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SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

VOL. XXXVII]

MBABANE, Tuesday, September 15th., 1998

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PUBLISHED BY AUTHORITY

LEGAL NOTICE NO. 124 OF 1998.

THE URBAN GOVERNMENT ACT, 1969
(Act No. 8 of 1969)

THE COMMISSION OF ENQUIRY INTO THE AUCTION
OF PROPERTIES BY MBABANE CITY COUNCIL, NOTICE 1998
(Under Section 107)

In exercise of the powers conferred upon me by Section 107 of the Urban Government Act, 1969 I hereby issue the following notice.

Citation and Commencement.

1. This notice may be cited as the Commission of Enquiry Into The Auction of Properties by Mbabane City Council, Notice, 1998 and shall come into force on the 15th September 1998.

Establishment and Composition of the Commission.

2. (1) There is established a commission to be known as the Commission of Enquiry Into The Auction Of Properties By Mbabane City Council (here-in-after referred to as the Commission).

(2) The Commission shall be composed of the following members:

Mr.	Thulani Masina	- Chairman
Mr.	Jameson D. Vilakati	- Member
Mr.	Bongani Kunene	- Member
Mr.	Kobla Quashie	- Member
Mr.	Mfanaleni Dlamini	- Secretary

Scope of Enquiry.

3. (1) The Commission shall enquire to any auction held between January and August, 1998.

(2) Without prejudice to sub-section (1), and section 4 the Commission shall enquire particularly to the auction held on 17th July, 1998.

Functions and Terms of Reference of the Commission.

4. (1) The Commission shall examine and inquire into:-

- (a) whether there was a Mbabane City Council decision authorizing the auctioning of properties auctioned on the 17th July, 1998;
- (b) The instructions given to lawyers by Mbabane City Council to administer the auction;
- (c) whether or not the procedures as laid down in the Rating Act, of 1995 were followed and the nature of correspondence between both the affected owners of property and

- (d) the issuance of any court order or orders authorizing the auction;
 - (e) the procedure used by the auctioneer during the auction;
 - (f) any irregularities, if any, and any acts, issues and allegations regarding the manner the auction was conducted;
- (2) Without prejudice to the generality of the foregoing, the Commission shall:-
- (a) investigate allegations that there was flaunting or disregard of procedures during the auction sale, and if so why;
 - (b) investigate the allegations that there was inadequate consultation between the Council and the affected ratepayers, and if so why;
 - (c) investigate whether all procedures stipulated in the Rating Act were followed to the latter, and if not why;
 - (d) investigate whether or not the interests of property owners in question were considered and taken into account or protected;
 - (e) investigate whether the Council acted fairly and justly in undertaking the auction of any properties;
 - (f) investigate whether or not a reserve price was set and if not, why it was not set as common law and other interests of justice would require;
 - (g) investigate whether or not there were any irregularities or partiality preference or preferential treatment in the selection of the purchasers;
 - (h) examine the fiscal performance of Mbabane City Council for the financial years 1996/1997, 1997/1998, and 1998/1999;
 - (i) investigate, in respect of land transfers, that is, sales and purchases carried by or through the Mbabane City Council, whether or not the sales of land or other properties have been fully paid for by the purchasers and further whether or not any ownership of land or other property has been transferred or conveyed without payment of the purchase price;
 - (j) investigate the reasons or circumstances and irregularities surrounding or leading to the non-performance or non functioning of the newly built Mbabane City Council abattoir;

- (k) further investigate the allegations and grievances emanating from the Mbabane City Council workers' petition to the Honourable Minister; and
- (l) investigate whether or not any financial Regulations as contained in the Urban Government Act, 1969, have been violated.

Powers of the Commission.

- 5. In the performance of its functions and in the exercise of its powers, the Commission may:-
 - (a) invite members of the public to make their submissions in a manner the Commission deems appropriate;
 - (b) call for written submissions and oral representations; or
 - (c) make any other recommendation it deems relevant, following any findings of fact resulting from the enquiry.

Quorum.

- 6. The quorum of the Commission shall be three members.

Venue and address of the Commission.

- 7. (1) The address of the Commission shall be Box 1832, Mbabane.
(2) The venue for conducting the public enquiry shall be at the Conference Room of the Mbabane City Council or such other place or venue as may be determined by the Chairman and the public shall be informed thereon.

Duration of the Commission.

- 8. (a) The Commission shall commence its functions from 15th September, 1998.
(b) The Minister may for a just cause, extend the duration of the Commission or the submission of the report.

Submission of Report.

- 9. The Commission shall submit its report to the Minister at any time but not later than 30th October, 1998 which shall state:-
 - (a) the method for conducting the enquiry;
 - (b) findings of fact on the issues listed in the terms of reference, under sections 3 and 4;
 - (c) recommendations following any findings of fact on each submission;
 - (d) recommendations and proposed appropriate cause of action on all issues raised and allegations levelled against Mbabane City Council; and
 - (e) any other detail, fact or information the Commissioners believe the Minister ought to have or possess or ought to be included in the Report.

Allowances.

- 10. The Commissioners shall be paid such allowances and re-imburement as may be determined by the Minister.

J. P. CARMICHAEL
Minister of Housing and Urban Development