

**IN THE LAND CLAIMS COURT OF SOUTH AFRICA
HELD AT CAPE TOWN**

CASE NO: **LCC 63/2005**

In the matter between:

THE RICHTERSVELD COMMUNITY Applicant

and

THE GOVERNMENT OF THE RSA First Respondent

CHIEF LAND CLAIMS COMMISSIONER Second Respondent

LEGAL AID BOARD Third Respondent

ALEXKOR LTD Fourth Respondent

ORDER OF COURT: 11 NOVEMBER 2005

The following order is made by agreement between the parties:

1. The Second Respondent will in terms of Section 29 (4) of the Restitution of Land Rights Act 22 of 1994 exercise his discretion and make available such funds as are necessary to enable the Applicant to prosecute its claim under Case no 151/98, subject to the conditions set out herein.
2. The Second Respondent will make payment of amounts which will not exceed the total amount of R5 428 463,00 requested in the

Applicant's letter to the Second Respondent dated 12 September 2005, as follows:

2.1 The Second Respondent will within thirty days of the date of this order pay an advance of R2 million (two million rand) to the Legal Resources Centre, to be held in trust on behalf of the Applicant, in accordance with section 78 (2A) of the Attorneys Act 53 of 1979, for expenditure in accordance with the terms of this agreement;

2.2 The Legal Resources Centre will draw on the funds held in trust from time to time for the purpose contemplated in paragraph 1;

2.3 The Legal Resources Centre will account to the Second Respondent for its expenditure in terms of this agreement at least every second calendar month. This accounting will be accompanied by vouchers in respect of all expenditure incurred for the purpose contemplated in paragraph 1. The vouchers will be such as to provide clear proof of all expenditure recorded in such accounts. The Second Respondent may make reasonable request for better or further proof of any expenditure.

2.4 Subject to compliance by the Legal Resources Centre with this agreement, the Second Respondent will within thirty days of being notified by the Legal Resources Centre that the balance

held in trust is less than R500 000, advance to the Legal Resources Centre two further tranches of R2 million (two million rand) and R1 428 463 (one million four hundred and twenty-eight thousand four hundred and sixty-three rand) respectively.

2.5 The said two further tranches will be dealt with in the same manner as the initial advance of R2 million.

2.6 If at the conclusion of case no 151/98 any amount which was paid in terms of paragraph 2.1 or 2.4 has not been used for the purpose contemplated in paragraph 1, the Legal Resources Centre will within 30 days account to the Second Respondent in that regard and repay to the Second Respondent the amount which has not been so used.

2.7 The interest earned on the funds held in trust will be added to the capital and will be used for the purpose contemplated in paragraph 1.

3. The amount referred to in paragraph 2 is, subject to paragraph 6, in full and final settlement of this application, and the Applicant will have no further claim against any of the respondents under this application.

4. Nothing contained in this agreement prevents the Applicant from making application for such further funds as are necessary to enable it to prosecute its claim under Case no 151/98. The Second Respondent will consider any such application made to him on its merits in accordance with the law.

5. The applicant will not, in case no 151/98, be entitled to recover any costs which have already been paid out of moneys to be made available by the second respondent under this agreement.

6. The Second Respondent will pay the costs of this application on the party and party scale, as taxed or agreed.

BY ORDER OF COURT

REGISTRAR