

Understanding the New Changes to Sewer Tariffs of the City of Johannesburg Metropolitan Municipality

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DIFFERENCES BETWEEN THE OLD 2023/2024 TARIFFS, AND THE NEW 2024/2025 TARIFFS

So what exactly were the changes between the 2023/2024 residential sewer tariffs (referred to hereinafter as old tariffs), and 2024/2025 tariffs (referred to hereinafter as new tariffs) that have led to widespread uncertainty and litigation?

It relates to the block of flats definition and category tariff that existed in the old tariffs, but was removed and is not contained in the new tariffs.

The old tariffs defined the blocks of flat as *a dwelling unit set aside on a single multi-storey building on a single erf with one communal entrance to the building, which building comprises more than one dwelling unit; and where the rates valuation per dwelling does not exceed R700 000.*

In the new residential sewer tariffs applicable from 1 July 2024 onwards, the COJ amended the definition of “multi-dwelling” premises to cater for the inclusion of the units which were previously defined as “block of flats” under the old tariffs. Multi-dwelling in terms of the new tariff means *any arrangement of premises that comprises more than one dwelling unit including semi-detached houses, simplex units, townhouses, duplex dwellings, flats and any other arrangement of residential premises.*

The new tariffs do not include any definition or category for a “block of flats” at all. As a result, thousands of units which were recognised as blocks of flats under the old tariffs, had to be recategorized into a new category in terms of the new tariffs. The multi-dwelling category was (at least in the old tariffs) more expensive than the block of flats tariff, but in order to reduce the impact on customers who were suddenly moved from block of flats to multi-dwelling, the City introduced a special subsidy provision into its tariffs for multi-dwelling properties that were valued at less than R 700,000.

Judgement of Olifantsfontein Residential Apartments (Pty) Ltd v City of Johannesburg

INTRODUCTION

It is common knowledge that the City of Johannesburg Metropolitan Municipality (“the COJ”) has a budget that changes from year to year, and the same has a direct influence on the tariffs they implement and charge to their customers.

The budget is the document that determines how much the municipality needs to bring in, as income, in order to be able to pay all of its expenses. In order to get the money to pay its bills, it needs to charge its customers for services provided, and that's where tariffs come in. Tariffs are just price lists of the charges that the municipality levies to its customers each year.

As a result, the municipality publishes approved tariffs every year for the services it provides to the general public within its jurisdiction. The published tariffs are a framework in respect of which the public can determine the correctness of the tariffs charged to their respective properties.

In the 2024/2025 financial year (which ran from 1 July 2024 to 30 June 2025) the City of Johannesburg implemented changes to its residential sewer tariffs that left customers who owns residential units valued at R700 000 and below affected by uncertainties, and the same resulted in many cases ending up in court debating how the City's tariffs should be applied.

This article discusses one of the recent judgements that clarifies the legal position in relation to the COJ's sewer tariffs: the case of *Olifantsfontein Residential Apartments (Pty) Ltd v City of Johannesburg*.¹

CITY'S FAILURE TO APPLY SUBSIDY APPLICABLE TO UNITS WORTH LESS THAN R 700,000

The City has however, failed to apply this subsidy to the majority of customers who qualify for them. When customers queried this with the municipality, the reason given by the municipality for not applying the subsidy was that the municipality felt that the subsidy should only be applied to assist individuals from low income households receiving government housing subsidies. The customers aggrieved by this response challenged the municipality's application of their tariffs (by refusing to apply the subsidy to customers who do not receive housing subsidies from government) by taking the matter to court.

WHAT HAPPENED IN THE *OLIFANTSFONTEIN RESIDENTIAL APARTMENTS CASE*?

Consequently the question then considered and addressed in the *Olifantsfontein* judgement is whether all customers of the municipality who own residential dwelling units worth less than R 700,000 ought to receive this subsidy, or whether it ought to apply only to individuals from low income households receiving government subsidies?

The High Court gave a written judgment in this case. The facts of the case were that the Applicant's property provided accommodation for low to middle income households in the Midrand area. The issue was that the Respondent, the COJ, failed to apply the residential sewer tariff subsidy applicable to multi-dwelling units valued at R700 000 in terms of the prevailing sewer tariffs, despite multiple enquiries and demands from the Applicant.

Oosthuizen AJ (who gave the judgment) highlighted that it is important to look at the principles of interpretation when interpreting the tariffs and as such he referred to the case of *Natal Joint Municipal Pension Fund v Endumeni Municipality*.² The Natal court held that interpretation is a process that involves attributing meaning to the words used in a document, whether it is legislation, another statutory instrument, or a contract. It was further stated that interpretation considers the context provided by reading the specific provision or provisions in relation to the document as a whole and the circumstances surrounding its creation.

Oosthuizen AJ analysed the tariff requirements as noted in the new tariffs and used the interpretation in the Natal case in order to interpret the provisions of the tariff regarding the subsidy that is available for units within the R700 000 threshold. He held that the subsidised multi-dwelling was applicable where a property rates valuation for a residential dwelling unit does not exceed R700 000 regardless of whether or not that owner receives a government housing subsidy or is a low income earner.

The court held that that there is nothing in the subsidy provisions within the tariff that explicitly states that the subsidy is only applicable when the occupant is receiving a government subsidy as the municipality claimed. He held further that the municipality has failed to address where they derived the power to impose further limitations in the absence of the specific provisions within the tariffs that confers such a power.

The court ruled for the Applicant, and ordered the COJ to change the charges billed to the Applicant by reducing them in line with the exact wording of the residential sewer tariffs.

CONCLUSION

The question then is, what does this mean for the City of Johannesburg Customers with multi-dwelling units where the property value does not exceed R700 000?

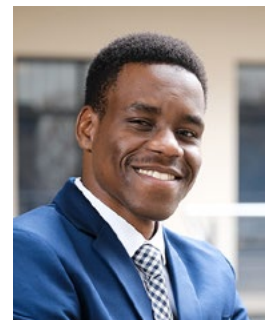
From the *Olifantsfontein* judgement, it is clear that for 2024/2025 and 2025/2026 financial year (and until the City includes additional requirements in their tariffs to lawfully introduce the additional requirement that the property owner must be a low income earner and/or receive a government housing subsidy) every customer of the COJ with a residential dwelling unit valued at R700 000 and below is entitled to a subsidy for their sewer tariffs.

¹*Olifantsfontein Residential Apartments (Pty) Ltd v City of Johannesburg* 2025 ZAGPJHC 1093.

²*Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA).



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