

■ LAND

Expropriation comment invited

Process takes place as ad hoc committee is set to recommend amending the Constitution

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MEMBERS of the public have five days to make written submissions on the revised draft expropriation bill.

Public Works Minister Thulas Nxesi in December gave the public the opportunity until February 22 to make written submissions.

The submission of comments takes place against the backdrop of a parliamentary ad hoc committee which is set to recommend amending the Constitution to allow for the expropriation of land without compensation.

The revised legislation outlines the process to be followed when paying compensation, and this includes owners producing title deeds.

It also provides for both the minister and owner of property to settle a dispute by mediation if they don't

agree on the compensation amount.

"If the disputing party did not 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 the provisions of any law to the contrary, the expropriating authority may not expropriate property arbitrarily or for a purpose other than a public purpose or in the public interest.

"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 minis-

ter of the relevant portfolio. The bill empowers the public works minister to expropriate property for a public purpose or in the public interest.

The minister may also act on behalf of the state upon its written request, and he or she can delegate this 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 should 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.

There is a 30 day period for affected persons to object to the intended expropriation, and owners to indicate a claim amount that is "just and equitable compensation".

The minister must decide within 20 days if he or she accepts the compensation claim and thereafter decide within 40 days, if the expropriation goes ahead, should there be no agreement on the amount.

If the minister decides to proceed with expropriation, a notice will be served to owners and right holders, stating the date of expropriation and possession of property as well as a compensation offer, among other things.

"The expropriated owner or expropriated holder who is in possession of the property concerned must from the date of expropriation take all reasonable steps to maintain the property," reads the bill.