

Meaningful Public Participation in South African Municipalities

The requirement for municipalities to engage in meaningful public participation is a cornerstone of South Africa's constitutional democracy. Several landmark judgments have established and refined the legal standards for what constitutes "meaningful engagement" and "meaningful public participation" at the local government level.

Foundational Constitutional Court Principles

The Constitutional Court of South Africa has repeatedly emphasized that the constitutional obligation to facilitate public involvement requires more than mere tokenism. In the landmark case of *Doctors for Life International v Speaker of the National Assembly* [1](#), the Court held that the duty to facilitate public involvement has two aspects: the duty to provide meaningful opportunities for public participation in the law-making process, and the duty to take measures to ensure that people have the ability to take advantage of the opportunities provided. The Court applied a standard of reasonableness to determine whether the legislature had fulfilled this obligation.

This principle was further developed in the context of municipal evictions in *Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg v City of Johannesburg and Others* [2](#). In this case, the Constitutional Court held that a municipality must engage meaningfully with people before evicting them from their homes if the eviction would result in homelessness. The Court emphasized that meaningful engagement is a two-way process in which the City and those about to become homeless must talk to each other meaningfully in order to achieve certain objectives. The municipality must engage seriously and in good faith, and must provide a record of the process of engagement showing at least a reasonable effort.

Meaningful Discussions in Municipal Budgeting and Planning

When it comes to municipal budgeting, planning, and the adoption of Integrated Development Plans (IDPs), the courts have applied these principles to require substantive public participation.

Borbet South Africa (Pty) Ltd v Nelson Mandela Bay Municipality

A critical judgment addressing the specific requirement for meaningful public participation in municipal budgeting is *Borbet South Africa (Pty) Ltd and Others v Nelson Mandela Bay Municipality* [3](#). In this case, the High Court of South Africa (Eastern Cape Division, Port Elizabeth) declared the municipality's 2011/2012 budget unlawful and invalid due to a failure to ensure adequate public participation.

The Court held that the obligation to encourage public participation at the local government level goes beyond a mere formalism in which public meetings are convened and information shared. The concept of participatory democracy requires that the interplay between elected representative structures and the participating community is addressed by means of appropriate mechanisms. The Court emphasized that there must not only be meaningful opportunities for participation, but steps must be taken to ensure that people have the ability and capacity to take advantage of those opportunities.

In evaluating the municipality's budget process, the Court noted that public participation must occur in three distinct phases: budget preparation, a notice and comment phase after the budget is tabled, and the adoption phase. The Court found that the municipality's belated efforts to consult targeted interest groups, without publishing amended budgets for public comment, failed to meet the objective standard of reasonableness required for effective public participation.

Democratic Alliance v eThekweni Municipality

The Supreme Court of Appeal (SCA) also addressed municipal public participation in *Democratic Alliance v eThekweni Municipality* [4](#). This case concerned the renaming of streets in Durban. The SCA held that while the decision to rename streets was an executive or legislative function rather than "administrative action" under the Promotion of Administrative Justice Act (PAJA), it was still subject to the principle of legality and the constitutional requirement for public participation.

The SCA found that the municipality's initial phase of street renaming was unlawful because the public participation process was manifestly unreasonable. The municipality had provided insufficient notice and only a seven-day objection period. However, the second phase of renaming was upheld because the municipality had followed an extensive consultation process, including public advertisements, extended comment periods, and engagement with ward committees, which the Court deemed reasonable.

Summary of Legal Standards

The jurisprudence from these cases establishes several key requirements for municipalities conducting public participation sessions:

Requirement	Description	Key Case Authority
Reasonableness	The steps taken to facilitate public involvement must be objectively reasonable given the circumstances, time, and impact of the decision.	<i>Doctors for Life</i> 1 ; <i>Borbet</i> 3
Meaningful Opportunity	Municipalities must provide genuine opportunities for the public to influence the outcome, not just formalistic information-sharing sessions.	<i>Borbet</i> 3 ; <i>Olivia Road</i> 2

Requirement	Description	Key Case Authority
Capacity Building	Municipalities have a duty to take measures to ensure that people have the ability and capacity to take advantage of participation opportunities.	<i>Doctors for Life</i> 1 ; <i>Borbet</i> 3
Good Faith Engagement	In contexts like evictions, municipalities must engage seriously, in good faith, and with an open mind to find mutually beneficial solutions.	<i>Olivia Road</i> 2
Adequate Notice and Time	The public must be given sufficient notice and adequate time to consider proposals and formulate responses.	<i>DA v eThekweni</i> 4

These judgments collectively affirm that South African law requires municipalities to move beyond tick-box compliance and engage in substantive, meaningful discussions with communities during public participation processes.

References

References

[\[1\] Doctors for Life International v Speaker of the National Assembly \[2006\] ZACC 11](#)

[\[2\] Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg v City of Johannesburg and Others \[2008\] ZACC 1](#)

[\[3\] Borbet South Africa \(Pty \) Ltd and Others v Nelson Mandela Bay Municipality \[2014\] ZAECPEHC 35](#)

[\[4\] Democratic Alliance v eThekweni Municipality \[2011\] ZASCA 221; 2012 \(2 \) SA 151 \(SCA\)](#)