



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

City of Tshwane v Cable City (232/08) [2009] ZASCA 87 (10 September 2009)

The Supreme Court of Appeal today dismissed an appeal against the judgment of the Transvaal Provincial Division. The high court had dismissed a claim brought by the City of Tshwane Metropolitan Municipality to recover regional services levies and regional establishment levies allegedly owed to it in terms of s 12(1) of the Regional Services Councils Act 109 of 1985 read with paragraph 11(1) of Government Notice R340 dated 17 February 1987. The latter provisions empower a council to estimate the amount of any levy prescribed by the Act which, in its opinion, is payable where a registered levy payer has failed to furnish any return. The claim was based on an estimated assessment of the levies.

The SCA found it unnecessary to join the Minister of Finance, the author of the regulation issue, in terms of rule of court 10A as contended by Cable City (Pty) Ltd, because the latter did not seek a declaration of constitutional invalidity and the setting aside of the relevant regulation, found unlawful in a prior court decision, which rule of court 10A contemplated. The SCA further found that it was permissible for Cable City (Pty) Ltd to challenge the regulation collaterally because it exceeds the powers granted by the enabling legislation, which properly interpreted, does not authorise a local authority to merely estimate levies without the benefit of relevant and objectively identified figures, as the City of Tshwane Metropolitan Municipality sought to do.