

IN THE SOUTH GAUTENG HIGH COURT, JOHANNESBURG
(REPUBLIC OF SOUTH AFRICA)

CASE NO: 11/08340

In the matter between:

THE GOVERNING BODY OF RIVONIA PRIMARY SCHOOL **First Applicant**

THE RIVONIA PRIMARY SCHOOL **Second Applicant**

and

GAUTENG PROVINCE MEC OF EDUCATION **First Respondent**

HEAD OF DEPARTMENT: GAUTENG DEPARTMENT OF EDUCATION: **Second Respondent**

DISTRICT DIRECTOR JOHANNESBURG EAST D9: GAUTENG DEPARTMENT OF EDUCATION **Third Respondent**

CELE: STHABILE **Fourth Respondent**

MACKENZIE: AUBREY **Fifth Respondent**

DRYSDALE: CAROL **Sixth Respondent**



NOTICE IN TERMS OF RULE 16A

BE PLEASED TO TAKE NOTICE that the First to Third Respondents have raised the following constitutional issue in their answering affidavits in the application filed under the above case number.

Whether on a proper interpretation in accordance with section 39(2) of the Constitution and with due regard to the fundamental rights to equality (s 9 of the Constitution) and Education (s 29 of the Constitution) of the statutory framework for admissions to public schools,

- the governing body of a public school is vested with the power to determine the enrolment capacity of that school as an incident of its power under s 5(5) of the South African Schools Act 84 of 1996 to determine the admissions policy of a school, or
- the governing body's power to determine admissions policy does not extend to the power to determine the enrolment capacity of a school, having regard to the duty of the provincial MECs for Education under s 3(3) of the South African Schools Act 84 of 1996 to ensure that the public education system can provide school places to all learners of compulsory school going age.

TAKE NOTICE FURTHER that any party interested in the aforementioned constitutional issue may, with the written consent of all the parties to the proceedings, given by no later than twenty (20) days after the posting of this notice, be admitted to these proceedings as *amicus curiae*, upon such terms and conditions as may be agreed upon in writing by the parties.

KINDLY place this notice on the notice board designated for this purpose and ensure that the notice remains on that notice board for a period of twenty (20) days, whereafter you shall endorse the notice to state on which day the notice was placed on the notice board and, on the expiry of the twenty (20) day period, place such endorsed notice in the Court file.

DATED at JOHANNESBURG on this the ²⁵ day of MARCH 2011



STATE ATTORNEY

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TO:

The Registrar
High Court
JOHANNESBURG