



International Secretariat

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24 September 2009

Mr. Dan Plato  
Executive Mayor  
The Mayor's Office  
City of Cape Town  
Cape Town 8001  
South Africa  
Fax: +27 021 400 1313

**Reference: Imminent forced eviction of residents of Symphony Way, Cape Town**

Dear Mayor Plato,

The Centre on Housing Rights and Evictions (COHRE) is an international human rights non-governmental organisation based in Geneva, Switzerland, with offices throughout the world. COHRE has consultative status with the United Nations and Observer Status with the African Commission on Human and Peoples' Rights. COHRE works to promote and protect the right to adequate housing for everyone, everywhere, including preventing or remedying forced evictions.

COHRE is deeply concerned about reports regarding the imminent forced eviction of shack-dwellers of Symphony Way and their subsequent forced relocation to the Symphony Way Temporary Relocation Area (TRA) otherwise known as 'Blikkiesdorp' or 'Tin Can Town' in Delft.

Residents of Symphony Way have been engaged in a long and arduous struggle with the municipal authorities of Cape Town and the Western Cape provincial government in order to access their right to adequate housing. In late December 2007, led by Councillor Frank Martin, residents comprising predominantly backyard dwellers from Delft occupied unfinished houses in the area constructed as a part of the 'Breaking New Ground' policy. According to our sources, the occupied houses were originally promised to the backyard dwellers of Delft but were later re-allocated to those who were to be evicted from the Joe Slovo settlement in Langa to make way for the highly contentious N2 Gateway Project.

The backyard dwellers thus occupied the unfinished houses after reportedly waiting, in some cases, for over 15 years to be provided with subsidised housing. In February 2008 over 1600 people who had occupied the unfinished houses were forcibly evicted following the Cape High Court decision to reject their application for leave to appeal against an eviction order issued by the Western Cape provincial authorities.



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More than 100 of the evicted families have since been living in shacks along Symphony Way. As members of the Western Cape Anti-Eviction Campaign they have continued to protest against South Africa's current flawed housing delivery system, particularly the long waiting lists that are often ignored. In March 2009, however, Symphony Way dwellers were informed that the City of Cape Town was planning to forcibly relocate them to the nearby Blikkiesdorp TRA. The shack dwellers along Symphony Way have strongly opposed this relocation and have declared that they will now only move into the long awaited permanent houses.

COHRE would like to point out that the Temporary Relocation Areas (TRAs) clearly do not constitute adequate housing as per international human rights law requirements. In November 2008 COHRE's visit to Blikkiesdorp confirmed reports of the inadequacy of TRAs as a solution to the housing crisis. Blikkiesdorp, like other TRAs, was overcrowded and individual structures were found to be inadequate in size for large families. Constructed with thin tin and zinc sheets the structures fail to provide adequate protection against extreme weather conditions. The TRA also lacked adequate water and sanitation facilities.

According to the Symphony Way shack dwellers, their forced relocation to Blikkiesdorp will not only be a failure on the part of the State to fulfil their right to adequate housing but would also result in a loss of security and sense of community that they have so far benefited from at Symphony Way. Further, despite the City of Cape Town's assertions to the contrary, the numerous incidences of crime in Blikkiesdorp including theft and rape are a matter of serious concern.

There is also legitimate cause for concern about the temporary nature of TRAs. The experience of the nearby Tsunami TRA in Delft shows that families have to live in highly inadequate conditions in the TRA for several years before they are allocated permanent housing. Residents of Happy Valley in Cape Town have been reportedly living in the TRA for more than 12 years with no permanent solution in sight.

COHRE expresses concern at the recent tendency of municipalities across South Africa to force shack dwellers into TRAs (known as 'transit camps' in Durban and 'decant areas' in Johannesburg). We note that both shack dwellers' organisations and human rights organisations have expressed alarm at this highly regrettable regression in urban planning.

COHRE acknowledges that the situation in Delft is particularly complicated. It is however clear that the City of Cape Town, the Western Cape provincial government and the Department of Housing have failed to ascertain the specific needs and circumstances of people in desperate need of adequate housing within their respective jurisdictions, while at the same time attempting to force others to move against their will and without proper consultation.



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COHRE respectfully reminds the Government of South Africa that in terms of international human rights law, for evictions to be considered as lawful, they may only occur in very exceptional circumstances and all feasible alternatives must be explored in consultation with affected persons. If, and only if, such exceptional circumstances exist and there are no feasible alternatives, can evictions be deemed justified. Furthermore, evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights. Governments must therefore, ensure that adequate alternative housing is available to affected persons.

South Africa's Constitution states in Section 26(3) that "no one may be evicted from their home...without an order of the court made after considering all the relevant circumstances [emphasis added]" The recent Constitutional Court judgment in the Olivia Road case dealing with housing rights and evictions in the inner city of Johannesburg highlighted the vulnerability of those evicted and stressed the importance of meaningful engagement and discussion between public officials and residents prior to an eviction order being granted by a court. This means that all efforts towards humane and pragmatic solutions need to be sought before people are evicted, especially if this action renders them homeless.

COHRE once again highlights that the forced relocation of Symphony Way dwellers into Blikkiesdorp against their will and without a definite time-frame for allocation of permanent housing would result in the violation of their right to adequate housing. COHRE therefore urges the Department of Housing, the Western Cape provincial government and the City of Cape Town to meaningfully engage with the residents of Symphony Way with a view to finding a permanent solution to their housing problems.

Sincerely,

Salih Booker  
Executive Director

"(To respond, or for further information, please contact Sonkita Conteh, Legal Officer/Research Officer, Global Forced Evictions Programme, COHRE Africa Office 17 Fifth Crescent Street, Asylum Down, PMBCT 402 Cantonments, Accra, GHANA, Tel: +233-21-238821 E-mail: [sonkita@cohre.org](mailto:sonkita@cohre.org))"

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