



DHOOGHE LAW

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RATE CLEARANCE CERTIFICATES

WHY IS A RATES CLEARANCE CERTIFICATE NECESSARY?

A rates clearance certificate (RCC) is a document obtained from the Ekurhuleni Metropolitan Municipality (“the Council”) that certifies that the Seller does not owe any money to the Council. When the Purchaser becomes the owner of the property, no money will be owed by the Seller.

The Registrar of Deeds acts as a policeman on behalf of the Council and will not transfer a property from the Seller to the Purchaser unless the Conveyancer presents a RCC when lodging the documents in the Deeds Office. In other words the Registrar of Deeds is ensuring that the Purchaser does not become responsible for any of the Seller’s outstanding debts for municipal accounts on the property.

RATES CLEARANCE CERTIFICATES ARE NEEDED FOR FREEHOLD PROPERTY AND SECTIONAL TITLE PROPERTY

From 1 August 2008 Sectional Title Properties are treated the same as freehold properties and each sectional title property owner will receive a rates account from the Council. This means that a RCC must be obtained before Sectional Title properties may be lodged and registered in the Deeds Office just as in the case of freehold properties.

PAYMENT OF RATES BEFORE TRANSFER

The Conveyancer calls upon the Council for rates clearance figures. The figures are worked out by the Council and not the Conveyancer. The RCC will include arrears for rates and taxes, electricity and water and sewerage and refuse and will also include an advance portion which is discussed below. It is important to note that the Seller will be responsible for all accounts opened in respect of the property sold, even if accounts were opened by tenants. Once the rates clearance figures are received, the Conveyancer will present them to the Seller to ensure the correctness thereof and ask for payment.

WHOSE RESPONSIBILITY IS IT TO OBTAIN A RATES CLEARANCE CERTIFICATE?

It is the Seller's responsibility to pay all amounts needed to obtain the RCC. The Seller must pay the Conveyancer (and not the Council directly) who will pay the Council. The RCC must be obtained and paid for before the lodging of transfer documents in the Deeds Office.

Sellers should let the Conveyancer have copies of all municipal accounts to expedite the application process. Once the Conveyancer has obtained funds from the Seller and paid for and obtained the RCC, the Seller's account at the Council will be in credit and the Seller can discontinue paying monthly rates as a result of the credit.

WHY MUST THE SELLER PAY IN ADVANCE?

The Council will claim rates and taxes, electricity, water, sewerage and refuse for a period of 90 -120 days in advance. The law related to the RCC says that a RCC must be valid for a period of 60 days from the date of issue of the RCC by the Council. The Council gives the Seller 1-2 months to pay and thereafter the RCC is valid for the 60 day period.

Should the amount not be paid in time and the figures expire, new figures will need to be obtained.

WILL THE SELLER BE REFUNDED BY THE CONVEYANCER ON REGISTRATION?

After registration and once the municipal charges are transferred to the Purchaser's accounts there is usually a credit left on the Seller's municipal accounts. This means that the Seller is owed a refund by the Council. The Council takes approximately 6 to 9 weeks to reconcile the

Seller's and Purchaser's accounts and pay the refund to the Conveyancer who will then pay the money over to the seller.