

# FOUNDING AFFIDAVIT

The **FOUNDING AFFIDAVIT** is attached to the **NOTICE OF MOTION**. It is a statement from the landlord or person in charge. It explains why you are being evicted. It is their side of the story.

**IN THE MAGISTRATES COURT FOR THE DISTRICT OF CAPE TOWN  
HELD AT CAPE TOWN**

**CASE NO : 5847 / 2016**

In the matter between:

**BIG PROPERTIES**

Applicant

(Registration Number: 2010/0054896/07)

and

**KAREN THOMAS**

First Respondent

And all those holding under her and / or any other persons(s) who also occupy the premises *vis-à-vis* the Respondent

**CITY OF CAPE TOWN**

Second Respondent

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**FOUNDING AFFIDAVIT**





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I, the undersigned,

**PETRONELLA ISAACS**


do hereby make oath and say:

1. I am an adult female, currently employed as the building manager of Helium Heights and am authorised to depose to this affidavit.
2. The facts as stated herein are to the best of my knowledge and belief true and correct. They are within my personal knowledge unless the context indicates otherwise. Where I make legal submissions, I do so on the advice of my legal representatives. I believe that advice to be correct.
3. I have been employed as the building manager of Helium Heights for ten years now. My duties include screening of rental applications and managing the upkeep and staff of the building.
4. Karen Thomas, hereinafter referred to as the First Respondent lives at number 3 Helium Heights which is a three bedroom flat with one bathroom, a kitchen and a lounge. Karen Thomas has been living there for five years and lives with her husband and three children. Karen Thomas pays R5000 rent. 
5. The First Respondent has many parties at her house and they become unruly. Every weekend, they have many guests over and party until the early hours of the morning. Sometimes they have events in the middle of the week. The music will play loud

until the early hours of the morning and there will be noise coming from the apartment. 

6. This bothers the other tenants on the floor and in the building. Having so many different people walk in and out of the building weekly also poses a threat to the safety and security of the other tenants.
7. The other tenants on the floor have filed written complaints against the First Respondent. We have addressed these complaints with her and warned her but she continues with the parties.
8. On the 4<sup>th</sup> of June 2017, we sent the First Respondent a notice cancelling her lease agreement due to breach of clause 4 in the lease agreement which refers to noise and maintenance of the apartment. Kindly see the notice and lease agreement attached hereto marked “**KS1**” and “**KS2**” respectively.
9. Since we sent the First Respondent the notice cancelling her lease agreement, she has refused to pay her rent and has not paid her rent for the past two months.

10. The First Respondent is an unlawful occupier who has no permission to be living in the property. She has been given notice to vacate and is not paying rent.

11. We have complied with all the requirements as set out in s4(1) and S4(2) of PIE and hereby state that the First Respondent and her husband are employed and are able to find and afford alternative accommodation. 

**CONCLUSION**

12. In the circumstances of all of the above, the applicant asks for the relief as set out in the notice of motion.

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**PETRONELLA ISAACS**

I hereby certify that on the \_\_\_\_\_ day of September 2017 in my presence at \_\_\_\_\_, the Deponent signed this Affidavit and declared that she:-

- (a) knew and understood the contents hereof;
- (b) had no objection to taking this oath;
- (c) considered this oath to be binding on her conscience and uttered the words:-

"I swear that the contents of this Affidavit are true, so help me God."

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**COMMISSIONER OF OATHS**