

Court rules DAFF failed to properly consider application for Forestry Licence

On 22 September 2017 the Supreme Court of Appeal (SCA) ruled on a matter that has been preventing the Long Beach Home Owners Association from developing their properties for the past five years.

The Long Beach development – situated in the Great Kei Municipality near East London – plans to build seven single unit residences on the property. This development requires the disturbance of trees and vegetation and therefore a forestry license. The license has until now been refused one by the Department of Agriculture, Forestry and Fisheries (DAFF).

The SCA ruling found that the refusal of the forestry license was based on misinterpretations of relevant sections of the National Forests Act of 1998 that is aimed at protecting natural forests.

“The ruling by the SCA upholds the obligation on our administrative decision makers to exercise their discretion in a considered and rational manner by applying the correct interpretation of our legislation to the case at hand and such decisions should never be based on an arbitrary checklist from an internal policy document,” explains Vanessa Jacklin-Levin, Of Counsel at Dentons, the legal firm representing the Long Beach Home Owners Association.

Jacklin-Levin further explained that: “while the protection of our natural resources is of utmost importance, it must be done in accordance with our legislation which requires decision makers to balance environmental protection with economic and social development, as specified in the Act, and based on the merits of each individual application. This judgment is welcomed because it has settled conflicting interpretations of section 3(3)(a) of the National Forests Act.” **EDITOR’S NOTE:** *This announcement is in relation to Long Beach Homeowners Association // Department of Agriculture, Forestry and Fisheries (South Africa) and Another (865/2016) [2017] ZASCA 122 (22 September 2017) – Marked Reportable*