

PROCLAMATION*by the**President of the Republic of South Africa***No. R. 25, 2007****SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL**

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), have been made in respect of the affairs of the Great Kei Local Municipality situated in the Eastern Cape Province (hereinafter called "the Municipality");

AND WHEREAS the Municipality suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, and at the request of the Premier of the Eastern Cape Province, refer the matters mentioned in the Schedule for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31

July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act any -

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by officers and/or employees of the Municipality;
- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and which offences were committed in connection with the affairs of the Municipality; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which have taken place between 1 January 2003 and the date of publication of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Municipality.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Seventh day of September Two thousand and seven.

T. M. MBEKI

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The disposal of residential erven belonging to the Municipality, namely, erven 576, 577, 578, 579, 580, 585, 586, 587, 588, 589 and 591, Kei Mouth, without -
 - (a) the approval of the Council of the Municipality;
 - (b) the Council of the Municipality, in a meeting open to the public -
 - (i) having decided on reasonable grounds that the erven were not needed to provide the minimum level of basic municipal services; and/or
 - (ii) having considered the fair market value of the erven and the economic and community value to be received in exchange for the erven; or
 - (c) following a procedure that was fair, competitive, transparent, equitable, cost-effective and consistent with the supply chain management policy, which the Municipality was obliged to have and maintain in terms of section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

2. The disposal of farms belonging to the Municipality, namely, farm 98, the remainder of farm 102 and the remainder of farm 106, Division of Komga, without -
 - (a) the approval of the Council of the Municipality;
 - (b) the council of the Municipality, in a meeting open to the public-
 - (i) having decided on reasonable grounds that the farms were not needed to provide the minimum level of basic municipal services; and/or
 - (ii) having considered the fair market value of the farms and the economic and community value to be received in exchange for the farms; or
 - (c) following a procedure that was fair, competitive, transparent, equitable, cost-effective and consistent with the supply chain management policy, which the Municipality was obliged to have and maintain in terms of section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

3. The procurement of -
 - (a) goods and services by the Municipality to the amount of R4 412 539-00 for the conversion of the Royal Hotel, Komga, into office accommodation;
 - (b) goods and services by the Municipality to the amount of R4 486 505-00 for road maintenance by a civil engineering business during the 2003-2004, 2004-

2005 and 2005-2006 financial years;

- (c) eight mobile toilets and a combination truck by the Municipality;
 - (d) administrative services by the Municipality from management consultants;
 - (e) goods and services by the Municipality from a construction business to pave the "Great Hall"; and
 - (f) goods and services by the Municipality from a catering business, without the approval of the Council of the Municipality, contrary to prescribed tender procedures or in a manner that was not fair, competitive, transparent, equitable or cost-effective and the payment of fruitless and wasteful, irregular and/or unauthorised expenditure in respect thereof.
4. The payment by the Municipality of travel and subsistence allowances to its mayor and municipal manager in respect of a trip to France without approval of the Council of the Municipality.
5. The expenditure incurred on behalf of the Municipality by its municipal manager for an endowment policy with Momentum Group Limited without the approval of the Council of the Municipality.
6. The payment by the Municipality of performance bonuses to its municipal manager and chief financial officer during the 2003-2004 and 2004-2005 financial years without a performance assessment indicating that the desired level of performance had been achieved and/or without the approval of the Council of the Municipality.
7. The payment of remuneration for overtime worked by an employee of the Municipality, in excess of the employee's entitlement thereto.