THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Not Reportable

Case no:652/2024

In the matter between:

JURNIC PROPERTIES CLOSE CORPORATION	**FIRST APPLICANT**
JULY MOTORS CLOSE CORPORATION	**SECOND APPLICANT**
and	
VICTOR KHANYE LOCAL MUNICIPALITY	**FIRST RESPONDENT**
MPUMALANGA DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS	**SECOND RESPONDENT**
DALAMAY PROPERTIES (PTY) LTD	**THIRD RESPONDENT**
EOHBAL DAWOOD OMAR	**FOURTH RESPONDENT**
THE REGISTRAR OF DEEDS, MBOMBELA	**FIFTH RESPONDENT**

Neutral citation:	*Jurnic Properties CC and Another v Victor Khanye Local Municipality and Others* (652/2024) [2025] ZASCA 196 (18 December 2025)
Coram:	ZONDI DP and KGOELE and SMITH JJA, DAWOOD and KUBUSHI AJJA
Heard:	14 November 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website and released to SAFLII. The date and time for hand-down of the judgment is deemed to be 11h00 on 18 December 2025.

Summary: Constitutional Law – review in terms of s 6(2) of the Promotion of Administrative Justice Act 3 of 2000 – requirements for own-interest standing in terms of s 38 of the Constitution – unreasonable delay in instituting review proceedings.

ORDER

On appeal from: Mpumalanga Division of the High Court, Middelburg (Mankge J sitting as court of first instance):

1. The decision of the high court refusing leave to appeal against its order of 28 March 2024 (the high court's order) is set aside.
2. The applicants are granted leave to appeal to this Court against the high court's order.
3. The appeal against the high court's order is upheld with costs including the costs of two counsel, where so employed.
4. The high court's order is set aside and replaced with the following order:
   'The points in limine raised by the third and fourth respondents are dismissed with costs including the costs of two counsel, where so employed.'
5. The matter is remitted to the Mpumalanga Division of the High Court, Middelburg, for consideration of the review application.

JUDGMENT

Smith JA (Zondi DP and Kgoele JA, Dawood and Kubushi AJJA concurring):

Introduction

[1] This is an application for leave to appeal against the order of the Mpumalanga Division of the High Court, Middelburg (the high court), delivered on 28 March 2024. The high court dismissed, with costs, the applicants' application for orders reviewing and setting aside: (a) the sale of municipal land (the property)[1] by the first respondent, the Victor Khanye Local Municipality (the municipality), to the third respondent, Dalamay

[1] The property is known as portion 120 (a portion of portion 4) of the Farm Witklip 232, Delmas, Mpumalanga.

Properties (Pty) Ltd (Dalamay); (b) the decision of the municipality to rezone the property from ‘Agricultural’ to ‘Mixed Land Use’; and (c) the decision of the second respondent, the Mpumalanga Department of Agriculture, Rural Development, Land and Environmental Affairs (the Department), to grant environmental authority for Dalamay to establish a filling station on the property.

[2] The high court dismissed the application without considering its substantive merits, relying instead on preliminary objections raised by Dalamay and the fourth respondent, Mr Eobhal Dawood Omar (Mr Omar). Specifically, the dismissal was based on the applicants' alleged failure to establish *locus standi* and unreasonable delay in instituting the application.

[3] The first applicant, Jurnic Properties CC (‘Jurnic Properties’), owns the land upon which the second applicant, July Motor CC (‘July Motors’), operates a filling station together with related businesses. Where contextually appropriate, these parties are collectively referred to as ‘the applicants’. Opposition to the application was raised solely by Dalamay and Mr Omar, who are also the only respondents participating in the appeal. Accordingly, all subsequent references to ‘the respondents’ pertain exclusively to Dalamay and Mr Omar.

[4] Following the refusal of leave to appeal by the high court on 17 May 2024, the applicants successfully petitioned this Court for leave to appeal. This Court subsequently directed that: (a) the application for leave to appeal be referred to oral argument in accordance with s 17(2)*(d)* of the Superior Courts Act 10 of 2013; and (b) the parties should be prepared, if required, to address the Court on the substantive merits of the appeal.

[5] The consideration of this application involves two stages. The question in the first stage of the process is whether leave to appeal should be granted and, if granted, then

the determination of the appeal itself. It was held in *Body Corporate of Marine v Extra Dimensions 121 (Pty) Ltd*[2]:

'This is an application for special leave to appeal and, if granted, the determination of the appeal itself. The two judges who considered the application referred it for oral argument in terms of the provisions of s 17(2)(*d*) of the Superior Courts Act 10 of 2013. Different considerations come into play when considering an application for leave to appeal as compared to adjudicating the appeal itself. As to the former, it is for the applicant to convince the court that it has a reasonable prospect of success on appeal. Success in an application for leave to appeal does not necessarily lead to success in the appeal. Because the success of the application for leave to appeal depends, *inter alia*, on the prospects of eventual success of the appeal itself, the argument on the application would, to a large extent, have to address the merits of the appeal. Here, inasmuch as the appeal raises a point of statutory interpretation, the application had to succeed. On that score, the high court has spoken and, absent an appeal, those judgments will continue to apply. Future litigants are entitled to the benefit of this court's view on the question. In the circumstances we considered it appropriate, at the hearing of the application, to grant leave to the applicant, who will henceforth be referred to as 'the appellant', to proceed with the appeal. That opens the door to full consideration of the merits of the appeal itself.'

[6] In the event that the leave to appeal is granted, the following issues should be considered. First, whether the high court correctly determined that the applicants lacked the necessary legal standing to bring the application; and second, whether the institution of the proceedings by the applicant was unreasonably delayed. As the high court did not consider the merits of the application, it is also unnecessary for this Court to do so.

[7] The assessment of legal standing proceeds on the assumption that the legal challenge is valid – a preliminary matter distinct from the substantive merits of the case. Thus, only those facts pertinent to the grounds advanced by the applicants for reviewing the contested decisions are relevant to this determination and must be presumed to be well-founded for the purpose of assessing standing. With respect to undue delay, the relevant facts are limited to those concerning when the applicants became aware, or

[2] *Body Corporate of Marine v Extra Dimensions 121 (Pty) Ltd* [2019] ZASCA 161; 2020 (2) SA 61 (SCA) para 1.

ought reasonably to have become aware, of the impugned decisions and the underlying reasons for them.

The factual background

[8] The relevant facts can thus be briefly stated. The land on which July Motors operates a filling station is approximately 95 meters from the property. During the latter half of 2020, the applicants became aware that Dalamay was planning to establish a filling station near their businesses. As a result, the deponent to the applicants' founding affidavit, Mr Jan Adriaan Rossouw Scheepers (Mr Scheepers), who is a member of both applicants, met with Dalamey's representative, Mr Zaheer Mayet (Mr Mayet), on 2 October 2020, to discuss these rumours. According to Mr Scheepers, nothing conclusive was achieved at the meeting. He did, however, inform Mr Mayet that the applicants would oppose any attempt to establish a filling station on the property.

[9] The respondents provided a different account of the meeting. According to them, Mr Mayet informed Mr Scheepers about the alienation of the property and the pending rezoning application. They asserted that the applicants knew, or reasonably ought to have known, about the impugned decisions as at the date of the meeting.

[10] Between 27 January 2021 and 8 March 2021, the applicants obtained the following information regarding the property transactions through correspondence between their attorneys and the municipality's attorneys:

(a) Mr Omar had applied to the municipality to rent the property for a period of 20 years. The municipality subsequently resolved to lease the property to Mr Omar for 10 years, free of charge.

(b) Mr Omar initially purchased the property for R1 million from the municipality on 13 December 2018. He later sold the property to Dalamay, and the property was registered in Dalamay's name on 10 April 2019.

(c) On 15 March 2019, the municipal manager issued a power of attorney to the municipality's conveyancers, authorising them to register the transfer of the property from

the municipality to Dalamay. This was done pursuant to a resolution allegedly passed by the municipal council on 13 January 2019.
(d) An application for the rezoning of the property was submitted on 3 December 2020, published the following day, and invited comments or objections to be lodged by 4 January 2021.

[11] Despite repeated further requests, the applicants were unable to obtain any additional information from the municipality. Notably, the municipality has failed to provide any reasons for its decision regarding the alienation of the property, which, according to the applicants, raises serious concerns about transparency and accountability.

[12] The applicants launched their review application on 9 June 2021, in terms of s 6(2) of the Promotion of Access to Administrative Justice Act 3 of 2000 (PAJA). It is undisputed that, although the municipality submitted several records – purportedly in compliance with rule 53 – none of these constitute an adequate record as required by the rule. The records lacked essential information, including, among others, the details of the processes undertaken and the rationale for the decision to sell the property without a public procurement process; the factors considered by the municipality in making this decision; and whether the public had been notified of the decision and afforded opportunity to provide comment or raise objections to the sale. Consequently, the municipality has yet to furnish reasons for the challenged decisions. Furthermore, it has neither opposed the application nor, at a minimum, filed an explanatory affidavit to assist the court in its consideration of the review application.

The review grounds

[13] The applicants presented the following review grounds in their application. First, they contended that the municipality's decision to dispose of the property was made without proper adherence to the relevant legal requirements. Specifically, s 79(18) of the Local Government Ordinance, s 14 of the Municipal Finance Management Act 56 of 2003, and the municipality's own Supply Chain Management policy, all prescribe mandatory procedures that must be followed when a local authority intends to sell immovable

property. The applicants argued that, as these provisions were not observed, the sale is void *ab initio* and should therefore be reviewed and set aside.

[14] Second, regarding the decision to grant rezoning approval, the applicants argued that the municipality did not adhere to the mandatory requirements set out in the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA). Specifically, they asserted that the title deed was not attached to the application that was submitted, rendering it impossible for the municipality to determine whether the proposed land use would conflict with any existing restrictive title conditions. Additionally, they contended that the application failed clearly to identify the specific intended land use, its scale, the applicable controls, or the relevant provisions of the Township Planning Scheme (the Scheme) pertaining to such use. The applicants further asserted that the rezoning application did not provide a motivation for the need and desirability of the proposed land use or address its sustainability. Moreover, there was no attempt to substantiate the application by reference to the decision-making criteria outlined in s 42 of SPLUMA.

[15] Third, regarding the granting of the environmental authority, the applicants submitted that in accordance with s 41(2) of the regulations enacted under the National Environmental Management Act 107 of 1998 (NEMA), the municipality was required to provide notice to ‘owners, persons in control of, and occupiers of land adjacent to the site where the activity is to be undertaken’. According to the Public Participation Guideline issued by the National Department of Environmental Affairs, the environmental assessment practitioner had a legal obligation to identify all stakeholders whose rights might be affected and to issue appropriate notifications to them. They asserted that they only became aware that the environmental authorisation for the establishment of a filling station had been granted when the planning application was disclosed to them, accompanied by a copy of the environmental authorisation. At no point were they informed that an application for environmental authorisation had been submitted, nor were they invited to comment on such an application.

Application for leave to appeal

[16] I now address the legal principles applicable to applications for leave to appeal. Section 17(1)*(a)* of the Superior Courts Act provides:

'(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that–

(a)(i) the appeal would have a reasonable prospect of success; or

(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration….'

[17] In *S v Smith*[3] this Court explained the test for leave to appeal as follows:

'What the test of reasonable prospects of success postulates is a dispassionate decision, based on the facts and the law, that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In order to succeed, therefore, the appellant must convince this court on proper grounds that he has prospects of success on appeal and that those prospects are not remote but have a realistic chance of succeeding. More is required to be established than that there is a mere possibility of success, that the case is arguable on appeal or that the case cannot be categorised as hopeless. There must, in other words, be a sound, rational basis for the conclusion that there are prospects of success on appeal.' (Citations are excluded.)

[18] In considering the application for leave to appeal, and in the interest of concision, I shall consider the prospects of success alongside the merits of the appeal. Given their interrelated nature, it is most effective to address these issues jointly.

Findings of the High Court

[19] The high court found that, although the applicants asserted that the establishment of a new business on the property would have far-reaching consequences for their businesses, they did not provide sufficient factual evidence to demonstrate the specific manner or extent to which they would be prejudiced. Furthermore, irrespective of the municipality's alleged failure to comply with statutory obligations, the applicants were still required to show a real and direct interest in consequences of the impugned decisions. Thus, the high court stated, in the absence of concrete evidence illustrating the effect on

[3] *S v Smith* [2011] ZASCA 15; 2012 (1) SACR 567 (SCA) para 7.

their rights, the applicants could not satisfy the requirements for legal standing necessary for judicial review under PAJA.

[20] The high court furthermore found that the applicants' stance in the review application is intended as a deterrent and restrictive practice 'which is seeking to achieve concentration of ownership and control of the petroleum economy in and around the subject property'. The high court concluded that the application therefore amounts to anti-competitive conduct, aimed at establishing a monopolistic hold on the petroleum industry in Delmas.

[21] With respect to the issue of undue delay, the high court determined that the relevant period commenced on 2 October 2020, when Mr Scheepers was notified of the property's purchase and the rezoning application. This conclusion was reached after accepting the respondents' account, consistent with the principle established in *Plascon Evans*.[4] Accordingly, the high court held that the challenge to the municipality's decision to sell the property was instituted outside the 180-day period stipulated by s 7(1) of PAJA.

[22] Regarding the challenges against the rezoning approval and environmental authority, the high court determined that the applicants did not offer a satisfactory justification for their failure to initiate the application within a reasonable timeframe after becoming aware of the contested decisions. Consequently, the applicants were found to have unduly delayed the commencement of review proceedings, despite filing within the 180-day period. The high court further noted that, in the absence of a request for condonation under s 9 of PAJA and an explanation for the delay, it was obliged to dismiss the review application on these grounds.

Discussion and analysis

Legal standing

[23] Regarding their challenge to the alienation of the property, the applicants stated that a new proximate filling station – only 95 meters from their business – will significantly

[4] *Placon-Evans Paints Ltd v Van Riebeeck Paint (Pty) Ltd* 1984 (3) SA 623 at 634E-635D.

affect their rights and interests. They further contended that they are entitled to an opportunity to comment and object whenever administrative action, as defined in PAJA, may impact their rights or interests. In addition to their right to participate in administrative processes, the applicants also asserted their entitlement to verify municipal compliance with statutory procedures regarding property alienation. Specifically, they maintained that when the municipality undertakes actions that may result in amendments to the Scheme, due process must be followed. If due process is not observed, they have the right to seek appropriate relief from a court of law. Furthermore, as citizens and ratepayers of the municipality, they emphasised their right to ensure that the municipality acts in an open, fair and transparent manner, treating all its citizens equally and fulfilling its constitutional and statutory obligations.

[24] The applicants submitted that instead of following the legally mandated and transparent procedures, the municipality opted for a non-transparent process, providing no justification for either the decision to dispose of the property or the method by which it was executed. This raise concerns pertinent to the interests of justice, beyond the question of their legal standing. They further contended that the sale of the property at a price significantly below its municipal valuation – which the applicants contended is some R27 million – raises concerns of public interest. The transaction therefore warrants judicial scrutiny to ensure that public assets are transferred appropriately and equitably.

[25] Regarding the rezoning application, the applicants contended that there can be little doubt that the rezoning of the property and the consequent amendment to the Scheme – considering the proximity of the property to their businesses – triggered a direct and substantial interest in that administrative action. They further contended that the decision to alienate the property, which triggered the rezoning, could prejudice them, as the rezoning and intended land use in the property will be prejudicial to them. This is borne out by the fact that 25 percent of their business will be lost to the new business, which will be conducted on the property pursuant to the rezoned land use. They contend that their interest is therefore real and not hypothetical. Their rights and interests are

directly affected by the conduct of the municipality, which is exacerbated by the proximity of the property to their businesses.

[26] Regarding their standing in respect of the administrative decision pertaining to the environmental authority, the applicants submitted that that decision, together with the rezoning approval, enabled a new business – specifically, a filling station – to operate on the site. This sequence of actions has a significant impact on their existing businesses due to the property's immediate proximity. The assessment report used to motivate for the environmental approval states that a substantial portion of their business (25 percent) will be lost to the new enterprise on the rezoned property. Given these circumstances, the environmental authority and land use approval will directly and substantially affect their operations, making their interest both real and substantial.

[27] Since the applicants seek to protect their right to just administrative action conferred by s 33 of the Constitution and regulated by PAJA, their standing must be determined under the Bill of Rights. Section 38 provides:

'Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are–

(a) anyone acting in their own interest;

(b) anyone acting on behalf of another person who cannot act in their own name;

(c) anyone acting as a member of, or in the interest of, a group or class of persons;

(d) anyone acting in the public interest; and

(e) an association acting in the interest of its members.'

[28] To establish *locus standi*, a litigant must demonstrate a direct and substantial interest in the subject matter of the dispute. This typically requires showing that their rights or interests have been, or are likely to be, adversely affected by the action or decision being challenged. Courts generally require that the connection between the litigant and the matter at hand is not hypothetical or abstract, ensuring that only those with a genuine

stake in the outcome are permitted to bring legal proceedings.[5] The Constitutional Court in *Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others*,[6] confirmed that a party must show a sufficient interest, and that the interest must not be abstract, academic, or hypothetical, but real and substantial.

[29] In *Giant Concerts CC v Rinaldo Investments (Pty) Ltd and Others* (*Giant Concerts*),[7] the Constitutional Court affirmed the principle that own-interest legal standing is broader than traditional common law standing. However, litigants must still demonstrate that their rights or interests are directly affected by the law or conduct being challenged. Unlike common law, the Constitution does not require a 'sufficient, personal and direct interest', but it does require that the contested law or decision has a direct impact on the litigant's rights or potential interests. The requirement for demonstrating affected interests should be interpreted generously and broadly to align with constitutional objectives. However, the interest asserted must still be real, not hypothetical or academic and must also serve the interests of justice. A further important consideration in matters of own-interest standing – particularly in cases concerning matters of public interest and constitutional accountability – is that the interests of justice may necessitate judicial caution in dismissing cases solely on grounds of legal standing.[8]

[30] In my view, the high court did not correctly apply the legal principles governing *locus standi* as set out in s 38 of the Constitution and further elucidated by the Constitutional Court in *Giant Concerts* and *Tulip Diamonds FZE v Minister of Justice & Constitutional Development*. [9] In particular, the high court failed adequately to assess whether the applicants presented a real and substantial interest, considering all relevant factors. The court found that the applicants' claim that a nearby competing filling station would harm their businesses did not establish *locus standi*. However, this conclusion

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[5] *Jacobs en 'n Ander v Waks en Andere* 1929 AD 157.
[6] *Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others* 1996 (1) SA 984 (CC), para 165.
[7] *Giant Concerts CC v Rinaldo Investments (Pty) Ltd and Others* [2012] ZACC 28; 2013 (3) BCLR 251 (CC) (*Giant Concerts*).
[8] *Giant Concerts* fn 5 para 34.
[9] *Tulip Diamonds FZE v Minister of Justice & Constitutional Development* 2013(20 SACR 443 para 31.

ignores the compelling inference that a new, similar business nearby could negatively affect existing clientele. Furthermore, it is uncontested that the applicants' businesses will lose a considerable share of their customers to the new filling station. Therefore, as ratepayers and business proprietors operating near the relevant property, the applicants hold a direct interest in its disposition.

[31] Statutory prescripts and municipal procurement policies require that the alienation of immovable municipal property be conducted transparently and equitably, affording all interested parties an opportunity to object or submit bids. This ensures not only the protection of affected parties' rights but also that the municipality secures the optimal price for its property. Furthermore, the review application involves considerations of public interest, specifically the constitutional mandate for just administrative action and adherence to procurement legislation in the disposal of state property. This is an important consideration when courts assess own-interest standing in terms of s 38 of the Constitution.[10] By failing to evaluate rigorously these concrete interests and established legal standards, the high court erred in its analysis of the applicants' legal standing.

[32] The same considerations apply to the applicants' legal standing in relation to the rezoning of the property. It is self-evident that the applicants, who operate businesses close to a property subject to a rezoning application, possess a legitimate interest in the outcome of such an application. Accordingly, the applicants were entitled to be notified of the application and afforded the opportunity to submit objections. This entitlement is particularly relevant given that it is uncontested that the purpose of the rezoning was to allow Dalamay to establish a new filling station on the property.

[33] Finally, there can be little dispute regarding the applicants' legal standing in respect of the environmental authorisation. The report that was used to arrive at a decision on whether the environmental authorisation should be granted for purposes of developing a filling station, unequivocally states that a significant portion of the estimated fuel sales of the new site will be taken from the applicants' filling station. On this basis alone, the

[10] *Giant Concerts* fn 5.

applicants clearly had an interest in the outcome of the application for environmental authority in terms of NEMA. For all these reasons, I find that the applicants have demonstrated a direct and substantial interest in the challenged decisions.

Unreasonable delay

[34] Section 7(1) of PAJA provides that proceedings for judicial review in terms of s 6(1) must be instituted without unreasonable delay and, if no internal remedy exists, not later than 180 days after the date 'on which the person concerned was informed of the administrative action, became aware of the action and the reasons for it or might reasonably have been expected to become aware of the action and the reasons'. Importantly, it is not only the knowledge of the administrative act that triggers the 180-day period but also knowledge of the underlying reasons.

[35] Mr Mayet did not assert that he had communicated the underlying reasons for the disputed decisions to Mr Scheepers, nor would such a claim have been tenable. The municipality made the impugned decisions, and it was therefore responsible for providing the rationale for those actions. It is undisputed that the municipality has yet to provide any explanation for the decisions. Thus, at most, the respondents have demonstrated that Mr Mayet informed Mr Scheepers of the property purchase and the pending rezoning application. For the reasons explained above, this was not sufficient to trigger the commencement of the 180-day timeframe. Consequently, the high court erred in calculating the 180-day period from 2 October 2020, resulting in a fundamental flaw in its reasoning on the issue of unreasonable delay.

[36] This, however, is not the end of the enquiry. Section 7(1) of PAJA provides that a review application must be brought without unreasonable delay, contemplating that the issue of unreasonable delay may arise even if the application is brought within the prescribed period. Section 9(1) of PAJA allows for the condonation of the late institution of review proceedings 'by agreement between the parties or, failing such agreement, by a court on application by the person or administrator concerned'. Section 9(2) provides

that a court may grant condonation in terms of s 9(1) 'where the interests of justice so require'.

[37] Condonation for delay in terms of PAJA is dealt with on a similar basis to condonation for delay in terms of the common law. The first enquiry is whether there has been a delay of more than 180 days,[11] as opposed to the more elastic concept of an unreasonable delay in the common-law rule. The second, discretionary, stage follows on a finding that a delay of more than 180 days has occurred. The question is then whether that delay should be condoned.[12] If the review application was not brought within the 180-day period and there is no application for condonation, it is the end of the inquiry, and the Court is constrained to dismiss the application.

[38] If a court is required to consider the issue of unreasonable delay in the context of a review application launched within the 180-day period, the approach is similar to that under the common law. As the Constitutional Court explained in *Khumalo*[13] – which has become known as the '*Khumalo* test' – the common law delay rule involves a two-stage enquiry. First, a court must determine whether a delay in the launch of a review application was unreasonable. If not, the enquiry ends there, and the court proceeds to the remaining issues. If so, the court proceeds to the second leg or stage of the enquiry. That is, whether the unreasonable delay ought to be condoned. If good grounds are put up for condonation, the court proceeds to the remaining issues. If inadequate grounds are put forward, the court will decline to hear the application and dismiss it on account of the undue delay in its institution.[14]

[39] In considering whether to condone the unreasonable delay, the court will consider various factors, including the length and reason for the delay; the prospects of success; any prejudice to the parties; the nature of the decision challenged; the behaviour of both

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[11] Section 7(1) of the Promotion of Administrative Justice Act 3 of 2000.
[12] *Beweging vir Christelik-Volkseie Onderwys and Others v Minister of Education and Others* [2012] ZASCA 45; [2012] 2 All SA 462 (SCA) para 46.
[13] *Khumalo v MEC for Education Kwa-Zulu Natal* 2014 (5) SA 579 (CC) paras 49 to 52.
[14] *Wolgroeiers Afslaers (Edms) Bpk v Munisipaliteit van Kaapstad* 1978 (1) SA 13 (A) at 39C-D.

the applicant and the respondent, including whether the applicant acted promptly once aware of the decision and its reasons; and the public Interest and the interests of justice.

[40] Upon consideration of the facts of this case, it is evident that whatever information Mr Mayet may have communicated to Mr Scheepers during the meeting held on 2 October 2020 does not amount to knowledge of the disputed administrative decision or its underlying rationale, as contemplated by s 7(1) of PAJA. First, the applicants were justified in disregarding Mr Mayet's statements, as he represented Dalamay, the beneficiary of the purportedly unlawful decision. Second, as previously noted, Mr Mayet did not assert that he had explained the reasons for the decisions to Mr Scheepers. In any event, only the municipality could provide such reasons.

[41] Therefore, at best for the respondents, the 180-day period must be calculated from 27 January 2021, when the applicants' attorneys first commenced correspondence with the municipality. This conclusion applies equally to the decisions relating to the applications for rezoning and environmental authority, which were both taken after the decision to alienate the property. The application was instituted on 9 June 2021, which was well within the 180-day period.

[42] The question then arises whether the applicants nevertheless delayed unreasonably in initiating the review proceedings. Upon careful consideration, the evidence indicates that they did not. The finding that the 180-day period commenced in January 2021 is generously favourable to the respondents, particularly given the municipality's obstructive conduct and its failure to provide reasons for the disputed decisions. It would therefore be unreasonable to conclude that the applicants could reasonably have become aware of the impugned decisions and the underlying reasons before January 2021.

[43] Moreover, the applicants can hardly be faulted for taking steps to establish the true facts before launching their review application. As stated, it is uncontested that several

records submitted by the municipality under rule 53 did not provide any clarity as to the processes followed and the reasons for the decisions. The reasons remain outstanding. This is significant in light of s 7(1) of PAJA which requires both knowledge of the administrative action and its rationale before the limitation period commences. The applicants were thus compelled to pursue review proceedings without any explanation from the municipality concerning the basis for the contested decision. Accordingly, I find that the applicants did not act unreasonably in instituting the review proceedings.

[44] It is unnecessary for me to address the high court's *obiter* remarks regarding anti-competitive behaviour by the applicants and the failure to exhaust internal remedies. These issues were understandably not pursued on appeal by any of the parties.

[45] For all these reasons, I find that the applicants established the necessary *locus standi* to challenge the impugned decisions and that they have not delayed unreasonably in doing so. It follows that they should be granted leave to appeal, the appeal must be upheld with costs, and the matter should be remitted to the high court for adjudication of the review application.

[46] In the result the following order is made:

1. The decision of the high court refusing leave to appeal against its order of 28 March 2024 (the high court's order) is set aside.
2. The applicants are granted leave to appeal to this Court against the high court's order.
3. The appeal against the high court's order is upheld with costs including the costs of two counsel, where so employed.
4. The high court's order is set aside and replaced with the following order:
   'The points in limine raised by the third and fourth respondents are dismissed with costs including the costs of two counsel, where so employed.'
5. The matter is remitted to the Mpumalanga Division of the High Court, Middelburg, for consideration of the review application.

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J E SMITH

JUDGE OF APPEAL

Appearances

For the applicants:	M Majozi and V Qithi
Instructed by	Ivan Pauw & Partners Attorneys, Pretoria
	Phatshoane Henney Attorneys, Bloemfontein
For the respondents:	JA Venter and N Satekge
Instructed by:	Adriaan Venter Attorneys & Associates, Pretoria
	Hendré Conradie Inc, Bloemfontein.