REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NUMBER: 20074/2022

DELETE WHICHEVER IS NOT APPLICABLE

1.REPORTABLE: NO

2.OF INTEREST TO OTHER JUDGES: NO

3.REVISED: NO

28 January 2026 **Judge Dippenaar**

In the matter between:

THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY	**FIRST APPLICANT**
THE MUNICIPAL VALUER: THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY	**SECOND APPLICANT**

and

THE VALUATION APPEAL BOARD FOR THE CITY	**FIRST RESPONDENT**

OF JOHANNESBURG
THE OWNERS OF UNITS **SECOND RESPONDENT**
Units 1, 6, 7, 11, 12, 15, 16, 18, 22, 24, 25,
28, 29, 34, 38, 40, 45, 49, 51, 53, 59, 60,
63 and 64 (THE 24 UNITS) MELROSE SQUARE ON OAKS SS 429/1999

LEAVE TO APPEAL JUDGMENT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail and by uploading to the electronic case file. The date and time for hand-down is deemed to be 10h00 on the 28th of JANUARY 2026.

DIPPENAAR J:

[1] The applicants seek leave to appeal the judgment and order granted by this court on 29 October 2025. In terms of the order, the applicants' application to review and set aside a decision taken by the Valuation Appeal Board on 9 December 2021 to re-categorise the second respondent's properties from section title business to sectional title residential was dismissed with costs. Leave to appeal is sought to the Supreme Court of Appeal as the application 'is based on the systemic implications and the constitutional dimension of the municipal autonomy question'.

[2] The first respondent, the Valuation Appeal Board did not participate in this application. The second respondent, the owners of the units in issue, opposed the application, seeking its dismissal with costs. They contended that there was no reasonable prospect that an appeal court would come to a different conclusion and that it was not in the interests of justice for the matter to be prolonged, given that the Municipal Valuer clearly erred in the manner in which he approached the supplementary valuation roll. It contended that there were no compelling reasons to grant leave to appeal. It was

submitted that the properties were categorised sectional title residential in both the prior and subsequent general valuation rolls and are currently also so categorised, thus justifying an order on the attorney and client scale alternatively on scale C.

[3] The applicants raised some six grounds of appeal. Stated broadly, they first, contended that this court erred on the nature of the powers exercised by the applicant in enacting the Rates Policy and in so doing failed to give effect to the City's 2013 rates Policy. Second, they contended that this court erred on the nature of the powers exercised by the City in enacting the Rates Policy. Third, they contended that the court erred in finding that the City's rates policy discriminates between different categories of residential property. Fourth, it was submitted that this court erred in its finding that the City assumed the function of the Municipal valuer in respect of the criteria for adjusting from section title business category to the sectional title residential category. Fifth, they submitted that the court erred in its finding of lack of standing by the Municipal Manager. Lastly, it was submitted that the court erred in granting costs against the City in the circumstances of this matter and that its discretion was not exercised in a judicial manner based on a conspectus of the facts and the law.

[4] The applicants further contended that there are reasonable prospects of success on appeal as envisaged by s 17(1)(a)(i) of the Superior Courts Act[1] ("the Act"), because this case raises a question of law of central importance to the municipal sphere, being the jurisdictional limits of Valuation Appeal Boards when interpreting rates policy criteria they consider inconsistent with the Rates Act. On that basis it was submitted that there are compelling reasons to grant leave to appeal as envisaged in s 17(1)(a)(ii) of the Act to the Supreme Cout of Appeal. It was submitted that the judgment affects thousands of sectional title units, creating systemic uncertainty requiring guidance from the Supreme Court of Appeal. During argument, emphasis was placed on these compelling reasons.

[1] 10 of 2013.

[5] I have considered the papers filed of record and the grounds set out in the application for leave to appeal as well as the parties' extensive arguments for and against the granting of leave to appeal. I have further considered the submissions made in the heads of argument of the parties and the authorities referred to.

[6] My judgment is comprehensive and I stand by the reasons set out therein.

[7] Leave to appeal may only be granted where a court is of the opinion that the appeal would have a reasonable prospect of success, which prospects are not too remote.[2] A sound rational basis for the conclusion that there are prospects of success must be shown to exist.[3]

[8] An applicant for leave to appeal faces a higher threshold [4] than under the repealed Supreme Court Act.[5] Leave to appeal may only be given where the judge concerned is of the opinion that the appeal would have a reasonable prospect of success. The test is simply whether there are any reasonable prospects of success in the appeal. It is not whether a litigant has an arguable case or a mere possibility of success.[6]

[9] In applying the relevant principles to the grounds for leave to appeal when measured against the facts, I am not persuaded that the applicant has illustrated a sound rational basis for a conclusion that there are reasonable prospects of success on appeal, as contemplated in s17(1)(a)(i) of the Act.

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[2] *Ramakatsa and Others v African National Congress and Another* [2021] JOL 49993 (SCA) para [10]
[3] *Smith v S* [2011] ZASCA 15; MEC for Health, Eastern Cape v Mkhitha [2016] ZASCA 176, para [17]; *Four-Wheel Drive Accessory Distributors CC v Rattan NO* [2016] ZASCA 176 (25 November 2016) para [34]
[4] *Notshokovu v S* [2016] ZASCA 112 para 2; *Acting National Director of Public Prosecutions v Democratic Alliance (Society for the Protection of Our Constitution Amicus Curiae)* 2016 JDR 1211 (GP)
[5] 59 of 1959
[6] *Mothule Inc Attorneys v The Law Society of the Northern Provinces and Another* [2017] ZASCA 17 para 18.

[10] It is trite that if a court is unpersuaded of the prospects of success, it must still enquire into whether there is a compelling reason to entertain the appeal. However, the merits remain vitally important and are often decisive.[7] In considering the existence of compelling reasons as envisaged by s 17(1)(a)(ii) of the Act, I am also not persuaded that such reasons exist in this matter, when considered in the context of prospects of success on the merits.

[11] The appellants raise their 'compelling reasons' in broad terms, not directly related to the factual matrix of this matter. The appellants' argument that the judgment potentially invalidates the City's categorisation methodology for all sectional title schemes situated on non- residentially zoned land loses force once it is considered that the Rates Act was amended in 2014 and that each case must be considered on the specific facts of that case. The submission that municipalities nationwide will face uncertainty about whether their rates policies, especially categorisation criteria can be interpreted away by Valuation Appeal Boards without formal constitutional challenge, is overly broad and does not bear scrutiny. The Valuation Appeal Board did not find that the City's policy is unlawful, nor did this court's judgment do so. It interpreted the relevant provisions as part of the consideration of the matter before it. I am further not persuaded that this judgment raises a discrete legal question of public importance that transcends the particular facts, as contended by the applicants, given the specific factual matrix of the present matter.

[12] It follows that the application must fail. There is no reason to deviate from the normal principle that costs follow the result. I am not persuaded that a punitive costs order is warranted, as sought by the second respondent. Considering the issues and complexities which arise in this application, costs of counsel on scale B is warranted.

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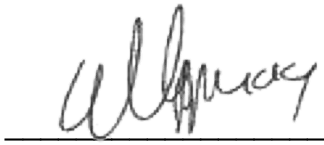
[7] *Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd* 2020 (5) SA 35 (SCA) para 2.

[13] I grant the following order:

[1] The application for leave to appeal is dismissed with costs including the costs of counsel on scale B.



EF DIPPENAAR
JUDGE OF THE HIGH COURT
JOHANNESBURG

HEARING

DATE OF HEARING	: 26 JANUARY 2026
DATE OF JUDGMENT	: 28 JANUARY 2026

APPEARANCES

APPLICANT'S COUNSEL	: Mr. S Ogunronbi
APPLICANT'S ATTORNEYS	: Prince Mudau and Associates
FIRST RESPONDENT'S COUNSEL	: No appearance
FIRST RESPONDENT'S ATTORNEYS	: Mulaudzi John Attorneys
SECOND RESPONDENT'S COUNSEL	: Mr. SD Mitchell
SECOND RESPONDENT'S ATTORNEYS	: HBG Schindlers Attorneys