

**Council item**

**REQUEST FOR APPROVAL FOR WATER DEBT WRITE OFF**

**1. Purpose**

To obtain approval for irrecoverable debt to be written off for water consumption under owner's account number 1002707384 (tenant account number 1003144234 - stand number 400 221 00000054 00000 0000 0000), account name Theron & Theron Boerdery CC.

**Background And Discussion**

On the 29 August 2017 a judgement by the High Court was passed in the matter between Jordaan and Others v City of Tshwane Metropolitan Municipality and Others. The matter was in relation to the liability of the outstanding debt that survived the transfer of ownership.

The judgement declared that, *upon transfer of a property, a new owner is not liable for debts arising before transfer from the charge upon the property under section 118(3) of the Local Government: Municipal Systems Act 32 of 2000.*

**2. Summary**

On the 14 June 2022 directorate received a rates clearance application for the property mentioned above, Mangaung is purchasing the land for development of an informal settlement. Upon issuing of the clearance figures there was a total amount of **R 550 073,62** issued 13/07/2022 for water consumption and the current debt is **R 516 566.88**. Upon request of payment the owner indicated that they are not liable for the water debt because the water was utilized by the whole informal settlement community via the agreement with the then ward councillor in the year 2008.

The property owner submitted an affidavit by the current councillor indicating that the tenant that was residing at the property in 2008 indicated that the residents of the informal settlement community utilized the water and engineering services Water Demand Management unit verified that the water consumption was not for a normal household consumption. As per section 118(3) of the Local Government: Municipal Systems Act 32 of 2000 all the debt owed upon transfer of a property needs to be paid in full before transfer. Therefor the property cannot be transferred before the debt is fully paid.

### **3. Delegations To Write Off Debt as Per the Municipality's Write Off Policy**

6.1 The Chief Financial Officer will, after thorough review of any applications in terms of the write off policy, be delegated to write off any amounts to the maximum of: -

6.1.1 In the case of a household consumer an amount of R10 000 (excluding interest and penalties) per submission; and

6.1.2 In the case of a business consumer an amount of R20 000 (excluding interest and penalties) per submission.

Any amount in excess of the delegation provided for in paragraph 6.1 above must be submitted together with a recommendation to the Municipal Manager for consideration.

6.2 The Municipal Manager will, after thorough review of any recommendation by the Chief Financial Officer and in terms of the write off policy, be delegated to write off any amounts to the maximum of: -

6.2.1 In the case of a household consumer an amount of R30 000 (excluding interest and penalties) per submission; and

6.2.2 In the case of a business consumer an amount of R50 000 (excluding interest and penalties) per submission.

Any amount in excess of the delegation provided for in paragraph 6.2 above must be submitted together with a recommendation to Council for consideration.

### **4. Recommendation For Approval**

- That the property be charged/billed the average consumption of **1,29 (kl) kilolitres** per day for a normal household for the period that the high-water consumption was charged/billed from **2008/04** to **2022/06**. The average normal household of **1,29 kl** amounted to **R 103 647,56** and that will be charged/billed against the account.
- The amount to be credited as the total informal settlement water consumption is **R 470 871,41** that can be considered to write-off against the account if approved by council.
- Since the water debt was due to water consumption by an informal settlement then the Human Settlement Directorate should provide a vote number were the **R 470 871,41** can be set-off against.

**5. Legal Implications**

Municipal Finance Management Act 56 of 2003

Local Government Municipal Systems Act 32 of 2000

Prescription Act 68 of 1969

**6. Financial Implications**

- An amount of **R 470 871,41** to be written off.

**7. Recommendations**

- That Council approve the write off **R 470 871,41**

It should be noted that recommended write off amount is subject to change due to the monthly interest charged due to the debt on the account.

- That a full investigation be conducted on the events that lead to water consumption by the informal settlement dwellers which resulted to debt incurred and to be written off.

**Submitted by:**



**Mr L Denge**  
**Acting Chief Financial Officer**

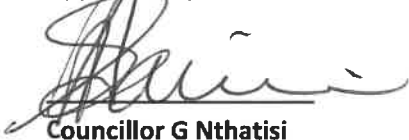
**Recommended by:**



**Ms N Dumalisile**  
**Acting City Manager**

29/05/23

**Approved by:**



**Councillor G Nthatisi**  
**Acting Executive Mayor**

**Ratified by:**



**Ms G Malaza** 30/05/2023  
**National Cabinet Representative**