

NATIONAL

Didiza moves on illegal KZN leases

Paddy Harper 26 Jun 2021



Refunds due: The Ingonyama Trust manages land on behalf of the Zulu nation. Its chairperson Jerome Ngwenya faces an uncertain future as a new board is to be appointed. Photos: Delwyn Verasamy & David Harrison

The nine residents of Ingonyama Trust Board (ITB) land who successfully challenged its residential lease programme are likely to be the first to have the unlawful leases, which were imposed by the entity, restored to permission-to-occupy certificates.

And while the ITB chairperson, Jerome Ngwenya, had intended to challenge the ruling by the Pietermaritzburg high court setting aside the lease programme and ordering that residents be refunded lease fees, he has been instructed not to do so by Agriculture, Land Reform and Rural Development Minister Thoko Didiza, under whose portfolio the ITB falls.

Didiza is also pushing ahead with the process of appointing a new board for the Ingonyama Trust, which controls nearly three-million hectares of land in KwaZulu-Natal, and will meet with the presumptive new Zulu monarch, Misuzulu kaZwelithini, to discuss who will chair the board.

In terms of the legislation that enabled the Ingonyama Trust to be formed in the early 1990s, the Zulu king appoints the board chairperson.

A source close to the matter said Didiza had “communicated directly with the chairperson [days after the judgment] that there is to be no process to take the matter on appeal.”

The source said Ngwenya had intended to issue a media statement rejecting the judgment and indicating his intention to appeal, but had been prevented from doing so by Didiza’s instruction.

“The minister made it clear that the board had to respect the court’s judgment and that there was to be no attempt to take the matter on appeal,” the source said. “The chair accepted this, but grudgingly.”

Didiza is in the process of seconding staff from her department to take over executive functions at the ITB, which has been at loggerheads with parliament's land reform portfolio committee and the auditor over poor corporate governance.

Thus far, an acting chief financial officer has been seconded, who, the source said, would help ensure that residents were paid back.

The source said the process of reversing the leases and refunding residents was likely to start with Linah Nkosi and the eight other individual occupants, many of them from the Jozini area, who had brought the application along with the Legal Resources Centre (LRC) and several nongovernmental organisations.



The Ingonyama Trust manages land on behalf of the Zulu nation. Photo Delwyn Verasamy

"The LRC detailed information in the court documents. It would make sense to start from there. The second phase would be to go back through the books and assess what has been paid since the conversions began and take the appropriate action. The minister has three months to report back to the court on what has been done to comply, so this is what has to be done urgently," the source said.

Didiza's spokesperson, Reggie Ngcobo, confirmed the secondment process and said the minister was waiting for recommendations from the ITB, which met on 21 June, as to further appointments, including that of an acting chief financial officer.

Didiza said that the government accepted the outcome of the court case and that the judgment had "very important implications for the government and also for the board".

"As directed by the court, I am going to develop a plan of complying with the court order, which addresses the breach that has been done with respect to converting permission-to-occupy to leases," she said.

The department would issue a directive to the ITB to refund all the money paid to it in residential leases, and to restore the permission-to-occupy certificates that had been converted into leases.

This, she said, would restore title to the legitimate owners of the land under customary law.

Didiza said she put mechanisms in place to ensure that the order was implemented and would give quarterly reports to the court on the implementation process.

The land reform department would, she said, be strengthening its capacity to manage communal land.

The process of appointing a permanent board, which included the monarch, the land reform ministry and the premier of KwaZulu-Natal, had been disrupted by the death of Goodwill Zwelithini kaBhekuzulu.

"We are engaging with the new authorities to make sure we conclude this process as soon as possible," she said.

ITB staff granted strike certificate

In related news, an impending strike by ITB staff over management's refusal to recognise the National Education, Health and Allied Workers Union (Nehawu) and alleged labour law violations has been averted. The ITB has now agreed to recognise the union, which represents just over 70% of the workforce, after seven years of refusal.

Nehawu members at the ITB last month began lunchtime demonstrations after the Commission for Conciliation, Mediation and Arbitration granted them a strike certificate.

Andile Zulu, the KwaZulu-Natal provincial secretary of Nehawu, said the union had met with the ITB after the strike certificate was issued and they were hammering out the terms of a recognition agreement.

Zulu said: "We are not very far from reaching consensus on signing a recognition agreement. We have reached consensus on 98% of the agreement thus far."

He said that once the agreement was concluded, the union would take up other issues — including wage discrepancies, working conditions and alleged breaches of Covid-19 protocols — with ITB management.

"If all the issues are resolved, then we will have to officially withdraw our strike certificate," Zulu said.

Ngwenya did not respond to calls from the *Mail & Guardian*.