

Housing and Evictions at the N2 Gateway Project in Delft

A Report for Abahlali baseMjondolo

Kerry Chance

May 8, 2008

Timeline:

- 19 December 2007: Backyarders in Delft occupy unfinished N2 Gateway houses.

- 24 December 2007: Cape High Court orders halt to evictions of Delft backyarders occupying N2 Gateway houses.

- 3 January 2008: Cape High Court throws out eviction order, under which evictions in Delft were carried out.
Provincial government and Thubelisha Homes apply for a new eviction order.

- 5 February 2008: Cape High Court grants order to provincial government and Thubelisha homes to evict backyarders in Delft, to take effect on 17 February.

- 19 February: After appeal is rejected, Delft backyarders are evicted from N2 Gateway houses.

- From Martin Legassick, "Western Cape Housing Crisis: Writings on Joe Slovo and Delft," February 2008.

CAPE TOWN – At dawn on February 19 2007, police and private security moved into Delft, a sandy barren area on the Cape Flats slated for a pilot housing project called the N2 Gateway. With trucks and a dog unit, the eviction team went door-to-door to remove some 1,600 residents from the homes that they had occupied two months earlier at the alleged authorization of their local councilor. The scene of the February 19 eviction, broadcast on the nightly news, was violent: police fired rubber bullets into the gathering crowds on the street, chasing and shooting at residents as they ran for cover. At least twenty people were wounded and rushed to hospital, including a three-year-old child, who was hit by bullets in the foot, leg and shoulder. The evicted residents were then left on the pavement, their belongings – furniture, bedding, clothes – packed onto trucks by the eviction team and taken to the local police precinct.

The N2 Gateway Project has been described by Housing Minister Lindiwe Sisulu as "the biggest housing project ever undertaken by any Government."¹ It is a joint endeavor by the national Department of Housing, the provincial government and the city of Cape Town. A private company, Thubelisha, has been outsourced to manage and implement the project. Thubelisha estimates that some 25 000 units will be constructed, about 70% of which will be allocated to shack-dwellers, and 30% to backyard dwellers on the municipal housing waiting lists.² Delft, 40km outside of Cape Town, is one of the primary sites of the Project.

¹ Quoted from "Media Briefing Remarks by Housing Minister, Lindiwe Sisulu on the Occasion of the 2006/2007 Budget Vote Statement, May 24, 2006, Imbizo Media Briefing Room, Parliament, Cape Town," See http://www.housing.gov.za/content/Media%20Desk/Speeches/2006/24%20May%202006_2.htm. Accessed May 8, 2008.

² See <http://www.thubelisha.co.za> . Accessed May 8, 2008.

This report compiles recent information on housing and evictions at the N2 Gateway site in Delft, shortly before and since February 19. Among those evicted on February 19 was Monique, a longtime resident of Delft, who, like many others, had been renting in backyards before occupying the N2 Gateway houses. She has lived in much of the housing at issue at the site in Delft, at the same time, working for a building contractor on the N2 Gateway Project. Her story, in brief, is told here.

Pavement Dwelling:

Since February 19, those Delft residents without the option of returning to their backyard dwellings or joining family elsewhere – including Monique and her two-year-old daughter – have remained on the pavement of the N2 Gateway site.

The City of Cape Town, together with the Democratic Alliance (DA) provided about 500 of these evicted families with large communal tents – some of a military make, others brightly striped or white with frilly awnings, suited for a circus or a wedding. Still others were given “black sails,” plastic sheeting that was used to build tiny, makeshift shacks behind the tents, unseen from the street. The tent village, referred to as “Section 1,” is encircled with razor wire, with police stationed near the entrance. Several residents there described it as a “refugee camp.” Daily hot food deliveries have been supplied by the City, as well as outdoor water taps and portable toilets. “Section 1” was scheduled for relocation by mid-March, but it has since been delayed until an unspecified date.

The other 500 evictees, aligned with the Western Cape Anti-Eviction Campaign (AEC), refused to negotiate with political parties, the DA or the ANC, and secured their autonomy by building their own shacks along a road called Symphony Way, squatting on the pavement directly across from the now empty houses from which they had been violently expelled. Reasons given for living on Symphony Way instead of “Section 1” vary, many note their distrust of the DA negotiating on their behalf and of the City compelling them to sign forms to acquire space in the tent village, but nearly all characterize living on Symphony Way as a decision to represent and speak for themselves in their appeal for houses.

Here on Symphony Way, Monique and her daughter live in a two room shack, which she constructed herself from collected scrap materials: cloth advertisements, a plastic sail, branches and wood beams. Inside is a kitchen and sitting area, fitted with Styrofoam countertops, appliances, pots and pans, a handcrafted wooden table and bakki seat couch. The walls of the adjoining room are covered with mauve and green ruffled curtains, with matching mattress pads and pillows on the floor.

At the centre of Symphony Way, not far from where Monique lives, stands a self-made community office and kitchen, where food has been provided by Islamic Relief Worldwide. In the early weeks following the eviction, police blockaded Symphony Way, preventing Islamic Relief from making food deliveries and journalists from covering the pavement dwellers’ story. Currently, Symphony Way residents hold mass meetings nearly every evening to talk about their newly formed community and their grievances. They have created a night-watch that patrols the settlement, protecting residents from crime as well as from the potential hazards of unattended fires or candles. A crèche has been launched, run by community volunteers, and a children’s day camp has been operating during the school holidays.

With the support of the Anti-Eviction Campaign, residents are appealing their eviction from the occupied houses in court, and are negotiating with the Provincial Department of Housing. Talks with provincial government officials were renewed after approximately 500 pavement-dwellers arrived en masse to the Housing Office in the city centre in April 2008 to apply for housing subsidies on the N2 Gateway Project.

Backyards:

The backyard rentals in Delft, where Monique lived before coming to Symphony Way, consist of ordinary shacks, made from scraps of tin, wood and plastic sheeting, or “Wendy houses,” which are comparatively more solid, wooden sheds. The backyard that Monique occupied was part of a government subsidized house, owned by a couple who collected rent to make ends meet. For more than a year, Monique paid 400R per month, not including electricity while staying there. Other Delft backyarders reported paying upwards of 2000R per month for similar structures. The electricity in Monique’s Wendy house, when it worked at all, was often switched off by the couple in the main house, which meant that she often had to use fires and candlelight. “It was not nice to live in other people’s houses like that, at their mercy,” she said.

After conflicts with her landlords, she moved with her daughter to a house in The Hague, one of many sections in Delft with Dutch appellations. It was a city council house, given free to the owners, who lived in another area in the Cape Flats and rented it to Monique for 1000R per month. After the city council learned of this and similar unlawful rentals, the owners – under threat of legal action from the council – arrived at the house at 3am to evict Monique and her daughter, carrying their belongings on to the street. She appealed to the Delft police, explaining that she had lived in the house for a year and a half, had no notice of the eviction and no place to go. The police told her that she could not press charges, given that she was not the rightful owner of the house.

“Temporary Accommodation”:

Following the eviction from the house, Monique and her daughter lived on the street in a bakki for three weeks, while she continued to work at a cleaning company to save enough for another rental. When her employers learned of her situation, they helped her apply for “temporary accommodation” called TRAs in Delft. The TRAs were constructed for families waiting upon the completion of their N2 Gateway houses by the provincial government and its partner company Thubelisha.

As residents there suggest, the TRAs are, in essence, government shacks: 36 square-meter “empty boxes,” with no room-dividers, no sinks, just a tin roof, a paved cement floor and four plaster walls. Though the TRAs were built as “temporary” structures, many residents have lived there for three years with no indication from Thubelisha or provincial government about when or where they will be moved.

Most residents of the TRAs were relocated from the Joe Slovo shack settlement in Langa after over 10 000 people were made homeless by a devastating shack fire in 2005.³ Because Langa is comparatively close to the centre city, shops and a train station, the move to Delft has made transport costs unaffordable to some, who have lost their jobs as a result. Children from Joe Slovo, now living in the TRAs in Delft, must nonetheless be

³ See “N2 Gateway and Joe Slovo Informal Settlement: the New Crossroads?” by Martin Legassick, Cape Argus. <http://www.abahlali.org/node/2437> . Accessed May 8, 2008.

bussed back to Langa for school. Residents from Joe Slovo, who have lived in “temporary accommodation” for almost a year, have attempted to enroll their children in schools in Delft, but have been told that the schools are full.

Before the move, victims of the Joe Slovo fire were assured by government officials that the TRAs would have electricity; they were recently informed that no such service would ever be provided. Candlelight, fires or gas stoves are used for light and cooking, all of which are significant fire hazards and moreover must be purchased at the residents’ expense. Water taps, showers as well as portable toilets – apparently often blocked or broken – are provided outside for common use.

Monique and other women living in the “temporary accommodation” reported that they felt unsafe using the outside toilets, and none would do so at after dark. Another security concern shared by Monique and others is that the walls of the TRAs are thin and unsound; they could be punched through with a fist. The walls moreover have cracks, which allow the wind to blow through and residents report that many children develop serious bronchial conditions as a result, which will only worsen in winter. The walls also were reportedly constructed with asbestos, now a matter of investigation.⁴

During this time, living in a TRA, Monique continued to work for the cleaning company, though her transport costs from Delft were draining her income, an estimated 100R per week for taxis. She left the cleaning company after her daughter developed a severe cough and a skin condition, which required care as much as the payment of doctor fees. By December 2007, she began temporary work for a subcontractor on the N2 Gateway site, managed by Thubelisha Homes. She fitted plumbing for the new houses, and assisted with their construction, laying the foundation and building the walls. She said that she still has not been paid for this work.

From Occupied Houses to the Courts:

On December 19, 2007, backyarders in Delft began to occupy the unfinished N2 Gateway houses, moving in their belongings and marking their names on the outside walls with spray-paint. Monique also moved into the unoccupied houses, fearful of her daughter’s illness and reports of asbestos in the TRAs. The occupation occurred shortly after local councilor Frank Martin (DA) issued letters to an estimated 300 families in Delft, which granted them permission to move into the houses, and stated that he would accept full responsibility for the consequences. Martin allegedly gave authorization to other backyarders for the move during community meetings. He was arrested on charges of “incitement,” and will stand trial in the coming months.

The Provincial government and Thubelisha soon sought the eviction of the 1,600 residents. Monique was one of the respondents in the case, which was brought to the Cape High Court on 24 December 2007. Initially, the court halted evictions, and on 3 January threw out the application brought by the Provincial government and Thubelisha. When the N2 Gateway partners reapplied, court hearings resumed on 5 February, at which point Judge Deon Van Zyl granted an eviction order. As the Judge stood to leave

⁴ See “A Lethal Find” by Pearlie Joubert, Mail and Guardian Online, 1 December 2007. http://www.mg.co.za/articlePage.aspx?articleid=326470&area=/insight/insight_national/. Accessed May 8, 2008.

the packed courtroom, Delft residents shouted, “Ons gaan nerens!” (We are not moving!).⁵

The Western Cape Anti-Eviction Campaign later issued a press release that condemned the decision and called attention to the fact that the majority of residents would be entirely without shelter once the eviction was carried out. Stated the AEC:

“The judge and the ANC government and Thubelisha Homes are treating the residents of Delft as if they have alternative accommodation. Yet not one of them has any place to go. All of those who moved into the new houses were either homeless or backyard dwellers. Many had been on the waiting list for 20 years. Many of those who considered themselves “backyarders” in fact were living in appalling conditions in the back yards of homeowners, such as those families who attached a piece of tarpaulin to the backs of bakkies and slept every night for years in this so-called “tent.”⁶

Delft residents attempted to lodge an appeal, but the judge denied their application. The Department of Housing scolded the residents in a press release, suggesting that their late application for an appeal was in “bad faith” and “should be reported to the Law Society.”⁷ Far from wanting to protract legal proceedings or toy with the legal system, residents expressed their continued faith in the courts, and added that any sort of legal action – from court appearances to lawyer meetings to gathering affidavits – requires organizing, a considerable investment of time and often financial contributions on the part of community members, many of whom are unemployed and all of whom have little money to spare. Housing cases are draining on already stretched community resources, regardless of whether or not free legal services are available, which can itself be a challenge to access. Moreover, every postponement, loss or appeal takes an emotional toll, especially when the outcome of the case can mean the difference between keeping a roof over your head and living in the open air.

Eviction from the Occupied Houses:

On February 19, Monique and her daughter, along with 1,600 other Delft residents, were evicted from the occupied houses and left on the pavement at the N2 Gateway site. During the eviction, police shot rubber bullets at residents without warning, and continued firing as they ran for cover. Some were shot at close range. Some were shot in the head and face. A child was shot three times. Women and elderly people were trampled. One woman reported that, after being shot in the side with a rubber bullet and falling to the ground amid the fleeing crowd, a police officer kicked her with his steel-toed boot and swore at her. Twenty people were injured seriously enough to be rushed to hospital. *The Star* reported that two men “visibly injured and one barely able to breathe” were locked in the back of a police van while residents pleaded with police to allow the men medical attention.⁸ Police had an altercation with a reporter from *The Cape Argus* when she asked about their injuries and why the men had been arrested.⁹

⁵ “We’re Not Budging,” IOL online, 7 February 2008.

http://www.iol.co.za/index.php?set_id=1&click_id=15&art_id=vn20080207115012433C374131. Accessed May 8, 2008.

⁶ Western Cape Anti-Eviction Campaign Press Release, “Residents Lose Their High Court Appeal,” 18 February 2008.

⁷ Quoted from “N2 Gateway Must Be Protected from Anarchy,” Department of Housing, February 19 2008, <http://www.info.gov.za/speeches/2008/08022009451002.htm>, Accessed May 8, 2008.

⁸ “Delft Refuse, Resist Eviction,” by Asa Sokopo, Murray Williams and Andisiwe Makinana, 19 February 2008, *The Star*.

⁹ *Ibid.*

In the process of moving residents' belongings, the police took everything they had in the houses, even baby nappies and food. When residents went to the police station, there was no organized procedure to reclaim what had been taken and most of their possessions were no longer there.

On the day of the eviction, the Department of Housing issued an official press release entitled "N2 Gateway must be protected from anarchy."¹⁰ With no mention of injuries or police violence, the Provincial Housing Department offered the following version of the eviction:

"This morning at dawn, the Sheriff of the Court moved into Delft, supported by police. It is the sheriff's job to ensure that the order is complied with, and the role of the police to ensure the sheriff can do his or her job.

The rule of law must prevail. The houses must be returned to the building contractors for repair and completion, and allocated according to the equitable allocation policy agreed to by the three spheres of government at the commencement of the N2 Gateway Pilot Project.

The South African government has built and given away free more than 2,4 million houses since 1994. This is more houses than any other country in the world has managed in this time.

The N2 Gateway is a national pilot project aiming to pioneer a new and improved housing policy that will see the delivery of more and better-quality houses for poorer South Africans in integrated human settlements. It is a project that should be nurtured and guarded by all South Africans.

The Department of Housing is committed to ensuring that the project can proceed with minimum delay and renewed vigour."¹¹

News reports, photographs, video and eyewitness accounts by those like Monique and her daughter, however, tell another story, one which is less about the prevailing rule of law or achievements of the national housing program and more about the dangers of expediency and evictions. These accounts furthermore call into question what and whom "should be nurtured and guarded" at the N2 Gateway Project in Delft.

Minister of Housing Lindiwe Sisulu was quoted as saying that she had instructed Thubelisha Homes to do "everything in their power to assist the people of Delft who have occupied the newly built houses to move back to their previous places of accommodation," and to provide them with transport for that purpose.¹² Thubelisha Project Manager Prince Xhanti denied any such directive, and said that the Sheriff or the Court was "solely responsible" for the eviction.¹³ The Sheriff also denied responsibility, saying "The order says I must evict the people and remove their belongings to a place of safe custody and that is what I did."¹⁴ When the residents were stranded on the pavement with nowhere else to go, the police spokesperson, Andre Traut, said this too was illegal: "the court order instructed the residents to leave the entire area...it was illegal for them to remain on the street on Tuesday." He further said "a guard was posted outside each empty house to prevent people from returning."¹⁵ A razor wire fence was also erected around the empty houses, which has been extended in height and length over the recent months.

¹⁰ Quoted from "N2 Gateway Must Be Protected from Anarchy," Department of Housing, February 19 2008, <http://www.info.gov.za/speeches/2008/08022009451002.htm>, Accessed May 8, 2008.

¹¹ Quoted from "N2 Gateway Must Be Protected from Anarchy," Department of Housing, February 19 2008, <http://www.info.gov.za/speeches/2008/08022009451002.htm>, Accessed May 8, 2008.

¹² Quoted from 24 News, 19 February 2008, "Delft Residents Stranded" by Verashni Pillay.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ "Delft Refuse, Resist Eviction," by Asa Sokopo, Murray Williams and Andisiwe Makinana, 19 February 2008, The Star.

Delft and the N2 Gateway:

The N2 Gateway Project was designed and implemented to address the housing backlog in the Western Cape, expressly intended to benefit shack-dwellers and backyarders in the province. According to Minister Sisulu, the broader aim is “to eradicate informal settlements by 2014.”¹⁶ The N2 Gateway Project, toward that aim, targets shack settlements for “relocation” along the N2 highway, between Bhunga Avenue Interchange in Langa and Boys Town in Crossroads. The Project intends to produce “integrated,” “mixed income” communities.¹⁷ The houses in Delft, which backyarders occupied and that Monique helped to construct, is only one “phase” of the N2 Gateway Project.

The Project has three primary “Phases.” Phase 1, however, is too costly for shack-dwellers. It consists of “low cost” rental flats in Langa, already completed. The Social Housing Foundation, a partner of the Department of Housing, reported that the average rental is 750R up to 1100R.¹⁸ Residents of these flats have been on rent boycott since June 2007, after Thubelisha failed to repair major defects, including huge cracks in the walls, leaking roofs, and faulty keys. The keys issued to residents in September 2006 could open not only their own flats, but all the other flats in the building as well.

Phase 2 is also too costly for shack-dwellers, and will be built on land currently occupied by residents of the Joe Slovo shack settlement in Langa. Their mass eviction is required for the completion of Phase 2, and is already underway. Phase 2 will consist of bonded houses, built by the provincial government in public-private partnership with First National Bank (FNB) and Thubelisha. The houses will cost between 200,000R and 300,000R: to afford a bond, a buyer would have to have an estimated income of 8,000R to 12,000R per month.¹⁹ Phase 3 is slated for residents of Joe Slovo and backyarders, and consists of “temporary accommodation” and subsidized houses in Delft.

As this suggests, “eradicating” settlements in Cape Town will entail, as it has already in other cities in South Africa and other parts of the world, the eviction of shack-dwellers living close to the city centre and their relocation to undesirable sites further on the urban periphery, where transport costs are comparatively higher and jobs, schools and shops less accessible, while replacing their previous homes with new developments which shack-dwellers cannot afford. Residents in Delft point out there is a long history of such removals in the Western Cape and in other provinces. For the N2 Gateway Project, Thubelisha and the provincial government has sought and, thus far legally secured, the eviction of 6,000 households, an estimated 20,000 people, from the Joe Slovo shack settlement in Langa for “relocation” to Delft. Residents, some of whom

¹⁶ Quoted from “Media Briefing Remarks by Housing Minister, Lindiwe Sisulu on the Occasion of the 2006/2007 Budget Vote Statement, May 24, 2006, Imbizo Media Briefing Room, Parliament, Cape Town,” See http://www.housing.gov.za/content/Media%20Desk/Speeches/2006/24%20May%202006_2.htm. Accessed May 8, 2008.

¹⁷ See “Speech by LN SISULU, Minister of Housing at the Occasion of the Launch of the N2 Gateway,” 18 July 2006, <http://www.housing.gov.za/Content/Media%20Desk/Speeches/2006/18%20July%202006.htm>, Accessed May 8, 2008.

¹⁸ See http://www.shf.org.za/newsroom/070604_n2_gateway.html, Accessed May 8, 2008.

¹⁹ See Martin Legassick, “Western Cape Housing Crisis: Writings on Joe Slovo and Delft,” February 2008.

have lived in Joe Slovo for 19 years, have expressed their unwillingness to leave, and an appeal against eviction is pending.

The Western Cape Anti-Eviction Campaign, in a press release, referred to the recent court decision by Cape Judge President John Hlophe to evict 20,000 Joe Slovo residents as “bureaucratic madness.” Joe Slovo residents “do not want to go” to Delft, but “there are thousands of backyarders in Delft who need the housing being built there,” stated the press release. Moreover, Joe Slovo shack-dwellers will not be guaranteed occupancy of new houses in Delft, but rather will be placed in “temporary accommodation,” for an unspecified period of time. As Martin Legassick noted, “What the Joe Slovo residents are asking for is RDP [Reconstruction and Development Plan] housing built in the area for them, and they have a plan as to how this can be done without any forced removal at all.”²⁰

With regard to the evicted backyard-dwellers, they are asking to be housed in Delft. Monique said she has spent nineteen years on the municipal waiting list for a house. Many others in Symphony Way and Section 1 have been on various waiting lists for up to thirty years, still holding apartheid-era documents from the 1980s. To qualify for a house at the N2 Gateway site, yet another list was compiled by the municipality and another still by Thubelisha; residents signed up at police stations, in Thubelisha’s offices, and various other locations.

Monique said, “The reason I think I should be able to stay here is because I’m a citizen of South Africa and I have a right to house. Also, it’s about the future of my child. I want her to grow up in a nice brick house, and to have a better future for her and myself... I never want to live in a shack or another structure again.”

²⁰ See Martin Legassick, “Western Cape Housing Crisis: Writings on Joe Slovo and Delft,” February 2008.