

RATES CLEARANCE CERTIFICATES

Before any transfer of immovable property situated within a Local Authority area can be effected, the particular Conveyancer has to certify in terms of Section 78 of the Local Authority Act (act 23 of 1992) that all rates leviable in respect of such immovable property and all the fees, charges and other moneys due to the Local Authority in respect of any service, amenity or facility supplied to such property in terms of the said Act, inclusive of any availability charge and minimum charge provided for in Section 30(1)(u) of the said Act has been paid up to and including the date of registration thereof.

The Conveyancer attending to the transfer must sign a certificate in the Deed of Transfer confirming the above and therefore the Conveyancer takes full responsibility that sufficient provision has been made for the settlement of the Seller's liability towards the Local Authority. The Conveyancer is obliged to make sure that there are either sufficient surplus funds from the proceeds of the sale to cover the outstanding debt or the owner must provide additional funds to cover the debt.

It is interesting to note that Section 78 of Act 23 of 1992 does not only refer to the so called "rates and taxes" but also includes consumable items like the supply of electric current and water. This means that even if the owner was not the consumer of the electricity and water for example in case of a tenant, the owner still will be held responsible by the Local Authority for the settlement of the consumable items and the necessary clearance certificate will not be issued unless the full outstanding amount has been settled. Owners of immovable property should therefore make sure that their tenants are indeed keeping up with their respective payments towards the Local Authority.

Special care should be taken where the purchaser takes over the member's interest in a property owning Close Corporation or Company. The particular Close Corporation or Company remains the owner of the immovable property and therefore also remains responsible towards the Local Authority for the full municipal account notwithstanding the change in member's interest or shares.