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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

PROCLAMATION*by the**President of the Republic of South Africa***No. R. 63, 2005****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 Department of Housing, Local Government and Traditional Affairs (hereinafter referred to as “the Department”) and the Nelson Mandela Metropolitan Municipality (hereinafter referred to as the “Municipality”) of the Eastern Cape Province:

AND WHEREAS the Department and 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 said Act, and at the request of the Premier of the Eastern Cape Province, refer the matters mentioned in the Schedule in respect of the following housing subsidy projects, namely –

- (a) the Motherweli Tjoks (1500) Project Linked Subsidy Scheme;

(b) the Bloemendal Block **23** South (**1685**) Project Linked Subsidy Scheme; and
(c) the Jacksonville (**1200**) Project Linked Subsidy Scheme,
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 these matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the said Act, any -

- (a) serious maladministration in connection with the affairs of the Department and the Municipality;
- (b) improper or unlawful conduct by officials of the Department and 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 Department and 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 **16** March 2000 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 said Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Department and the Municipality.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Eighteenth day of October Two thousand and five.

T. M. MBEKI

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The granting of housing subsidies by the Municipality to non-qualifying beneficiaries.
 2. Payments of funds made by the Department to the Municipality for housing subsidy projects in circumstances when such payments were not due.
 3. Overspending by the Municipality of funds made available to it for housing subsidy projects.
 4. **Loss** of funds that were made available to the Municipality by the Department for purposes of housing subsidy projects as a result of payment for services not rendered.
 5. The non-registration of immovable property owners as liable ratepayers on the Municipality's immovable property rating system and the resultant non-recovery of rates.
 6. The failure by the Municipality to procure goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
 7. The failure by the Municipality to keep proper internal records **and** controls in respect **of** housing subsidy project funds.
 8. The signature and submission **of** letters purporting to express satisfaction with top structures erected on erven in order to ensure the payment of money in respect thereof to the building contractor whereas no top structures had been erected.
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