

# Court case on future of Sea Point property begins

By [Madison Yauger](#)

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The four-day case on the fate of the Tafelberg property began in the Cape High Court on Monday, 25 November. The case could potentially set a precedent on what can be done with inner city state-owned land.



Michael Clarke, researcher for housing activist organisation Ndifuna Ukwazi, explains to supporters what has been happening inside court during Monday's lunch break. Photo: Madison Yauger

Tafelberg is a disused property in Sea Point on Cape Town's Atlantic coast. Housing activists, via the organisation Reclaim the City, want it to be developed into housing for Cape Town's low-income residents who work in Sea Point. The provincial government on the other hand wants to sell the property for the development of a private school.

Reclaim the City and the Ndifuna Ukwazi Law Centre are the applicants. They want to stop the sale to the school. The Western Cape government and the Phyllis Jowell Jewish Day School are among the respondents.

Close to 50 Reclaim the City supporters filled the gallery on Monday, wearing bright red "Land for People, Not for Profit" T-shirts.



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25 Nov 2019



## Opportunity to redress spatial apartheid

Reclaim the City argues that Tafelberg "provides a prime opportunity to redress spatial apartheid through the provision of well-located land for social housing". The organisation describes social housing as a "critical tool not only to address the persistent demand for affordable housing in Cape Town, but also to restructure our cities".

Elizabeth Gqoboka, one of the organisation's founders, told GroundUp: "As a former resident who's been living in Sea Point, and now living at an occupation at Helen Bowden Nurses Home, this case is very important [to me]."

Judge Patrick Gamble and Judge Monde Samela presided. Advocate Peter Hathorn presented the case for the applicants. He described what he called the unreasonableness of the decision by government to sell Tafelberg, considering the obligation to provide housing and address spatial apartheid.

"The starting point has to be that they've had 25 years already, and they have done absolutely nothing so far. One has to look at this as a 25-year period of inaction. There has been an obligation since 1994 to redress spatial injustice," argued Hathorn.

Judge Gamble questioned Hathorn about the availability of District Six land for social housing, to which Hathorn replied that there is land available there, but it is subject to a restitution claim which is a different issue than the one being addressed in court.

Another issue Judge Gamble raised is the high cost of well-located land in the city centre, and that it's nearly impossible to buy land at market rates to build social housing. Hathorn said the state should take land the city and province already owns and use it for social housing.

"Central Cape Town cannot be ignored," said Hathorn. He noted that 200,000 people commute to Cape Town every day, and that the properties in the city centre have fundamental importance to the region as a whole.

Advocate Coriaan De Villiers aided Hathorn's argument and discussed the constitutionality of the province's decision to sell Tafelberg.



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Aisha Abdool Karim 22 Oct 2019



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## Constitutional obligations

Advocate Ismail Jamie, argued for the National Department of Human Settlements, which opposes the provincial government's decision to sell Tafelberg. He said that "the provincial government failed to comply with its constitutional obligations to inform the national government of its intentions regarding the Tafelberg property". He said the province didn't consult or coordinate with the national government or its agencies. He also said that the national government had no material interests in the sale of the Tafelberg site.

The case will continue with further argument from the National Department of Human Settlements, the Social Housing Regulatory Authority, Equal Education (as a friend of the court) and the Western Cape Provincial Government. The case is

expected to run until Thursday.

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