

HEADS OF THE HYDRA – PUTTING AN END TO LAND INVASIONS

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Sometimes, people don't care what the law says.

Increasingly, that seems to be the case when it comes to the rights of a landowner. Land invasions are on the rise in KwaZulu-Natal, with no indication that the problem will go away any time soon.

In a matter of hours a landowner's property can be overrun by invaders and can result in years of bitter and frustrating battles.

In light of this, there are a few fundamental principles that a landowner should be aware of to protect his property.

Firstly, rubble is not residential. There is a world of difference between an incomplete structure and somebody's house. The latter cannot be demolished without an eviction order, which generally take years to obtain, and require local government involvement.

On the other hand, if action is taken before structures are completed, it is often possible, in our experience, to obtain a demolition order without the need for lengthy eviction proceedings.

Secondly, you are not the law. Once invaders are on your property, it's time to call on the courts. Apart from the physical danger of trying to remove the invaders and their building materials yourself, you will shortly discover that it could be unlawful for you to do so. A court could even order you to let the invaders back onto your property (on pain of a conviction for contempt of court) should you take the law into your own hands.

The sooner your matter comes before a Judge, the sooner you get your land back.

Thirdly, documentation is a man's best friend. The Judge that hears your case is going to want details, details and more details. From the moment you become aware of the invasion, it is crucial to keep a detailed chronology of everything that happens.

Photographs are often essential in these matters. In our experience, a court will be more willing to grant an order if the Judge can see exactly what's happening on your property.

Drones and maps often work magic in setting the scene.

Finally, it is important to remember that urgency can be lost. Your matter is urgent, and you want to be heard urgently. Delays of even a few days can cause a Judge to question whether a matter is, in fact, urgent.

Your court date will be months down the road if you cannot convince the court that your matter is urgent.

The minute you become aware of invaders on your property, you need to brief a lawyer. In our experience, if the matter is referred quickly enough, court papers can be put together in a matter of days and you can be in court without delay.

If you don't take action to defend your property today, you could be end up doing nothing else for a long, long time.

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