



# pro bono

## in cape town



### letter from lourens ackermann

#### *Taking rights to the community*

Property, and the lack of adequate housing, remains at the heart of many of the pro bono matters we encounter. More knowledge needs to get out into the community about their rights in this regard. Whereas we are providing training for advice offices, there is always the danger that the knowledge remains there and is not properly disseminated within the community. Also, it is human nature to consult only once a problem has arisen. So we decided that if people were not coming to pro bono, we would take pro bono to the people.

Our first community workshop was held in the Mitchells Plain library, and advertised with posters and in the Plainsman, the local newspaper. We got a fair turn-out of about 20 people and, accompanied by Ayaz Camroodien and Claire Eckhardt from the ENS property department, we presented the basics on how to buy and sell a house. Perhaps I should just mention that the question has been raised by practitioners that surely we shouldn't be providing pro bono services for people who can afford to buy or sell a house?

A "house" is a relative concept; what constitutes a house in Mitchells Plain or Khayelitsha is often barely four walls and a leaky roof, overcrowded, of unsure title, and with more debt than the value of the house, but these properties change hands on the open market just like any other house. Also, the means test we apply has a formula which takes into account ownership of immovable property.

Unfortunately buyers and sellers are unaware of the most basic rules pertaining to the transfer of property, often concluding oral agreements of sale, paying the purchase price directly to the seller or the estate agent, and paying agents' commissions as high as 10%.

There was great interest at the workshop and many questions were asked. From our side, we were left with the impression that there is a lot more we can do to bring this sort of useful information to the public, and we were specifically asked to return and address the people on the problems they are encountering as either lessee or lessor. We will keep you posted.

#### *Preventative pro bono law*

Since our pro bono initiative kicked off three years ago, we have seen a great number of clients with an array of different problems. What has become clear to many of our practitioners is that a good percentage of these matters are problems that could have been prevented, had the client obtained good advice earlier on.

Like doctors who practise preventative medicine because it makes good sense, we want to start practising more preventative pro bono law. Access to justice does not only mean helping people once the problem has arisen. It also means giving those people the knowledge to prevent these problems from happening in the first place.

In order to do this, you must know at least two things. Firstly, the pro bono problems: you have to know what the problems are, how they originate, and why they continue to exist; secondly, the solution: you need the skills and the educational package, including the training methods, to address these problems.

Today, after making some hard yards in our target community of Mitchells Plain and Khayelitsha, we can comfortably tick the first box: we know the problems of the area we work in and we know them well. But we needed help with the second component, as providing the training and the transfer of knowledge could help people to help themselves.

And so it came that earlier this year we presented, together with Street Law, the first in what will hopefully be an ongoing series of training programmes for recognised structures, pupils and other interested parties, where we teach preventative problem-solving – everything from consumer law to family law to socio-economic rights. In this regard, Street Law, two decades old, is a leader in the field of rights-based and legal educa-

tion and training, having developed training materials based on their experience of the persistent problems in impoverished communities.

A week was spent together with Street Law, conducting training exercises at Fezeka High School in Khayelitsha, Portland High School in Mitchells Plain, and at Mosaic, a women's organisation that functions both as a support group for dealing with violence against women and children, as well as an advice office that provides assistance in the form of general legal advice, including to court workers stationed at Magistrate Courts throughout the Peninsula.

Ill-discipline in schools is not a uniquely South African problem, but it has enjoyed unfortunate prominence in press reports in Cape Town, with stabbings and beatings occurring with depressing frequency at schools all over the Peninsula. A lack of respect for rules at school inevitably leads to a lack of respect for the law later on. Aware of this, but not wanting to emphasise the negative, the approach we adopted was to make learners understand that they are already interacting with the law on a daily basis, and to make it fun and interesting.

The participation by learners was vigorous and enthusiastic. Claire Speirs, one of our practitioners who attended the Street Law training, was struck by how attentive the learners were and how eager they were to participate in the lessons presented to them by Street Law.

It is important to pitch the lessons at a very practical level, giving examples of how the law affects the learners in their daily activities, rather than trying to impart the jurisprudential value of knowing and understanding the meaning of and need for law. The learners enjoyed the break in routine from normal school classes (of course) and were quick to respond to questions relating to how the law affects them in their daily lives. It was also heartening to see the support that was given to us by the staff and headmasters of the schools, all of whom appeared to recognise the importance of this type of "preventative" legal problem-solving and education.

The Mosaic women are a remarkable group of individuals. Hungry for knowledge, interested and passionate about helping fellow South Africans, these are people who work long hours for very little, often without payment. Mosaic is the only organisation in the Western Cape working with domestic violence complainants directly at the courts. There is no other organisation in the Western Cape which is either providing holistic services to applicants in court or researching the effectiveness of government procedures within the courts. The latter was a motivating factor when the decision was reached to provide training to them, apart from the fact that they are a recognised structure, able to make referrals to us.

Prior to the workshop, the directorate of Mosaic were asked to identify the educational needs of their court workers and the programme was drafted according to these needs.

The programme covered the following topics:

- What is law?
- How laws are made
- The difference between Statute law and common law
- Types of courts in SA
- Steps in a trial, difference between examination in chief, cross examination and re-examination
- Parental responsibilities in terms of the Children's Act, 2005

A group of 40 women was trained. All of them asked for further training. I hope this is the first step in spreading the word on preventative pro bono work, and cementing a relationship with this worthwhile organisation.

The final piece of news is that we have made a submission to the Cape Law Society, asking that they recognise training received by our practitioners from Street Law (in order that we can in turn train trainers) as pro bono time that can be recorded. Watch this space.

Lastly, I would like to thank all of you for the tremendous effort you have put into pro bono work. Many people's lives have been changed for the better because of what you have done. That is something to be proud of.

#### **A humorous story from Lourens Ackermann...**

I received a phone call from a client. He wanted help. I asked him if he had been referred.

"No," he said.

"You must first be referred," I said. "Go to a recognised structure, like the Mitchells Plain Advice Office."

"That may be difficult," he said.

"Why?" I asked.

"Because I'm phoning you from Pollsmoor prison!"