

# **THE HIGH COURT COMMITTEE OF THE BAR COUNCIL OF THE JOHANNESBURG SOCIETY OF ADVOCATES REPORT**

## **A SOUTH GAUTENG HIGH COURT PRECINCT CONCEPT PLAN AND REPORT**

### **INTRODUCTION**

1. The South Gauteng High Court is a key institution within the judiciary, located in an historical building in the Johannesburg CBD. As one of the busiest courts in the country, its judges daily play a key role in the administration of justice in South Africa.
2. Maintaining and enhancing the integrity of the South Gauteng High Court is an important objective that serves the administration of justice and the public interest. This objective cannot only be achieved by the judiciary itself as it daily performs its judicial functions but requires collaboration and initiative from other role-players and stake-holders, including the advocates' profession.
3. There are various challenges that face the Court and its users, some of which are serious. Some challenges have arisen from the peculiar historical challenges facing the Johannesburg CBD as a whole or the precinct in particular, which have resulted in the precinct in which the Court is located

becoming run-down and unsafe. Some have arisen from an absence of adequate state services. Other challenges are inevitable challenges facing us as we seek to ensure that we effectively promote access to justice as a modern and transformative democracy, which protects human rights.

4. There have been many dedicated efforts and initiatives over the years to address these challenges, and many individuals and institutions have participated, both within and beyond the judiciary and government. The issues that arise, however, are, in nature, issues that require on-going attention, reflection and coordinated efforts amongst all role-players and stake-holders. Further, while the judiciary is an important role-player, its ability to meet the challenges alone is inevitably and institutionally constrained.
5. The Johannesburg Society of Advocates – as an institution representing many advocates in the advocates’ profession and serving the interests of litigants in the administration of justice– is committed to continuing to play a role and where necessary or appropriate to lead initiatives.
6. The purpose of this document is to provide a draft concept plan for the ongoing improvement of the South Gauteng High Court precinct. It has been prepared by the High Court Committee of the Johannesburg Society of Advocates to facilitate dialogue, planning and implementation of solutions to the challenges faced amongst relevant role-players and stake-holders.

7. The High Court Committee is a sub-committee of the Johannesburg Society of Advocates. It is currently chaired by Phillip Mokoena SC and its members are Daniel Berger SC, Reg Willis, Susannah Cowen, Lebo Mdalana, Tebogo Manchu, Naome Manaka and Ghandi Badela. One of its functions is to deal with affairs and issues affecting the High Court.
  
8. In preparing this document, we have drawn on material made available to us from initiatives over time taken by others including but not limited to those of the judiciary and the bar itself. We are mindful that not all information is to hand, and that there has been a long history to this matter. As initiatives unfold and further understanding and information is acquired, the document can be suitably revised. Further, due to the magnitude of the task at hand we can only offer preliminary proposals. The document is intended as a working document.
  
9. This document is structured as follows:-
  - 9.1. First, challenges faced are identified and briefly described.
  
  - 9.2. Secondly, relevant role-players and stake-holders are identified.
  
  - 9.3. Thirdly, proposed short term, medium term and long term responses to the challenges are proposed.

## **SOME OF THE CHALLENGES FACED**

10. *The supply of essential services:* The provision of essential municipal and state services in the precinct is not adequate which has affected for example safety and sanitation.
11. *The safety of users of the High Court:* There have been serious and tragic crime incidents in the areas surrounding the court and users do not feel safe accessing the Court either during the day or at night. There is a lack of visible policing by SAPS, the Johannesburg Metropolitan Police, Gauteng Provincial Traffic Police, DHA, Department of Community Safety Patrollers and private security.
12. *Sanitation:* The precinct around the High Court is unclean and at times intolerably so. People who use the precinct surrounding the Court do not have access to adequate ablution facilities and existing facilities are not in use (e.g. Von Wielligh Street facility is locked at night.)
13. *Transport:* Public transport to the Court is inadequate. There is no bus stop close by and which connects train services to the Court.
14. *Parking:* For those who use vehicles to get to court there is inadequate parking and inadequate safe parking.

15. *Incorrect land use:* There is illegal public trading, incorrect use of rental premises from surrounding businesses and non-adherence to trading conditions (e.g. liquor licenses and noise pollution).
16. *Lack of by-law enforcement:* Bylaws are not enforced relating for example to public trading, hoarding of goods, illegal advertising, urinating in public etc.
17. *Lack of interdepartmental co-operation* – There is a lack of interdepartmental co-operation between relevant state departments.
18. *Access to institutions and services related to the administration of justice:* There are numerous institutions (government and non-government) that support the administration of justice: the advocates' profession, the attorneys' profession, the prosecution services, legal aid, NGO's, etc. While there is no blue print for the ideal location of such institutions and location cannot be prescribed, it may be desirable to seek to regenerate the precinct as a location that is attractive to such institutions. If that is ultimately achieved it could facilitate convenient access to justice to the public and flowing from proximity, enhance dialogue between institutions located in the vicinity. Historically, the Johannesburg Bar and its members were housed in the vicinity, but the Bar and many groups have now moved to Sandton. Many attorneys also left the City. However, there are still legal professionals and institution in the precinct including Pitje chambers, counsel in Schreiner building, the Justice Department regional office in

Schreiner Chambers, the State attorney and Deeds office close by and the prosecution authorities have recently taken premises in, and are renovating the former Innes building. There is scope to generate greater interest from the legal and business sector to occupy premises in the area.

19. *Challenges faced by the Methodist Church:* The Methodist Church, located close to the Court, is occupied by asylum seekers. The people protected by the Church require protection and consistently with the Bill of Rights. Nevertheless, the facilities are not designed for the purpose for which they are used and this poses a range of shared challenges that require appropriate and considered responses.
20. *Need for regeneration of the precinct as a whole:* As with many parts of the CBD, the precinct in which the Court is located has become run down and requires regeneration. There has been much dialogue about this in the past and dedicated efforts have been made to garner the necessary impetus to effect change. Further and reinvigorated dialogue about a vision for its future and how one gets there is crucial.

## **KEY ROLE-PLAYERS**

21. It is desirable that each role-player define its own role and specific role-players (e.g. departments, committees, individual office-holders etc) in light of its own institutional arrangements and constraints and initiatives already taken over the years. The broad categories are as follows:-

- 21.1. The Judiciary and the office of the Chief Justice;
- 21.2. The Department of Justice;
- 21.3. The Provincial Government (Premier's office, planning, policing, public transport);
- 21.4. The City of Johannesburg (Premier, planning, sanitation, traffic, municipal policing);
- 21.5. The advocates' profession;
- 21.6. The attorneys' profession;
- 21.7. The prosecuting authorities;
- 21.8. Businesses in the precinct;
- 21.9. The Methodist Church;
- 21.10. The business sector more broadly;
- 21.11. The legal sector more broadly;
- 21.12. NGOs;

21.13. Train and bus services;

21.14. Any existing CID / BID in the area;

21.15. The media.

## **LONG- TERM OBJECTIVES AND STRATEGIES**

### **22. The realization of a long-term vision and development plan for the regeneration of the precinct.**

22.1. A long term vision and plan for the regeneration of the precinct as a whole needs to be developed by the relevant role-players. It can only be realized in the long term but it should be initiated (or more accurately, reinvigorated) in the short term and a vision and plan developed in the medium term.

22.2. Many issues arise. For example, does one seek to regenerate the precinct as a legal district, a business district or a mixed-use district? Should traffic access be limited? How does one go about long-term planning in a way that avoids exclusion and ensures that the district is experienced as a people's district facilitating access to justice?



- 22.3. We would support the development of a High Court precinct which focuses on the legal and business sectors, a proposal that has had currency amongst a range of role-players in recent years and in respect of which planning initiatives have already been undertaken albeit that they have not ultimately come to fruition. There are already many good ideas on the table upon which to draw.
- 22.4. The critical task is to garner enthusiasm for the project amongst the key role players and get people around a table. This would initially entail key role-players in the judiciary, the government, the professions and business sector. Should there be a desire to regenerate the district as a legal district or partly legal district, dialogue within the legal sector (in its various forms) and the business sector would be particularly important. Ultimately a structured forum is required to keep the momentum.
- 22.5. It is proposed that the Johannesburg Bar play a role in seeking to reinvigorate interest in the development of a long-term vision and plan for the precinct and facilitating getting such a process on track. The profession can thus seek to initiate a process and support it, but it cannot ultimately be responsible for the vision formulation or planning.
- 22.6. It is proposed that the process commence with a meeting between key role-players including the Judge President or his delegates, the

Minister of Justice (or delegates), the Premier, the Mayor and leaders of the professions. A strategy for liaising with further role-players must then be developed.

**23. Ensuring the interests of the public and all court users are served in a manner that is appropriate in a modern and transformative democracy based on human rights.**

23.1. Whatever path is followed for the regeneration of the district, the interests of the public and court users must be met. How this is achieved will depend on the long-term vision and plan. In the meantime, short and medium term initiatives must be adopted to meet the immediate and more urgent needs of the public and court users. These may or may not ultimately coalesce with the long-term vision and plan but where possible should seek to be sustainable.

23.2. To ensure that the long-term objective is realized, it is proposed that the Johannesburg Bar play a role by consulting with role-players to identify needs, solutions and roles. Consultations should ensue both in bilateral and joint meetings, where appropriate. This has already commenced and should continue. In the medium-term, a stake-holders forum should be created to facilitate ongoing discussion, planning and implementation.

**24. The challenges faced by the Methodist Church need to be addressed**

24.1. The Methodist Church houses asylum seekers in need of protection. Because the facilities are not designed for the purpose for which they are used, the use of the Church in this way presents challenges in the precinct which are shared challenges.

24.2. The fact that the Church is serving this role points to a wider societal challenge and ultimately requires effective state intervention. The problems are unlikely to be addressed in the short or medium term. Insofar as users of the Court are affected, long-term solutions need to be found in dialogue with the Methodist Church. The Bar can initiate discussions with the Methodist Church in the short term to facilitate an appropriate response.

**MEDIUM TERM GOALS AND STRATEGIES**

**25. The development of a long-term vision and plan for the regeneration of the precinct.**

25.1. Detailed planning needs to take place for the regeneration of the precinct in line with a vision that has the support of the province, city and business.

25.2. How one approaches planning depends on who will drive that initiative but should be broadly consultative.

**26. The establishment / extension of a Business or City Improvement District**

26.1. Provincial legislation makes provision for the establishment by a municipality of Business or City Improvement Districts (see City Improvement Districts Act 112 of 1997 (Gauteng). These serve to supplement state efforts to provide services (through the private sector) and generate appropriate business activity in a defined area. Levies are paid by rate-payers and CIDs work with government to implement strategies. The establishment or extension of a CID / BID requires approval by the relevant municipality and various legislative processes must be followed. Ultimately the viability of a CID / BID depends on the rate-payers who run them.

26.2. We understand that in the past a BID / CID was established but its current status is not known. There are further, other existing CID/ BID structures within the CBD. Discussions can ensue between the Bar and the City of Johannesburg to ascertain which ones are in place and functional.

26.3. Further consideration should be given in the short term to whether it is desirable to seek to initiate the establishment or extension of a CID / BID for the precinct and if so how this should be approached and what role the Bar can play. Any establishment / extension decided upon can be achieved in the medium term.

**27. Involving the business and legal sector in the development and implementation of a vision and plan**

27.1. Any regeneration of the district will require the support and participation of the business sector including but not limited to those who are already conducting business in the precinct.

27.2. The role of the professions is inevitably limited but both the attorneys' and advocates' professions have links to business through their client bases and are in a position to encourage interest in the development of the sector. An appropriate strategy should be devised including the media and institutional leaders to invigorate interest.

27.3. The profession is better able to liaise with the legal sector to ascertain how the sector as a whole can interact with a reinvigorated precinct. A strategy to do so should be devised to be implemented in the medium term.

27.4. While there are no plans on the table for the Sandton based advocates to return to the CBD, discussions continue about location of the profession and expansion and the need to regenerate the CBD should feature in those discussions.

## **28. Public transport**

28.1. Public transport systems need to cater for access to the Court for professionals, clients, witnesses and the public. This should be achieved in the medium term and planning should ensue in the short term.

28.2. From a state perspective, public transport is a functional area of national and provincial competence. An initial discussion with the Premier would thus be pivotal on this issue.

28.3. Simultaneously bilateral meetings with the relevant transport agencies (public and private) can ensue with a view to ensuring that there is a regular bus service directly to the Court.

## **29. Parking**

29.1. Safe and convenient parking is required for court users and existing parking is not adequate or safe. Partial solution of this problem can be achieved in the medium term. However it may be

necessary for dedicated parking facilities to be built which may only be possible in the long term.

**30. Safety, law and by-law enforcement**

30.1. Devising a sustainable strategy for safety together with all policing agencies should be seen as a medium term objective.

30.2. Liaison with relevant state departments is required to ensure law and by-law enforcement in the precinct.

**SHORT TERM GOALS AND STRATEGIES**

**31. Initiating of development of the long term vision and plan**

31.1. While realization and development of a long-term vision and plan can only be achieved in the medium and long terms, its initiation (reinvigoration) can be achieved in the short term.

31.2. The proposed short term approach is referred to above.

**32. Liaison with the judiciary and relevant state departments**

32.1. **There are ongoing discussions between the South Gauteng High Court and the JSA.**

**32.2. Discussions need to be held with relevant state departments  
(some have commenced) including:-**

32.2.1. The policing and law enforcement authorities including:-

32.2.1.1. The Station Commander of the relevant policing precinct and sector manager;

32.2.1.2. JMPD Head for the ward and section commander;

32.2.1.3. Community Police Forum policing head;

32.2.1.4. EMS including Fire Department head for ward;

32.2.1.5. Security providers of local businesses.

32.2.2. The province

32.2.2.1. The Premier

32.2.2.2. Public transport bodies

32.2.2.3. Policing



32.2.2.4. Planning

32.2.3. The municipality

32.2.3.1. The Mayor

32.2.3.2. Relevant ward councilor and urban manager

32.2.3.3. City of Johannesburg Region F1 head

32.2.3.4. Functionaries responsible for service delivery

32.2.3.5. Planning authorities

32.2.4. The NPA

32.2.5. The Minister of Justice

### **33. Safety and transport**

33.1. *Ensuring safety outside the court building is a critical short term objective.*

- 33.1.1. Discussions have ensued already with the City of Johannesburg to ensure visible policing and a budget is available. There is a need for immediate visible policing.
  - 33.1.2. Consideration should be given to stakeholders employing private security services as in residential areas.
  - 33.1.3. A scoping of the incidence of crime and obtaining proposals by experts in respect thereof should be conducted.
- 33.2. ***Safe access into the court buildings at night*** needs to be facilitated for practitioners and clients. Possible solutions include:-
- 33.2.1. Providing direct access to the court building for practitioners' vehicles at night.
  - 33.2.2. Providing security guards to chaperone practitioners' and clients to the court from a dedicated parking facility. A safe dedicated parking facility at least on a short-term basis needs to be identified.
  - 33.2.3. Private provision of security guards for areas specifically affecting practitioners and their clients.

33.3. ***Convenient and safe transport for practitioners to the court during the day.*** Possible solutions include:-

33.3.1. The Bar provides transport from Sandton / the Gautrain at Park station to a dedicated entrance.

33.3.2. A dedicated parking facility / facilities are identified manned with private security for practitioners' and clients' use.

33.3.3. Separate or accelerated access be facilitated into the court building for practitioners with identification. (Already under discussion as desirable to cater for practitioners' needs generally.)

#### **34. Sanitation**

34.1. Immediate attention to sanitation issues surrounding the court buildings is critical. There is a need for an immediate cleanup campaign and on-going street cleaning.

34.2. Liaison with the City of Johannesburg has commenced and an initial budget is allocated.

- 34.3. Measures to ensure that better public access to existing ablution facilities outside of the court precinct must be explored. (E.g. Von Wielligh street facility). Means to provide additional facilities should be discussed with the City of Johannesburg.

### **35. Discussions with the Methodist Church**

- 35.1. In the short term discussions should ensue with the Methodist Church to consider an appropriate resolution of shared challenges including short, medium and long term challenges.

## **THE CURRENT STATUS *QUO* AND THE ACHIEVED GOALS**

### **36. Engagement with the JDA**

- 36.1. On 10 June 2014 the members of the High Court Committee met with the officials of the JDA. During the aforesaid meeting the current unacceptable situation around the High Court precinct was highlighted. JDA committed itself to prioritize the High Court precinct challenges in its programmes.
- 36.2. The members of the High Court Committee also emphasized a need for the bylaws to be enforced, the security to be upgraded and the cleaning of the High Court precinct to be improved. JDA undertook

to investigate the best solutions for the constant cleaning and security within the vicinity of the precinct.

36.3. JDA confirmed that in terms of the urban design framework funds were allocated for the maintenance of the High Court precinct. They will engage the relevant departments and revert with the accurate information pertaining to the issues which the High Court Committee of the Bar raised with them.

36.4. On 10 September 2014 a further meeting was held between the representatives of the High Court Committee and the officials of the JDA. This was a report back meeting.

36.5. During the aforesaid meeting we were informed that:-

36.5.1. In order to ensure proper maintenance on the High Court precinct there will be a strict enforcement of the bylaws.

36.5.2. A budget of R52 670.18 has been approved and will be allocated to immediately address the security and cleaning of the High Court precinct.

36.5.3. The BRT and the Gautrain bus routes will be reassessed in order to include and link the court's bus stops. JDA was

confident that this is indeed achievable and necessary stakeholders will be engaged.

36.5.4. There will be greening initiatives in front of the High Court which will include planting of trees and benches for the public to be able to sit. The Inner City Core Funding will be engaged in this regard.

36.6. The High Court Committee has managed to develop a cordial, meaningful and fruitful partnership with the JDA. There is now a political will to assist in all the issues confronting the High Court precinct.

## **B THE BAR COUNCIL COMMITMENT TO THE SOUTH GAUTENG HIGH COURT PRECINCT**

37. The Bar Council in its meeting held recently committed itself to advance an amount of R10 000 per month as its contribution towards payment of the security and cleaning services which are engaged by the JDA.

38. JDA has agreed that it will allocate a budget as alluded to above for a period of twelve months and thereafter it will require the relevant stakeholders such as the Bar Council and the property owners of the properties around the South Gauteng High Court Precinct to contribute towards this budget.

39. The High Court Committee has established a standing committee to continue the work in respect of the precinct in conjunction with future Bar Council High Court Committees.

#### **C THE SEPARATE ACCESS POINT**

40. It was agreed in principle with the Deputy Judge President and the members of the High Court Committee that there is a need to create a separate access point at the South Gauteng High Court for members of the Bar.
41. The High Court Committee and the Deputy Judge President will engage around this issue and address all the security concerns and access cards which will be utilized by the members of the Bar.

#### **D ROBING ROOMS**

42. Recent renovations to the South Gauteng High Court included the provision of two large robing rooms on the sixth floor, one to each side of the lift area, for males and females respectively.
43. The High Court Committee have engaged Ms Matsela Moshokoa of *Diaro Living*, to conceptualise, design and make proposals on the use and fitment of the space for robing rooms, refreshment area and a “business centre”.

44. Each room is approximately 100 square meters plus, and separated by another approximate 40 square meters of passage which is flanked by the lift area (partitioned with glass and glass door) and the area giving access to the toilets (where the building's service lift is located - we are all familiar with these areas).
45. The High Court Committee's proposal is to divide the one side for male and female robing areas together with lockers and related facilities. The passage area is suitable for coffee, refreshments and appropriate seating for this purpose, and the other room can then be used as a "business centre" including seating, tables and workspace, power points, printer, photocopier and necessary document administration items. This space will need to be appropriately secured and managed on a daily basis which the Bar Council will have to staff and budget for.
46. The proposed budget was submitted to the meeting of the Bar Council. The Bar Council resolved that prior to approving the amount required, a questionnaire should be despatched to the members of the Bar in order to assess their needs and requirements for the proposed robing rooms and other facilities as presented by Ms Matsela Moshokoa.

## **E CASE MANAGEMENT**

47. On 4 September 2014 a meeting was held between the Deputy Judge President, the Johannesburg Attorneys Association and the representatives



of the High Court Committee. The purpose of this meeting was to discuss the draft practice directive despatched by the Office of the Chief Justice.

48. In terms of the new Superior Court Act the office of the Chief Justice is now responsible for determining how practice is to be conducted in all Courts throughout the country.
49. A committee called the Judicial Case Flow Management Committee has been formed in the office of the Chief Justice. This committee is chaired by the Deputy President of the SCA, and whose members come from the ranks of judges and the secretariat of the Chief Justice's office.
50. During 2012 the office of the Chief Justice disseminated a draft practice directive dealing with case management, allocations of cases and case management conferences.
51. This draft directive envisages two phases of case management namely:-
  - 51.1. Phase 1 – from the institution of proceedings until the close of pleadings; and
  - 51.2. Phase 2 – from close of pleadings until certification by a judge that a matter is ripe for trial.

52. Currently, and as a pilot project, phase two of the draft directive has been implemented in both the South and North Gauteng High Courts by way of Pre-Trial Conferences being conducted before a Judge.
53. During the aforesaid meeting, Deputy Judge President Mojapelo expressed a desire to form a committee consisting of members from the Bench, Bar and Side – Bar in order to receive input from all the stakeholders for the purposes of evaluating the current Pre-Trial System and the phase two of the proposed case management.
54. The views of the members of the profession will be collated in order to be presented at the Judicial Case Flow Management Committee with proposals as to how best to implement a case management system within our division.
55. A further meeting has been scheduled with the Deputy Judge President for the 7<sup>th</sup> of October 2014.
56. To this end as the High Court Committee, we have circulated the draft practice directive to members for their comments.

**F NATIONAL EFFICIENCY ENHANCEMENT COMMITTEE (NEEC),  
PROVINCIAL EFFICIENCY ENHANCEMENT COMMITTEE (PEEC) AND  
INFRASTRUCTURE MEETINGS**

57. The High Court Committee attended meetings and was represented at these meetings.

**G HIGH COURT RULES AND MAGISTRATE'S COURT RULES AMENDMENTS**

58. The High Court Committee made various submissions in respect hereof.

**H TERMLY BREAKFASTS WITH GAUTENG HIGH COURTS**

59. The High Court Committee arranged the termly breakfasts with the Judge President and the Deputy Judge Presidents.

**ADV P.L. MOKOENA SC  
ADV R. WILLIS**

30 September 2014