

Introduction

In this issue we focus on housing and refugee issues, with some recent cases and a housing policy review. We also announce some staff changes in our Johannesburg and Pretoria offices. ●

IN THIS ISSUE: APRIL 2015

- Meet our new staff members and volunteers
- Farewell Charlene
- Cases:
 - Urgent Spoliation Application
 - Bolanga
 - Consumer Law
- Special Needs Housing Policy

New People at ProBono.Org



Jolindie Ferreira – Manager, Pretoria Office

Jolindie Ferreira is a practising attorney who obtained an LLB Degree from the University of South Africa in 2008. From 2009 she was a professional assistant at Weavind & Weavind where she focussed mainly on general litigation, insurance law and family law.

In 2010 Jolindie joined Delpoort van den Berg as a professional assistant in the Commercial and Property Litigation Department. Thereafter, during 2011 she joined the National Consumer Tribunal as a case analyst specialising in credit and consumer law and later acted as Executive for Strategic Support at that organisation.

Since 2014 Jolindie practised as sole practitioner at Jolindie Ferreira Attorneys before joining ProBono.Org in March 2015.

Aside from her passion for law and access to justice Jolindie is also an avid trail and road runner. She lives in Pretoria.

Lehlogonolo Marota – Intern, Pretoria Office

Lehlogonolo obtained an LLB Degree from the University of Johannesburg in 2015. While studying he volunteered at ProBono.Org in 2013. After completing his degree Lehlogonolo took up a position as a volunteer at Lawyers for Human Rights and the Dikeletsong Citizens Advice Bureau. His interests lie in labour law, family law and human rights. In his spare time he enjoys reading and listening to music.

Margaret Fish – Operations, Grants & Communications Manager

Margaret is from Johannesburg and joined ProBono.Org in March 2015, having many years' experience in communications and events management in both local and international NGOs. She has worked in the housing, human rights and arts and culture sectors and has a particular interest in the rights of women and children. Her outside interests are travelling, literature and jazz music.

Tshenolo Masha – Paralegal, Johannesburg

Tshenolo joined ProBono.Org on 1 April 2015. She obtained a Diploma in Paralegal Studies at RAU (now UJ) Law Clinic in 2008 and then volunteered at the Tembisa Justice Centre before joining the Alexandra Justice Centre as a paralegal.





Bernavie N'dzoungani-N'kanda – Volunteer, Johannesburg

Bernavie is a new volunteer who has been with ProBono.Org for two weeks. She hails from the Republic of the Congo and has been in South Africa for seven years. Bernavie is helping ProBono.Org with french and english interpretation at our weekly refugee clinic. In the future she would like to study for an MBA and become a hotel manager.

Kelvin Kajuna - Volunteer, Johannesburg

Kelvin is a third year LLB student at the University of the Witwatersrand. He hopes his time as an intern at ProBono.Org will provide an insight into the realities and legal issues facing many indigent South Africans. Moreover, he is excited to have the opportunity to get practical, on-the-job experience for his Civil Procedure and Practical Legal Studies courses in his LLB degree.

Naledi Mahooa - Volunteer, Johannesburg

Naledi is a third year law student at the University of South Africa. She has a deep interest in making the law an actual tool for change in the lives of the vulnerable. Volunteering at Probono.Org is an opportunity to learn while effecting change by making access to justice a reality for those who cannot afford such services.

FAREWELL CHARLENE

At the end of March we said a sad farewell to Johannesburg staff attorney Charlene Beukes. We thank her for her good work with ProBono.Org over the past year and wish her well in her future endeavours. ●

NEW CASES

1. Urgent Spoliation Application argued over Judge Satchwell's dining room table

Through the ProBono.Org Housing Law Clinic, Louise Bick of Werksmans Attorneys assisted two families who were threatened with eviction by the trustees of a sectional title building in Hillbrow. The basis for the eviction by the trustees was that the tenants had not paid levies which, in the circumstances, was completely defective in law as levies may only be recovered from owners in a sectional title scheme. Unless a body corporate is acting on the instructions of the owner of a unit, it does not have authority to evict a tenant.

Nevertheless, the clients' units were broken into by the body corporate's armed thugs, who proceeded to remove their belongings and throw them onto the pavement. They then

changed the locks to the units and refused the clients entry into the building. This eviction was done without a court order.

Louise and Lara von Wildenrath drafted urgent spoliation papers, requesting the urgent court to order the body corporate to reinstate their clients' possession of their homes. At 15h00 that day, they managed to secure counsel on a pro bono basis – John Peter SC and Hannelie Gray. Lara arranged with Judge Satchwell's clerk for the matter to be argued at 18h30 for 19h00 that night at the Judge's house.

The Judge granted an interim order, a final order to be argued on the following Friday at urgent court, after affording the body corporate opportunity to

respond to the application.

Despite the court order, Hillbrow SAPS officials refused to execute the court order (one of the trustees is a captain at the station) and said they were not authorised to break down the unit doors by force.

Once again, the clients were forced to spend the night on the street with their possessions.

The next day, after following up with the sheriff to execute the court order, the trustees responded with force and shut the clients and the sheriff's deputies outside the property by closing and locking the exterior gate, acting in blatant contempt of the urgent court order.

Attorneys then came on record for the body corporate and agreed that the urgent court order could be finalised on an unopposed basis on that Friday. The attorneys confirmed their clients would comply with the



court order. The court order was subsequently obtained and for the second time the sheriff went out to the building to restore our clients' possession of their units. Once again, the body corporate representatives would not allow

access to the building and by Friday night our clients still had nowhere to go. New families had been moved into both of the units, despite the legal proceedings and court orders obtained.

Lara has since managed to trace the owner of the unit in which one of the client families has lived for the past 15 years. The owner, a dentist in London, is willing to sell the property to the client, which will finally grant security of tenure through ownership of the unit.

The other client has since managed to enter into a lease agreement after locating the owner of her unit. She has in the interim been able to move back into her unit.

"Having the opportunity to work on this matter for me goes to the core of being a South African citizen.

When I heard what had happened to our clients I couldn't believe that people could treat others so inhumanely."

Lara von Wildenrath

2. Refugee Judicial Review: Mr Christian Boketsa Bolanga / RSDO and 5 others

Mr Bolanga, a pastor from the Democratic Republic of Congo (DRC), was forced to flee his country of origin in 2005 due to the persecution he faced at the hands of both the ruling and opposition parties.

As a pastor he used to preach messages of peace to his church congregation, which included members of the rebel forces. His persecution started in 2000 when the opposition party (MLC) heard of his messages of peace and arrested and beat him on several occasions. The MLC also targeted his wife and beat her too. After being imprisoned for ten days, he was released. Fearing for his life, and the safety of his family, they fled to the city of Mbandaka.

Here he was still not safe. It was assumed that due to his fleeing from the rebel forces he was a supporter of the ruling party, namely the PPRD headed by Joseph Kabila. He was asked to recruit members for the ruling party, but he refused as he was not a supporter of any of the parties.

He was then accused of being a spy for the MLC and the PPRD kept visiting his house in order to threaten and beat him and his wife

into confessing to being the spy. He faced further adversities when his baby took ill and passed away while he was in detention. He was released to attend the burial of his child and used that opportunity to flee to Kinshasa. They sought refuge at a friend's church but it proved too dangerous and they were forced to flee yet again. Mr Bolanga and his wife fled to a village called Kasai where they lived for a period of three years. Despite the lapse of time, the PPRD forces continued to search for them.

Kabila's forces started to harass his family and even raped his mother-in-law who managed to contact them and urge them to flee as their lives were in danger. During this time, his wife fell pregnant which caused further hurdles in their efforts to seek safety. They managed to reach South Africa and in 2005 he applied for asylum, which was rejected in November 2006. He appealed the rejection, which was upheld but this was only communicated to him on 21 July 2011, with an order to leave the country on the basis of a failed asylum seeker application.

After having suffered so much persecution in his country, Mr Bolanga was surprised that the Refugee Appeal Board upheld the

decision to refuse him asylum. He approached ProBono.Org for assistance.

ProBono.Org provided him with an attorney and counsel to assist with a judicial review application. The case was in court in Durban on 13 February 2015 after delays mainly on the part of the state attorney who filed a notice to oppose the matter on behalf of the Minister of Home Affairs. Judgement was delivered on 24 February 2015. G H Penzhorn AJ ordered that Mr Bolanga and his family be issued with Section 27 refugee permits within ten days from the date of judgement.

The judge further lambasted the Department of Home Affairs on the "deplorable" manner in which asylum seeker applications are handled.

This case also highlights some of the many issues faced by refugees at our weekly clinic, namely long delays in finalising asylum applications and failing to record and accept an applicant's version of events leading them to flee their country.

3. Consumer Law

Grace Mcwanga and Gloria Masinga both approached ProBono.Org on 4 February 2015 at the Chatsworth Magistrate's Court Help Desk. The clients had requested legal assistance with the administration orders granted against each of them in the Durban Magistrate's Court. A firm of attorneys (X), the administrators in the matter, deducted a monthly amount of R250.00 and R370.00 respectively from 2012 off the two women's bank accounts. To their surprise



their creditors were not being paid. Mr Vyas Juggernath from V. A Juggernath Attorneys agreed to assist both clients to rescind their administration orders.

The matter was heard in the Durban Magistrate's Court on 10 March 2015 and their administration orders were rescinded with immediate effect. •

Werksmans provides legal services to special needs housing policy development

Werksmans Attorneys has provided pro bono advisory services to the Project Preparation Trust of KZN (PPT), who is assisting the National Department of Human Settlements (NDHS) and National Department of Social Development (NDSO) with a research and policy development process for Special Needs Group Housing (SNGH). Various proactive steps have been taken within existing housing programmes to better accommodate persons with special needs (such as older persons, abused women, people with disabilities, substance dependants, victims of human trafficking, parolees and children in need of care). However, there is currently no government programme that addresses the needs of persons who are unable

to reside independently.

There is also currently no structured national programme in terms of which Not for Profit Organisations (NPOs) can access capital funding for providing much needed accommodation and care facilities for persons with special needs. The NDHS and NDSO are now working in close collaboration in undertaking a research and policy development process.

The new national special needs housing programme seeks to fill the above void in the government's national housing programme by providing capital grants to NPOs to enable them to deliver housing in various forms and designs that will accommodate the range of special housing needs. A detailed legal opinion was provided by

Werksmans Attorneys which reviewed a range of legislation and policy relating to the obligations, powers and functions of various government departments (Health, Correctional Services, Social Development and Human Settlements) in respect of SNGH. The policy review determined that the NDHS does indeed have a clear obligation to prioritise the provision of housing for people with special needs and is the most appropriate department to provide capital funding for such purposes.

Louise Bick, director of the pro bono department, presented the findings of the policy review on Thursday 12 March 2015 at the National Stakeholder Workshop on the Draft Policy for Special Needs Housing Programme, at Emperor's Palace Convention Centre.