

"mbic"



cogta

Department:
Co-operative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL


OFFICE OF THE HEAD OF DEPARTMENT

Enquiries : Ma NO Sikutshwa	Reference:	Date : 11/01/2012
Imibuzo :	Inkomba :	Usuku :
Navrae :	Venwysing:	Datum :

Fax Message:

To : INKOSI MG BUTHELEZI	From : COGTA (PMB)
Att :	Tel :
Fax : 035 874 7620	No of Pages : 2 INCLUDING COVER PAGE
Subject : REQUEST FOR A MEETING ON TRADITIONAL COUNCIL ELECTIONS: 16 JAN 2012	

Yours sincerely


OFFICE OF THE HOD

Tell: +24(0) 33 395 3118

Fax: +24(0) 33 345 6432

www.kzncogta.gov.za

Address: 330 Langalibalele Street, Pietermaritzburg 3200

People centred sustainable co-operative governance which focuses on effective service delivery responsive to the needs of the



cogta

Department:
Co-operative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL

DIRECTORATE: TRADITIONAL GOVERNANCE

Enquiries:

Imibuzo: D Bukhosini
Navrae:

My Reference:

Inkomba Yami:
My Verwysing:

E-mail: dlumisani.bukhosini@kzncogta.gov.za

Date: 10/01/12

Inkosi MG Buthelezi
Ground Floor Zone 2
King Dinizulu Highway
Ulundi Administration Building

Fax no: 035 874 7620

Nkosi yeSizwe!

REQUEST FOR A MEETING ON TRADITIONAL COUNCIL ELECTIONS: 16 JANUARY 2012

The Department of Co-operative Governance and Traditional Affairs is in the process of finalizing arrangements to have the traditional council elections during the month of February 2012, in order to ensure the reconstitution of the traditional councils throughout the Province of KwaZulu-Natal, in line with the Traditional Leadership and Governance Act, 2005 (Act No.5 of 2005).

The Department will be spearheading a vigorous communication campaign to create awareness and to mobilize traditional communities to participate in the traditional council elections scheduled for 19 February 2012. *Amakhosi* will be requested to participate in this awareness drive as the leaders of their respective communities. The Department is requesting iNkosi to play a role through messages of support for this initiative.

In light of the foregoing, the Department wishes to have a session with iNkosi so as to provide more details of the processes that will be followed to create sufficient awareness for optimum participation of communities in traditional council elections. It is our humble request for the Head of Department and her delegation that the proposed meeting be scheduled as follows:-

Date: 16 January 2012

Time: 10:00 am

Venue: Zululand Local House Office

Yours faithfully,

**MS D N QHOBOSHEANE
HEAD OF DEPARTMENT
CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

DATE: 11/1/2012

Wadley House, Room 103, 115 Jahlu Ndlovu Street, Pietermaritzburg 3201

Tel: +27(0) 33 897 5616 | www.kzncogta.gov.za

People-centered sustainable co-operative governance which focuses on effective service delivery responsive to the needs of the community

JAN.1 2012 11:04 0333456432

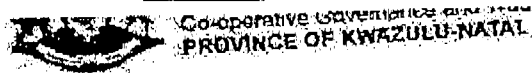
COGTA

#3377 P.003 /003

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RESULT	MODE	DURATION	PAGE	TIME	DATE	DESTINATION STATION	NO.	FUNCTION	SESSION

NAME: COGTA
TEL: 0333456432
DATE: JAN.11.2012 12:53

TX RESULT REPORT



Co-operative Governance and
PROVINCE OF KWAZULU-NATAL

OFFICE OF THE HEAD OF DEPARTMENT

Enquiries : Ms NO GIKUBWA	Reference: /	Date: 13/01/2012
Imbizo :	Inkamba :	Usuku :
Navroz :	Verwysing:	Datum :

Fax Message:

To : INKOSI MG BUTHELEZI	From : COGTA (PMB)
Alt :	Tel :
Fax : 035 874 7620	No of Pages : 2 INCLUDING COVER PAGE
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Yours sincerely

OFFICE OF THE HOD

"mbu"

FAX COVER SHEET

**OFFICE OF THE PERSONAL ASSISTANT TO THE HON PRINCE
MG BUTHELEZI**

Tel: [035] 870 1893/4/7

Fax: [035] 870 1632

Please note: the information contained in this facsimile message is privileged and confidential, and is intended only for the use of the individual named below and others who have been specifically authorized to receive. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, or if any problems occur with transmission, please notify me immediately by telephone: 082 931 2160

TO : MR L J DE KLERK

FAX NUMBER : 031 - 307 1975

FROM : HIS EXCELLENCY PRINCE M G BUTHELEZI

FAXED BY : BONGI

DATE : 13 JANUARY 2012

NO. OF PAGES : 1 + 2

MESSAGE IF ANY :
.....
.....

ZULULAND DISTRICT LOCAL HOUSE OF TRADITIONAL LEADERS

P O Box 1, Mahlabathini, 3865
Tel: [035] 870 1893; Fax: [035] 870 1632

13 January 2012

Ms D N Qhobosheane
Head of Department
Cooperative Governance and Traditional Affairs
Wadley House
Room 103
115 Jabu Ndlovu Street
PIETERMARITZBURG 3201

FAX NUMBER: [033] 345 6432

Dear Head of Department

I wish to acknowledge with thanks your letter dated the 11th of January 2012 concerning a possible meeting between us,

Unfortunately I am committed on the date and time you have suggested for the meeting and I cannot therefore make it.

I am however confused because there is correspondence that has taken place between my lawyer and the MEC on the subject of the arrangements to finalising traditional council elections. And I have received a letter from the Deputy Manager of your Department Mr S D Nyembe stating that there will be an election of the Buthelezi Traditional Council on the 15th of January 2012.

I find it difficult to suggest another date for such a meeting as you propose in the midst of this confusion. In principle I have no objection to a meeting at which we are given details of the processes that will be followed to create sufficient awareness for optimum participation of communities in view of the fact that the present processes are definitely flawed even in terms of the very regulations promulgated by the MEC herself.

2

Thanking you once again for your correspondence.

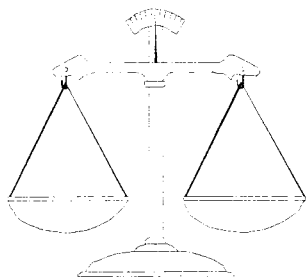
My kind regards.

Yours sincerely in the service of the Nation


PRINCE MANGOSUTHU BUTHELEZI MP
INKOSI: THE BUTHELEZI TRADITIONAL COUNCIL/CLAN

m812'

LOURENS DE KLERK ATTORNEYS



SUITE 1505, 13TH FLOOR
KINGSFIELD PLACE
30 FIELD STREET
P. O. BOX 3761
DURBAN
4000

TEL:
(031)
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FAX: (031) 307-1975
CELL: 082 557 1579
E-MAIL: lourensdeklerk@telkomsa.net

The information contained in this letter is confidential and intended only for the individual or entity to whom it is addressed and may not be copied, disclosed or disseminated to anyone else. If any privileged information is included such privilege is not waived. If it is received in error, please notify us by telephone.

DATE: 25 January 2012

Your Ref:

Our Ref: L J DE KLERK

**TO: THE MEC
MS. N. DUBE
MEC FOR CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
TEL:033 395 2111
PER FAX: 033 392 0027**

And to:

**THE HEAD OF DEPARTMENT COGTA
TEL: 033 395 2111
PER FAX: 033 345 6432**

And to:

**ELECTORAL COMMISSION PRETORIA
TEL:012 622 5700
PER FAX: 102 622 5784**

And to:

**ELECTORAL COMMISSION DURBAN
TEL: 031 279 2200
PER FAX: 031 279 2226**

URGENT

Dear Sir or Madam,

In re: Non-compliance with prescribed Regulations in respect of the KwaZulu-Natal

Kindly quote our reference on all correspondence and payments

Traditional Council Elections 2011

1. Our client is Prince Mangosuthu Buthelezi.
2. We refer to the above matter as well as our letter of 21 October 2011. This letter serves to once again advise you of certain irregularities in the preparations for the upcoming elections as set for 19 February 2012, and to request urgent remedial action on your part in order to ensure a proper election and to avoid the needless waste of public expenditure that apparently stands to occur in preparing for an election that is fundamentally flawed.
3. The Traditional Council elections are governed by the KwaZulu-Natal Traditional Leadership Act (“*the Act*”), and the KwaZulu-Natal Traditional Leadership Regulations (“*the Regulations*”).
4. In terms of section 44(2)(c) of the Act, and regulation 19(1) of the Regulations, the Acting Member of the Executive Council of the Province of KwaZulu-Natal responsible for Traditional Affairs (M Mabuyakhulu MPL) gave notice of the election date of 19 February 2012, in Provincial Notice 138 of 2011, published in a Provincial Gazette of KwaZulu-Natal (No. 670) of 22 November 2011.
5. Regulation 25 read together with Chapter 2 of the Electoral Act sets out the requirements for the voters’ roll. It states, in Regulation 25(1), that “A voters’ roll must be compiled by the Department for each voting station before the date of the elections is proclaimed by the MEC”.
6. It has recently come to our clients’ attention that to date there is apparently no voters’ roll, and if there is such a roll, there has been no publication thereof and wider dissemination to the voters who stand to be affected by the upcoming election scheduled for 19 February 2012.
7. We ask you please to advise us as a matter of urgency in regard to the following:

Kindly quote our reference on all correspondence and payments

- a) Is there a voters' roll?
- b) If there is a voters' roll, when was it compiled and published and certified by the MEC? Kindly provide us with a copy of the requisite Notice as published in the Government Gazette.
- c) If there is a voters' roll, is it available for inspection? Since when and where has it been available for inspection?
- d) If there is a voters' roll, was there a period for objections? Were any objections received? Were any objections dealt with?
8. In addition we are instructed that insufficient venues for voter registration have been provided for the registration and insufficient time has been allocated for the registration process.
9. These defects will result in an unconstitutional and irregular election, and an election result that does not reflect the true will of the people. The only way to fulfil the requirements of the Act and the Regulations (thereby remedying the situation) is to once again postpone the elections, to ensure that the traditional leaders and the voters are informed about the procedures, and furthermore to ensure that the matter is not rushed through in violation of the law, and furthermore with the incurring of needless and wasteful expenditure of public money.
10. The Electoral Commission is empowered in Regulations 19(4) and (5) to amend the election timetable and to postpone the election "if the independent election agency in consultation with the Head of the Department, or the official assigned or designated by him or her, is of the opinion that proceeding with the elections may greatly prejudice the administration of justice, order, peace and security, and must inform the MEC thereof as soon as possible."

Kindly quote our reference on all correspondence and payments

11. In terms of Regulation 19(6), where an election is postponed under subregulation (5), the MEC must publish notice of the postponement and must set another date, which must be proclaimed in the Gazette. Such new date must be within ninety days of the expiry of the term of office of the existing traditional council (and obviously, once that new date is set, all the requirements of the Act and the Regulations for the holding of a new election must be strictly complied with).
12. We accordingly advise the Electoral Commission and the Head of the Department (as well as the MEC) to once again postpone the election (and take the steps set out in Regulations read together with Chapter 2 of the Electoral act, and to ensure that the requirements of the Act and Regulations are fulfilled before the next election is proclaimed). Such action by the Electoral Commission is urgently required in order to ensure “a free and fair election”.
13. Given the impending election date that is fast approaching, should the Electoral Commission and the Head of the Department fail to respond to this letter by 16:00 on Friday 27 January 2012, and in particular fail adequately to answer the questions posed above regarding the voters’ roll at paragraph 7 (a) to (d), we will be left with no choice but to assume that you have not complied with the regulations read together with Chapter 2 of the Act.
14. We reserve our clients’ rights to challenge the election process, including, if necessary, and depending on the response to this letter, to bring urgent High Court proceedings to interdict the election.
15. We look forward to your urgent response.

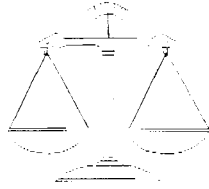
Yours faithfully



MR L J DE KLERK
LOURENS DE KLERK ATTORNEYS

Kindly quote our reference on all correspondence and payments

LOURENS DE KLERK ATTORNEYS



SUITE 1305, 13TH FLOOR
KINGSFIELD PLACE
50 FIELD STREET
P. O. BOX 3761
DURBAN
4000

TEL: 031 307 1975
031 307 1974
FAX: (031) 307-1975
CELL: 082 557 157 1
E-MAIL: lourens@klerkg.co.za

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DATE: 25 January 2012

Your Ref:

Our Ref: L J DE KLERK

TO: THE MEC
MS. N. DUBE
MEC FOR CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
TEL: 033 395 2111
PER FAX: 033 392 0027

And to:

THE HEAD OF DEPARTMENT COGTA
TEL: 033 395 2111
PER FAX: 033 345 6432

And to:

ELECTORAL COMMISSION PRETORIA
TEL: 012 622 5700
PER FAX: 102 622 5784

And to:

ELECTORAL COMMISSION DURBAN
TEL: 031 279 2200
PER FAX: 031 279 2226

URGENT

Dear Sir or Madam,

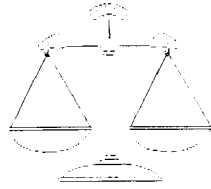
In re: Non-compliance with prescribed Regulations in respect of the KwaZulu-Natal

TX REPORT

NAME :
TEL : 031 307 1975
DATE : 25/01 2012 11:28

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6802	TX	001	0333920027	25/01	11:27	004	00 44	ECM	OK

LOURENS DE KLERK ATTORNEYS



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FAX: (031) 307-1975
Cell: 082 557 1570
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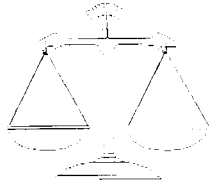
In re: Non-compliance with prescribed Regulations in respect of the KwaZulu-Natal

TX REPORT

NAME :
TEL : 031 307 1975
DATE : 25/01 2012 11:30

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6804	TX	001	0333456432	25/01	11:29	004	00'34	ECM	OK

LOURENS DE KLERK ATTORNEYS



SUITE 305, 13TH FLOOR
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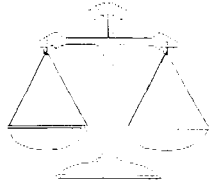
In re: Non-compliance with prescribed Regulations in respect of the KwaZulu-Natal

TX REPORT

NAME :
TEL : 031 307 1975
DATE : 25/01 2012 11:31

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LOURENS DE KLERK ATTORNEYS



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KINGSFIELD PLACE
30 FIELD STREET
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FAX: (031) 307-1975
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E-MAIL: totrense@eklerk.com

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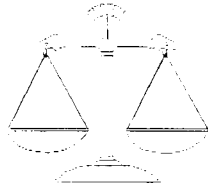
In re: Non-compliance with prescribed Regulations in respect of the KwaZulu-Natal

TX REPORT

NAME :
TEL : 031 307 1975
DATE : 25/01 2012 11:35

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LOURENS DE KLERK ATTORNEYS



SUTHERLAND 13TH FLOOR
8 BARKFIELD PLACE
50 FIELD STREET
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FAX: (031) 307-1975
CELL: 082 557 1575
E-MAIL: lourens@klerk.co.za

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URGENT

Dear Sir or Madam,

In re: Non-compliance with prescribed Regulations in respect of the KwaZulu-Natal

TX REPORT

NAME :
TEL : 031 307 1975
DATE : 25/01 2012 11:41

JOB NO.	TYPE	NO.	DESTINATION TEL/ID	DATE	TIME	PAGE	TIME USE	MODE	RESULT
6806	TX	001	0312792226	25/01	11:40	004	01'06	ECM	OK



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"MB 13"

Ministry:
Co-operative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL

MINISTRY

Enquiries: Imibuzo: DN Qhobosheane Navrae:	My Reference: Inkomba Yami: (LS)2/17/3/LG/18/11 My Verwysing:	E-mail: nonhlamhla.qhobosheane@kzncogta.gov.za	Date: Usuku: 25 January 2012 Datum:
--	---	--	---

Messrs. Lourens de Klerk Attorneys
P. O. Box 3761
Durban
4000

Per Facsimile: 031 – 307 1975

Dear Mr. De Klerk,

**IN RE: ALLEGED NON-COMPLIANCE WITH PRESCRIBED REGULATIONS IN RESPECT
OF THE KWAZULU-NATAL TRADITIONAL COUNCIL ELECTIONS 2011**

Your letter dated 25 January 2012, concerning the above matter, refers.

I acknowledge receipt of your letter, and intend to respond *seriatim* as follows to each of the paragraphs contained in your letter:

1. In the absence of any evidence to the contrary, I accept that you are acting for Prince Buthelezi, but in the absence of any proof to the contrary, do not concede that you are acting on behalf of the Traditional Council that your client chairs.
2. I deny that any irregularities occurred in the preparation for the elections scheduled to occur on 19 February 2012, or that any wasteful expenditure will be incurred as a result of the holding of the elections on the said date.
3. I concur with the statement contained in this paragraph.

4. I concur with the statement contained in this paragraph.
5. I concur with the statement contained in this paragraph.
6. I deny that no voter's roll exists, and wish to inform you that, on behalf of the Department, the Electoral Commission finalised the compilation of the required voter's roll on 21 November 2011, after the voter registration period closed at midnight on 20 November 2011, in addition to which there is no requirement to publish such voter's roll.
7. (a) As indicated in paragraph 6, the Electoral Commission compiled the voter's roll, which I certified as correct in terms of the regulations, on 21 November 2011, prior to the date of publication of the Notice calling for the election on 19 February 2012.
(b) I deny that the Regulations require me to publish a Notice in the Government Gazette (or any other publication), containing the said voter's roll.
(c) The voter's roll is available for inspection by anyone requesting the opportunity to do so, and your client is welcome to inspect the voter's roll for his Traditional Community only, upon request to the Electoral Commission to do so.
(d) No objections have been received from any individual or community with regard to its voter's roll, and accordingly no objections have been dealt with.
8. This matter has been dealt with extensively in previous correspondence, and I do not intend to respond to this issue again.
9. It is denied that the scheduled elections will be either unconstitutional or irregular, or that there is a need to postpone the elections yet again, especially since both the appointment of the 60% of the Traditional Council selected by your client, and the nomination of the remaining 40% of the Council in your client's community, were completed successfully without any objections or disturbances.
10. I concur with your statement regarding the powers of the Electoral Commission, and in the event that your client is able to convince the Electoral Commission that the elections in his Traditional Community will not be 'free and fair' he is welcome to submit specific reasons and evidence to the Electoral Commission in support of his views. In the event that the said Commission should agree, and in the event that the Head of Department should concur, I will postpone the elections in your client's Community to a date in the future as may be decided upon by the Electoral

Commission. In such circumstances I must however reiterate that the term of office of the current Traditional Council expired more than a year ago, and that any decisions taken by the Council chaired by your client may be voidable, in addition to which the Department would be unable to continue paying the stipends to the members of the Council [and any other support] in light of its status.

11. I concur with the statement contained in this paragraph, which merely repeats the legal provisions as they currently stand.
12. In the absence of a recommendation from the Electoral Commission, supported by the Head of the Department of Co-operative Governance and Traditional Affairs, based on substantiated evidence that the election in your client's community will not be free and fair, I decline to postpone the elections in your client's traditional community.
13. I contend that both I and the Electoral Commission have complied with the relevant Regulations governing the elections, as indicated in my response above.
14. I accept that your client is entitled to bring an urgent application to postpone the elections in his Community if he so wishes, but contend that he has no *locus standi* to bring such an application for any other traditional community. In the event that he were to do so, I will instruct the Department to oppose the application, and to apply for a punitive costs order against your client, who seems intent to derail the process of the elections of new Traditional Councils.

Yours faithfully,



N DUBE, MPL
MEC FOR CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS

DATE: 25/01/2012