

Unfortunate Call for Unlawful Rates Withholding

Ratepayers have become aware that there is a pressure group in Ndlambe, which is calling for ratepayers to withhold rates. Obviously, one of the main aims is to cripple the municipality. Unfortunately, withholding will not improve service delivery. It will cause it to collapse totally. It has the necessary consequence that those ratepayers, who diligently pay their rates, are subsidising the withholders, for without any income, no municipality can function. For some or other reason the instigators of the withholding of rates are also calling on ratepayers to pay the rates portion of their accounts into some or other trust account which is to be administered by the organisers of the withholding campaign. The question that remains unanswered, is why, if one is to withhold rates, should it go into some private trust account? If a ratepayer wishes to withhold rates lawfully, why should that ratepayer not just do so without paying it over to other persons?

The withholding of rates is in any event unlawful. One of the instigators of the campaign admitted during a meeting that he was aware that it is unlawful to do so. Why is this aspect not disclosed in the advertisement calling for the withholding of rates?

Ratepayers are warned not to get onto the bandwagon and to rather obtain proper legal advice before embarking on the paying of rates into a trust account over which they have no control. The highest court of our land, the Constitutional Court, said as far back as 1998 in the matter of City Council of Pretoria v Walker as follows:

"Much has been said about a culture of non-payment by residents of townships. It is a feature of the past, linked as it was to political protest against discriminatory policies under apartheid and an expression of

dissatisfaction regarding the low standard of services which were provided. It has no place in a constitutional state in which the rights of all persons are guaranteed and all have access to the courts to protect their rights.

Local government is as important a tier of public administration as any. It has to continue functioning for the common good; it however cannot do so efficiently and effectively if every person who has a grievance about the conduct of a public official or a governmental structure were to take the law into his or her own hands or resort to self-help by withholding payment for services rendered. That conduct carries with it the potential for chaos and anarchy and can therefore not be appropriate. The kind of society envisaged in the Constitution implies also the exercise of responsibility towards the systems and structures of society. A culture of self-help in which people refuse to pay for services they have received is not acceptable. It is pre-eminently for the courts to grant appropriate relief against any public official, institution or government when there are grievances. It is not for the disgruntled individual to decide what the appropriate relief should be and to combine with others or take it upon himself or herself to punish the government structure by withholding payment which is due".

No legal opinion can change this and no clever argument will allow for a lawful rates withholding. Once a court decides differently, ratepayers may consider a whole new approach, including the withholding of rates, but until there is a sanction by the courts that rates may lawfully be withheld, it would not be advisable to part with rates money other than to its lawful receiver, the municipality.

Ndlambe is nationally being rated as one of the better municipalities in the country – why would one want to bring it to its knees? It will be a question of cutting one's nose to spite one's face. Rather ask how

those ratepayers with knowledge and skills can assist to improve that which is unacceptable and do something positive with the municipal officials for our own good until such time, if ever, as the withholding of rates may be lawfully used as a tool.

Ratepayers, who heed the emotional call to withhold rates, are doing so at their own peril. When the municipality decides to take action against the withholders (and it is currently in the process of suing the withholders who are now asking others to fund their court cases!!!), they must not expect any sympathy from those who respect the law and pay their dues. The fact that we are justifiably aggrieved about service delivery makes no difference and those of us who are aggrieved should work with and through our ratepayers' associations to obtain the best possible results, however difficult this may prove to be and if necessary, to obtain results through the courts. As much as we encourage support for our local businesses, we, as law abiding ratepayers, should consider whether those businesses in our community who fail to pay rates, are deserving of our continued support.