

# *Property company loses court bid over tender*

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THE NORTHERN Cape High Court has dismissed with costs an application by Ocean Echo Properties 333 CC to disqualify a competitive service provider that was appointed for the provision of office accommodation for the Department of Treasury.

Ocean Echo applied for leave to appeal before a full bench in the Northern Cape High Court to review and set aside a ruling in July 2017 that declared Exilaclox (Pty) Ltd the rightful preferred bidder.

The judgment stated that the bid

submitted by Alkara 79 CC, which was appointed by the Department of Roads and Public Works, was unlawful and should have been disqualified.

It stated that Ocean Echo's bid was non-responsive, where the property that was used to bid for the tender did not belong to them even though a letter of endorsement had been issued.

The building was zoned for residential and not commercial purposes.

The department found that the building was too small and needed to be renovated.

The MEC for the Department of

Roads and Public Works did not oppose the application for leave to appeal and indicated that they would abide by the decision of the court.

Exilaclox opposed the application on the grounds that the court had erred in its findings and that the Ocean Echo bid was unresponsive and should be dismissed.

In her judgment, Judge Mpho Mamosebo pointed out that while Ocean Echo's initial argument was that they should have been awarded the tender, as they had submitted the cheapest or lowest bid, it had not proven ownership of the building for lease or the mandatory requirements for a proxy agreement.

"This court was not satisfied with the submissions because the letter did not serve as any of the specified documents. Ocean Echo also argued that substitutory relief was not appropriate and the matter should be referred back for reconsideration.

"Ocean Echo has failed to make out its case in both the founding and supplementary affidavits but, as pointed out, has done so belatedly. This cannot be allowed."

Judge Mamosebo stated that Alkara had waived its rights to be served with further pleadings and did not oppose the application by Exilaclox and Ocean Echo.

"The judgment and order had taken into consideration all the circumstances placed before it and eliminated Ocean Echo as a bidder for failing to meet the mandatory requirements. I am not persuaded that Ocean Echo has any prospects of success on appeal.

"In my view Ocean Echo is being opportunistic, relying on the knowledge that there is an application for rescission of the judgment. The doors to litigation cannot remain open indefinitely as this will amount to abuse of court process, particularly where the prospects of success are poor or non-existent."