

Flamingo activist wins legal victory over government

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CONSERVATIONIST Mark Anderson has won his legal battle against the Northern Cape government which wanted to discipline him even after he had resigned.

Anderson, who was employed at the Department of Tourism, Environment and Conservation (DTEC), quit his job in September in protest over the controversial R2 billion Northgate Development next to the Kamfersdam Flamingo Conservancy in Kimberley.

The major residential and commercial development threatened the home of more than 83 000 lesser flamingoes.

Although the DTEC had approved the development, several environmental groups had appealed, including the Flamingo Environmental Trust, of which Anderson was a part. Anderson was suspended pending a disciplinary process along with his colleagues Julius Koen and Eric Heerman, who were opposing the development.

Last week, however, the Northern Cape High Court ruled in favour of Anderson in a longstanding dispute with the provincial government, and ordered that his two colleagues be reinstated.

Anderson said: "I'm very relieved now that the case is over and I have won and been vindicated. I was standing up for what was right."

His lawyer, Adrian Horwitz told the Saturday Star this week that Anderson had been constructively dismissed; therefore the province had had no right to hold an inquiry after Anderson had resigned.

"Anderson ... opposed the development in his private

capacity through the Flamingo Environmental Trust and the Save the Flamingo Association - clearly outside of his official position within the department and quite lawfully," said Horwitz.

"The question that needs to be asked from a public interest point of view is what drove the officials in the DTEC to behave in such a way. When hearing of the proposed Northgate Development, my client notified DTEC of his intent to submit his resignation."

However the DTEC had still opted to institute disciplinary action against Anderson.

"This prompted my client to interdict the department from proceeding with the inquiry," said Horwitz.

Anderson was still given notice of a disciplinary hearing, set down for September last year, dates DTEC knew that Anderson would not be available, as he was away attending a conference in Madagascar.

In court Judge Williams said "the respondents (DTEC) had knowledge of the court order when the disciplinary proceedings were commenced and failed to comply with the order. The respondents are all intelligent and could hardly have misinterpreted an order".

Judge Williams ordered the respondent (DTEC) to pay the costs of this application on the attorney client sale. The DTEC are now obliged to leave Anderson alone and have been forced to re-instate Koen and Heerman, who will return to work shortly.

As far as the Flamingo Conservancy is concerned, the outcome of the case does not affect them added Horwitz. The future of the Flamingo Conservancy is uncertain at the current time.