

■ LAND EXPROPRIATION

Last chance for public to have say on revised bill

Draft Expropriation Bill provides for the settling of a dispute by mediation if they don't agree

MAYIBONGWE MAQHINA

mayibongwe.maqhina@inl.co.za

THE public has less than a week to make written submissions on the revised draft expropriation bill.

The draft bill was published in the Government Gazette on December 21 by Public Works Minister Thulas Nxesi.

In his notice, Nxesi gave the public until February 22 to make written submissions.

The submission of comments runs parallel to another process to be undertaken by the ad hoc committee – which will be chaired by ANC MP Thoko Didiza – to amend the Constitution to allow expropriation of land without compensation.

The revised legislation explains the process to be followed in paying out compensation, and this includes owners producing title deeds.

It also provides for both the minister and owner of property to settle the dispute by mediation if they don't agree on compensation amount.

“If the disputing party did not



Thulas Nxesi

agree to mediation, the expropriating authority must refer the matter to a competent court to decide on appropriate, just and equitable compensation.”

The revised bill states that, despite provision of any law to the contrary, the expropriating authority may not expropriate property arbitrarily. The bill does, however, empower the Public Works Minister to expropriate property for a public purpose or in the public interest.



Thoko Didiza

“A power to expropriate property may not be exercised unless the expropriating authority has without success attempted to reach an agreement with the owner or the holder of an unregistered right in property for the acquisition thereof on reasonable terms.”

It goes on to state that no property of a state entity may be expropriated without concurrence of the minister of the relevant portfolio.

The minister may also act on behalf of state entities upon their written

request, and that he or she can delegate his power to an official in the department.

According to the bill, when the minister is considering appropriating property, he or she should ascertain the suitability of the property for its intended purpose, and the existence of registered and unregistered rights. A valuer must also be dispatched to the property and the municipality where the property is located must be consulted.

The bill also sets out the process to be followed if expropriation is to be pursued. This includes serving a notice of intention to expropriate to the owners and property owners of the property in question.

There is a 30-day period for affected people to object to the intended expropriation, and for owners to indicate an amount that they consider to be “just and equitable compensation”.

The minister must decide within 20 days to accept the compensation claim, and then decide within 40 days if the expropriation will go ahead without agreement on the amount.