



## Property, Town Planning and Community Schemes Team

Legal Update  
8 April 2020

Our Cox Yeats Property, Town Planning and Community Schemes Team is committed to keeping you informed on pertinent legal issues, as well as developments within our firm.

### NEWSFLASH – LEGAL UPDATE :

#### HIGH COURT RULING ON COVID19 LOCKDOWN

By now most people would have heard about the judgement delivered on 2 June 2020 by Judge Norman Davis in the Gauteng Division of the High Court of South Africa in the matter of **Reyno Dawid De Beer and Two Others vs The Minister of Cooperative Governance and Traditional Affairs**. The matter came before court as an urgent application attacking the validity of the declaration of the National State of Disaster by the Minister and the regulations promulgated thereunder by her.

The Court found the declaration of the National State of Disaster to be rational and did not strike it down however the Court identified a number of instances of irrationality in the lockdown regulations. In his judgement Judge Davis recorded however that:

*“One must also be mindful of the fact that the COVID 19 danger is still with us and to create a regulatory void might lead to unmitigated disaster and chaos. Despite its shortcomings, some structure therefore needs to remain in place whilst the Minister and the national executive review the regulations and their constitutional approach thereto”.*

#### **Can we simply ignore the lockdown regulations going forward?**

Although the Court went on to declare the lockdown regulations unconstitutional and invalid, the declaration of invalidity is suspended until such time as the Minister, in consultation with relevant Cabinet Ministers, has reviewed, amended and republished new regulations. The Minister was ordered to do so within 14 days from the date of the order or such longer time as the Court may on good grounds allow.

The order specifically provides that:

*“During the period of suspension, the regulations published in the Government Gazette No 43364 of 28 May 2020 as Chapter 4 of the regulations designated as ‘Alert Level 3’ shall apply” (our emphasis).*

## **Conclusion**

It still remains to be seen whether government will accept the judgement and will amend the lockdown regulations or whether the judgement will be appealed. For the time being it therefore remains “business as usual” under Alert Level 3 and all citizens must continue to comply with the lockdown regulations.

**FOR MORE INFORMATION ABOUT OUR SERVICES, PLEASE CONTACT ONE OF OUR TEAM, WHO WILL ASSIST YOU :**



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