UMTHETHO KAMASIPALA WETHEKU WEMAKETHE ENKULU, 2013

Wemukelwe uMkhandlu mhla ka:

Washawa mhla ka:

UMTHETHO KAMASIPALA WEMAKETHE ENKULU, 2013

Wokuhlinzekela ukuphathwa nokulawulwa kweMakethe yesiVuno Esisha ephethwe noma elawulwa uMasipala; ukuhlinzekela ukuchithwa kwemithetho nokuhambisana nayo; kanye nokuhlinzekela izindaba eziphathelene nalokho.

ISENDLALELO

NJENGOBA kunesidingo sokuthi uMasipala ushaye imithetho futhi ulawule ukusebenza kweMakethe yesiVuno Esisha ephethwe noma elawulwa uMasipala;

NJENGOBA uMasipala unamandla ngokwesigaba 156(2) soMthethosisekelo weRiphabhlikhi yaseNingizimu Afrika okusungula nokushaya imithetho kamasipala ukuze ulawule ngendlela efanele izindaba onelungelo lokuzilawula;

NANJENGOBA kubalulekile kuMasipala ukuthi ugcine amazinga namaqophelo empahla edayiswa emakethe yawo ephezulu;

MANJE NGAKHO-KE uMkhandlu kaMasipala weTheku, usebenza ngaphansi kwesigaba 156 sifundwa neNgxenye B kaSheduli 5 woMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, siphinde sifundwe nesigaba 11 soMthetho Wezinhlelo Zomasipala: Ohulumeni Basekhaya ka-2000 (uMthetho No. 32 ka-2000) ngalokhu umisa lo Mthetho kaMasipala olandelayo:

OKUQUKETHWE

INGXENYE 1

IMAKETHE YESIVUNO ESISHA YASETHEKWINI

ISAHLUKO 1

UKUHUNYUSHWA NOKUSEBENZA KOMTHETHO

1. Izincazelo
2. Ukuhunyushwa kwalo Mthetho kaMasipala
3. Izinhloso zalo Mthetho kaMasipala
4. Ukusebenza kwalo Mthetho kaMasipala

ISAHLUKO 2

UKUPHATHA NOKULAWULA

5. Amandla okuphatha
6. Ukuhamba kwezimoto
7. Amalayisensi ama-ejenti emakethe
8. Ukukhishwa kwezimvume zabadayisi kubantu abaqashwe ama-ejenti emakethe
9. Ophotha basemakethe

ISAHLUKO 3

UKUHWEBA NEMINYE IMISEBENZI EHAMBISANA NAKHO

10. Ukuhweba nokuqashiswa kwezakhiwo
11. Amajoka eziqashi mayelana nezakhiwo eziqashisiwe
12. Ukuziphatha kwama-ejenti emakethe
13. Ukuthululwa kwesivuno esisha uma sifika
14. Amapheshana okwemukela impahla
15. Ilungelo leNhloko lokwenqaba isivuno esisha esithile
16. Amakhonteyina

17. Ukuhlolwa, ukubekwa ezingeni, ukupakishwa nokubekwa umaka kwesivuno esisha
18. Ukuqala nokugcina ukudayisa
19. Ukudayiswa kwempahla endalini okubhidwayo kuyo
20. Kumele sidayiswe kanjani isivuno esisha
21. Ukudayisa nokuthenga kwabasebenzi bakamasipala
22. Ukuthenga kwama-ejenti ezmakethe
23. Ukususwa kwesivuno esisha emakethe
24. Iziqandisi nezindawo zokugqurna isivuno
25. Izingubo zokuzivikela

ISAHLUKO 4

UKUGCINWA KWAMAREKHODI OKUDAYISA NOKUSEBENZA KWEZIMALI

26. Amadokodo okudayisa
27. Ukukhokhwa kwemali yokuthenga
28. Izimali ezitholakala ngokudayisa
29. Irekhodi lokusebenza kwezimali

ISAHLUKO 5

IZINDLELA ZOKUQAPHA NEMIKHAWULO YOKUBA NECALA

30. Isivuno esisha esingenamnikazi noma engaqoqiwe
31. Ukubheka nokudliwa kwempahla
32. Ubungozi mayelana nemsivuno esisha
33. Okungabi nacala kukaMasipala
34. Ukuqoqwa kwezimali ezingakhokhiwe yiNhloko
35. Ukuziphatha okungavumelekile

INGXENYE 2

OKUYINGXUBEVANGE

36. Ukudluliswa kwamandla

37. Ukudluliswa kwezinqumo
38. Amacala Nezinhlawulo
39. Ukuchithwa kwemithetho nokuhambisana nayo
40. Isihloko esifingqiwe nokuqala kokusebenza komthetho

ISHEDULI
IMITHETHO ECHITHIWE

INGXENYE 1

IMAKETHE YESIVUNO ESISHA YASETHEKWINI

ISAHLUKO 1

UKUHUNYUSHWA NOKUSEBENZA KOMTHETHO

1. Izincazelo
2. Ukuhunyuswa kweNgxenye 2
3. Izinhloso zeNgxenye 2
4. Ukusebenza kweNgxenye 2

ISAHLUKO 2
UKUPHATHA NOKULAWULA

Izincazelo

1. Kule Mithetho kaMasipala, ngaphandle uma ingqikithi isho okwehlukile ─

"isisebenzi esigunyaziwe" kushiwo umuntu ogunyazwe ukusebenzisa izihlinzeko zalo Mthetho kaMasipala, okubandakanya phakathi kokunye –

(a) isikhulu somthetho njengoba sichazwe esigabeni 334 soMthetho weNqubo yamaCala, 1977 (uMthetho No. 51 ka 1977);

(b) iPhoyisa likaMasipala noma loMkhandludolobha njengoba lichazwe eMthethweni wamaPhoyisa waseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995);

"umthengi" kushiwo noma imuphi umuntu ongena ezakhiweni zemakethe ngenhloso yokuyothenga isivuno esisha nanoma yini enye edayiswayo emakethe yinoma imuphi umuntu i-ejenti yemakethe emdayisele ngqo impahla egameni lomdayisi;

"ikhadi lomthengi" kushiwo ikhadi elikhishwa yiNhloko eligunyaza umthengi ukuba akwazi ukuthenga emakethe;

"IsiKhulu esiPhezulu kwezeziMali" kushiwo umuntu oqashwe uMasipala ngokwesigaba 57 soMthetho weziNhlelo zoMasipala osebenza njengesiKhulu esiPhezulu kwezeziMali kuMasipala, futhi kubandakanya noma imuphi umuntu okudluliselwe kuye amandla, amajoka noma imisebenzi yesiKhulu esiPhezulu kwezeziMali ngokuhambisana nohlelo lokudluliselwa kwamandla olusungulwe yiMenenja kaMasipala ngokwesigaba 59 soMthetho weziNhlelo zoMasipala, 2000 (uMthetho No. 32 ka 2000);

"umthamo" kushiwo noma isiphi isamba sesivuno esisha esihlukene iziqephu ezahlukahlukene zohlobo olulodwa lwesivuno esisha esinikezwa i-ejenti yemakethe ukuze isidayise;

"uMthethosisekelo" kushiwo uMthethosisekelo weRiphabhlikhi yaseNingizimu Afrika, 1996;

"ikhonteyina" kushiwo ibhokisi, ikhathoni, ithileyi noma iphakethe noma enye into yokuphatha ewusayizi futhi emi ngendlela egunyazwe yiNhloko;

"ukudayisa ngqo" kushiwo noma ikuphi ukudayiswa kwesivuno esisha okwenziwa yi-ejenti yemakethe phakathi komdayisi nomthengi okugunyazwe yiNhloko kuqala ngokuhambisana nalo Mthetho kaMasipala, kodwa ukudilivelana leso sivuno esisha kuzokwenzeka phakathi komthengi nomdayisi ngaphandle kokuthi leso sivuno okudayiselwana ngaso singeke siye noma sidlule emakethe;

"umlimi" usho noma ngubani ogunyazwe yiNhloko ngokubhaliwe ukuba adayise emakethe yokudayisa, noma imiphi imikhiqizo yolimo ekhiqizwe yilowo muntu;

"isivuno esisha" kushiwo noma isiphi isivuno esisha sezolimo esigunyazwe yiNhloko ukuze sidayiswe emakethe;

"iNhloko" kushiwo iNhloko yemakethe, futhi kubandakanya noma imuphi umuntu –

(a) obambile kuleso sikhundla; noma

(b) iNhloko edlulisele kuyena amandla noma omunye okudluliselwe kuye amandla, amajoka noma imisebenzi ngokuhambisana nohlelo lokudluliselwa kwamandla lweMenenja kaMasipala ngokwesigaba 59 soMthetho weziNhlelo zoMasipala 32 ka 2000;

"iNhloko yezeMpilo" kushiwo isikhulu sikaMasipala weTheku esiphethe noma esibhekele umnyango kaMasipala obhekene nezinto ezithinta ezeMpilo eMphakathini;

“ilayisensi" kushiwo incwadi esemthethweni ekhishwa uMasipala ngokwalo Mthetho kaMasipala eqinisekisa ukuqokwa komuntu ukuze asebenze njenge-ejenti yemakethe;

"imakethe" kushiwo iMakethe Enkulu Yesivuno Esisha yaseThekwini, kubandakanya indawo, isakhiwo noma izakhiwo ezingaphansi noma ezilawulwa uMasipala lapho kuqhutshwa khona ibhizinisi lemakethe ngokuhambisana nezihlinzeko zalo Mthetho kaMasipala;

"i-ejenti yemakethe" kushiwo noma imuphi umuntu ngokomthetho onelayisensi esemthethweni ekhishwe uMasipala ngokuhambisana neNqubomgomo yokuKhishwa kwemiSebenzi egunyaza lowo muntu ukuba –

(a) adayise impahla egameni lomunye umuntu;

(b) aqhube ibhizinisi lokuthengiselana ngempahla egameni lomdayisi njenge-ejenti noma umxhumanisi; noma

(c) adayise noma iyiphi impahla ngqo ukuze athole ikhomishini,

ngokwasemakethe;

"uMthetho wokuPhathwa kweziMali zikaHulumeni" kushiwo uMthetho wokuPhathwa kweziMali zoMasipala woHulumeni baseKhaya, 2003 (uMthetho No. 56 ka 2003);

"uMkhandlu kaMasipala" noma **"uMkhandlu"** kushiwo uMkhandlu kaMasipala waseThekwini, umkhandlu kamasipala okukhulunywe ngawo esigabeni 157(1) soMthethosisekelo;

“uMasipala" kushiwo uMasipala waseThekwini, umasipala osemkhakheni A njengoba kuchazwe esigabeni 155(1) soMthethosisekelo waseNingizimu Afrika wase umiswa ngokweSaziso soMphakathi No. 343 sika 2000 (KwaZulu-Natali);

“imenenja kamasipala” kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo soMasipala njengenhloko yezokuphatha yomkhandlu kaMasipala;

"imvume" kushiwo incwadi esemthethweni ekhishwe yiNhloko egunyaza ukuqashwa kwanoma imuphi umuntu ukuba asebenze njengomdayisi emakethe;

"umuntu" kushiwo umuntu owejwayelekile noma umuntu ngokomthetho;

"iNqubomgomo" kushiwo iNqubomgomo eyemukelwe uMasipala ngokwalo Mthetho kaMasipala yokuphatha nokulawula izimakethe;

“umqhubi wenqola” kushiwo umuntu ogunyazwe yiNhloko ukuba asebenze emakethe ehla enyuka ngenqola eqhutshwayo noma ngento ephathekayo;

"incwadi yokungenisa umkhiqizo" kushiwo incwadi esemthethweni ekhishwa yiNhloko inikezwe umlimi ngaphambi kokuba lowo mlimi angene emakethe equkethe ulwazi olunganqunywa yiNhloko izikhathi ngezikhathi;

"ukudayisa" kushiwo ukudayiselana phakathi kwe-ejenti yemakethe nomthengi ofuna ukuthenga okuqoshwe kumarekhodi ezimali emakethe;

"umdayisi" kushiwo umuntu onemvume esemthethweni ekhishwe yiNhloko egunyaza lowo muntu ukuba aqashwe i-ejenti yemakethe njengomdayisi nokuthi asebenze egameni laleyo ejenti kunoma ikuphi ukudayiselana emakethe;

"ihholo lokudayisela" kushiwo ihholo elingaphakathi emakethe lapho ama-ejenti emakethe edayisela khona ngokusemthethweni isivuno esisha;

"inani lokudayisa" kushiwo inani okudayiswa ngalo noma iyiphi impahla noma isivuno udayiselwa umthengi;

"ikhonteyina ejwayelekile" kushiwo ikhonteyina eyakhiwe, ebazwe noma ehlanganiswe ngokuhambisana namazinga anqunywe ebhukwini loPhiko olubhekele amaZinga eMpahla lwaseNingizimu Afrika (SABS), nanoma iyiphi enye ikhonteyina egunyazwe yiNhloko;

"umdayisi" kushiwo umnikazi wesivuno esisha othunyelwe noma olethwe emakethe ukuze sidayiswe, nanoma imuphi umuntu oletha impahla emakethe ukuze idayiswe, ezidayisela yena noma edayisela omunye umuntu, nanoma imuphi umuntu odayiselwa impahla yakhe yi-ejenti yemakethe;

"uMthetho weziNhlelo zoMasipala" kushiwo uMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000);

"amatharifu ezindleko" kushiwo amathrifu ezindleko nezimali ezikhokhwelwa khokhelwa uMasipala mayelana nempahla edayisiwe nemisebenzi eyenziwe emakethe, njengoba enqunyiwe ngokweMithetho kaMasipala yamaTharifu nangokwanoma iyiphi enye inqubomgomo ekhona;

"umhwebi" kushiwo noma imuphi umuntu odayisa noma okhangisa impahla yakhe ukuze ithengwe endaweni yabahwebi ngaphakathi emakethe yesivuno engazange itshalwe yilowo muntu; futhi

"iyunithi" kushiwo umthamo wanoma isiphi isivuno esisha okukalwa ngalo inani laleso sivuno.

Ukuhunyushwa kwalo mthetho

2. Uma kuba nokushayisana phakathi kombhalo wesiNgisi walo Mthetho kaMasipala nombhalo ohunyushiwe, umbhalo wesiNgisi iwona oyosebenza.

Izinhloso zalo Mthetho kaMasipala

3. Izinhloso zalo Mthetho kaMasipala–

(a) ukuqinisekisa ukuphathwa ngendlela efanele kwemakethe zikaMasipala futhi ezilawulwa nguye;

(b) ukuqondisa ukuziphatha okufanele kwabantu ngaphakathi kwemakethe;

(c) nokuhlinzekela izindaba ezihambisana nalokho.

Ukusebenza kwalo Mthetho kaMasipoala

4. Lo Mthetho kaMasipala usebenza eMakethe Enkulu Yesivuno Esisha yaseThekwini njengoba yaziwa kanjalo, futhi izoqhubeka nokusebenza khona noma ngabe igama leMakethe Enkulu Yesivuno Esisha yaseThekwini liyashintshwa ngemuva kokushawa kwalo Mthetho kaMasipala.

ISAHLUKO 2

UKUPHATHA NOKULAWULA

Amandla okuphatha

5.(1) Inhloko isona sikhulu esigunyazwe ukuphatha nokulawula imisebenzi yasemakethe.

(2) Imisebenzi yasemakethe okukhulunywe ngayo kwisigatshana (1) kumele yenziwe ngokuhambisana nezihlinzeko zoMthetho kaMasipala, kuncike ekulandelweni kweminye imithetho esebenzayo uma kuthengwa noma kudayiswa izimpahla emakethe.

Ukuhamba kwezimoto

6.(1) INhloko inamandla okulawulwa nokushaya imithetho mayelana nomthamo wezimoto kanjalo nokuhamba kwezimoto ezingena ezakhiweni zemakethe, kubandakanya –

(a) ukuklama nokwaba izindawo zokupaka;

(b) ukunquma nokubiza izimali zamatharifu mayelana nezindawo zokupaka; kanye

(c) nokuhlawulisa abephula umthetho wezimpawu zomgwaqo nemithetho ngaphakathi emakethe, kanjalo nokuqoqa lezo zinhlawulo.

(2) Ngokwenhloso yalesi sigaba, umnikazi obhalisile wanoma iyiphi imoto kuyothathwa ngokuthi uyena obeshayela leyo moto kuze kuqinisekiswe ukuthi ibishayelwa ngomunye umuntu.

(3) Noma iyiphi imoto esetshenziswe kwephulwa imithetho noma izimpawu zomgwaqo emakethe ingadonswa uMasipala: Kuncike ekutheni uMasipala kumele uqinisekise ukuthi abashayeli bazibona kalula izimpawu zomgwaqo nemithetho, futhi bayazi ngezinhlawulo zokuphulwa kwemithetho uma zikhona.

(4) Imoto edonswe uMasipala ngokwesigatshana (3) ingagcinwa uMasipala kuze kube kukhokhwa yonke inhlawulo enqunywe yiNhloko ukuze idedele, kanjalo nemali yokugcinwa kwemoto uma imoto ingalandwanga emahoreni angu-12.

Amalayisensi ama-ejenti emakethe

7.(1) Uma umuntu ngokomthetho eseqokwe njenge-ejenti yemakethe ngokuhambisana neNqubomgomo yokuKhishwa kwemiSebenzi kaMasipala, uMasipala kumele ukhiphe ngokushesha ilayisensi egunyaza lowo muntu ukuba aqale ukusebenza emakethe njenge-ejenti yemakethe.

(2) I-ejenti yemakethe ethole ilayisensi kuMasipala ngokwesigatshana (1) kumele ilandele iNqubomgomo, njengoba ichitshiyelwa izikhathi ngezikhathi, kanjalo neminye imithetho esebenzayo uma kuqhutshwa imisebenzi yama-ejenti emakethe.

(3) Ngaphezu kwelayisensi ekhishwe uMasipala ngokwalo Mthetho kaMasipala, i-ejenti yemakethe kumele, ngaphambi kokuqala ukuhweba emakethe, ithole wonke amalayisensi njengoba engadingeka ngokomthetho ukuze ithenge noma idayise izimpahla emakethe.

(4) Kuncike ekutheni izihlinzeko zoMthethosisekelo ezikhona ziyalandelwa kanjalo nemithetho ejwayelekile yobulungiswa, uMasipala unamandla, noma nini, okuhoxisa ilayisensi yanoma iyiphi i-ejenti yemakethe okutholakala ukuthi –

(a) iyahlomula ngqo noma ngandlela thile kunoma iliphi ibhizinisi ukuze idayise noma ithenge umkhiqizo wanoma iyiphi inhlobo odayisa emakethe, ngendlela engahambisani nokusebenza kwemakethe;

(b) ingumuntu ongakufanele nongakulungele ukuba naleyo layisensi ngenxa yokungaziphathi kahle noma yokungethembeki kwakhe; noma

(c) utholakale enecala lokwephula noma iziphi izihlinzeko zalo Mthetho kaMasipala noma omunye umthetho.

(5) UMasipala angeke uthwale icala ngokulahlekelwa noma ngokulimala okubangelwe ukuhoxiswa kwelayisensi ye-ejenti futhi akukho zimali eziyobuyiselwa ebezikhokhelwe leyo layisensi kuMasipala ngenxa yokuhoxiswa kwaleyo layisensi.

(6) Ukuhoxiswa kwelayisensi ye-ejenti ngokwesigatshana (4) akukhululi obekade engumnikazi waleyo layisensi ekutheni akhokhe noma iziphi izinhlawulo ezinqunyiwe ezikhokhelwa ukwephulwa kwanoma iziphi izihlinzeko zalo Mthetho kaMasipala.

Ukukhishwa kwezimvume zabadayisi abaqashwe ama-ejenti emakethe

8.(1) Ngaphambi kokuqasha noma imuphi umuntu ukuba asebenze njengomdayisi emakethe, i-ejenti yemakethe efuna ukuqasha lowo muntu kumele ifake isicelo kuqala ngencwadi kwiNhloko, ngefomu elinqunyelwe lokho, sokuthola imvume yalowo muntu yokuba ngumdayisi.

(2) Umuntu okukhulunywe ngaye kwisigatshana (1) kumele angaqali ukusebenza njengomdayisi emakethe kuze kube kutholakala imvume kuqala yomdayisi kwiNhloko.

(3) Kuncike ekutheni izihlinzeko zoMthethosisekelo ezisebenzayo kanjalo nemigomo yezobulungiswa ejwayelekile iyalandelwa, iNhloko inamandla okunqaba ukukhipha imvume noma ukuvuselela imvume noma yokunqamula imvume noma nini uma lowo muntu othintekayo kutholakala ukuthi –

(a) uyahlomula ngqo noma ngandlela thile kunoma yiliphi elinye ibhizinisi ngokudayisa, noma ngokusebenza ngomkhiqizo othile odayisa emakethe, osebenza ngendlela engahambisani nokusebenza kwemakethe;

(b) ungumuntu ongakufanele nongakulungele ukusebenza njengomdayisi ngenxa yokungaziphathi kahle noma yokungethembeki kwakhe; noma

(c) utholakale enecala lokwephula noma imuphi umbandela wale Mithetho kaMasipala noma yomunye umthetho.

(4) Izigatshana (5) no (6) zesigaba 7 sale Mithetho kaMasipala zisebenza nezinguquko ezifanele kunoma imuphi umdayisi oqashwe yi-ejenti yemakethe.

(5) Bonke abanikazi bezimvume abafuna ukuvuselela izimvume zabo kumele bafake isicelo sokuvuselela lezo zimvume ngendlela efanayo naleyo enqunywe kwisigatshana (1).

(6) Uma kushintsha umdayisi noma abaphathi bebhizinisi le-ejenti yemakethe, i-ejenti yemakethe ethintekayo kumele yazise iNhloko ngalolo shintsho ezinsukwini ezintathu (3) lube khona.

(7) I-ejenti yemakethe iyophendula ngokuziphatha kwabo bonke abantu abaqashwe yiyo, futhi iyothwala icala nganoma imuphi umonakalo empahleni kamasipala ewenziwe abasebenzi bayo, noma ngabe wenzeke kanjani.

(8) Uma kwenzeka umdayisi noma omunye umsebenzi we-ejenti yemakethe etholakala enecala lokwephula izihlinzeko zalo Mthetho kaMasipala, iNhloko, ngokubona kwayo, ingayimisa imvume yomdayisi othintekayo noma iyalele i-ejenti ukuba iyekise umdayisi leyo misebenzi ethile abeyenza emakethe.

Abaqhubi bezinqola emakethe

9.(1) Akekho umuntu ongasebenza njengomqhubi wenqola emakethe ngaphandle uma lowo muntu enemvume yomqhubi wenqola ekhiswe yiNhloko uma sekukhokhwe imali enqunyiwe: Kuncike ekutheni akukho kulesi sigaba okungaphoqa iNhloko ukuba ikhiphe imvume yomqhubi wenqola inikeze noma imuphi umuntu uma iNhloko ikholwa ukuthi lowo muntu akakufanele ukusebenza njengomqhubi wenqola.

(2) Wonke umqhubi wenqola emakethe kumele agqoke umfaniswano noma ama-ovaloli anezimpawu ezibonakalayo nelogo enqunywe yiNhloko izikhathi ngezikhathi, okumele ihlale ihlanzekile futhi ibukeka zikhathi zonke.

(3) Umqhubi wenqola akumele abe yisicefe ngokubanga umsindo noma ngokumemeza emakethe noma ngokulandela abathengi afuna bathenge impahla yakhe.

(4) Noma imuphi umqhubi wenqola owephula noma imuphi umbandela walo Mthetho kaMasipala noma iNqubo yokuziPhatha kaMasipala elawula ukusebenza kwabaqhubi bezinqola emakethe, angacelwa ukuba aphume emakethe yiNhloko, engaphinde yesule imvume enikezwe lowo mqhubi wenqola ngaphandle kokubuyiselwa izimali ezikhokhwe yilowo mqhubi wenqola ngaleyo mvume.

(5) Umqhubi wenqola akavumelekile ukudayisa isivuno esisha emakethe ebe eyithenge khona lapho emakethe noma ahwebe ngaphakathi.

(6) Kodwa, umqhubi wenqola angathenga isivuno esisha, awudingayo ngenhloso yokuthi awusebenzise yena.

ISAHLUKO 3
UKUHWEBA NEMINYE IMISEBENZI EHAMBISANA NAKHO

Ukuhweba nokuqasha izakhiwo

10.(1) I-ejenti yemakethe kuphela evumeleke ukudayisa isivuno esisha kubathengi esakhiweni sokudayisela: Kuncike ekutheni iNhloko ingagunyaza noma ngubani ukuba adayise isivuno esisha kwezinye izingxenye zemakethe ezisikwe yiNhloko ngokwaleyo nhloso, nangemigomo nemibandela iNhloko, engayibeka ngokubona kwayo.

(2) UMasipala ungakhipha ithenda emphakathini yokuvula ithilomu ngaphakathi ezakhiweni zemakethe ukuze kudayiswe iziphuzo nokudla ngemigomo nemibandela enganqunywa yiNhloko izikhathi ngezikhathi.

(3) Noma iyiphi i-ejenti yemakethe kumele iqashe kuMasipala ihhovisi elinikezwe yiNhloko futhi kumele njalo ekuqaleni kwenyanga ikhokhe irenti kwiNhloko, njengoba iyonqunywa uMasipala izikhathi ngezikhathi.

(4) Uma i-ejenti yemakethe ihluleka ukukhokha i-renti ezinsukwini eziyisikhombisa kuqale inyanga okumele iyikhokhele, iNhloko, ngemuva kokukhipha isaziso sezinsuku eziyisikhombisa mayelana nalokhu, ingesula ilayisensi yaleyo ejenti yemakethe, kanti lokhu angeke kuphazamise ilungelo likaMasipala lokusebenzisa zonke izibopho ze-ejenti yemakethe mayelana nemakethe.

(5) Uma kwenzeka ilayisensi ye-ejenti yemakethe yesulwa ngokwalesi sigaba, leyo ejenti yemakethe kumele iphume kulelo hhovisi ebilisebenzisa, kanti uMasipala ngeke uthwale cala mayelana nokulahlekelwa kwe-ejenti yemakethe okubangelwe yilokho kusulwa kwelayisensi noma ilokho kukhishwa ehhovisi.

Imisebenzi yeziqashi mayelana nezakhiwo eziqashisiwe

11. Umuntu oqashe izakhiwo azoqhubela kuzo ibhizinisi emakethe kumele –

(a) agcine lezo zakhiwo, kubandakanya umgwaqo, izindawo zokuhamba noma amaphaseji amzungezile ehlanzekile ngendlela eyenelisa iNhloko zikhathi zonke;

(b) athenge ngezindleko zakhe imigqomo yezibi yohlobo nosayizi onquywe yiNhloko ukuze kulahlwe izibi endaweni ayiqashile, okumele njalo ikhishwe iyochithwa endaweni enqunywe yiNhloko;

(c) athole imvume kuqala kwiNhloko yokugcina kulezo zakhiwo noma imiphi imikhiqizo ngaphandle kwezinto zokubhala nenye impahla yasehhovisi ezosetshenziswa ezakhiweni eziqashiwe;

(d) uma epheka ukudla, akupheke kuleyo ndawo ebekelwe neklanyelwe lokho yiNhloko emakethe.

(e) ahloniphe izakhiwo aqashe kuzo futhi angenzi zinguquko esakhiweni, okubandakanya ukusixhuma, ukufaka amashalofu noma ukusidabula ngaphandle kokuthola imvume kuqala kwiNhloko; kuthi

(f) afake, ngezindleko zakhe, ibhodi esangweni lezakhiwo eziqashiwe eligunyazwe yiNhloko elibhalwe ngamagama nombala agqamile igama lebhizinisi lesiqashi, okumele ligcinwe ngendlela efanele futhi lingashintshwa uma isiqashi sisahleli kulezo zakhiwo.

Ukuziphatha kwama-ejenti emakethe

12.(1) Wonke ama-jenti aqhuba ibhizinisi emakethe kumele –

(a) aqinisekise ukuthi imikhiqizo ethengwayo noma edayiswayo emakethe ayipakishiwe ngendlela yokuthi umkhiqizo ongaphezulu emaceleni kwikhonteyina wenziwa waba mkhulu noma waba sezingeni elingcono kunemikhiqizo ekwezinye izindawo kwikhonteyina;

(b) asuse noma abeke eceleni isivuno esisha asitholile ukuze asidayise emakethe ekhombisa izimpawu zokubola noma zokulimala;

(c) enze zonke izinhlelo iNhloko yoMnyango ebona zibalulekile ukuze kubekwe, kutakwe, kuhlelwe noma kukhangiswe ngesivuno esisha esitholwe yi-ejenti yemakethe ukuze sidayiswe emakethe;

(d) ngaphandle uma elandela umyalelo weNhloko, adayise ngendlela yesivumelwano sangasese ngaphandle kokukhetha bala labantu; futhi

(e) alandele imiyalelo esemthethweni anganikezwa yona noma engakhishwa yiNhloko izikhathi ngezikhathi ukuze kuphathwe futhi kulawulwe kahle izimakethe.

(2) UMasipala ungasungula iMigomo yokuziPhatha noma nini ukuze kulawulwe indlela yokuziphatha kwama-ejenti emakethe.

(3) Uma uMasipala esesungule iMigomo yokuziPhatha okukhulunywe ngayo kwisigatshana (2), kumele kuthathwe ngokuthi ifakwe kulo Mthetho kaMasipala njengengxenye ebalulekile yawo futhi ebophezela wonke ama-ejenti emakethe aqhuba amabhizinisi awo emakethe.

Ukwethulwa kwesivuno esisha uma sifika

13.(1) Noma isiphi isivuno esisha esizodayiswa emakethe kumele, uma sifika, sihanjiswe kwi-ejenti yemakethe, okumele ngokushesha yenze izinhlelo ngokweNhloko ezibonakala zifanele ukuze kwethulwe leyo mikhiqizo iyobekwa endaweni noma endlini yayo.

(2) Sonke isivuno esisha esilethwe noma esifika kwi-ejenti yemakethe kumele sitakishwe endaweni ebekelwe lokho, egunyazwe yiNhloko ngaphakathi emakethe.

Amapheshana okulethwa kwempahla

14.(1) Noma ngubani oletha noma othumela isivuno esisha esizodayiswa emakethe, kumele uma sifika, asibhalise leso sivuno esisha kwiNhloko ne-ejenti yemakethe okuhanjiswa kuyo leso sivuno.

(2) Inhloko kumele ikhiphe, noma iyalele ukuba kukhishwe ipheshana lokwamukela impahla elisayinwe yiNhloko kanye nomuntu okukhulunywe ngaye kwisigatshana (1) eliqukethe ulwazi olungafunwa yiNhloko izikhathi ngezikhathi ukuba lufakwe kulelo pheshana.

(3) INhloko kumele inikeze wonke umuntu kanye ne-ejenti yemakethe ethintekayo ikhophi ngayinye yaleli pheshana lokuthunyelwa kwempahla, enye ikhophi kumele igcninwe yiNhloko ukuze kube nerekhodi.

(4) Uma kuba nokudayiselana ngqo, i-ejenti yemakethe ukuze ithole imvume yalokho kudayiselana, kumele itshele iNhloko inani okudayiselwana ngalo, idokodo lokudayiselana nepheshana lokulethwa kwempahla eliveza ulwazi olungafunwa yiNhloko, izikhathi ngezikhathi mayelana nokudayiselana ngqo.

Ilungelo leNhloko lokuchitha isivuno esisha esithile

15.(1) INhloko ingenqabela ukudayiswa noma ukugunyaza ukuba kudayiswe noma isiphi isivuno esisha asola ukuthi sintshontshiwe.

(2) Uma iNhloko ithe iqambe isola ukuthi izimpahla zintshontshiwe zabe sezidayiselwene, noma ukudayiselana ngezimpahla okusolakala ukuthi zintshontshiwe kuvunyelwe yiNhloko

ngephutha, imali etholakala lapho kumele igcinwe yiNhloko kuze kulethwe kuyo ubufakazi obugculisayo bokuthi leyo mikhiqizo ibingantshontshwanga.

(3) INhloko ingakhipha emakethe noma ingenqaba ukwemukela isivuno esisha esizodayiswa emakethe, ngokubona kwayo, engalungile, noma esola ukuthi ayinampilo noma ayikufanele ukudliwa abantu noma izilwane, noma ifakwe ezitsheni okungenzeka ukuthi zingcolile noma zingangcolisa esinye isivuno esisha esingathintana naso.

(4) Uma iNhloko yezeMpilo ikhipha isitifiketi esiqinisekisa izinsolo ngokwesigaba (3), iNhloko ingathatha futhi ikhiphe leyo mikhikhiqizo engalungile, engenampilo noma engafanele ukudliwa iyoyilahla kanti umnikazi waleyo mikhiqizo angeke afune sinxephezelo mayelana nalokho.

Amakhonteyina

16.(1) Wonke amakhonteyina emakethe kumele abe namagama namakheli abantu abawalethile nama-ejenti emakethe abhalwe ngokucacile nangokugqamile kuleyo khonteyina noma ethikithini elihambisana nayo.

(2) Uma impahla idayiswa ngamakhonteyina, kumele imali yalawo makhonteyina ifakwe emalini yokuthenga leyo mpahla, ngaphandle uma kungamabhokisi okuphatha noma obhasikidi, noma amakesi asetshenziselwa ukuphatha izinkukhu, okumele abuyiselwe kwi-ejenti yemakethe ethintekayo.

(3) Umthengi kumele abuyise amabhokisi okuphatha, obhasikidi, noma amakesi kwi-ejenti yemakethe ethintekayo kusesimweni esifanayo noma elungiswe abuyela esimweni esifanayo naleso abeyiso kanye nangesikhathi esifanele ngemuva kokudayiselana.

(4) Umthengi ngeke alinge aphume nalelo bhokisi lokuphatha, nobhasikidi noma ikwesi ngaphandle kwemingcele yemakethe.

(5) I-ejenti yemakethe ethintekayo kumele ibuyise lawo mabhokisi okuphatha, obhasikidi noma amakesi kumdayisi ngesikhathi esinganqunywa yiNhloko kwiNqubomgomo izikhathi ngezikhathi.

Ukuhlolwa, ukulinganiswa, ukupakishwa nokubekwa uphawu kwemikhiqizo etshalwayo
17. (1) INhloko ingahlola noma icele ukuba kuhlolwe noma imiphi imikhiqizo yesivuno esisha noma ukudla okudayiswayo emakethe ukuze kutholakale ukuthi ngabe kunempilo futhi akunamagciwane, akunazifo noma akunakungcola kanti futhi, uma kutholakala ukuthi imikhiqizo yesivuno esisha ayinampilo, inamagciwane, inezifo noma inokungcola, iNhloko ingathatha izinyathelo noma iyalele ukuba kuthathwe izinyathelo engabona zifanele, kubandakanya ukudliwa, ukukhishwa noma ukulahlwa kwaleso sivuno esisha.

(2) Noma isiphi isivuno esisha okudingeka ngokomthetho ukuba sikalwe izinga angeke sikhangiswe noma sidayiswe emakethe ngaphandle uma –

(a) silethwe yi-ejenti yemakethe ethintekayo ukuba izohlolwa futhi isihloliwe njengoba kusho umthetho; futhi

(b) izinga enikezwe lona ngenxa yalokho kuhlolwa selibhalwe ngokucacile kuyona yileyo ejenti yemakethe noma umhloli.

(3) Noma isiphi isivuno esisha okudingeka ngokomthetho ukuba sidayiswe noma sithengwe siyisamba, noma esidinga ukupakishwa, sifakwe omaka noma amazinga ngendlela enqunyiwe, angeke sidayiswe noma sithengwe noma sisuswe kwi-ejenti yemakethe ngaphandle uma ilandela zonke izidingo ezingokomthetho: Kuncike ekutheni iNhloko, ngokubona kwayo, ingayalela ukuthi noma isiphi isivuno esisha sidayiswe uma ibona ukuthi ukwenze njalo kulungile.

Ukuqala nokugcina kokudayisa

18.(1) Ukudayisa kumele kuqale futhi kugcine ngalezo zikhathi eziyonqunywa yiNhloko izikhathi ngezikhathi.

(2) Noma ngubani odayisa ngale kwezikhathi ezinqunywe yiNhloko ngokwesigatshana (1) ngaphandle kokuthola imvume yokwenze njalo kuqala kwiNhloko angathweswa icala lokungaziphathi kahle, kanti uma limlahla, angakhokhiswa inhlawulo eyonqunywa yiNhloko.

Ukudayisa endalini okubhidwayo kuyo

19. (1) INhloko ngokubona kwayo ingayala ukuba nasiphi isivuno esisha esingeniswa emakethe sidayiswe endalini okubhidwayo kuyo.

(2) Noma isiphi isivuno esisha esidayiswa endalini okubhidwayo kuyo sithathwa njengesidayiselwa umthengi okhokha kunabo bonke uma seliphumile elithi “gone” koyiNhloko maqondana naleso sivuno esisha.

(3) Uma oyiNhloko emngabaza okhokha kunabo bonke, leso sivuno esisha kumele sidayiswe futhi.

(4) INhloko ingamemezela nasiphi isivuno esisha njengesingadayisiwe uma ngokubona kwayo okhokha kunabo bonke ephuma eceleni kakhulu.

(5) Nasiphi isivuno esisha esidayiswa endalini okubhidwayo kuyo sithathwa njengesidayiswa kungekho ntengo esingedayiswe ngaphansi kwayo, ngaphandle uma omele imakethe azisa iNhloko ngentengo esingedayiswe ngaphansi kwayo ngaphambi kokuba sidayiswe. Uma okhokha kunabo bonke engafinyeleli entengweni okungedayiswe ngaphansi kwayo enqunywe ngomele imakethe, iNhloko ingamemezela leso sivuno njengesingadayisiwe.

Ukudayiswa kwesivuno esisha

20. (1) Isivuno esisha kumele sidayiswe ngokwezinga, isisindo, isibalo, ubungako noma ngokusho komthetho noma kweNhloko.

(2) Ngaphandle uma kudayiselwana ngqo, kungumsebenzi womele imakethe ukuqinisekisa ukuthi isivuno esisha okudingeka sidayiswe ngesisindo sihlelwa ngama yunithi, isisindo sakhona sihambisane nanoma iziphi izidingo zomthetho ngaphambi kokuba sikhangiselwe ukudayisa noma sidayiswe, futhi leso sisindo kumele sibhalwe sicace sifundeke kuleso sivuno esisha noma ezikhwameni zaso.

(3) Umuntu angeke akhangise ngesampula sanoma yisiphi isivuno esisha noma adayise noma isiphi sivuno esisha njengesampula ngaphandle uma lelo sampula liveza okwangempela isimo sawo wonke lowo mkhiqizo, futhi iNhloko inegunya lokwenza noma yini eyibona ifanele ukuze izanelise ukuthi wonke umthwalo ngempela uyafana nesampula elivezwayo noma elidayiswayo.

Ukuthenga nokudayisa kwabasebenzi bakamasipala

21. INhloko kumbe noma ngubani osebenza emakethe abavunyelwe ukuhweba noma ukuthenga isivuno esisha emakethe, ezithengela yena ngokwakhe noma ezohlomula ngaphandle kwaleso sivuno esisha ngempela abasidingela ukuzisebenzisela bona uqobo.

Ukuthenga kwama-ejenti emakethe

22. Ama-ejenti emakethe noma amqashile abavunyelwe ukuthenga isivuno esisha emakethe ngenhloso yokuphinda asidayise noma ahwebe ngaso. Lawo ma-ejenti azimakethe noma amqashile kodwa angasithenga isivuno esisha uma ngempela asidingela ukusisebenzisa wona uqobo.

Ukususwa kwesivuno esisha emakethe

23.(1) Ngaphandle uma kuvume iNhloko ngezizathu ezibonakalayo nezizwakalayo, umthengi kumele asithathe asisuse khona manjalo emakethe sonke isivuno esisha asithenge emakethe noma asisuse singakapheli isikhathi esivunywe yiNhoko kusukela ethengile.

(2) Kusemahlombe e-ejenti yemakethe ukunika umthengi isamba, isisindo, izinga, iqophelo nohlobo okuyilonalona lwesivuno esisha esithengiwe sisesikhwameni sakhona esifanele.

(3) (a) Kuye ngesigaba 6, iNhloko inegunya lokubeka eceleni izikhala zokulayisha ukwenzela ukulayishwa nokwethulwa kwempahla emakethe.

(b) Ngaphandle uma kunesizathu esingaphezu kwamandla omuntu, umuntu osebenzisa noma olawula imoto eqondene naye, angeke avumela ukuba ime endaweni yokulayisha noma nganhlosoni ngaphandle uma ezolayisha noma uzokwethula impahla. Ngaphansi kokuthi imoto angeke ime endaweni yokulayisha isikhathi eside kunesidingekile ukulayisha nokwethula impahla, futhi nakho kusheshe kwenziwe ngaphandle kokulibala.

Izindlu zokubandisa kanye nezokugqquma impahla

24.(1) INhloko inegunya lokufaka noma isiphi isivuno esisha esivunywe yiyo endlini yokubandisa noma yokugqquma uma icelwe noma ngubani kodwa angethwesi muntu icala ngokungavela futhi imkhokhise izimali ezibizwayo ngalokho kugcinwa kwempahla.

(2) UMasipala ngeke ethweswa cala ngokulahlekelwa, ukonakala noma noma ukulimala kwesivuno esisha esifakwe endlini yokubandisa noma yokugqquma, noma ngabe kudalwe–

(a) izinga lokushisa eliphezulu noma eliphansi kakhulu:

(b) umswakama omningi ngokwedlulele noma ongenele;

(c) ukucima kwemishini; kanye

(d) nanoma isiphi esinye isizathu.

(3) Akukho mishini yokuphakamisa impahla evunyelwe ukusebenza ngaphakathi endlini yokubandisa noma yokugqqumisa ngaphandle kwesebenza ngamalahle kanye nedonswa ngesandla.

Izingubo zokuzivikela

25. Noma yimuphi umuntu othinteka ekudayiseni noma ekuphatheni isivuno esisha noma owenza noma yini engadinga ukuthi lowo muntu agqoke izimpahla zokuzivikela ezifanele ngesikhathi enza lowo msebenzi wakhe, kufanele enze njalo kanjengokuba kungayalela iNhloko izikhathi ngezikhathi.

ISAHLUKO 4

UKUGCINA AMAREKHODI OKUDAYISELANA NOKUHAMBISANA NAKHO

Amaphepha okudayiselana

26.(1) Kukho konke ukudayisa, ngesivumelwano sangasese, ukudayisa ngqo noma esindalini okubhidwayo kuyo, kumele umdayisi wasemakethe oqahswe i-ejenti akhiphe incwadi yokudayiselana ayinike omhlinzeka ngempahla kanye nomthengi khona manjalo uma kuqedwa ukudayiselana: Ngaphansi kokuthi uma kudayiselwana ngqo umdayisi kufanele akhiphe incwadi yokudayiselana ayinike omhlinzeka ngmpahla kanye nomthengi ngokushesha kangangokuba kungenzeka.

(2) Incwadi yokudayiselana eshiwo ku(1) kufanele igcwaliswe ngokucacile ifundeke futhi kufanele iqukathe ulwazi olungadingwa yiNhloko izikhathi ngezikhathi.

Ukukhokhwa kwentengo yokuthenga

27.(1) i-ejenti yemakethe noma abasebenzi bayo akufanele bathinte imali yanoma yini ethengwa emakethe.

(2) Umthengi wesivuno esisha kufanele akhokhe imali yokuthenga ngokuyifaka ekhadini lomthengi elisebenzayo ngokushesha emuva kokudayiswa kwaso.

(3) INhloko inegunya lokunikeza noma imuphi umthengi ikhadi lomthengi noma lomkweleti inkokhelo yanoma ikuphi ukuthenga engahlehliswa ngaphansi kwemibandela efanele engabonwa yiNhloko: Ngaphansi kokuthi ngaso sonke isikhathi iNhloko ingasebenzisa ilungelo layo lkukhipha noma lokuhoxisa noma iliphi ikhadi lomthengi.

(4) Bonke abamthengi abanikwe ikhadi lokukweleta kufanele ngezindleko zabo, bakhiphe isiqiniseko esivela ebhange noma enkampanini yomshuwalense njengesibambiso esigculisa iNhloko sezimali okumele zikhokhwe lapho kuthengwe khona ngesikweletu kwangakhokhwa ngosuku olufanele njengokulandisa kwezigaba (3) no(5).

(5) Yize noma kunezihlinzeko zesigatshana (3), umthengi onikwe ikhadi lolukweleta kufanele akhokhe intengo yokuthenga yanoma isiphi isivuno esisha esithengwe ngesikweletu singakapheli isikhathi esikhonjwe yiNhloko.

Inzuzo yokudayisa

28.(1) INhloko kufanele ikhokhele i-ejenti yemakethe inzuzo yokudayiswa kwanoma isiphi isivuno esisha esidayiswe emakethe, noma esidayiswe ngokudayiselana ngqo ngemuva kokudonsa izindleko zemakethe ezikhokhelwa lokho kudayisa: Ngaphansi kokuthi lapho kudayiselenwe ngqo iNhloko ngokubona kwayo ingakugodla ukukhokha leyo nzuzo kuze kufike isiqinisekiso esibhalwe phansi esivela kwi-ejenti yemakethe sokuthi ukudayiselana sekuphothuliwe nempahla yadilivwa ngendlela egculisa bobabili ohlinzeka ngempahla kanye noyithengayo.

(2) I-ejenti yasemakethe kufanele ichazele ngokushesha, ngokuyikho nangokugcwele ohlinzeka ngempahla ngenzuzo yanoma ikuphi ukudayiselana okwenzeke ngemuva kokuthola inkokhelo koyiNhloko ngokwesigatshana (1) futhi ngemuva kwalokho kufanele ikhokhele ohlinzeka ngempahla noma iyiphi imali amukweleta yona ngemuva kokudonsa kuleyo mali noma isiphi isamba okumele sitholwe yi-ejenti ngokusemthethweni.

(3) INhloko inganikeza noma ngubani ohlinzeka ngempahla ulwazi oluphathelene nokudayiswa kwanoma isiphi isivuno esisha okwenziwe yi-ejenti yasemakethe egameni lohlinzeka ngempahla uma iNhloko ibona kufanelekile, kanti i-ejenti kufanele inikeze iNhloko lolo lwazi oluqondene nalokho kudayiswa eludingayo uma imcelile.

Amarekhodi okudayiselana

29. INhloko kufanele igcine amarekhodi ayiwo okudayiswa kwesivuno esisha okwenzeke emakethe kanjalo nezimali ezithintwe yiyo maqondana nalokho. Lawo marekhodi noma imibhalo eqondene nalokho, kufanele atholakale ngaso sonke isikhathi ukuze ahlolwe yinoma isiphi isikhulu esijutshwe nguMasipala ukuba senze njalo izikhathi ngezikhathi.

ISAHLUKO 5

IZINDLELA ZOKUQAPHA NEMIKHAWULO YOKUBA NECALA

Isivuno esisha esingaziwa futhi esingasuswanga

30.(1) INhloko ingadayisa noma isiphi isivuno esisha emakethe esingalandwanga yilowo ofanele engakapheli amahora amane igcine inzuzo yalokho kudayisa ibambe zonke izindleko zemakethe egameni lanoma ngubani ongathi ngesakhe leso sivuno.

(2) Othi esakhe leso sivuno njengokulandisa kwesigaba (1) uyoshawa indiva uma sekuphele izinsuku ezingama-90 (amashumi ayisishiyagalolunye) kusukela ngelanga okwadayiswa ngalo futhi yonke inzuzo yalokho kudayisa kufanele ithathwe nguMasipala.

(3) Uma noma isiphi isivuno esisha esesidayisiwe emakethe singasuswa ekupheleni kokudayisa kwanoma iluphi usuku, iNhloko ingasisusa leso sivuno esisha isibeke endaweni ethile isidayise ngelanga elilandelayo kuthi umthengi osephutheni abhekane nanoma iziphi izinguquko nokulahlekelwa okudalwe ukudayiswa kwesibili kwaleso sivuno esisha.

Ukubhekwa nokudliwa kwempahla

31. INhloko noma isisebenzi esigunyaziwe, inamandla okubheka ngaphandle kwemvume emgunyazayo, kunoma iyiphi indawo, imoto, noma isikhwama sanoma iluphi uhlobo kanye nokudla noma iyiphi impahla okwenziwe ngayo icala noma okusolakala ukuthi kwenziwe ngayo icala.

Ukuba sengozini kwesivuno esisha

32.(1) Ngaso sonke isikhathi ukufika nesivuno esisha emakethe ukuba sizodayiswa kwenziwa ngokuzibeka ebungozini kwe-ejenti kuze kube isikhathi okudayiswa ngaso leso sivuno esisha.

(2) Sonke isivuno esisha esidayiswe emakethe, sidayiswe ngokuzibeka engozini komthengi kusukela ngesikhathi esidayiswe ngaso.

Ukungathwali cala kukaMasipala

33.(1) UMasipala nabasebenzi bakhe angeke bathweswa icala nganoma iliphi iphutha ekuchazeni, ekushodeni noma ekweqeni kwesibalo noma ukungabi bikho kwenani lanoma isiphi isivuno esisha esidayiswa emakethe noma ngokudayiselana ngqo.

(2) INhloko kanye noMasipala bangeke bathweswa icala nganoma ikuphi ukonakala, ukulimala noma ukulahleka okungenzeka ngenxa yesenzo noma isinqumo seNhloko esithathe ngokomthetho ngesikhathi yenza umsebenzi wayo ngokwalo Mthetho kaMasipala noma iNqubomgomo.

Ukuqoqwa yiNhloko kwezimali ezisilele

34.(1) INhloko inegunya lokukhokhisa noma iziphi izimali okumele zikhokhwe nezisilele kokwenziwa emakethe egameni likaMasipala, ezifaka–

(a) izimali ezikweletwa ngabahlinzeki ngempahla noma abathengi maqondana nanoma ikuphi ukudayisa okwenzeke emakethe; kanye

(b) nanoma iziphi izimali okumele zikhokhwe ngokwezimiso zalo Mthetho kaMasipala.

(2) INhloko inegunya lokubamba ezimalini ezingakuyo noma iziphi izimali ezikweletwayo.

(3) UMasipala angathathela noma ngubani izinyathelo zomthetho mayelana nanoma iluphi udaba oluqondene nezimiso zesigatshana (1).

Ukuziphatha okungavunyelwe

35. (1) Umuntu ongena emakethe kufanele ngaso sonke isikhathi aziphathe ngendlela ethobela le Mithetho kaMasipala, kanye neminye imiyalelo engase ikhishwe yiNhloko izikhathi ngezikhathi ukuze kwenganyelwe futhi kulawulwe kahle imakethe.

(2) Ngokulandela isigatshana (1), umuntu angeke enza utho oluphazamisa noma ngokubona kweNhloko olungase luphamazise ukusebenza okwejwayelekile kwemakethe eduze noma ngaphakathi kwemakethe, okufaka nalokhu okulandelayo:

(a) ukudala isicefe noma ukuziphatha ngendlela edala isidididi noma engafanele noma ukusebenzisa ulimi olwesabisayo, olungcolile, oluhlukumezayo, olunochuku, olucasulayo noma olwenyanyekayo;

(b) ukunxenxa amakhasimende;

(c) ukugxambukela noma ukuvimba noma imuphi umsebenzi wasemakethe ekwenzeni umsebenzi wakhe;

(d) ukuhlela noma ukuba nomhlangano engathole mvume ebhaliwe koyiNhloko kuqala;

(e) ukuthinta, ukunambitha, ukuhogela, ukuphatha noma ukususa isivuno esisha esivezelwe ukudayiswa ngendlela ezosenza singcole;

(f) ukugcina noma ukuvezela ukudayisa noma iyiphi impahla engemukelekile;

(g) ukubhema noma ikuphi lapho kunesaziso esibekiwe esenqabela ukubhema;

(h) ukokhela umlilo ngaphandle kwangesikhathi nasendaweni egunyazwe yiNhloko;

(i) ukuma, ukuhlala, ukubeka noma ukweyama ngempahla noma ngokuyiqukethe;

(j) ngaphandle kwesizathu esisemthethweni ukuganga noma ukususa noma ukuthumela ukuba kususwe isivuno esisha esibekelwe ukudayiswa noma isikhwama noma umbhalo esivunweni esisha noma esikhwameni;

(k) ukwakhe olunye uthango lokwengeza noma ukwakha ibhilidi kule ndawo aqashiselwe uMasipala, noma ukuguqula amabhilidi akhona noma ukufaka udonga lokwahlukanisa noma ukufaka nokunweba amapayiphi amanzi noma izintambo zikagesi kanye nokwenza noma yini efuze lokhu kulezo zindawo ngaphandle kwemvume yeNhloko ebhalwe phansi;

(l) ukwenza noma ukuvumela noma yini engavala noma idale umonakalo emapayipini ukuba ingene emapayipini noma ukuvumela ukuchitha, amafutha, amanzi angcolile nanoma yini engafanele ukuba ingene emapayipini okuhambisa amanzi emvula;

(m) ukuwasha, ukupakisha, ukubeka ngononina, ukubeka ngokwamazinga noma ukuhlanza isivuno esisha endaweni okungeyona eyalokho ngaphandle kwemvume kaMasipala;

(n) ukulahla noma ukufaka kwezinye izindawo ngale kwalezo zitsha ezihlinzekelwe lokho, noma iziphi izithelo, amakhasi nanoma yini enye yemifino noma elahlwayo;

(o) ukufika nanoma yini edakayo emakethe noma ukungena noma ukuba semakethe uphuze okudakayo;

(p) ukulimaza, ukonela phansi noma ukuganga nganoma iyiphi impahla elethwe emakethe kumbe kunoma isiphi isakhiwo esisemakethe okungekaMasipala;

(r) ukufika nemfucumfucu, izibi, namakhasi ngenhloso yokukulahla ngaphakathi emakethe.

(3) INhloko, noma isisebenzi esigunyaziwe, inelungelo lokususa emakethe noma yimuphi umuntu ophuze okudakayo noma oziphatha ngendlela engafanele nengamukelekile noma odala isicefe emagcekeni asemakethe.

(4) Umuntu okhishwe emakethe ngokwesigatshana (3) akufanele abuye angene kunoma iyiphi ingxenye yemakethe ngalolo suku akhishwe ngalo.

(5) Ngale kwesigatshana (3) no (4) ngenhla, iNhloko inamandla okuvimbela noma imuphi umuntu okukhulunywe ngaye esigatshaneni (3) ukuba aphinde angene emakethe isikhathi esingeqile ezinsukwini eziyi -14.

(6) INhloko noma isisebenzi esigunyaziwe inelungelo lokubopha ngaphandle kwencwadi egunyaza lokho, noma imuphi umuntu owephula imithetho emagcekeni asemakethe kanye nanoma imuphi umuntu iNhloko noma iphoyisa abakholwa ngale kokungabaza, ukuthi wenze icala elibomvu ngokwale Mithetho kaMasipala kanye noma ngokwanoma imiphi eminye imithetho.

INGXENYE 2

OKUYINGQUBEVANGE

Ukudluliselwa kwamandla

36.(1) Kweyame kuMthethosisekelo nemithetho efanele kazwelonke neyesifundazwe –

(a) namaphi amandla, ngaphandle kwamandla okukhulunywa ngawo esigabeni 160(2) soMthethosisekelo;

(b) namuphi umsebenzi; noma

(c) nasiphi isibopho,

ngokwalo Mthetho KaMasipala, okunikezwe uMasipala noma naziphi ezinye izinhlaka zikaMasipala zezombusazwe, abaphathizikhundla bezombusazwe, ikhansela, umsebenzi, kungaphinde kudluliselwe yilolo hlaka lwezombusazwe, yilowo mphathisikhundla

wezombusazwe, yilelo khansela, noma yilowo msebenzi esikhungweni sangaphakathi, noma kumsebenzi oqashwe wuMasipala.

(2) Ukudlulisela amandla ngokulawula kwesigatshana (1) kufanele kwenziwe ngokulandela uhlelo lokudluliselwa kwamandla olwemukelwa ngumkhandlu ngokulandela isigaba 59(1) se Local Government: Municipal Systems Act, 2000 (Umthetho Ongunombolo 32 ka 2000), nangokulandela indlela esetshenziswayo ebalulwe esigabeni 59(2) salo mthetho obaluliwe.

(3) Nakuphi ukudluliselwa kwamandla okuhlongozwa kulesi sigaba kumele kuqoshwe ohleni lwamandla adluliseliwe, okumele luqukathe ulwazi mayelana –

(a) naleso sikhungo noma lowo muntu odlulisela amandla noma odlulisa amandla adlulisiwe;

(b) nowemukela lawo mandla adlulisiwe noma odluliselwe amandla adlulisiwe; kanye

(c) nemibandela ehambisana nalawo mandla adluliselwe.

Ukudluliswa kwezinqumo

37. (1) Umuntu omalungelo akhe achashazelwe yisinqumo seNhloko yezeMpilo noma esinye isisebenzi esigunyaziwe ngokulandela lo Mthetho KaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko lokudlulisa isinqumo oluqukethwe eMthethweni Wezinhlelo Zomasipala: uMthetho Wohulumeni Basekhaya ka-2000 (uMthetho No. 32 ka-2000) ngesaziso esibhaliwe sokudlulisa isinqumo kanye nezizathu kwiMenenja kaMasipala zingakapheli izinsuku ezingama-21 kusukela ngosuku lwesaziso ngesinqumo.

(2) IMenenja kaMasipala kumele ngokushesha yethule lesi sicelo sokuphikisana nesinqumo kwisiphathimandla sokudluliswa kwezinqumo esifanele.

(3) Isiphathimandla sokudluliswa kwezinqumo kumele siqalise uhlelo lokudlulisa isinqumo engakapheli amasonto ayisithupha futhi sinqume ngaleso sicelo esikhathini esifanele.

(4) Isiphathimandla sokudluliswa kwezinqumo kumele sivumelane, siguqule noma sichithe isinqumo, kodwa akukho guquko noma kuchithwa kwesinqumo okungahoxisa namaphi amalungelo angabe atholakele ngenxa yaleso sinqumo.

(5) Isiphathimandla sokudluliswa kwezinqumo kumele sinikeze izizathu ezibhaliweyo ngesinqumo saso kuzo zonke izindaba ezithinta ukudluliswa kwezinqumo.

(6) Zonke izicelo zokudluliswa kwezinqumo zenziwa ngokulandela uMthetho Wezinhlelo Zomasipala: uMthetho Wohulumeni Basekhaya, ka-2000 (uMthetho No. 32 ka-2000) hhayi ngokulandela lo Mthetho KaMasipala.

Amacala Nezinhlawulo

38. (1) Umuntu wenza icala uma enza lokhu–

(a) ephula noma yisiphi kulezi zihlinzeko zalo Mthetho kaMasipala;

(b) ephula noma yimiphi imibandela, imikhawulo noma okwenqatshiwe ebekwe ngokulawula kwalo Mthetho kaMasipala;

(c) ehluleka ukuthobela imigomo yanoma yisiphi isaziso noma uphawu olubekwe ngokulawula kwalo Mthetho kaMasipala;

(2) Umuntu olahlwe icala lokwephula umthetho ngaphansi kwalesi sigaba angahlawuliswa noma aboshwe isikhathi esingeqile eminyakeni emibili, noma lokhu kokubili.

(3) Ngale kwezimiso zesigatshana (2), nangaphansi kwemigomo yezobulungiswa, kanye noMthethosisekelo, iNhloko ingenza uphenyo mayelana nezinsolo zanoma ngubani zokwephulwa kwanoma iziphi izimiso zalo Mthetho kaMasipala, lapho iNhloko ibona ukuthi lezo zinsolo azizimbi kangako ukuba zingaze zishushiswe ngokwesigatshana (2).

(4) Uma kukhishwa ubufakazi obenele obugculisa iNhloko obuthi umuntu oshiwo esigatshaneni (3) uwephulile lo Mthetho kaMasipala, iNhloko ingamthola enecala khona manjalo ngaphandle kokuqulwa kwecala ngokwenqubo emisiwe futhi imnike isijeziso esibona simfanele, ngaphansi kokuthi lowo muntu uyonikwa ilungelo lokwedlulisela phambili ukungagculiseki kwakhe ngesinqumo noma ngesijeziso seNhloko ngokwalo Mthetho kaMasipala.

Ukuchithwa kwemithetho nokusilele

39.(1) Imithetho yedolobha eshiwo ekhalamini yokuqala neyesibili yeshedulli yalo Mthetho kaMasipala ngalokhu iyachithwa ngendlela ebekwe kwikhalamu yesithathu yayo leyo Sheduli.

(2) Wonke amalungelo atholakele noma izibopho umuntu anazo ngaphansi kweMithetho kaMasipala echithwayo azoqhubeka nokuba khona kube sengathi leyo Mithetho kaMasipala ayikaze ichithwe.

Isihloko esifingqiwe kanye nokuqala ukusebenza komthetho

40. Lo Mthetho kaMasipala ubizwa ngokuthi uMthetho kaMasipala Wemakethe Enkulu, 2013 kanti uyoqala ukusebenza ngosuku oyoshicilelwa ngalo kwi-*Gazette Yesifundazwe* noma lokho okubekiwe kuleso saziso seGazethi.

ISHEDULI

IMITHETHO ECHITHIWE

Inombolo nonyaka womthetho	***Isihloko***	***Ingxenye echithwayo***
Isaziso sesiFundazwe No. 149 sika 1975 esashicilelwa kwiGazethi yesiFundazwe No. 3849 yangomhlaka 27 Februwari 1975	Market Bylaws: Durban National Fresh Produce Market	Wonke