DYKES VAN HEERDEN
ATTORNEYS AND CONVEYANCERS

PLUMBING CERTIFICATES: A REQUIREMENT FOR PROPERTY TRANSFERS IN THE CITY OF CAPE TOWN

The City of Cape Town recently passed a by-law in terms of which it is required that a plumbing certificate issued by an accredited plumber is e-mailed to Council prior to registration of transfer. The form of the certificate is specifically prescribed in Schedule 4 of the By-Law.

The questions that immediately come to mind are: "What is an accredited plumber and what are the penalties for non-compliance?" An accredited plumber is a plumber that belongs to the Institute of Plumbing South Africa (IOPSA). A check can be done on IOPSA's website to check whether a plumber or plumbing company is accredited with IOPSA. Regarding the penalty issue, although the City has indicated that they are not allowed to withhold rates clearances as a result of non-compliance with this requirement, the By-Law states in Section 64 thereof that any person who contravenes or fails to comply with its provisions (amongst other things) is guilty of an offence and is, on conviction liable for a fine or imprisonment not exceeding five years or both such fine and term of imprisonment. Furthermore, Section 12 stipulates that no person may use water from the water supply system unless an agreement referred to in Section 13 or 14 has been concluded (i.e. through a metered water supply point specifically installed by the City for the supply of water). As Section 14 does not refer to any agreements, but merely to the production of the certificate during the transfer process, this could create a situation in future where the non-production of such a certificate may cause problems when a new owner applies for the opening of an account after transfer has taken place.

The By-Law does not address how long such a certificate remains valid or whether it can be transferred from one registered owner to another. It can however be implied from the certificate itself that a new certificate needs to be obtained for each transfer as it does not contain an expiry date and requires the details of the seller, the purchaser and the property in each instance. The certificate does not directly distinguish between Sectional Title units and Free Standing Erven. However, as a result of the fact that "Owner" (the person in whom, from time to time, is vested the legal title to the premises) is defined in Section 1 to include the owner of a Section as defined in the Sectional Titles Act and the Developer or Body Corporate in respect of common property, it is safe to assume that it is applicable for transfers in both instances.

We therefore strongly suggest that Agents deal with this matter contractually to avoid any issues down the line or during the transfer process, by including the following clause in their Deeds of Sale if they operate in the jurisdiction of the City of Cape Town:

In terms of the City of Cape Town Water By-Law 2010 the Seller agrees at his cost to provide the Conveyancing Attorneys prior to lodgment of transfer in the Deeds Office with a Certificate in terms of Section 14(1) of such By-Law in the format set out in Schedule 4 to such By-Law.

Ingevolge die Stad Kaapstad se Water Regulasies van 2012, kom die verkoper ooreen om op sy onkoste die oordragprokureur voor indiening van die oordrag in die Aktekantoor, te voorsien van 'n sertifikaat soos uiteengesit in Artikel 14(1) van die Regulasies en in die format soos vervat in Skedule 4 daartoe.

dvh Going Beyond

The DVH group is a national group of attorney practices with offices situated in the Western Cape, Gauteng, and Kwa Zulu Natal.

www.dvh.law.za or scan the QR to contact us.

This newsflash has been prepared for information purposes only and does not constitute legal advice, or a legal opinion, the practical application of the provisions of this newsflash will vary depending on the facts of each case.