

FREQUENTLY ASKED QUESTIONS (FAQ)

1. Aren't the Financial Institutions and local government benefitting from double payments?

When the rates and levy clearance -and the bond cancellation figures are requested and issued by the relevant institutions it is required that the SELLER continues to make monthly payments even after issuing of such figures. However, the Transfer Attorney is compelled to pay over the amount as required by the Institutions on behalf of the SELLER, after obtaining the said amounts from the SELLER, notwithstanding the fact that continued payments still need to be made by the SELLER to the Institutions. Double payments are therefor indeed being made to the Institutions. This requirement is to avoid getting into arrears if the agreement for some or other reason is cancelled and the transfer is not registered. After registration the SELLER will be re-imbursed by the Institutions for extra payments made (credit).

2. May any one of the parties instruct the Transfer Attorneys to pay over monies to a third party?

Yes, but such a request should be in writing to avoid any problems later on.

3. Whose responsibility is it to arrange for an Electrical Compliance Certificate and why is it necessary to obtain such a certificate?

In terms of legislation it is the responsibility of the SELLER to, at his or her own costs, provide the PURCHASER with an electrical compliance certificate. The purpose of the certificate is to confirm that the existing wiring of the fixed property is safe and according to municipal specifications. No registration will take place without a valid Electrical Compliance Certificate. With every subsequent transfer of property a newly issued Electrical compliance Certificate is usually required in terms of the contract. This will also apply to any gas installation or electrical fence.

4. How can I speed up the process?

- When you decide to sell your property ensure that you have approved building plans, and if applicable, approved sectional plans for the property. Also ensure that the electrical wiring of the property is in order. Both parties must also, prior to entering into a transaction, ensure that your obligations to SARS have been fulfilled, that you have all your FICA documents ready to forward and that you have the

necessary monies available to make payment when requested to do so;

- Forward your FICA and other documents required to the Bond- and Transfer Attorneys as soon as they request it;
- As soon as the conditions of the transaction are fulfilled, arrange for the Electrical/Fence/Gas Compliance Certificate;
- Make payment as soon as it is requested. If the SELLER is unable to make payments, do not delay the process, but rather request the Transfer Attorney to arrange for bridging finance. The administration fee is minimal compared to the costs involved should you delay the transaction unnecessarily;
- Arrange to sign the transfer -and bond documents as soon as the conditions have been fulfilled;

5. What is Capital Gains Tax (CGT)

An asset in terms of the Eighth Schedule to the Income Tax Act includes any fixed property or any interest therein of whatever nature. CGT is applicable to all assets disposed of on or after 1 October 2001. It does not matter whether the asset has been obtained before or after 1 October 2001. It is however only the gain which is subject to CGT from 1 October 2001. A certain amount of gain on a Primary residence determined from time to time is excluded from CGT.

A primary residence:

- Must be owned by a natural person and not a trust, company or close corporation;
- The owner or spouse of that person must ordinarily reside in that home;
- The property must be used for domestic or private residential purposes.

6. What is “voetstoots” and does it apply to my transaction?

This means that the property is sold as it stands. This clause applies to your transaction unless you are a developer. The SELLER is in terms hereof not liable to the PURCHASER for any defects in the property, whether visible or not, unless the SELLER knew of defects that are not visible (latent defects) and did not bring them to the attention of the PURCHASER.

- 7. Do I need approved building plans?** The SELLER needs approved building plans for the property – in terms of recent court decisions a SELLER could be held liable for claims if the SELLER is not in possession of approved building plans.

8. What is clearance figures and who pays for it?

A City council, body corporate and Home Owners Association (one or all three may be applicable) requires a property to be financially "cleared" before the Deeds office will register such a transfer. The SELLER will have to make payment to these institutions a few months in advance to enable the Transfer Attorney to obtain certificates/consents from them to register the transfer in the Deeds Office.

