

Urban and Local Government Law

LAWS 7229A (non-core); LAWS 7230A (core); LAWS 5134A (PG Dip)



Course Outline 2022

UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG



1. INTRODUCTION

Course co-ordinator and lecturer:

Professor Marius Pieterse
Office # 77, School of Law Building
Email: Marius.Pieterse@wits.ac.za

Venue and time:

Urban and Local Government Law is run by way of weekly seminars on Wednesday evenings (17h30-19h00) during the first semester. There will be no seminar on Wednesday 13 April (last day of first teaching quarter) and on Wednesday 27 April (public holiday).

2. COURSE OBJECTIVES AND OUTCOMES

This course explores different legal frameworks applicable to the pursuit of safe, inclusive, resilient and sustainable cities, with a particular emphasis on the powers, competencies, responsibilities and accountability of urban local government in South Africa. Over twelve seminars, the course will cover –

- The meaning and constituent components of urban law;
- The meaning and complexities of urban governance, pertaining to intergovernmental relations, transversal management and co-governance by non-state actors;
- The normative ends of urban law, as held forth by international instruments such as Goal 11 of the UN Sustainable Development Goals and the UN Urban Agenda, as well as the “urbanization of human rights law”;
- The notion of “urban autonomy” and the constitutional powers, functions, competencies and responsibilities of urban local governments in South Africa;
- The legislative framework for urban local governance in South Africa, with a focus on the functioning of political and participatory structures and processes, as well as the law pertaining to service delivery, monitoring, support and intervention;
- The legal and structural dimensions of service delivery failure in South African cities;
- The notion of spatial justice and an overview of planning law and integrated development planning;
- The legislative and policy framework for urban housing development and a case study of the confluence of housing rights, housing law, and intergovernmental relations in relation to overcoming spatial apartheid.
- An introduction to municipal finance law in the context of South African cities in financial distress;

At the end of this course, you should have an appreciation for the intersection of various legal and regulatory regimes in urban space, and to be able to understand and critically analyse complex legal problems involving the topics discussed. You should further understand the theoretical underpinnings of these topics and be able to critically evaluate the current state of South African local government law against relevant theories and within the broader social context of urban South African society. You will develop the ability to evaluate and synthesise information from a wide variety of sources and from across disciplines of urban geography, urban governance, urban planning and law.

3. TEACHING, LEARNING AND RESOURCES

This is a reading-intensive, post-graduate course in which students are expected to critically engage and discuss texts. Classes will be run as seminars in which student participation is encouraged and expected. Students will be required to prepare in advance of each seminar, by at least reading and reflecting on the prescribed texts for the topic.

The attendance requirement is 75%, meaning that you must attend at least 9 out of 12 seminars.

Since urban law is an emerging and multidisciplinary field, there is no standard text to be prescribed. Instead, comprehensive lists of prescribed and recommended reading are provided for each topic. Prescribed reading is compulsory. Recommended reading is suggested if there is time, as it will enhance your understanding of the issues. You should begin reading from the first day of the course so that you do not fall behind.

The following legislative instruments are pertinent to the course and will often feature centrally in discussions:

- Constitution of the Republic of South Africa, 1996
- Local Government: Municipal Structures Act 117 of 1998
- Local Government: Municipal Systems Act 32 of 2000
- Local Government: Municipal Finance Management Act 56 of 2003
- Housing Act 107 of 1997
- National Environmental Management Act 107 of 1998
- Spatial Planning and Land Use Management Act 16 of 2013

PDF copies of all prescribed (and some recommended) reading materials will be made available on the course's Ulwazi site (see below).

Prescribed court decisions can be accessed online at www.saflii.org.za

The Wits learning management system: ULWAZI (powered by CANVAS)

The online learning management system website can be accessed at <https://ulwazi.wits.ac.za> (best viewed on Google Chrome). You will use your Wits Microsoft login details (student email as username; password as determined by you) to log into Ulwazi.

Once you have registered for a course, you will be automatically added to the relevant course site on Ulwazi. You should have a course tab for each course that you are registered for – if you are missing the tab for any course, please contact the course coordinator as important information and content relating to the course will be delivered via Ulwazi.

In addition, all registered LLM and PGDip students should access the General Forum on Ulwazi regularly, as timetables, exam schedules, important forms and other important general information will be posted in this site. If you are missing the tab for the General Forum, please contact Anzolette.Saville@wits.ac.za urgently so that you can be added to the site.

Please check the Ulwazi site regularly.

In addition, all students have a Wits email account which is used for communication with you. Please ensure that you check your Wits email often and that you use your Wits email address when communicating with staff at Wits, in order to ensure that your email is not flagged as spam and deleted.

4. ASSESSMENT

The course will be assessed on the following basis:

	LLM (core)	LLM (non-core)/PGDip
Written assignment # 1 (essay)	15%	30%
Written assignment # 2 (problem-based opinion)	15%	30%
Take-home exam	20%	40%
Research Essay	50%	n/a
Total for course	100%	100%

Please note that you need not achieve any subminimum for the individual assessments, as long as your final mark is 50 per cent or more. However, LLM (core students) must achieve at least 50 per cent for the research essay to pass the course at core level. In addition, all students must attend at least 9 of the 12 seminars to qualify for writing the exam (see above).

Marks will be posted in the last week prior to the start of the examination session. It is your responsibility to check that your marks have been recorded correctly. Incorrect or missing marks are to be reported in writing (via e-mail to the course coordinator) within one (1) week of the marks being released.

Please note the following:

- A student may request discussion of his/her performance in any submitted work, tests or examinations (after the publication of marks and before the end of the second week of the next teaching block) with and in the presence of the lecturer(s) concerned.
- **All written work must be submitted via the online through Ulwazi. A Turnitin report will be generated by the Ulwazi submission.** Students must keep copies of all work submitted in either printed or electronic form until the end of the course. Students are expected to be able to produce a backup of any work previously submitted until final marks and results have been published. Late submissions of work will not be allowed on the basis of lost work. Backups are considered mandatory.
- Students must report all examination timetable clashes to the course coordinator as soon as possible.
- Students are responsible for ensuring that they record the correct times and dates for their examinations. Misreading of test and examination timetables is not grounds for a deferred assessment.

Written assignment #1 (essay):

All students must complete this assessment, which will take the form of a short research essay (2000-3000 words) on a topic related to urban autonomy and intergovernmental relations (material covered in seminars 5-6, plus independent research). **The assignment is due on Friday 29 April 2022.** The topic(s) and instructions will be made available no later than the first seminar of term (i.e. Wednesday 2 March 2022).

Written assignment #2 (problem-based opinion):

All students must complete this assessment, which will take the form of a short legal opinion on a factual problem related to local government powers, functions, monitoring and oversight (material covered in seminars 7-9, plus independent research). **The assignment is due on Friday 3 June 2022.** The topic and instructions will be made available no later than the first seminar after the mid-term break (i.e. Wednesday 20 April 2022).

Take-home exam

The exam will take the form of a 72-hour take-home exam in the **June exam period**. It will consist of one or more problem-based questions requiring application of laws and theories from across the course. More information will be made available in due course.

Research essay

Students who register for this course as a core course (LAWS 7230A) must submit a research essay of 5000 words **by no later than Monday 13 June 2022**. Students must choose a topic from a limited list to be made available by no later than the first seminar of term (i.e. Wednesday 2 March 2022). The essay should take the form of an article intended for publication and follow one of the prescribed house styles (see below). The essay is expected to show evidence of independent research, critical understanding and original thought. At the very least, the essay must constitute a competent synthesis and analysis of the relevant legal materials.

Important dates
<ul style="list-style-type: none">• Assignment 1 is due on Friday 29 April 2022• Assignment 2 is due on Friday 3 June 2022• Research essay (for “core” students) is due on Monday 13 June 2022• Take-home exam during June 2022 exam period

Assessment criteria

The assessment criteria for this course for core students will correspond with the descriptors set out in Level 8 and Level 9 of the National Qualifications Framework (NQF). These skills relate to scope of knowledge; knowledge literacy; method and procedure; problem solving; ethics and professional practice; assessing, processing and managing information; producing and communicating information; context and systems; management of learning; and accountability. The NQF level descriptors for Levels 8 and 9 are attached to this course outline as Schedule I for your information.

The assessment criteria for non – core students and for students doing a Post – Graduate Diploma will be Level 8 of the National Qualifications Framework (NQF). The assessment criteria for core LLM students will be Level 9 of the NQF.

Referencing sources

All assignments and essays that are submitted must follow the SALJ, SAJHR or OSCOLA house style. The style guides are posted on the General Forum on Ulwazi for your convenience.

Missed or late assessments

Assessments other than the final examination

Unless an extension has been granted, a late submission will attract a penalty of 5% per day (including weekends) up to a maximum of a week (7 days), after which submission will no longer be accepted.

An application for an extension must be made in submitted within 3 working days from the date on which the assessment was due. It must be addressed to Anzolette.Saville@wits.ac.za and be substantiated by a medical certificate or other supporting documentation showing why the extension is necessary. Please see the rules for applications for deferred assessments in this regard. If the application is denied, the daily penalty will apply.

The exceptional circumstances under which an application for deferred can be made do not include the following:

- Work pressure;
- Difficulty with the subject matter of the course;
- Complaints about lecturers;
- Lack of access to materials.

Final examination

Absence from an examination will result in an outcome of Failed Absent (FABS) on the statement of academic record of a student unless s/he has been granted a deferred examination.

A deferred examination may be granted under special circumstances to students who are unable to write the final examination. Applications for deferred exams must be made according to the rules for exam deferment to Anzolette.Saville@wits.ac.za within the prescribed time limit. Please see the School of Law Student Guidelines (available under Resources on the General Forum on Ulwazi) for details.

Rules for the awarding of supplementary assessments

Special supplementary examination rule:

Postgraduate students at the Wits School of Law are currently NOT awarded supplementary examinations.

Supplementary assessment rules for core essays:

A candidate who fails the research essay, but who passes the coursework component of a course:

- a) may pass the subject at non-core level, or;
- b) where the candidate fails a research essay with a mark of 45 percent or more, the candidate may be given one opportunity to revise the research essay to the satisfaction of the supervisor within a period of time determined by the Directorate in order to pass the subject at core level.
- c) A candidate whose research essay is revised to the satisfaction of the supervisor will receive a mark of 50% for the essay.

5. PLAGIARISM

Plagiarism means using the words, ideas or information produced by another person (source) in written work, without properly acknowledging that the words, ideas or information come from that source. This is a form of cheating or stealing, and is a serious disciplinary offence.

Whenever you use or rely on material that you obtained from a textbook, a journal article, a reported case or an essay on the internet, you ***must acknowledge your source in line with the prescribed referencing conventions***. In addition, if you are quoting from the source (even if you are changing the word sequence, or omitting certain parts), you have to put the quoted words in quotation marks. If you do not, you are committing plagiarism.

Please familiarize yourself with the different types of plagiarism that must be avoided. A useful summary of different types of plagiarism can be found at:
<https://www.turnitin.com/static/plagiarism-spectrum/>.

You will receive a mark of zero for any assessment that is found to contain plagiarism. In addition, serious cases of plagiarism may lead to disciplinary action being taken against you. The University views plagiarism extremely seriously, and a disciplinary conviction may result in you being suspended or expelled from the University.

The University's policy on plagiarism does not distinguish between deliberate and accidental plagiarism and regards both as unethical and punishable. Please use the following link for the plagiarism policy:
http://www.wits.ac.za/academic/science/stats/courses/5721/plagiarism_policy.html

All written work must be submitted via the online through Ulwazi. A Turnitin report will be generated by the Ulwazi submission.

6. DISCLAIMER

In the event of any inconsistency between information contained in this course outline and the rules, regulations, policies, procedures, practices and standing orders as approved by the University Senate or Council or both, the University's Rules shall prevail.

7. SEMINAR TOPICS, SCHEDULE & READING LISTS

(dates and order of seminars are subject to change by way of prior announcement)

Seminar 1: Introduction: What is urban and what is urban law?

Wednesday 2 March

This introductory seminar will consider the multi-disciplinary nature of urban law and its various constituent elements, against a background of global urbanisation trends and the fluidity of the concept “urban”. We will pay specific attention to the place of local government law within conceptions of urban law.

Readings

Prescribed

- Matthew Glasser & Stephen Berrisford “Urban law: A key to accountable urban government and effective urban service delivery” (2015) 6 *World Bank Legal Review* 211-232.
- Antonia Layard “Researching urban law” (2020) 21 *German Law Journal* 1446-1463.

Recommended

- Nestor M Davidson “What is urban law today: An introductory essay in honor of the fortieth anniversary of the Fordham Urban Law Journal” (2013) 40 *Fordham Urban Law Journal* 1589-1594.
- UN Habitat *Rules of the Game: Urban Legislation* (2016) available at <https://unhabitat.org/rules-of-the-game-0>

Seminar 2: Complexities of urban governance

Wednesday 9 March

This seminar will explore the shift from urban “government” to “governance” and consider the multiple actors and legal instruments implicated in contemporary urban governance, with specific focus on the “coordinating”/“steering”/“herding” role of local government.

Readings

Prescribed

- Illeana M Porras “The city and international law: In pursuit of sustainable development” (2009) 36 *Fordham Urban Law Journal* 537-602, especially at 538-549; 552-567; 582-585.
- Marius Pieterse & Danga Mughogho section entitled “Unpacking good urban governance” in “Governing South African cities”, chapter in South African Cities Network *State of South African Cities Report* (forthcoming 2022) (if unpublished, draft to be distributed with permission of SACN).

Recommended

- Caroline Andrew & Michael Goldsmith “From local government to local governance - and beyond?” (1998) 19(2) *International Political Science Review* 101-117.
- Simon Curtis “Cities and global governance: State failure or a new global order?” (2016) 44(3) *Millennium: Journal of International Studies* 455-477.
- Orly Lobel “The renew deal: The fall of regulation and the rise of governance in contemporary legal thought” (2004) 89 *Minnesota Law Review* 342-470.
- Jon Pierre “Models of urban governance: The institutional dimension of urban politics” (1999) 34(3) *Urban Affairs Review* 372-396.

Seminar 3: Normative ends of urban governance: SDG 11, the New Urban Agenda and the South African Integrated Urban Development Framework

Wednesday 16 March

This seminar will consider the content of leading global normative instruments pertaining to urban governance - Goal 11 of the United Nations' Sustainable Development Goals and the United Nations' *New Urban Agenda* – as well as their internalisation in South African law and policy (notably, through the Integrated Urban Development Framework).

Readings

Prescribed

- United Nations *Transforming Our World: The 2030 Agenda for Sustainable Development* (2015) Goal 11 (p. 26) downloadable from <https://sustainabledevelopment.un.org/post2015/transformingourworld/publication>
- United Nations *New Urban Agenda* (2017) pp. 1-9; downloadable from <https://unhabitat.org/sites/default/files/2019/05/nua-english.pdf>
- RSA Dept. COGTA *Integrated Urban Development Framework* (2016) executive summary pp. 7-11, downloadable from https://iudf.co.za/pdf_downloads/2016-integrated-urban-development-framework/
- Anél Du Plessis “The readiness of South African law and policy for the pursuit of Sustainable Development Goal 11” (2017) 21 *Law, Democracy & Development* 239-262.
- David Satterthwaite “Successful, safe and sustainable cities: Towards a New Urban Agenda” (2016) 19 *Commonwealth Journal of Local Governance* 3-18.

Recommended

- Helmut Philipp Aust & Anél Du Plessis “Introduction: The globalisation of urban governance – Legal perspectives on Sustainable Development Goal 11” in Helmut Philipp Aust & Anél Du Plessis (eds) *The Globalisation of Urban Governance – Legal Perspectives on Sustainable Development Goal 11* (Routledge, 2019) 3-16.
- Sandra C Valencia, David Simon, Sylvia Croese, Joakim Nordqvist, Michael Oloko, Tarun Sharma, Nick Taylor Buck & Ileana Versace “Adapting the Sustainable Development Goals and the New Urban Agenda to the city level: Initial reflections from a comparative research project” (2019) 11(1) *International Journal of Urban Sustainable Development* 4-23.
- Angela van der Berg “South Africa’s Integrated Urban Development Framework and Sustainable Development Goal 11: Policy Mismatch or Success?” (2017) 38(3) *Obiter* 557-573.

Seminar 4: Normative ends of urban governance: Rights and the city

Wednesday 23 March

This seminar will take a critical look at the way in which human rights are invoked at urban level against local government (“rights in the city”) and by local government (“human rights cities”), as well as peculiar urban invocations of rights (such as the “right to the city”).

Readings

Prescribed

- Thomas Coggin & Marius Pieterse “Rights and the city: An exploration of the interaction between socio-economic rights and the city” (2012) 23 *Urban Forum* 257-278.

- Eva Garcia Chueca “‘Human rights in the city and the right to the city: Two different paradigms confronting urbanisation’ in Barbara Oomen, Martha F Davis & Michele Grigolo (eds) *Global Urban Justice: The Rise of Human Rights Cities* (Cambridge University Press, 2016) 103-120.
- Barbara Oomen & Esther van den Berg “Human rights cities: Urban actors as pragmatic idealistic human rights users” (2014) 8(2) *Human Rights & International Legal Discourse* 160-185.

Recommended

- Edesio Fernandes “Constructing the right to the city in Brazil” (2007) 16 *Social & Legal Studies* 201-219.
- Michele Grigolo “Local government and human rights: Some critical reflections” (2017) 49 *Columbia Human Rights Law Review* 67-98.
- Barbara Oomen “Introduction: The promise and challenges of human rights cities” in Barbara Oomen, Martha F Davis & Michele Grigolo (eds) *Global Urban Justice: The Rise of Human Rights Cities* (Cambridge University Press, 2016) 1-19.
- Ajey Sangai “From housing to city: On the possibilities of the right to the city in South Africa and India” (2019) 9 *Constitutional Court Review* 161-193.

Seminar 5: Urban autonomy and the constitutional powers and responsibilities of local government in South Africa

Wednesday 30 March

In this seminar we will discuss the concept of “urban autonomy” and consider the extent of South African municipalities’ executive, legislative, functional and financial autonomy in terms of the 1996 Constitution.

Readings

Prescribed

- Constitution of the RSA, 1996, section 139; chapter 7; Schedule 4B; Schedule 5B.
- Annette Christmas & Jaap De Visser “Bridging the gap between theory and practice: Reviewing the functions and powers of local government in South Africa” (2009) 2 *Commonwealth Journal of Local Governance* 107-119.
- Marius Pieterse “Urban autonomy in South African intergovernmental relations jurisprudence” (2019) 13(2) *Vienna Journal of International Constitutional Law* 119-146 [at 119-132.](#)

Recommended

- Harriet Bulkeley, Andres Luque-Ayala, Colin McFarlane & Gordon MacLeod “Enhancing urban autonomy: Towards a new political project for cities” (2018) 55(4) *Urban Studies* 702-719.
- Anél Du Plessis “Local environmental governance and the role of local government in realising section 24 of the South African Constitution” (2010) 21(2) *Stellenbosch Law Review* 265-297.
- Philani Moyo & Cornelias Ncube “Devolution of power in Zimbabwe’s new constitutional order: Opportunities and potential constraints” (2014) 18 *Law, Democracy & Development* 289-304 at 290-299.
- Nico Steytler & Jaap De Visser “Local government” in Stuart Woolman, Michael Bishop & Jason Brickhill (eds) *Constitutional Law of South Africa* (2ed OS 06-2008) chapter 22.

Seminar 6: Vertically divided autonomy, intergovernmental struggles and intergovernmental relations caselaw

Wednesday 6 April

Given increased intergovernmental tensions, especially in contexts of “vertically divided authority”, this seminar will zoom in on legal assertions of urban autonomy, and legal resistance against subversive national strategies, in South African intergovernmental disputes.

Readings

Prescribed

- Constitution of the RSA, 1996, section 139; chapter 3.
- Marius Pieterse “Urban autonomy in South African intergovernmental relations jurisprudence” (2019) 13(2) *Vienna Journal of International Constitutional Law* 119-146 at 133-146.
- Danielle Resnick “Urban governance and service delivery in African cities: The role of politics and policies” (2014) 32(S1) *Development Policy Review* 3-17.
- *Johannesburg Metropolitan Council v Gauteng Development Tribunal* 2010 (6) SA 182 (CC).
- *Maccsand v City of Cape Town* 2012 (7) BCLR 690 (CC).
- *Merafong City v AngloGold Ashanti* 2017 (2) SA 211 (CC).
- *Premier of Gauteng v Democratic Alliance* 2022 (1) SA 16 (CC).

Recommended

- Philani Moyo & Cornelias Ncube “Devolution of power in Zimbabwe’s new constitutional order: Opportunities and potential constraints” (2014) 18 *Law, Democracy & Development* 289-304 at 299-302.
- Marius Pieterse “A year of living dangerously? Urban assertiveness, cooperative governance and the first year of three coalition-led metropolitan municipalities in South Africa” (2019) 46(1) *Politikon* 51-70.
- *Le Sueur v eThekweni Municipality* [2013] ZAKZPHC 6.
- *Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v Habitat Council* 2014 (4) SA 437 (CC).
- *City of Johannesburg Metropolitan Municipality v Chairman of the National Building Regulations Review Board* 2018 (5) SA 1 (CC).

Seminar 7: Local government law: Size, shape and political structures of local governance in South Africa

Wednesday 20 April

This seminar examines the spatial and structural configuration of South African municipal governments, with a specific emphasis on how party politics, capacity shortages and economic stresses interact with municipal shape and governance structures.

Readings

Prescribed

- Constitution of the RSA, 1996, sections 155(1)-(2).
- Local Government Municipal Structures Act 117 of 1998 sections 2-4, 7-10, 18, 42-44, 54-56, 79-80, 84-85.
- Nidhi Subramanyam & Lochner Marais “Making Mangaung Metro: The politics of metropolitan reform in a South African secondary city” (2022) *Urban Studies* (online first).

- Thembani Mkhize “Rescaling municipal governance in Gauteng: Competing rationalities in Sedibeng’s proposed demarcation and metropolitanisation” (2021) 32(2) *Urban Forum* 205-223.
- Jaap De Visser “The political-administrative interface in South African municipalities: Assessing the quality of local democracies” (2010) *Commonwealth Journal of Local Governance* 86-101.
- Marius Pieterse “Anatomy of a crisis: Structural factors contributing to the collapse of urban municipal governance in Emfuleni, South Africa” (2021) 32(1) *Urban Forum* 1-15.
- *Democratic Alliance v Masondo* 2003 (2) SA 413 (CC).

Recommended

- Robert Cameron “Vertical decentralization and urban service delivery in South Africa: Does politics matter?” (2014) 32(S1) *Development Policy Review* 81-100.
- Marius Pieterse “Out of the shadows: Towards a line between party and state in South African local government” (2020) 32(2-3) *South African Journal on Human Rights* 131-153.
- C Thornhill “The executive mayor / municipal manager interface” (2008) 43(4.1) *Journal of Public Administration* 725-735.

Seminar 8: Local government law: Participation and integrated development planning

Wednesday 4 May

The ideal of participatory local government is difficult to implement. In this seminar we will consider the functioning of participatory governance structures and processes in South African municipalities, with an emphasis on integrated development planning.

Readings

Prescribed

- Local Government: Municipal Structures Act 117 of 1998 sections 72-78.
- Local Government: Municipal Systems Act 32 of 2000 sections 2, 5, 16-21, 23-26.
- Kelvin Barichievy, Laurence Piper & Ben Parker “Assessing ‘participatory governance’ in local government: A case-study of two South African cities” (2005) 24(3) *Politeia* 370-393.
- Kevin Foster “South Africa’s tools for urban public participation” in Danga Mughogho (ed) *South African Cities Network Urban Governance Paper Series Volume 1* (SACN, 2019) 37-47.
- RSA Dept. COGTA *Integrated Urban Development Framework* (2016) Policy Lever 7 “Empowered and Active Communities” pp. 91-97, downloadable from https://iudf.co.za/pdf_downloads/2016-integrated-urban-development-framework/
- *Borbett South Africa v Nelson Mandela Bay Municipality* 2014 (5) SA 256 (ECP).

Recommended

- Claire Benit-Gbaffou “Party politics, civil society and local democracy – Reflections from Johannesburg” (2012) 43 *Geoforum* 178-189.
- Nazreen Kola & Luke Jordan “Making participation meaningful” in Danga Mughogho (ed) *South African Cities Network Urban Governance Paper Series Volume 1* (SACN, 2019) 26-36.
- KJ Maphunye & MJ Mafunyisa “Public participation and the integrated development planning processes in South Africa” (2008) 43(3.2) *Journal of Public Administration* 461-472.

- Laurence Piper & Roger Deacon “Too dependent to participate: Ward committees and local democratisation in South Africa” (2009) 35(4) *Local Government Studies* 415-433.
- Francois Retief & Dirk Cilliers “Municipal integrated development planning” in Anél Du Plessis (ed) *Environmental Law and Local Government in South Africa* (Juta, 2021) chapter 4.
- Angela van der Berg “The pursuit of SDG11 through the lens of integrated development planning” in Helmut Philipp Aust & Anél Du Plessis (eds) *The Globalisation of Urban Governance – Legal Perspectives on Sustainable Development Goal 11* (Routledge, 2019) 208-226.

Seminar 9: Local government law: Service delivery, interventions and municipal collapse
 Wednesday 11 May

This seminar will consider institutional, judicial and community responses to collapsing municipal service delivery in South Africa’s secondary cities and towns, with a particular focus on national and provincial interventions.

Readings

Prescribed

- Local Government: Municipal Systems Act 32 of 2000 sections 73-80.
- Local Government: Municipal Finance Management Act 56 of 2003 sections 135-150.
- Marius Pieterse “Anatomy of a crisis: Structural factors contributing to the collapse of urban municipal governance in Emfuleni, South Africa” (2021) 32(1) *Urban Forum* 1-15.
- Lisa Chamberlain, Kelebogile Khnou, Thato Massiangoako & Alana Potter *Makana Local Municipality – Provincial Intervention in a Municipal Crisis* (SERI, 2020).
- *Cape Gate v Eskom Holdings*, 2019 (4) SA 14 (GJ).
- *Eskom Holdings v Resilient Properties* [2021] 1 All SA 668 (SCA).
- *Kgetlengrivier Concerned Residents v Kgetlengrivier Local Municipality* [2020] ZANWHC 95.

Recommended

- Tracy Ledger & Mahlatse Rampedi *Mind the Gap: Section 139 Interventions in Theory and in Practice* (PARI, 2019) downloadable from <https://pari.org.za/mind-the-gap-section-139-interventions-in-theory-and-practice/>
- *Unemployed Peoples Movement v Premier of the Eastern Cape* [2020] ZAECGHC 1.
- *Cape Gate v Emfuleni Local Municipality*, [2019] ZAGPJHC 39.

Seminar 10: Planning law and spatial justice

Wednesday 18 May

This seminar will provide an introduction to South African planning law, before engaging with its limits and potential in the context of persisting “spatial apartheid” in South African cities.

Readings

Prescribed

- Spatial Planning and Land Use Management Act 16 of 2013.
- Ralph Madlalate “(In)equality at the intersection of race and space in Johannesburg” (2017) 33(3) *South African Journal on Human Rights* 472-495.

- Jaap De Visser & Xavia Poswa “Municipal law making under SPLUMA: A survey of fifteen ‘first generation’ municipal planning by-laws” (2019) 22 *Potchefstroom Electronic Law Journal* 1-28.
- Jeannie van Wyk “Can SPLUMA play a role in transforming spatial injustice to spatial justice in housing in South Africa?” (2015) 30(1) *SA Public Law* 26-41.
- Jeannie van Wyk & Mark Oranje “The post-1994 South African spatial planning system and Bill of Rights: A meaningful and mutually beneficial fit?” (2014) 13(4) *Planning Theory* 349-369.

Recommended

- Mandisa Shandu & Michael Clark “Rethinking property: Towards a value-based approach to property relations in South Africa” (2021) 11 *Constitutional Court Review* 39-77.
- Jeannie van Wyk *Planning Law* (Juta, 2ed 2012) 1-15.
- Jeannie van Wyk “Can legislative intervention achieve spatial justice?” (2015) 48 *Comparative and International Law Journal of South Africa* 381-400.
- *Johannesburg Metropolitan Council v Gauteng Development Tribunal* 2010 (6) SA 182 (CC).

Seminar 11: Housing law and inclusive cities

Wednesday 25 May

Given the centrality of housing to development, urban form and function, and the right to the city, this seminar will evaluate South African housing law, policy and litigation since 1994, emphasizing the role of urban local government and the challenges of urban inclusiveness.

Readings

Prescribed

- Housing Act 107 of 1997.
- Sarah Charlton “Housing for the nation, the city and the household: Competing rationalities as a constraint to reform?” (2009) 26(2) *Development Southern Africa* 301-315.
- Marius Pieterse “Shifting paradigms from between the lines? Legal internalizations of the right to adequate housing in South Africa” in Nestor M Davidson & Geeta Tewari (eds.) *Law and the New Urban Agenda* (Routledge, 2020) 131-144.
- Ivan Turok & Andreas Sheba “‘Right to the city’ and the New Urban Agenda: Learning from the right to housing” (2019) 7(4) *Territory, Politics, Governance* 494-510.
- *Adonisi v Minister for Transport and Public Works: Western Cape* [2021] 4 All SA 69 (WCC).

Recommended

- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998.
- Rental Housing Act 50 of 1999.
- Social Housing Act 16 of 2008.
- Republic of South Africa Department of Human Settlements *Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements* (2004).
- Sarah Charlton & Caroline Kihato “Reaching the poor? An analysis of the influences on the evolution of South Africa’s housing programme” in Udesch Pillay, Richard Tomlinson & Jacques Du Toit *Democracy and Delivery: Urban Policy in South Africa* (HSRC Press, 2006) 252-282.
- Stuart Wilson, Jackie Dugard & Michael Clark “Conflict management in an era of urbanization: 20 years of housing rights in the South African Constitutional Court” (2015) 31(3) *South African Journal on Human Rights* 472-503.

Seminar 12: Municipal finance law and cities in distress

Wednesday 1 June

In this seminar, which serves as an introduction to municipal finance law, we will consider whether South African cities are being adequately and sustainably funded, against a background of fiscal austerity, poor financial management and municipal collapse.

Readings

Prescribed

- Constitution of the RSA, 1996, chapter 13.
- Local Government: Municipal Finance Management Act 56 of 2003 sections 135-150.
- *South African Cities Network State of City Finances 2020* (SACN, 2020) 6-38.
- Matthew D Glasser & Johandri Wright “South African municipalities in financial distress: What can be done?” (2020) 24 *Law, Democracy & Development* 413-441.

Recommended

- Matthew D Glasser “Financing the New Urban Agenda” in Nestor M Davidson & Geeta Tewari (eds.) *Law and the New Urban Agenda* (Routledge, 2020) 15-33.
- *South African Cities Network State of City Finances 2020* (SACN, 2020) 57-69.