

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 2026-166707

(1)	REPORTABLE: YES/ NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
31 July 2026	
DATE	SIGNATURE

In the matter between:

DEMOCRATIC ALLIANCE

Applicant

and

**SPEAKER OF THE COUNCIL OF THE CITY OF
TSHWANE METROPOLITAN MUNICIPALITY**

First Respondent

**MUNICIPAL COUNCIL OF THE CITY OF
TSHWANE METROPOLITAN MUNICIPALITY**

Second Respondent

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

Third Respondent

**EXECUTIVE MAYOR OF THE CITY OF
TSHWANE METROPOLITAN MUNICIPALITY**

Fourth Respondent

JOHANN METTLER NO

Fifth Respondent

JUDGMENT ON INTERIM RELIEF

PILLAY, AJ

Introduction

[1] On 9 July 2026, the Municipal Council of the City of Tshwane Metropolitan Municipality passed two resolutions; one suspending the City Manager pending investigations into allegations of his misconduct, and another classifying the type of misconduct for disciplinary proceedings to be followed in respect of the Chief Financial Officer for the City of Tshwane.

[2] Democratic Alliance and Solidarity obo Mettler each instituted separate applications in this court for interim relief, on an urgent basis, seeking to *inter alia*:

- a. suspend the resolution passed in respect of the city manager's suspension;
- b. interdict further implementation of the resolution; and
- c. re-instate the suspended city manager.

[3] Democratic Alliance and Solidarity obo Mettler will jointly be referred to as 'the Applicants'.

[4] Final relief, which does not presently engage this Court, is for the review and setting aside of both resolutions passed. Critical to the Council's passing of the resolutions was the Speaker's subtraction of 13 votes that were cast in respect of the resolutions. Applicants say the Speaker acted unlawfully in doing so. The Speaker maintains that it was within his power to do so.

[5] The interim relief in relation to the resolution passed in respect of the Chief Financial Officer was abandoned at the hearing of the urgent application by the Applicants. The interim relief sought by the Applicants engages the action by the Speaker in subtracting votes that were cast and the consequences thereof.

[6] Due to the extensive overlapping of issues and Respondents in respect of the separate applications, both applications were heard together. Separate judgments are being provided in respect of each application, albeit that there will be substantial repetition in both.

The parties

[7] The Democratic Alliance is a political party that holds seats on the Council of the Tshwane Metropolitan Municipality (the Council). The First Respondent is the Speaker of the Council (the Speaker). The Second Respondent is the Council; the Third Respondent is the City of Tshwane Metropolitan Municipality (the City). The Fourth Respondent is the executive mayor of the City of Tshwane (the Mayor). The Fifth Respondent is the Municipal Manager of the City (Mettler), who was suspended by virtue of one of the resolutions passed by Council on 9 July 2026. The Sixth Respondent is the Chief Financial Officer of the Third Respondent (the CFO).

The opposition to the application

[8] The Speaker and the Council gave notice of their intention to oppose the application. The Speaker deposed to an answering affidavit for both himself, as Speaker, and the Council. The City did not give notice of its intention to oppose, but filed an answering affidavit, deposed to by Dr Khumalo. Dr Khumalo was appointed as acting city manager on 10 July 2026, the day after Mettler was suspended by the Council. The Mayor and CFO likewise did not file an intention to oppose, but provided answering affidavits. As stated, the Applicant abandoned its application for interim relief against the CFO.

Case for the applicant

[9] On 7 July 2026, the Speaker issued a notice to councillors that a special meeting of the Council would be held on 9 July 2026 at 10h00. When the meeting was convened at 10h00 on 9 July 2026, no agenda or accompanying reports were made available to the councillors. Just after 11h00 on the same day, the agenda and two reports were provided to the councillors. The one report related to allegations of misconduct against the CFO, and the second concerned the consideration of representations submitted by Mettler¹. Two requests for caucuses were granted, which caused the Council meeting to reconvene later that afternoon.

[10] Thirteen of the applicant's councillors had sought leave of absence in respect of this meeting. However, when the purpose of the meeting became known, nine of these councillors withdrew their requests for leave, and attended the Council meeting. Another councillor from a different political party also withdrew her leave and attended the Council meeting. All ten of these councillors voted at the meeting (the votes by these ten councillors who were present despite being granted leave from this Council meeting will be referred to as 'the votes in dispute').

[11] Objections were noted to the presence at the Council meeting of these ten councillors who were in attendance, despite their requests for leave. The deponent of the Applicant's founding affidavit indicated that there are no provisions in terms whereof these ten councillors could be disallowed from attending, participating in, or voting at the meeting. The Speaker adjourned the meeting to consider the objection and ruled that councillors who were granted leave are not permitted to participate in the meeting. The Speaker based his ruling on section 4 of the Code of Conduct for Councillors in Schedule 7 of the Local Government Municipal Systems Act.²

¹ The crux of the issue against Mettler was whether he was to be suspended pending the investigations into a complaint submitted against him, or not. The Mayor had, on an earlier date, invited Mettler to respond to the question of whether he should be suspended or not. It was Mettler's response to this letter that was before the Council on 9 July 2026. However, at the Council meeting there was an amendment to the effect that Mettler was to be suspended, which amended proposal was the subject of the vote.

² Act 117 of 1998

[12] The relevant provision relied upon by the Speaker reads as follows:

“A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when –
leave of absence is granted in terms of applicable law or as determined by the rules and orders of the council; or
that councillor is required in terms of this Code to withdraw from the meeting.”

[13] After each of the respective reports was debated in the Council meeting, there was a vote on the reports, which vote included the ten disputed votes.

[14] In respect of the vote for or against the suspension of Mettler, the Speaker announced that ninety-two councillors had voted for Mettler’s suspension, and eighty-two against his suspension. Thirteen of the votes against Mettler’s suspension were subtracted from the total votes that were cast, prior to announcing the number of votes for and against the proposed resolution. The Speaker unilaterally subtracted these votes. Had the thirteen votes not been subtracted from the votes that were cast, Mettler would not have been suspended.

[15] The immediate effect of the Council’s passed resolution was that Mettler was placed on suspension for a period of three months. The further event following the Council’s passed resolutions on 9 July 2026 was that Dr Khumalo was appointed on 10 July 2026 as acting city manager.

[16] The ground relied upon for urgency in respect of Mettler’s suspension is that the unlawful three-month suspension of Mettler is immediate, and the review thereof, in the ordinary course, would not be heard or decided before the expiry thereof. The municipal financial year commenced on 1 July 2026, which will allow the unlawfully appointed interim city manager to implement the budget and conduct the City’s procurement for the new financial year. This includes bid adjudication meetings, tender awards and other significant financial commitments. The longer the decisions of the

interim city manager are allowed to stand, the more difficult it will become to undo them, even to the extent of no review being able to undo them.

[17] The Applicant asserted that it had met the requirements for interim relief in that:

- a. the DA has a clear right to lawful proceedings of the Council and to the integrity of votes cast by councillors. The Speaker admitted to having deducted thirteen votes which, according to the Applicant, was unlawful.
- b. there is a reasonable apprehension of harm. The city manager, as accounting officer, has a critical role to play in terms of the provisions of the Municipal Finance Management Act, 56 of 2003. If Mettler's suspension is allowed to subsist until it has run out, unwarranted tenders might be awarded. A tender relating to the Pretoria Show Grounds has been referred to, which had been referred back by Mettler due to concerns about irregularities in the tender process;
- c. balance of convenience. Should the interim relief be granted but the final relief not be granted, Mettler, who was lawfully appointed as city manager, would have continued in that position;
- d. there is no satisfactory alternative remedy. A damages claim is inappropriate and does not address the concerns raised. Section 40 of the Tshwane By-Laws, which permits a ruling by the Speaker to be referred to the Rules and Ethics Committee, is of no assistance, as this Committee must report to the Council. The Applicant submits that this is an ineffective remedy, as it returns the error of the author to the author himself.

Case for the speaker and the council

[18] The Speaker provided details of the content of the complaint against Mettler, suggesting that the complaint contains serious allegations against Mettler. I do not deem it necessary to traverse these details relating to the alleged misconduct of Mettler for the same are not germane to the issues that need to be decided upon on an interim basis.

[19] The Speaker submits that the Applicant has failed to meet the requirements of both urgency and for an interim interdict for the following reasons:

[20] Lack of urgency:

- a. The Applicant's claim of urgency is self-created and not substantiated by facts. He asserts that the Applicant has not demonstrated circumstances that would justify urgent court intervention, as required by Rule 6(12)(b);
- b. The Applicant has not shown that it would suffer irreparable harm if the matter is not heard urgently;
- c. The powers of the city manager are vested in the office, not the individual. The acting city manager, lawfully appointed, can perform all necessary functions, and there is no evidence that the acting city manager is acting unlawfully or incompetently;
- d. The Applicant and the residents will suffer no prejudice if interim relief is not granted. There is no evidence that the affairs of the City are being negatively affected by the acting city manager or the absence of Mettler. The precautionary suspension of Mettler is for a limited period (three months), and the public interest is better served by allowing the disciplinary process to proceed; and
- e. There are alternative remedies available. The DA could have referred any disputes about council procedure (such as the Speaker's rulings on voting) to the Rules and Ethics Committee, as provided for in the Council's By-Laws. The existence of this alternative remedy undermines the claim of urgency.

[21] Requirements for interim relief are not met for the following reasons:

- a. The Applicant has not established a clear or even *prima facie* right that requires protection by an interim interdict. Applicant's arguments about voting irregularities and council procedure can be addressed in the review application or through council mechanisms;
- b. No irreparable harm will occur if interim relief is not granted. The acting city manager can lawfully exercise all necessary powers, and any

decisions made during the suspension can be reviewed or set aside by a court if necessary;

- c. The balance of convenience favours dismissal of the application. Allowing Mettler to remain in office while facing serious allegations would undermine public confidence and could jeopardise the investigation. The City and its residents would be prejudiced if the interim order were granted, as it would appear to shield officials from accountability;
- d. The Applicant has not exhausted internal remedies, such as referring disputes to the Rules and Ethics Committee. The review court can provide substantial redress if Applicant's claims are ultimately upheld;
- e. The Speaker stresses that the allegations against Mettler are serious and relate to the public interest, governance, and accountability. It is in the public interest for the disciplinary process to proceed without interference, and for Mettler to be suspended while the investigation is ongoing; and
- f. Granting interim relief would be seen as an attempt to shield Mettler from accountability, contrary to the principles of good governance.

[22] Legal Precedent and Judicial Restraint:

- a. The Speaker notes that courts seldom interfere in employer disciplinary processes, especially on an urgent basis. The application should therefore be struck from the roll with costs.

[23] In respect of the Speaker's ruling not to count the ten disputed votes, he explained (in paragraphs 74 to 76 of his affidavit):

"The by-laws and other frameworks confer powers on the Speaker to manage his own council proceedings. Casting or voting is part of the discretionary powers conferred on the Speaker. The fact that the by-laws do not specifically confer powers to deal with the question regarding council members who absent themselves by way of leave of absence does not mean that the Speaker's discretionary powers cannot be exercised.

It is therefore incorrect to allege that the Speaker does not have powers to make a decision in an instance where certain members of the House decided to absent themselves by way of leave of absence.

It is basic logic that once members of the Council submit their leave of absence, it simply means that they are not available to exercise their functions for the duration of the leave of absence. For them to make themselves available, they need to notify their own party whips, who in turn will notify the Whip of Council. The Whip of Council will then, on record, pronounce during a Council meeting. It is not the case here. The reason for the latter is to enable the Speaker to manage the Council orderly. Failure to do so, it is within the discretion of the Speaker to decide on the eligibility of votes."

[24] As to how the Speaker arrived at the number of thirteen votes that he subtracted, he stated that *"...the number 13 is derived from the 1 Councillor from VF Plus who came back, 1 Councillor from the DA's caucus name appeared twice on the list and was counted as one which resulted in DA members present being 12. That's where the number 13 came from."*

[25] It is also apposite to quote from paragraphs 125 and 126 of the Speaker's answering affidavit:

"Section 39(3) refers to the casting of votes and the counting vote. The issue before Court is whether I was obliged to consider the votes of the councillors who were not eligible to be in the Council on the day, i.e. councillors who willingly made themselves unavailable and failed to notify the speaker about their presence. As part of the inherent powers to manage the proceedings in the Council, I am entitled to exercise my discretion to exclude the votes.

The By-laws do not define the meaning of the leave of absence. However, the ordinary meaning of the leave of absence means that a councillor is not available to exercise his role and functions as the councillor. It is not there for the taking. It assists me to manage the proceedings of the Council."

Case for the city

03/05/00
X
03/05/00

The District of Columbia is authorized to pay for the cost of the following:

The cost of the following:

The cost of the following:

The cost of the following:

[26] The deponent of the answering affidavit is Dr Khumalo who, as indicated, is the appointed acting city manager following the suspension of Mettler. In her affidavit, it is made clear that the City is not opposing the relief sought, but requests the court to provide orders which make it clear that such orders will only be of prospective force. The further request is for the court to provide for a five-day handing-over period to Mettler.

Case for the mayor

[27] The mayor explained the functions she performed in the lead-up to the Council meeting of 9 July 2026, and what she has done as a result of the resolutions. She abides by the decision of the court.

Evaluation

[28] The court is required to determine whether:

- a. This matter is urgent;
- b. The requirements for an interim interdict have been met; and
- c. *Prima facie*, the Speaker's subtraction of the thirteen votes was lawful.

[29] I will commence with the last-mentioned aspect, as a determination that the Speaker's subtraction of the votes was *prima facie* lawful would bring these proceedings to an end, and consideration of the requirements of urgency and for an interdict would be pointless.

[30] 30] The Applicant submits that there is no provision authorising the Speaker to subtract the votes, hence the subtraction was unlawful. In contrast, the Speaker submits that, because no provision prevents him from subtracting the votes, it was within his powers to do so. The Speaker avers that the votes subtracted were from councillors who were not eligible to vote due to their approved leave of absence from the meeting. There is no dispute that the relevant councillors were physically present

at the meeting and that they did indeed cast their votes. The Speaker's view of the presence of these councillors is that, apart from their physical presence, they must also be legally present.

Did the Speaker have the power to subtract the thirteen votes?

[31] Section 160(1)(a) of the Constitution provides that a Municipal Council:

“makes decisions concerning the exercise of all the powers and the performance of all the functions of the municipality”

[32] Sections 160(3)(b) and (c) of the Constitution provide as follows:

“(b) All questions concerning matters mentioned in subsection (2) are determined by a decision taken by a Municipal Council with a supporting vote of a majority of its members.”

(c) All other questions before a Municipal Council are decided by a majority of the votes cast.”

[33] Section 160(8) of the Constitution provides that:

“Members of a Municipal Council are entitled to participate in its proceedings and those of its committees in a manner that:-

- (a) ..
- (b) is consistent with democracy;³”

[34] These constitutional provisions make it clear that voting is a cornerstone not only of the existence of a municipal council and a municipality, but also of the municipal council that governs the municipality. All of the functions, powers and operations of a municipality are made possible through voting at Council meetings. In this regard, voting by a councillor at a Council meeting can be said to be sacrosanct.

³ ‘Democracy’ is a system of government where power belongs to the people, allowing them to rule directly through elected representatives.

[35] Thus, to make determinations on a councillor's eligibility to vote would require much more than a mere power to conduct proceedings. To limit a councillor's eligibility to vote ought to be reserved for strictly circumscribed circumstances, by the Constitution, legislation or some other authoritative body, and be specifically and clearly set out. It cannot be subjected to the, at times ambivalent,⁴ directives of a singular functionary. To conclude that the Speaker may, under the guise of a ruling, erode this sacrosanct function of a councillor, is inimical to the constitutional mandate of a councillor's vote.

[36] The Constitutional Court in *Fedsure Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others* held⁵ as follows:

"It seems central to the conception of our constitutional order that the Legislature and Executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law."

[37] The extent to which councillors ought to be accommodated to enable them to cast a vote at a meeting of the Council is illustrated by section 5(1) of the City of Tshwane's Rules and Orders By-Law, 2026. It provides:

[38]

"If, at any time during the course of a meeting, the attention of the Speaker or Chairperson of the Committee, as applicable, is called to the number of members present, the members **present physically and online must** be counted." (my emphasis)

[39] This provision affirms and underscores that councillors have a constitutional mandate to attend meetings. In addition, it shows that physical presence is not a requirement. Presence by virtual means also suffices.

⁴ It is not suggested here that the Speaker in this matter is guilty of ambivalence. The general trait of ambivalence is gleaned from reported cases in respect of various speakers of respective Municipal Councils.

⁵ *Fedsure Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others* 1999 (1) SA 374 (CC) at para 58

[40] The Court in *In Phalatse and Another v Speaker of the City of Johannesburg and Others*⁶ recently held that the speaker does not have the authority to exclude a councillor from partaking in the meeting of Council. In that case, the Speaker relied on a rule that councillors are required to sign an attendance register and the affected councillors did not sign the register. The court held that the Speaker acted unlawfully.

[41] 41] The Speaker did not have the authority to determine a councillor's eligibility to vote or to subtract the votes that were indeed cast in the execution of those affected councillors' mandates and duties. His powers to preside over and make rulings in respect of the business of Council meetings do not, and cannot, include the power to exclude a clear constitutional mandate. His subtraction of the votes cast cannot, legitimately, be classified as a ruling. This conclusion includes the Speaker's earlier indication at the meeting of 9 July 2026 that the affected councillors were not eligible to vote. The Speaker may only make a ruling in respect of something within his competency. In this instance, he acted outside the scope of his powers.

[42] Councillors execute their mandate of being voted into Council, primarily by voting. Holding a legitimately elected councillor ineligible to discharge this mandate requires clear authority to do so.

[43] The only aspect that may possibly strip a councillor of eligibility to vote is if that councillor is not present⁷. To agree with the Speaker, there will have to be a departure from the ordinary meaning of the word 'present' as it appears in section 30(1) of the Local Government: Municipal Structures Act.⁸ (Structures Act), and elsewhere in the Constitution, the Structures Act and the Tshwane By-Laws, in relation to the presence of a councillor.

[44] The Speaker's reliance on section 4 of the Code of Conduct for Councillors in Schedule 7 of the Structures Act requires attention. Section 4 sets the default

⁶ In *Phalatse and Another v Speaker of the City of Johannesburg and Others* [2022] ZAGPJHC 1054

⁷ Section 30(1) of the Local Government: Municipal Structures Act provides that a quorum is established by the number of councillors present.

⁸ Act 117 of 1998

requirement that councillors must attend meetings. Exceptions to this rule are provided. The exception that leave of absence was granted is a permissive provision, and not a provision that disentitles a councillor from discharging their constitutional mandate to be present and to vote.

[45] The absence of a councillor from a council meeting therefore is an exception to the rule. It cannot be that an indulgence granted to a councillor may be transformed into a prohibition for the councillor to comply with the obligation to attend.

[46] Permission granted to a councillor to be excused from the obligation to attend and the constitutional entitlement to partake can never become a bar to compliance with the obligation and to exercise the entitlement. Mere presence of a councillor at a council meeting suffices for the councillor to partake in the meeting, including ability to vote.

[47] While the quoted provisions refer to the requirement of councillors to be "present", the Speaker's view is that "present" means eligible to be present. There is nothing in any of the provisions referring to the presence of a councillor at a meeting that is capable of an understanding that "presence" includes being eligible to be present. All the provisions suggest that a mere presence suffices. Section 5(1) of the By-Laws even goes so far as to make an online presence sufficient.

[48] Having regard to the constitutional entitlement of councillors to be present and partake in meetings, coupled with the general obligation on councillors to discharge their mandate towards voters, the 'read in' requirement that a councillor must be eligible to be present is devoid of merit. The Speaker's reliance on section 4 of the Councillors' Code of Conduct is thus of no aid to the Speaker.

[49] What the Speaker has done was to 'read in' the qualification of entitlement into the word 'present' wherever it appears in the context of a councillor being present, specifically in section 4 of schedule 7 of the Structures Act. This is not within the powers of the Speaker. Having regard to the constitutional entitlement of councillors

to be present and partake in meetings, coupled with the general obligation on councillors to discharge their mandate towards voters, the 'read in' requirement that a councillor must be eligible to be present is devoid of merit.

[50] There simply is no means by which it can be concluded that the Speaker had a discretion of any kind to decide upon the eligibility of a councillor, who is present at the meeting, to cast a countable vote. The eligibility or not of a councillor to vote can only be determined by a specific provision.

[51] It is found that, *prima facie*, the Speaker's subtraction of the disputed votes was unlawful.

Urgency

[52] Much of the DA's case on urgency centres around the fears of incorrect or inappropriate budget-spending by the acting city manager. The Speaker pointed out that Applicant presupposes that the acting city manager is incompetent.

[53] The Speaker's point has some merit. Applicant merely expressed fear of untoward execution of duties by Dr Khumalo and referred to a singular tender in respect of the Pretoria show grounds. However, in light of the finding that the Speaker acted *prima facie* unlawfully, the Speaker's point cannot be sustained. In any event, even if Dr Khumalo is exemplary as a city manager, her appointment to that office was, *prima facie*, unlawful, and any acts that she performs in her capacity as acting city manager would therefore be *prima facie* unlawful as well. Tenders awarded, contracts entered into, or any other steps taken by Dr Khumalo could, simply by virtue of her appointment being the fruit of a poisonous tree, be attacked in various ways. Endless adverse possibilities arise that may have nothing to do with Applicant's fears of incorrect or incompetent execution of her duties.

[54] Urgency has been established.

Requirements for interdict: prima facie clear right

[55] That Applicant has a *prima facie* clear right has been established in that the Speaker's subtraction of votes was *prima facie* unlawful.

Requirements for interdict: no satisfactory alternative remedy

[56] The Speaker relied on section 40 of the By-Laws to demonstrate that the Applicant does have an alternative remedy, thus disentitling the Applicant from the interdict. The Applicant's complaint that this is a flawed remedy, hence no satisfactory remedy at all, appears to be premised on the conclusion that the outcome is inevitably going to be in favour of the Speaker, for, in the words of the applicant, "the error of the author is referred to the author."

[57] The procedure prescribed in section 40 of the By-Laws is that the Speaker must, at the request of a member of the Council, submit the ruling to the Rules and Ethics Committee. The Rules and Ethics Committee must consider the ruling, and report on the ruling to Council. The Council may then, on the recommendation of the Rules and Ethics Committee, amend, revoke, substitute or confirm the ruling.

[58] This prescribed procedure is not quite what the DA makes it out to be, for the Speaker does not, on the face of it, have the final say over his ruling. The potential exists that the Council may revoke or substitute the Speaker's ruling, in which event all the court proceedings will be moot.

[59] It is, however, not necessary to make a final determination on the Applicant's submissions in this regard, for two reasons:

- a. section 40(1) of the By-Laws makes it clear that it applies to "...the ruling of the Speaker on the interpretation of these Rules and Orders...". The Speaker did not make any ruling in respect of the interpretation of the

By-Laws, but “ruled” on his interpretation of section 4 of Schedule 7 of the Structures Act; and

- b. I have earlier in this judgment reached the conclusion that the Speaker’s “ruling” that the affected councillors are not eligible to vote is, in fact, no “ruling”, for he acted outside of the scope of his powers. Therefore, section 40 of the By-Laws cannot enter the fray, as section 40 applies to the Speaker’s rulings, and what the Speaker did cannot be classified as a ruling. The Speaker’s ‘ruling’ amounted to an impermissible amendment (by means of a ‘reading in’) of section 4 of the Code of Conduct in Schedule 7 of the Structures Act, which is not part of the By-Laws.

[60] In the result, there is no alternative remedy to address the Applicant’s plight for redress.

Requirements for interdict: harm or apprehension of harm

[61] The harm that will likely flow from the acts performed by the *prima facie* unlawfully appointed acting city manager has already been outlined. The apprehension of harm has been well-established.

The City’s request for orders to preserve the status of retrospective actions

[62] 62] The City prays for orders from this Court to preserve the status of acts completed before the date of the order. In addition to the DA’s correct position that the City ought to have lodged a counter-application to obtain the orders sought, there is another compelling reason why this cannot be done.

[63] It has been found that the Speaker’s subtraction of votes was *prima facie* unlawful. But for the Speaker’s conduct, the acting manager could not have been appointed, and but for the acting city manager’s appointment, she could not have performed any actions in her capacity as city manager, which would include the

conclusion of the disciplinary proceedings against the CFO. All of these actions are, *prima facie*, unlawful for they flow directly from the first unlawful act of the Speaker. The court is not empowered, in this specific context, to make lawful what is unlawful

ORDER

[64] Having read the papers filed of record and heard counsel for the applicant and the respondents, the following order is made:

1. The forms, service and time periods provided for in the Uniform Rules of Court are dispensed with and this application is heard as one of urgency in terms of Rule 6(12).
2. Pending the final determination of the relief sought in Part B of this application, the following interim relief operates with immediate effect:
 - a. The resolution of the Second Respondent taken on 9 July 2026 placing the Fifth Respondent on precautionary suspension as City Manager is suspended.
 - b. The Fifth Respondent is entitled to resume and continue in the office of City Manager.
 - c. The First to Fourth Respondents are interdicted and restrained from giving effect to, implementing, or acting upon the said suspension resolution, including from appointing or maintaining any person in an acting capacity in the office of City Manager in the place of the Fifth Respondent.
3. Part B of this application is postponed *sine die*.
4. The costs of Part A of the application, including the costs of two counsel where so-employed, are reserved for determination in Part B.

I further wish to express my gratitude to Counsel who appeared in this matter for their diligence and ethics.

**PILLAY AJ
JUDGE OF THE HIGH COURT
GAUTENG DIVISION
PRETORIA**

Date matter heard:

Date of delivery of judgment:

For the applicant

Instructed by:

For the first respondent

Instructed by:

For the Second respondent

Instructed by:

For the Third respondent

Instructed by:

For the Fourth respondent

Instructed by:

For the Fifth respondent

Instructed by:

For the sixth respondent

Instructed by: