

## RATES CLEARANCE EXPLAINED

### What is a Rates Clearance Certificate? (RCC)

A Rates Clearance is a certificate provided by the relevant local authority on application by a conveyancer to transfer a property. This document certifies that there is no current outstanding debt due by the seller on the property. The Registrar of Deeds may then pass transfer on the property and registration in the purchaser's name may go ahead.



### What is the law?

The Deeds Registry Act prohibits the Registrar from passing transfer of a property without a Rates Clearance certificate.

Section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) states:

*“118(1)A registrar of deeds may not register the transfer of property except on production of a prescribed certificate –*

- (a) issued by the municipality or municipalities in which that property is situated; and*
- (b) which certifies that all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.*

*1(A) A prescribed certificate issued by a municipality in terms of subsection (1) is valid for a period of 60 days from the date it has been issued*

### How does the rates clearance process work?

The appointed conveyancer will apply to the relevant local authority to issue the “Rates Clearance figures”. These figures are a breakdown of the outstanding debts. The conveyancer will request this outstanding amount from the seller. Once all outstanding and assessment amounts have been paid by the seller a Rates Clearance certificate will be issued to the purchaser.



### Is a rates clearance required on both Freehold and Sectional Title properties?

To fully understand the differences between sectional title and traditional freehold property ownership it is important to define them.

**Freehold or full title describes the transfer of full ownership rights of a property, including both the building and the land.** Freehold title includes amongst others free-standing houses, cluster houses, property used for business purposes and smallholdings.

Sectional title on the other hand, provides title to the separate ownership of units or sections within a complex or development. When you buy into a sectional title complex, you purchase a section or sections and an undivided share of the common property. These are collectively known as units. Sectional title properties include semi-detached houses, townhouses, flats or apartments, mini factories, business parks.

Sectional title properties may be used for either residential or business purposes. Sectional title developments are governed by a Body Corporate, which is the collective name given to all the owners of units within any particular complex. The Body Corporate is responsible for managing the scheme and taking care of its finances.

For the purposes of rates clearance, Sectional Title and Freehold properties are treated the same. This means that a Rates Clearance certificate must be obtained before the transfer of a Sectional Title Property ("a section") can lodged and registered in the Deeds Office. In order to obtain a Rates Clearance certificate on the section all the Body Corporates Debt must be up to date. All owners within the scheme are liable for Body Corporate Debt.



### What debt is included in the rates clearance?

A municipality will charge for any arrears on the property for the last two years. This will include rates, other municipal taxes, electricity, water, sewerage, refuse and other sundries. The amount will also include debt due for a period in advance (the "assessment amount") to provide for the time whilst the transfer is taking place. This is a practical measure. The law states that a Rates Clearance must remain valid for 60 days from date of issue.

According to a recent High Court judgement , City of Tshwane Metropolitan Municipality v PJ Mitchell [2015] ZASCA 1 (29 January 2016), any debt in excess of 2 years remains a debt on the property and the purchaser will become responsible for this debt on date of transfer. It is unlikely a municipality will allow provision of services to the purchaser unless this is paid. Purchasers are advised to ensure that a provision is included in the sale agreement to protect themselves.

### When may sellers be refunded?

The conveyancer will pro-rate any rates required on the Rates Clearance between seller and purchaser. If the seller has made additional payments after the final clearance payment was made e.g. un-cancelled debit orders then the seller will be entitled to a refund.

### MetVal makes it easy

MetGovis is the proprietor of MetVal, the property management system that has set the benchmark for legislatively compliant programs.

MetVal has a rates clearance module that supports the tracking of rates clearance applications through the municipal processes.

MetVal makes it easy.

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