

GENERAL INFORMATION ABOUT THE CASE	
Case URL	http://www.saflii.org/za/cases/ZAGPPHC/2020/485.html
Title (<i>English</i>):	Baleni & Others v Regional Manager: Eastern Cape Department of Mineral Resources & Others (Centre for Applied Legal Studies as amicus curiae)
Court name:	High Court of South Africa Gauteng Division, Pretoria
Type of court:	<input type="checkbox"/> Constitutional Court <input type="checkbox"/> Supreme Court of Appeal <input checked="" type="checkbox"/> High Court <input type="checkbox"/> Other
Issue:	Rights of interested and affected parties in mining application processes
Justice(s): (<i>e.g. Cameron J.; Moseneke DCJ.; ...</i>)	Makhubele J
Reference No. (No. of decision):	[2020] 4 All SA 374 (GP)
Filing No. (if available):	96628/2015
DESCRIPTION	
Facts:	<p>This case concerned an application by the Umgungdlovu community of the Eastern Cape for an order declaring that they were entitled to be provided with a copy of the application for a mining right made by the company Transworld Energy and Mineral Resources (TEM).</p> <p>The community based their application on sections 10 and 22(4) of the Mineral and Petroleum Resources Development Act, 2002 (MPRDA), which required the regional manager of the Department of Mineral Resources (DMR) to consult with interested and affected parties when accepting a mining right application.</p>



	<p>The community lived and worked on land where titanium was discovered. In 2015, TEM applied for a mining right. The community then wrote to the regional manager seeking clarity on whether such an application had been made. The regional manager confirmed that this application had both been made and been accepted. The community were then told to ask TEM for a copy of the mining right application, or to make a request in terms of the Promotion of Access to Information Act, 2000. Neither the DMR nor TEM provided the community with the requested copy until after legal proceedings were instituted; each entity redirecting the community to the other.</p>
<p>Dissent:</p>	<p>No dissent</p>
<p>Abstract:</p>	<p>This case concerned an application by the Umgungdlovu community of the Eastern Cape for an order declaring that they were entitled to be provided with a copy of the application for a mining right made by the company Transworld Energy and Mineral Resources (TEM).</p> <p>In 2015, an application for a mining right by TEM was made to the regional manager of the Department of Mineral Resources (DRM). Despite repeated requests from the community for a copy of this application, both TEM and the DRM failed to provide such a copy. As a result, the community instituted legal proceedings.</p> <p>Sections 10 and 22(4) of the Mineral and Petroleum Resources Development Act, 2002 (MPRDA), required DRM regional manager to consult with interested and affected parties when accepting a mining right application.</p> <p>The court found that these provisions were to be interpreted in light of both the spirit, purpose, and object of the Bill of Rights and the object of the MRPDA; and that when such an interpretation was applied, the community was indeed entitled to be provided with a copy of the mining right application on request. It made an order to this effect. Strengthening this conclusion was the fact that the</p>

	<p>community had a direct interest in the application (in terms of the MRPDA) as it would affect the land on which they lived, and thus they were entitled to be consulted.</p>
<p>DECISION/JUDGMENT</p>	
<p>Decision/Judgment: <i>Please, provide a brief summary of the relevant part of the ruling/judgment of the court on the section (max 200 words)</i></p>	<p>The court found that sections 10 and 22(4) of the MRPDA must be interpreted in a way that promoted the spirit, purpose, and object of the Bill of Rights (as per section 39 of the Constitution), and that was consistent with the objectives of the MRPDA.</p> <p>Of relevance was MRPDA section 2(i) which required holders of mining rights to contribute to the socio-economic development of the areas where they operate; and section 3(1) which enjoined the Minister to ensure there was a balance between sustainable development (which requires the need to preserve resources for present and future generations to be accounted for in decision-making processes) and economic and social development.</p> <p>Given this, the court found that the applicants – as interested and affected parties with a direct interest in the land, and with specific socioeconomic rights afforded to them by the MRPDA in terms of this direct interest - were entitled to receive a copy of the mining right application on request to the regional manager, without having to make use of PAIA’s slower procedures. Because their environment would be affected if mining were to go ahead, the applicants were entitled to be consulted on the granting of a mining right.</p>

REFERENCES	
<p>Reference(s) to Court Decision (title, reference number, date): <i>Please, provide a list of South African precedents mentioned in the case.</i></p>	<ul style="list-style-type: none"> - Director: Mineral Development, Gauteng Region, and another v Save the Vaal Environment and others 1999 (2) SA 709 (SCA) - Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others (2007 (6) SA 4 (CC)

