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Att: Alderman Dirk Smit,
Speaker of the City of Cape Town Council

OPEN LETTER TO THE SPEAKER OF THE CITY OF CAPE TOWN COUNCIL
Compliance with obligations for participation in the 2015/2016 budget

On 23 April, over 500 residents from Khayelitsha made written submissions on the Mayor's 2015/2016 draft budget, describing the everyday indignity and insecurity of going to the toilet in informal settlements.

On 30 April, the Social Justice Coalition and Ndifuna Ukwazi made their own submission based on six months of research, detailing how the City has since at least 2007 allocated a disproportionately small capital budget for sanitation infrastructure in informal settlements.

The consideration of these submissions is tied to the founding values of the Constitution that include human dignity, the achievement of equality and a government that is accountable, responsive and open.

It is our understanding that this is the largest number of public submissions the Council has ever received, especially from poor and working class residents. And yet, the process for consideration of the submissions is not clear or transparent - in particular, in which forum the submissions were considered, by whom, and when.

Specifically, section 23(1) of the MFMA states that **it is the council** that must consider any views of the local community, and after considering all budget submissions, give the Mayor an opportunity to respond, and if necessary revise the budget and table amendments.

Council met on 30 April, but the minutes show that Council did not consider budget submissions from the public.

It is our understanding that the submissions were not considered in Portfolio Committees of council either. The Utilities Directorate completed its report on the 2015/2016 draft budget to the Utility Services Portfolio Committee on 21 April, two days before the submissions were delivered to Council and makes no mention of public participation. This report was adopted at the Portfolio Committee meeting on 4 May. The Finance Portfolio Committee met on 4 May. Minutes show that there was no consideration of public participation. The Committee met again in a special sitting on the 13 May, but these minutes are not available on the City's website.

#fixCTbudget Find the submission online here: <http://nu.org.za/budgetsubmission/>

Further, we were notified that your office instructed subcouncil managers to desist from distributing copies of our submission to councillors. It is not clear whether councillors themselves have had an opportunity to consider and deliberate on submissions in public. It is our position that deliberation in party caucuses by a few councillors behind closed doors, would not give effect to the Council's obligations to openness and transparency.

It would seem that neither Council, nor any of its committees, nor any of its councillors have had the opportunity to consider public submissions.

It may be that the submissions have been considered by the administration or executive, however, it is our position that this is not sufficient to comply with the provision of the MFMA, in particular because these are not forums that are open to the public.

Whereas, it is up to the City to determine how best to comply with its obligations in terms of the Constitution, MSA and MFMA, whatever measures it puts in place must, however, be reasonable. In considering reasonableness, it is important to note that the participatory obligations are more extensive because of the importance of the budget. It directly affects communities and is a primary mechanism for realising the constitutional rights to dignity, safety, health and sanitation.

More than just compliance with legislative provisions, public participation is of particular significance for people that have historically been excluded or been unable to take part in such processes are assured that they not only have a chance to speak, **but that they will be listened to.**

Residents that are interested in taking part in these processes and who take the time to participate should feel they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their views matter and will receive due consideration.

The principles that underlie the participatory aspects of our democracy are tied to the founding values on the Constitution that include human dignity, the achievement of equality and a government that is accountable, responsive and open. Public participation is linked to the commitment of our Constitution to the dignity and self respect of all residents.

We would like a detailed account of how these submissions have been, or are to be, dealt with to ensure that the provisions of the MSA and the MFMA are complied with. More importantly, how will over 500 submissions made by residents of Khayelitsha be dealt with in a way that shows they have been listened to and that their dignity has been respected, and will this pass the test of reasonableness in the courts.

We note then with concern that on 29 May the Mayor will present her final budget to Council for adoption. We request a written response before Council sits to vote.

Yours Sincerely,



Mr Axolile Notywala
Local Gov Programme SJC



Mr Jared Rossouw
Deputy Director NU