

Court ruling: All interested parties have access to mining rights application information

The High Court in Pretoria has handed down a declaration order, which allows all interested parties automatic access to information regarding mining rights applications.



Image source: Getty/Gallo

The order was made in the [Baleni and Others v Regional Manager Eastern Cape Department of Mineral Resources and Others](#) case, where community members wanted access to information regarding a titanium mining rights application on their land.

The court declared that interested and affected parties, as contemplated by the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA), are entitled, by sections 10 (1) and 22 (4) of the Act, to be furnished with a copy of an application for a mining right.

The court held that the access is subject to the right of the applicant and/or the department to redact financially sensitive aspects of the application.

Availability

In 2016, the department filed a notice to abide by the decision of the court, as it was in the process of considering amendments to its Access to Information Manual, published in terms of the Promotion of Access to information Act 2 of 2000 (PAIA), to include a list of automatically available information relating to mining rights.

The department said the manual dictates that the records - in respect of applications for rights pending or finalised in terms of the MPRDA - will be made available voluntarily via the regional managers, social labour plan, proof of consultation with interested and affected parties, prospecting and mining works programme, and the environmental management programme.

However, the department noted that the fifth respondent in the matter, Transworld Energy and Mineral Resource, which by then furnished the applicant with the requested information, opposed the court application on the basis that the MPRDA does not afford interested and affected parties any right to access to information, but that this was rather a function of PAIA.

“It further argued that the matter had become academic because the information was already provided,” the department said.

Mineral Resources and Energy Minister Gwede Mantashe says the declaration confirms the department’s view that the parties may approach the relevant regional manager directly to obtain copies without having to make an application in terms of PAIA.

“The department welcomes this ruling, which further strengthens and extends the scope and application of MPRDA to facilitate transparency and a more streamlined and expeditious consultation process,” he says.

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