribunal (RHT) on March 3, 2011, did not anticipate being locked out after receiving a ruling. The tenants risked approaching the RHT for relief since they were not prepared to pay a further increase for their cubicle structures that required maintenance; having suffered illegal disconnection of services and intimidation in the past.

Limana and her fellow tenants are street traders and just about manage to pay their rentals ranging from R800 to R1600. The rental values of their actual cubicular spaces, being the entire dwelling they occupy, range from about R400 a square meter; compared to R73 sq.m as the rental value for the actual space or floor area for an upmarket apartment comprising of two bedrooms, a kitchen, toilet and bathroom in Musgrave.

Since Limana and other tenants like her have no financial security and proof of regular income, they are forced to take accommodation in buildings like Abdul Aziz in Victoria Street, Durban; sharing the communal facilities that are inadequate for the large number of occupants in each floor. The R200.00 increase was therefore not justified for the small space.

On Friday October 7 they were locked out and after two attempts by the police, the tenants managed to retrieve their Identity Documents and one child's school uniform and bag.

According to the tenants, their landlord Dawood Clifford disregarded the letter from Legal Aid that they should be reinstated and the police were unable to help in the absence of a court order.

Earlier in the day, OCR's attempt to interview Kazi who is considered the 'owner' resulted in his management and security personnel taking possession of the camera that had photographs of the cubicles. Kazi said that 'my guys are from Zimbabwe, they don't play, they will finish you up' and he then instructed them to 'smash the 'phone...'

OCR obtained a high court interdict that resulted in the tenants being placed back into their rooms and the owner and representatives prevented from harassing the tenants. OCR negotiated with the owner's lawyer to ensure the tenants would not be evicted through a legal process since this would be considered a form of victimization.

Tenant protected from landlady's unlawful actions



Johannes Kotze (in red) with Nikita (right) outside the Durban High court

Sydenham THE LANDLADY, her husband and 17 other men, forced their way into the dwelling rented by a couple and their two children in Sydenham. The tenant Johannes De Beer Kotze had signed a written lease that commenced on August 1, 2010 and were to expire at the end of July 2011 but the landlady Paulette Yvonne Clark wanted to move into the dwelling before the lease had come to an end.

When the OCR contacted Clark, she was adamant that she was moving into her. She was not interested that the lease was for a fixed and disconnected the electricity supply to force the Kotzes out of the dwelling.

First Clark disconnected the electricity supply and after OCR's intervention, restored the electricity but threatened to move in with her tenant. On the morning of June 2, 2011 that is precisely what Clark did when she came with her entourage. The landlady with her husband and 17 men after cutting through the burglar gate walked into the dwelling.

Drinking and partying in the living room set the tone. Kotze and his wife Nikita with their teenage son and daughter turned to the Sydenham police for help. That was another shock for the Kotzes. The police locked the door to the dwelling and handed the keys to the landlady.

This was unlawful since the police in South Africa cannot get involved in a civil dispute.

The landlady claimed that Kotze threatened to shoot her and the entourage. He was arrested. OCR contacted the head of the police station and then the commissioner of police to find out when Kotze would be charged. He was released without any charge.

The couple's lawful occupation was disturbed and they were unlawfully dispossessed of their dwelling. The police was used and they got involved in a civil dispute, siding with the persons who unlawfully invaded the tenant's dwelling.

OCR had the family back in the dwelling the following day after approaching the Durban High court for urgent relief. The sheriff and his deputies, after much resistance, had the dwelling restored to the couple on the morning of June 3.

The respondents, Paulette Yvonne Clark and her husband Anthony O'Reilly and any persons acting through and on their instructions were prevented from entering the dwelling occupied by the Kotzes; interfering with their peaceful and undisturbed possession of the dwelling and further interdicted from threatening, harassing or intimidating them. The Kotzes left when the lease ended without any interference from the landlady or any other person.

Zimbabweans living in shipping containers



The eThekweni Municipality's high court action against Ahmed Faruk Asmal the landlord of the Carlisle Street 'refugee' shelter in Durban followed a notice of violation of the city bylaw served on the landlord for running an accommodation without a licence. Should the Municipality succeed, at least 60 people, almost all Zimbabweans, would be rendered homeless. The Municipality excluded the tenants from the litigation process, shutting the door to them of challenging the ensuing homelessness.

Location	Dwelling type with kitchen, bathroom & toilet	Size sq.m	Rentals per month	
			standard	upmarket
Suburb/area				
Central Durban	Bachelor flat	45	R2500	R2750
	1 b / room flat	65	R3100	R3400
	2 b / room flat	75	R3600	R3850
Musgrave	Bachelor flat	45	R2850	R3100
	1 b / room flat	65	R3900	R4400
	2 b / room flat	75	R4600	R5500
Esplanade	Bachelor flat	45	R2700	R3000
	1 b / room flat	65	R3300	R4000
	2 b / room flat	75	R4000	R4800

Information from Trafalgar properties

Cubicular spaces, the 'sweatshops' type congested and compacted accommodation has emerged as the dominant form of housing. It is not even a modicum of 'below average standard quality' - in fact, it is inhabitable with health and safety risks often at an extremely high level. It is not suitable in terms of size, value for money, and offers no privacy, no facility and accords no dignity. These are accommodation one would associate with distressed neighbourhoods, *the slums*. However, it is the community of slumlords who have created distressed, dowdy shelters across the inner city and suburbs, from downtown to affluent neighbourhoods. At issue in OCR's research was whether the eThekweni Municipality with whom the OCR generously shared all its findings in 2002-2003 and repeatedly lobbied for medium to long term planning and vision, is justified in displacing tenants from such accommodation. Is it constitutionally acceptable to turn marginalised groups such as the refugee/migrant tenants into the streets, rendering them homeless?

At issue is also the legality of entering the shelters, 'interrogating' the occupants and procuring documents without a court order authorising and empowering such a search and intrusive process, reminiscent of the police during the apartheid

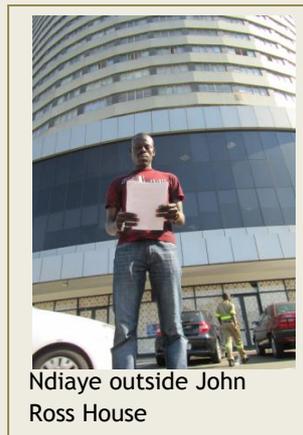
The plight of a Senegalese tenant Agent 'vanished'

Ndary Ndiaye a tenant from Senegal found himself without accommodation after signing a two year lease and paying R6000 to an agent, Ismail Abdul Majid Haffejee. The agency that was managed by Haffejee, Premier Properties, ceased to operate and Haffejee 'vanished'. Unable to get legal assistance or any help from the Rental Housing Tribunal, he turned to the OCR.

The OCR through a deeds search traced the owner of the flat at John Ross House, Margaret Mncadi Avenue (Victoria Embankment), Durban that was to be occupied by Ndiaye. The flat was owned by a prominent businessman Akram Ismail Beemath.

Beemath said that he would instruct his attorney to enable him to regain control and possession of his flat and to investigate the unauthorised use of his name in the leases.

An intensive investigation revealed that Premier Properties stopped operating and its representative Haffejee was eventually tracked down to a South Beach flat at Groote Schuur, 2 Erskine Terrace, Durban. He failed to respond to questions via email and a letter hand delivered to him last year. Instead, he contacted Ndiaye, assuring him that he would refund the money at the end of August 2011.



Ndiaye outside John Ross House

Haffejee subsequently moved out of the South Beach flat and again seemed to have vanished. A vigilant reader who read about Ndiaye's story online provided Haffejee's location to a flat at 101 Victoria Embankment (Margaret Mncadi Avenue). After the OCR again publicly exposed Beemath and his agent Haffejee, money was finally refunded to Ndiaye, after 10

months. The balance was to be paid end of March 2012 but by April 12 Haffejee failed again.

The OCR had vigorously challenged the police and government officials when so called mixed couples and black tenants were harassed, intimidated and even imprisoned for 'breaking the law'. The rentals for what is a mere 1.5 sq.m accommodation, with abominably inadequate communal and ablution facilities, add to the hardships of the poor tenants.

A tenant at the Carlisle Street 'Shelter' pays about 700% more than a tenant occupying an upmarket 2 bedroom flat.

Tenants are marginalised by their poverty and further marginalised by being migrants/immigrants and refugees. City officials have taken action against slumlords, for which they must be commended but, in South Africa's constitutional democracy, they need to protect the marginalised, vulnerable community. Criminalising the tenants' landlord in this instance or even imprisoning him will not prevent the pending homelessness of the tenants.

(Refer to Mohamed, S.I. (2012). Durban's Carlisle Street Refugee/Migrant Tenants' 'Shelter': Investigation into the type of tenure and the ominous closure of the shelter by the eThekweni municipality. Durban: Organisation of Civic Rights)