



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

8 November 2012

STATUS: Immediate

**SOUTH AFRICAN PROPERTY OWNERS ASSOCIATION V THE COUNCIL OF
THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY & OTHERS
(684/11)**

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

On 8 November 2012 the Supreme Court of Appeal decided that the Council had unlawfully increased the property rate levied on the owners of business, commercial and industrial property within the jurisdiction of the Johannesburg Metropolitan Municipality during the 2009/2010 budget year. The SCA found that the Council and the Executive Mayor had not complied with the relevant provisions of the Local Government: Municipal Systems Act 32 of 2000, the Local Government: Municipal Finance Management Act 56 of 2003 and the Local Government: Municipal Property Rates Act 6 of 2004, which make provision for community participation, when they decided to increase the rate on business, commercial and industrial property by 28% after the budget providing for an increase of 10% had been tabled and advertised for public comment. The SCA also found that the decision to impose the additional 18% in the rate on business, commercial and industrial property was irrational and unfairly discriminated against the owners of such property. The SCA therefore upheld SAPOA's appeal against the order of the South Gauteng High Court dismissing SAPOA's application to set aside the budget, alternatively, the rate imposed.

The majority of the court decided that the problem created by the rate unlawfully levied could not be solved by a court order (the egg could not be unscrambled) and, acting in terms of s 172 of the Constitution which requires that the court make an order which is just and equitable, issued orders declaring that the Council had acted unlawfully in imposing the contentious rate and declaring how such a problem must be dealt with in future: that the relevant provisions of the Acts must be complied with when the Council wishes to adopt a budget with rates which are materially different from those in the tabled budget, after the budget has been tabled and advertised for public comment.

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