

Buying Property?

Understanding Property Transaction Process

THE City of Johannesburg has ramped up efforts to protect home buyers by focusing on collection of outstanding debt and encouraging conveyancers to work with them.

A judgement in the Supreme Court of Appeal at the end of January ruled that new property owners could be held liable for historic debt. But Johannesburg city has assured residents that a specialized firm of attorneys and consultants has been employed to ensure that all collections are concluded before the property is transferred from the old owner to the new one.

In terms of Section 96 of the Local Government: Municipal Systems Act, No. 32 of 2000, municipalities are obliged to collect monies payable to them in respect of property rates and taxes and provision of municipal services. The Group Finance Spokesperson Kgamanyane Maphologela said the City of Johannesburg will apply its mandate to collect all debts outstanding prior to the transfer of the property to a new owner.

"Where a sale of the property takes place, a demand will be made to the transferring attorneys and

sheriffs for payment of outstanding municipal debts, this is in keeping with the Section 118 of the Systems Act," said Maphologela, adding that the act mandated the City to collect outstanding debts when a property is sold.

"Since May 2015, the City has employed a specialist attorney to ensure the collection of outstanding debt on properties for sale. To date the city has recovered R 730 million from 25033 properties sold, ensuring that buyers start their relationship with the municipality on a clean slate."

He said they had also written to transferring and conveyancing attorneys advising them of the legislative requirement.

"Many of our clients who are the new property owners and sometimes first-time buyers, are often caught by surprise when they face the huge debt that has accumulated under the previous owners. Now we want to ensure that we collect all the outstanding debt from the previous owner before the transfer of property happens as not to negatively affect the new owner," said Maphologela.

Maphologela said it had always

been a norm that the City would issue the seller with the Clearance Certificate in terms of the Municipal Systems Act, Section 118 (1) if the debt for the preceding two years is paid. But this did not mean the owner is not liable for the outstanding debt.

"It is very important for the transferring and conveyancing attorneys to advise their clients about the historic debt which is attached to the property they intend purchasing," says Maphologela.

A clearance certificate can be obtained by transferring attorneys from the Clearance Department at 61 Jorissen Street, Braamfontein, once any historical debt or queries on the account have been resolved. It is valid for 120 days.

Section 118 states that a restraint on the transfer of property must be issued by the municipality or municipalities in which the property is situated. It also says "any amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mort-

gage bond registered against the property."

The application form for the clearance certificate needs to be properly filled out and then date stamped. The application will only be considered if the information corresponds with the council's records. Maphologela said this meant personal information such as ID numbers and names of the owner, as well as address details.

"Once the Clearance Department has verified all the applicable information, the conveyancers are informed of the clearance figures within five working days, provided there are no problems or queries raised. The figures supplied display both the amount applicable to abat-

ing the clearance figure and the full outstanding debt on the account."

In the event of an absent municipal service charge such as waste or electricity, the processes may be delayed as the City needs to contact the relevant entities to read and bill the correct charges.

When all services have been charged, the conveyancing attorneys can arrange payment of these outstanding amounts in cash or by electronic funds transfer (EFT). This will ensure that the account can be finalised and if there is a refund owed to the seller, they can apply for it once the property has been transferred.

Tips for Buyers:

Don't get caught with an outstanding municipal debt on a newly-bought property.

- Request a copy of the clearance figures from the seller or estate agent
- Take your signed letter of offer (by buyer, seller, or estate agent) to a customer Service centre and request a copy of the seller's municipal account.



Are you Buying or Selling Property in Joburg?

In the property transaction process, the seller is responsible for the payment of municipal rates and service charges on the property. This includes electricity, water, sewer and refuse charges. Even though a tenant might have leased the property from a seller, outstanding municipal revenue service fees still remain the seller's responsibility. As part of the property transaction process, a clearance certificate is issued to the seller and certifies that all outstanding revenue service fees have been paid up for the past two years. Buyers need to cover themselves from inheriting any other historic debt for rates and services from the previous owner. Here are three tips to help:

- Request a copy of the clearance figures from the seller. These include the clearance figures and the full outstanding amount.
- Take your signed "Offer to Purchase" (signed by buyer, seller, or estate agent) to any Customer Service Centre and request a copy of the seller's municipal account.
- Ensure that your "Offer to Purchase" states that the seller is fully liable for outstanding rates and municipal service charges; and that the seller will undertake to settle the amount owed to the municipality.

City of Johannesburg



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