

Case Study: Harrison v City of Tshwane (14012/2022)

A Flawed Judgment and a Testament to Taxpayer Perseverance

Introduction: A Judgment Under Scrutiny

The Gauteng High Court judgment in Kenneth Robert William Harrison v The City of Tshwane Metropolitan Municipality (Case No: 14012/2022), delivered on 21 July 2025, initially appeared to be a rare setback for the taxpayer rights movement. The application was dismissed, seemingly on procedural grounds. However, a sharp and incisive critique of the judgment by the applicant's counsel, Advocate Hannes Greeff, a key member of the National Taxpayers Union (NTU) legal team, reframes this case entirely. It is no longer a simple cautionary tale about legal standing, but a powerful example of a judgment that is, in the words of the advocate, "factually and legally incorrect."

This rewritten case study analyzes the court's decision through the critical lens of Advocate Greeff's commentary. It highlights the significant errors identified in the judgment and demonstrates how this case, despite the outcome, reinforces the core principles of the NTU, founded by Jaap Kelder, and serves as a powerful lesson in the necessity of perseverance.

Case Details

Aspect	Information
Case Number	14012/2022
Court	Gauteng Division, Pretoria (High Court of South Africa)
Judge	KF Phahlamohlaka AJ (Acting Judge)
Applicant	Kenneth Robert William Harrison
Respondent	The City of Tshwane Metropolitan Municipality
Date of Judgment	21 July 2025
Outcome	Application dismissed with costs (Scale B)
Legal Counsel	Adv. J J Greeff (for applicant); Adv. N Erasmus (for respondent)

Factual Background

Kenneth Harrison, a property owner in Tshwane, discovered that the municipality had levied property rates for the 2008/2009 financial year without properly promulgating the required resolution in the Provincial Gazette, a clear violation of Section 14(2) of the Municipal Property Rates Act (MPRA). This act of non-compliance renders such rates unlawful and not due, a principle firmly established in the Constitutional Court case of *Liebenberg v Bergviver*.

Acting on this discovery, Harrison sought a declaratory order to have the rates declared unlawful. Crucially, by the time he initiated the action, he had already sold the property. The

court, under Acting Judge Phahlamohlaka, dismissed the application, citing Harrison’s lack of legal standing as a former owner.

The Court’s Judgment: A Foundation of Flaws

The court’s decision to dismiss the case rested on three primary pillars, all of which have been systematically dismantled by Advocate Greeff’s legal analysis.

Pillar 1: The Finding on Legal Standing

The Court’s Finding:

“[22] The applicant’s interest in the property ceased when the property was transferred to the new owner. Even if I were to find that the property rates were levied unlawfully, that would not prejudice the applicant in any way.”

“[24] ...the applicant could not prove that he has an interest in an existing future or contingent right or obligation.”

Advocate Greeff’s Rebuttal:

This reasoning is fundamentally flawed because it misidentifies the nature of the applicant’s interest. Advocate Greeff clarifies:

“The Applicant has an existing right to know whether the taxes he paid in respect of the property were lawfully levied and due. The Applicant’s interest in the property itself is irrelevant.”

Mr. Harrison’s interest was not in the physical property, which he had sold, but in the legality of the financial transaction between himself and the municipality. He had a direct and existing financial interest in determining whether the money he paid was legally owed. The court’s focus on the ownership of the immovable property was a critical misdirection.

Pillar 2: The “New Case” Argument

The Court’s Finding:

“[23] ...it is true that in his replying affidavit the applicant introduced a new case that the respondent ought to have had strict compliance with the statute.”

Advocate Greeff’s Rebuttal:

This finding is, as Advocate Greeff notes, “simply untrue.” The requirement for strict compliance was not a “new case” introduced late in the proceedings. It was the central pillar of the application from the very beginning.

- Founding Affidavit: Advocate Greeff points to paragraph 6 of the Founding Affidavit, which explicitly states: “A municipality derives its powers and duties to levy property rates from the Local Government: Municipal Property Rates Act, Act 6 of 2004, that came into effect on 02 July 2005 and requires strict compliance.”

- Respondent’s Acknowledgment: The municipality itself acknowledged this principle in its own Opposing Affidavit.

- Nature of a Declaratory Order: Furthermore, the court seemed to misunderstand the nature of the relief sought. Under Section 21(1)(c) of the Superior Courts Act, a court can issue a declaratory order regardless of whether any consequential relief can be claimed. The purpose is to clarify a point of law, which is precisely what Harrison sought.

Pillar 3: The Failure to Prove Non-Compliance

The Court's Finding:

"[25] ...the applicant failed to make out a case that the respondent failed to comply with the provisions of section 14(2) of the Act. The applicant could not even present any facts to substantiate his contention that the respondent ought not to have levied the rates for the impugned period."

Advocate Greeff's Rebuttal:

This is perhaps the most factually incorrect finding in the judgment. The case rested on a simple, verifiable fact.

"The Respondent failed to promulgate a resolution in terms of Section 14(2) of the Act for the relevant year by publishing it in the Provincial Gazette. (It is as simple as that!)"

The applicant's case was never that the municipality could not levy rates; it was that in doing so, it failed to follow the mandatory legal procedure. The evidence for this is the absence of the required publication in the official Provincial Gazette. To state that the applicant "could not even present any facts" to substantiate this is to ignore the very foundation of the application.

The True Advantage for the Communities of South Africa

While a dismissal is never the desired outcome, the Harrison case, when viewed through the lens of Advocate Greeff's analysis, provides profound advantages for South African communities.

1. It Exposes Judicial Fallibility: The case is a powerful reminder that courts and judges are not infallible. It demonstrates that even a legally sound case, built on Constitutional Court precedent, can be met with a judgment that is factually and legally incorrect. This is a crucial lesson in civic education.

2. It Reinforces the Need for Perseverance: The NTU's response to this judgment is not defeat, but a detailed, logical, and legally sound critique. This embodies the spirit of the taxpayer rights movement. The advantage for the community is seeing that a setback is not the end of the road. An appeal or future cases can and will correct such errors.

3. It Sharpens the Legal Strategy: This judgment, and Advocate Greeff's response, provides invaluable material for future legal challenges. It clarifies potential points of judicial confusion and allows legal teams to pre-emptively address them in their founding affidavits, ensuring that a court cannot be sidetracked by irrelevant issues like property ownership when the core issue is the legality of a payment.

4. It Validates the NTU's Core Principles: The flawed reasoning of the judgment only serves to highlight the correctness of the NTU's position. The principles that a taxpayer has a right to know if their payment was lawful, and that municipalities must follow the law strictly, are so strong that they withstand even an adverse judgment.

Conclusion: A Battle Lost, but a Principle Affirmed

The judgment in *Harrison v City of Tshwane* is, in the professional opinion of the counsel who argued it, "unfounded and unacceptable." It is a case study not in the limits of the law, but in the potential for the law to be misapplied. For Jaap Kelder, the NTU, and the thousands of community members they represent, this case is not a deterrent, but fuel.

It proves that the fight for accountability is not always a straight line of victories. It requires resilience, expert legal analysis, and an unwavering commitment to the core principles of justice. The true takeaway from the Harrison case is not that the NTU's strategy failed, but

that the system itself can fail, and it is the duty of organized, vigilant citizens to persevere until it is corrected.

This case, more than any victory, embodies the spirit required to bring about systemic change. It is a testament to the enduring struggle for a government that is accountable to the people it serves.

Motto of the NTU:

Stronger together,

Never give up,

There is always a way,

Perseverance is the key