

City of Cape Town
Corporate Support Services

URGENT ATTENTION:

Mr B Scholtz

By Fax: 021 400 4017

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Your reference	Our reference	Date
Mr B Scholtz	Mr S Delaney	10 November 2005

CONFIDENTIALITY NOTE: This fax contains confidential information intended only for the person/s to whom it is addressed. Any other recipient is not entitled to read the rest of this fax or disclose its contents to any person, or take copies, and is requested to notify us immediately by fax or telephone at the numbers listed above and we will reimburse the costs of doing so.

Dear Sir/Madam

Gathering At Cape Town Convention Centre at 17h15 on 10 November 2005

1. We act for Jubilee South Africa and are instructed to respond to the two telefaxes sent by you to our client. Although you do not state as much, we assume your Mr Scholtz is the 'Responsible Officer' defined by the Regulation of Gatherings Act No 205 of 1993 ("Gatherings Act") and empowered accordingly.
2. On 9 November 2005 our client received a telefax from you entitled 'Staging of a Picket in Cape Town', which reads, *inter alia*:

"...I have consulted with the South African Police in terms of Section 4(1) of the [Gatherings] Act whereupon it was considered not necessary for negotiations to take place between your organisation, the South African Police Service and the Council for the proposed march

ROUTE:

The participants shall assemble at Cape Town Convention Centre at 17:15 where they will demonstrate with placards from 17:30 and they will disperse the area (sic) no later than 19:45...”

3. At 11:03 today, 10 November 2005, our client received a further telefax from you entitled ‘Amendment of Permit’ which reads, *inter alia*:

The participants shall assemble at the Naspers Building, Bartholomeu Dias (sic) Road, Foreshore, Cape Town at 17:15 where they will demonstrate with placards from 17:30 and they will disperse the area (sic) no later than 19:45. Failing to change the venue will result as (sic) an illegal demonstration...”

4. Your attempt to change the venue for our client’s picket is unlawful for the following reasons:

4.1 Our client, having been duly notified by you in terms of subsection 4 (2) (a) of the Gatherings Act, was entitled to assume that, pursuant to subsection 4 (3) thereof, the picket could proceed in accordance with its notice to you, unconditionally;

4.2 Conditions relating to venue on our client’s picket could only have been imposed by you after all of the following were fulfilled:

4.2.1 A meeting was called by you in terms of subsection 4 (2) (b); and

4.2.2 If, after agreement was reached at the meeting, in accordance with the agreed amendments to our client's notice (subsection 4 (4) (a)); or

4.2.3 If no agreement was reached at the meeting (subsection 4 (4) (b)), if there were reasonable grounds for such amendments, conditions were imposed to ensure:

(i) that vehicular or pedestrian traffic, especially during traffic rush hours, is least impeded; or

(ii) an appropriate distance between participants in the gathering and rival gatherings; or

(iii) access to property and workplaces; or

(iv) the prevention of injury to persons or damage to property; and

4.2.4 that you gave written reasons in terms of subsection 4 (4) (c).

You failed to comply with any of the above requirements of the Gatherings Act.

4.3 Once you imposed the condition relating to venue in your notice received by our client on 9 November 2005, you were not entitled thereafter to unilaterally amend these conditions without a further meeting with the convenor, pursuant to subsection 4 (2) (b) of the Gatherings Act, to discuss such amendment. You failed to call such a meeting.

- 4.4 The Constitution guarantees everyone the right to administrative action that is lawful, reasonable and procedurally fair. Your attempt to change the venue of our client's picket is both unfair and unreasonable, in that:
- 4.4.1 your notification of the change, given to our client barely hours before the commencement of the picket, is manifestly unfair. It would be practically impossible for our client to communicate to the protesters, organised from disparate communities around Cape Town, that the venue of the picket had changed; and
- 4.4.2 your notification of the change was unilateral, without any written reasons therefore and without prior consultation with either the authorized member or our client.
5. For the reasons stated above, your attempt to change the venue for our client's picket is wholly unlawful and our client intends to proceed with its picket at the Cape Town Convention Centre starting from 17:15 today.
6. We shall vigorously defend any protesters involved in our client's picket who are charged with any offences whatsoever. We shall furthermore bring your unlawful actions as aforesaid to the attention of the relevant authorities. The rights of our client and its protester members are strictly reserved herein.

Yours faithfully

Simon Delaney