

In the matter of:

In Re:

OPENING A CASE OF CORRUPTION:

LEASE AGREEMENT RUSTENBURG BIRD SANCTUARY

STATEMENT MADE UNDER OATH

I the undersigned,

MASELETE PHARASI

do hereby state under oath that:

- 1 I am an adult female employed by Rustenburg Local Municipality, as the Section Manager: Land Disposal within the Directorate Planning and Human Settlement. My office address is situated at 159 Beyers Naude Street, Mpheni House, on the third floor.
- 2 I am duly authorised to depose to this affidavit by virtue of my position in the municipality.
- 3 The facts contained herein fall within my own personal knowledge, save where the context points to the contrary, and are both true and correct.

4 Any legal submissions that I make herein are based upon the advice received from my legal representative, which advices I accept as correct and adopt as my own. Where I refer to facts which fall outside my personal knowledge, I shall attach the relevant confirmatory affidavit.

PURPOSE OF THE AFFIDAVIT

5 The purpose of this affidavit is to open a case of fraud and corruption against Victoria Makhaula (Mkahula), a member of the mayoral committee (MMC) responsible for Planning and Human Settlement portfolio within the Council of Rustenburg Local Municipality.

ALLEGATIONS OF FRAUD AND CORRUPTION

A. Fraud

6 As indicated herein above, I am an employee of the Municipality employed at Makhaula is now the MMC for Public Safety situated Directorate Public Safety at the Tlhabane Office of the Municipality.

7 Makhaula signed an lease agreement in the pretence that she is me. The lease agreement is attached hereto marked "**MP 01**".

8 The signature or the hand writing reflecting on page 10, clause 18 of the lease agreement is not mine. The signature or hand writing on page 13 is also not mine.

9 My signature is reflected on this statement as a deponent. Proceed to write my name and sign herein below as an indication of the difference between the hand writing and the signature.

9.1 My Name: Maselete Georgina Pharas

9.2 Signature: 

10 The lease agreement itself is and/or was not drafted by me either as Section Manager responsible for that portfolio or in my personal capacity.

11 On the day that the agreement was signed I was on leave. I have know knowledge of this signature and I was never involved in either the creation of this document or witnessed the signing thereof.

12 The agreement was witnessed by two individuals:

12.1 Amelia Xabile (Xabile) who is secretary to the Director of Planning and Human Settlement; and

12.2 Thato P Motshoane (Motshoane) who is the Personal Assistant to MMC at the time.

13 This two individuals are the Employee of the Municipality and they are situated at Planning and Human Settlement offices on the Third Floor.

14 Amelia's affidavit deposed t on 13 December 2019, at paragraph 5 indicate as follows:

“ During February 2018, whilst assisting at the Planning and Human Settlement department, I was called by the Member of the Mayoral Committee (“MMC”) for the Planning and Human Settlement Councillor Victoria Makhaula (Makhaula). I went into her office and she was with an unknown white gentlemen. Makhaula requested me to sign as a witness on the document tittle lease agreement.”

15 I attach hereto the annexure as **“MP 02”**.

16 As indicated above the signature or hand writing reflected on the document is not mine. It is my reasonable suspicion that it is that of Makhaula as she is the one who coordinated and facilitated the signing and witnessing of the document as indicated by Xabile in her affidavit.

B. Corruption

- 17 The basis of this allegations are stated herein below:
- 17.1 Makhaula facilitated the signing and witnessing of the lease agreement.
 - 17.2 The lease agreement was signed in her office.
 - 17.3 The lease agreement was witnessed in her office.
 - 17.4 I was never part of those people. I was not even in the vicinity where the lease agreement was signed as I was on leave.
- 18 Over and above the above facts, Makhaula was given R 400 000,00 (Four Hundred Thousand Rands) at the Orion Hotel where she attended the meeting with her husband Councillor Tsienyane.
- 19 The money which was given to her was gratification for facilitating the lease agreement of the Bird Sanctuary by Orion Hotel. The same lease agreement was eventually concluded on 14 February 2018. (See page 13 of the Lease Agreement).
- 20 There are witnesses that can testify to her receiving the R 400 000,00 as alleged herein.

21 I aver and make this statement under oath to open a case of fraud and corruption against Victoria Makhaula an MMC within the Rustenburg Local Municipality.

Rustenburg SAPS *[Signature]*
2021/07/27 15:20 DEPONENT

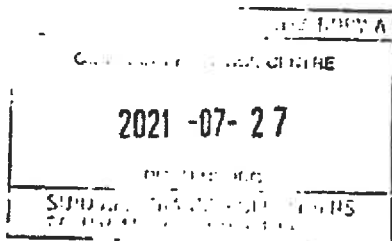
The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to before me at RUSTENBURG on this the 27th day of JULY 2021, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with

[Signature]

COMMISSIONER OF OATHS

Peter Thebeso

FULL NAMES AND SURNAME



Sgt 708660-0

RANK & PERSAL NUMBER

18. LESSOR'S/LESSEE'S DOMICILIA

18.1 The Lessor chooses domicilium citandi et executandi and its address for service of any notice under the Lease at

The Rustenburg Local Municipality:

Physical Address: Line Boyers Road / N. Mandela Drive
Mphahlele house

Tel Number: 014 590 3911

Contact Person: M Phahasi 3912
014 590 3592

[Signature]
N.A.X

18.2 The Lessee chooses domicilium citandi et executandi and its address for service of any notices in terms of the Lease at

Orion Hotels and Resorts (South Africa) (Pty) Ltd:

Physical Address: 16th Floor, Orion House, 49 Jorissen St, Braamfontein

Tel Number: (011) 718 6452

Contact Person: Franz Gmeiner

SIGNATURE	
<i>[Signature]</i>	
PERSONAL NUMBER	7198091-1
PERSONAL NUMBER	080
NAME IN DUTCH/AFRIKANS	S. Gmeiner
NAME IN PRINT	

18.3 Either party shall be entitled to change its domicilium to another address within the Republic of South Africa. The party changing its domicilium shall give the other party 14 (fourteen) days written notice of its intention to do so which notice shall state the new address.

RECEIVED	
2020-02-03	
MAGISTRATE'S COURT	

19. MAGISTRATE'S COURT JURISDICTION

At the option of the Lessor any action or application arising out of the Lease, or any cancellation thereof, may be brought in the Magistrate's Court having jurisdiction in respect of the Lessee, notwithstanding that the amount in issue may exceed the jurisdiction of such Court.

20. COSTS

Each party will pay its own costs in respect of the negotiation of the Lease Agreement.

21. NOTICES

[Signature]
N.A.X

21.1 All notices which are given by the Lessor to the Lessee hereunder shall be given to it at the address specified in 18.2 hereof or at such other address in the Republic of South Africa of which the Lessee may advise the Lessor.

21.2 All notices which are given by the Lessee to the Lessor hereunder shall be given to it at the address specified in 18.1 hereof or at such other address in the Republic of South Africa of which the Lessee may advise the Lessor.

21.3 All notices sent by either party to the other shall be delivered by hand or telefax.

22. LEGAL FEES AND INTEREST

Either party to this lease shall be liable for all legal costs (including attorney and client costs, collection commission and tracing agents fees) incurred by the other Party in successfully enforcing its rights hereunder.

23. OPTION TO RENEW

23.1 Provided that the Lessee has duly and diligently performed all of its obligations in terms of this Lease, the Lessee shall have an option to renew this Lease for a further period (the "Renewal Period") in terms of this Lease. Such renewal shall be on the same terms and conditions of this Lease save that the Lessee shall not have any further right of renewal.

23.2 Should the Lessee decide to exercise the option, the Lessee shall notify the Lessor of its intention to exercise such option, in writing, at least 6 (six) months prior to the end of the initial period as set out in this Lease.

23.3 The Parties will agree to the rental for the Renewal Period, however should the Parties be unable to reach Agreement on the rental for the Renewal Period within a period of 1 (one) month of the Lessee having exercised the option, then the market related rental and/or escalation rate for the Renewal Period shall be determined by the President for the time being of the Institute of Estate Agents of South Africa (the arbitrator) or any other suitably qualified person who shall be appointed for such purpose by the arbitrator, provided that such market related determination shall not increase the rental under the renewal period by more than 5% (five percent) on the last months rental charged by the Lessor under this lease in the initial lease period.

23.4 The Lessee shall be responsible and shall pay all stamp duty payable in respect of the renewal period (if applicable).

24. RIGHT OF FIRST REFUSAL

24.1 This clause shall continue to apply throughout the term of this Lease Agreement or until termination and/or cancellation of this Lease Agreement by either the Lessor or Lessee.

24.2 Notwithstanding anything contained to the contrary herein, the Lessor shall not be entitled to sell the Property unless the Lessor does so within fourteen days of the Lessee having declined or being deemed to have declined the right of first refusal referred to hereunder and then only on the same terms and conditions as are set out in the written offer hereinafter referred to.

NAME IN PRINT	<i>[Signature]</i>	NAME	<i>[Signature]</i>
PHYSICAL NUMBER	719891-1	TRANS	08
NAME IN PRINT	S. NGUYEN	NAME	

2023-03-03
COMM...

[Signature]
N.A.X

24.3 In the event of the Lessor wishing to sell the Property it shall be obliged to deliver to the Lessee a true copy of a written offer to purchase from any proposed purchaser setting out the terms and conditions upon which the proposed purchaser is willing to purchase the Property and which the Lessor is willing to accept.

24.4 The Lessee shall be entitled within a period of fourteen days after receipt by it of the true copy of the aforesaid written offer either:

24.4.1 To offer to purchase the Property at the purchase price contained in the said written offer;

24.4.2 To decline to exercise the right of first refusal or to make no election whatsoever, in either of which events the Lessee shall be deemed to have declined the right of first refusal and the Landlord shall be entitled to sell the Property to the proposed purchaser on the terms contained in the aforesaid written offer.

24.5 In the event of the Lessee declining or being deemed to have declined to exercise its right of first refusal herein referred to and the Lessor not selling to the proposed Tenant as above, the right of first refusal shall be deemed to have revived subject to the foregoing provisions mutatis mutandis.

25 AGENT'S COMMISSION

The Lessee warrants that it has had no negotiations with any leasing agent with regard to this Lease. The Lessee indemnifies the Lessor against any claim for commission which, as a result of the Lessee's action, may be brought against the Lessor by any leasing agent in connection with this Lease or negotiations about it.

29. APPROPRIATION OF PAYMENTS

The Lessor shall be entitled in its sole and absolute discretion to appropriate any amounts received from the Lessee towards the payment of any cause of debt or amount owing by the Lessee to the Lessor whatsoever.

30. WHOLE AGREEMENT

30.1 This Lease constitutes the whole Agreement between the parties and no warranties or representations whether express or implied, not stated herein shall be binding on the parties.

30.2 The Parties signing on behalf of the Lessee and Lessor confirm that they are duly authorized and have the required delegated authority to enter into this lease on behalf of the respective parties.

30.3 No Agreement at variance with the terms and conditions of the Lease shall be binding on the parties unless reduced to a written Agreement signed by or on behalf of the parties.

30.4 Should this lease agreement not come into effect for whatever reason then the parties shall be put back into the position they were before the negotiation of this agreement.

2023-02-03
COMM. BY S. P. A. S. 17 12

LEHRE
DOCUMENT
CERTIFY THE SIGNATURE
WAS NOT MADE BY THE ORIGINAL
SIGNATURE
719891-1
S. NGOLATA
HANK CSE

T.P
N.A.X

SIGNED at RUSTENBURG on 14TH FEBRUARY 2018

As Witnesses:


Robiane

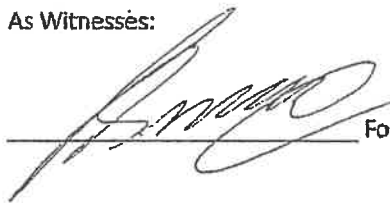
for and on behalf of the Lessor: 890310 1109 087
TP Motshwane
N.A.X



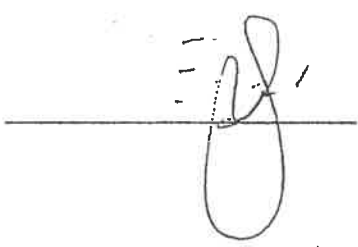

M.M. Phurayi Acting Unit Manager Duly Authorised

SIGNED at RUSTENBURG on 14TH FEBRUARY 2018
Amelia Xalabile

As Witnesses:



For and on behalf of the Lessee:

  Duly

Amelia Xalabile
9005240256081

N.A.X

Affidavit

I, the undersigned

Amelia Nonkaziwe Xalabile

Declare under oath in English as follows:

1.

I am an adult female, formerly employed at the Rustenburg Local Municipality.

2.

The facts contained in this affidavit fall within my personal knowledge unless the context indicates otherwise and are both true and correct.

3.

I joined the Rustenburg Local Municipality in September 2017. At the time I was placed in Building Control Section. In May 2018, I was transferred to Planning and Human Settlement as Assistant to the Director, Planning and Human Settlement.

4.

Prior to being transferred to the Planning and Human Settlement Department, I used to assist the department as and when required or when the Director's Personal Assistant was on leave.

5.

During February 2018, whilst assisting in the Planning and Human Settlement Department, I was called by the Member of the Mayoral Committee ("MMC") for Planning and Human Settlement Councillor Victoria Makhaula ("Makhaula"). I went into her office and she was with an unknown white gentleman. Makhaula requested me to sign as a witness on a document titled lease agreement.

6.

I attach hereto the said lease agreement as Annexure ANX 1. The lease agreement was between the Rustenburg Local Municipality and the Orion Hotels and Resorts (South Africa) (Pty) Ltd. As requested by the MMC, I duly continued to put my initials on each

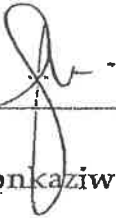
page and signed the last page. On the last page I also placed my name, surname and identity number, namely Amelia Xalabile with identity document number 900524 0256 081. I noticed on the copy of the lease agreement that Thato Motshwane with identity document number 890310 1109 087 appears to have also signed the same agreement on the last page that I signed. I also noticed that one MM Pharasi, Acting Unit Manager placed his or her name on the document. I do not know who else signed as witness. As indicated, in the office of the MMC was Makhaula and the white gentleman when I signed the lease agreement (Annexure ANX 1).

I know and understand the contents of this declaration.

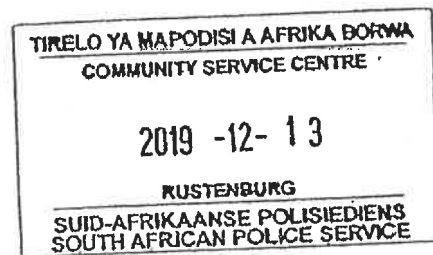
I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.

Thus done and signed in Rustenburg on this the 13 day of December 2019.



Amelia Nonkaziwe Xalabile.



MASELETE PHARASI

E-MAIL: maseletepharasi@gmail.com

DATE: 28 JULY 2021

TO: EXECUTIVE MAYOR: COUNCILLOR E KHUNOU
Mayor@rustenburg.gov.za PER EMAIL AND HAND

TO: SPEAKER OF COUNCIL: COUNCILOR S MABALE-HUMA
E-MAIL: speaker@rustenburg.gov.za PER EMAIL AND HAND

TO: MUNICIPAL MANAGER: VICTOR MAKONA
E-MAIL: munman@rustenburg.gov.za PER E-MAIL AND HAND

TO: ANC: INTERIM PROVENSIAL COUNCIL
MR. H CHAUKE Holman.Chauke79@gmail.com PER E-MAIL

TO: MEC: LOCAL GOVERNMENT – NWP GOVERNMENT
HONOURABLE: CWAILE MMOLOKI Cwailemmoloki@gmail.com PER E-MAIL

TO: SCOPA- NWP GOVERNMENT
HONOURABLE F LEREFOLLO: Flerefolo@nwpl.org.za PER E-MAIL

Dear Sir

RE: FRAUD AND CORRUPTION CASE OPENED AGAINST

COUNCILLOR, VICTORIA MAKHAULA

CASE NUMBER: RTB CAS 547/07/2021

1. The above matter refers.
2. Kindly take note that the writer hereof has opened a case against Councilor Victoria Makhaula (Makhaula) the Member of the Mayoral Committee (“MMC”) within the Rustenburg Local Municipality Council.
3. Makhaula and her co-accused committed fraud and corruption by forging my signature and concluded a lease agreement with Orion Hotel. Makhaula received R 400 000,00

(Four Hundred Thousand) as corruption and gratification for facilitating the signing and/or granting the lease agreement.

4. I am now subject to a disciplinary hearing for misconduct due to fraud and corruption committed by Makhaula and her people.
5. As you are aware, the matter has been set down for 05 September 2019 at 9h00 a.m according to the notice of motion in terms of which, you were required to file your notice of opposition and answering affidavit within 10 days. That procedure is regulated and prescribed by the court rules. Please see an succinct statement and docket documents for the case opened at the South African Police Service at Rustenburg marked "A".
6. For further clarification my contacts appear on the SAPS forms attached hereto.

Yours faithfully,

PHARASE MASELETE

THE COMPLAINANT

C 1

SUID-AFRIKAANSE POLISIEDIENST



SOUTH AFRICAN POLICE SERVICE

ONDERSOEKDAGBOEK
INVESTIGATION DIARY

Lustenburg

Tyd, datum Time, date	Staat • Station	M.P. • C.R. No. G.O. • Inquest No. MAB • CAS	Verwysing Reference
		Navraag • Enquiry No	
2021/02/27 15:13	State • Station FIL AS PER SCENE: LUSTENBURG LOCAL MUNICIPALITY corner Mandela and Beyers Naudé		AT
<p>The complainant alleges that his signature was forged by Victoria Mchabane an employee at Lustenburg local municipality in a lease agreement. Lustenburg bid Sanctuary on 14 February 2018. a place situated next to Orion Safari Hotel.</p>			
<p>- 13 copies of the statement attached</p>			
<p>- Verjury statement attached A/D</p>			
<p><i>[Signature]</i> 541 P. Pretorius</p>			



STATEMENT * VERKLARING

Stasion / Stasie CAS no
 Stasie MAS no 1071202/

The following particulars in respect of the offence / incident is supplied:
 Die volgende gegewens met betrekking tot die misdryf / voorval word verskaf:

PARTICULARS OF OFFENCE/INCIDENT * BESONDERHEDE VAN MISDRYF/VOORVAL

Date and time of offence/incident / Datum en tyd van misdryf/voorval: 20/07/2014 - H H M M Or Of Period: Between / Tydperk: Tussen H H M M on op
 and en H H M M on op Day of week / Dag van week: Su M D W D V S / So M D W D V S

Description of Offence/Incident / Beskrywing van Misdryf/Voorval: FRAUD

Method used/Entrance gained / Metode gebruik/Toegang verkry: SIGNATURE FORGED

Type of instrument used / Tipe instrument gebruik: HANDS

SCENE OF CRIME * TONEEL VAN MISDAAD

Between: Name of place / Tussen: Pleknaam: KUSTENBURY LOCAL MUNICIPALITY
 and: Name of place en: Pleknaam: DE VRIES NAWOI AND MANDELA
 Or / Of: KUSTENBURY LOCAL MUNICIPALITY
 Street name / Straatnaam: CBD
 Building/farm/plot/place / Gebou/plaas/plot/plek: KUSTENBURY
 Suburb/Extension/Area / Voorstad/uitbreiding/Gebied: KUSTENBURY
 Town/City / Dorp/Stad: KUSTENBURY
 Geographical block no / Geografiese blok no: [] [] [] [] [] [] [] [] [] []
 Type of premises / Tipe perseel: BUSINESS
 Postal Code / Postkode: [] [] [] []

2021/07/27
 Date/Datum

[Signature]
 Signature/Handtekening

In a case of theft of a vehicle the statement must be continued on form SAPS 3M(c).
 In a case of theft of a firearm the statement must be continued on form SAPS 3M(d).
 In all other cases the statement must be continued on blank folio paper.
 In die geval van diefstal van 'n motorvoertuig moet die verklaring op vorm SAPD 3M(c) voortgesit word.
 In die geval van diefstal van 'n vuurwapen moet die verklaring op vorm SAPD 3M(d) voortgesit word.
 In alle ander sake moet die verklaring op 'n blanke foliopapier voortgesit word.