

CHIEF REGISTRAR'S CIRCULAR NO. 8 OF 2014

LODGEMENT OF RATES CLEARANCE CERTIFICATES AND WITHDRAWAL OF CHIEF REGISTRAR'S CIRCULAR NO. 5 OF 2014

1. PURPOSE OF THIS CIRCULAR

- 1.1. Several municipalities that are issuing rates clearance certificates manually, are not currently in a position to issue certificates that comply with the format in *Annexure A* to Chief Registrar's Circular 5 of 2014, or the format as prescribed in the Regulations to the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- 1.2. In order to accommodate the problems experienced by municipalities and to avoid the rejection of deeds country wide, Chief Registrar's Circular 5 of 2014 is hereby withdrawn and substituted with this Circular.

2. BACKGROUND

- 2.1. During a meeting held between the Office of the Chief Registrar of Deeds, the Department of Cooperative Governance, SALGA, and the Law Society of South Africa ('LSSA') on 5 February 2014, the following challenges were raised with regards to the certificate prescribed by the Regulations to Act 32 of 2000:
 - (i) The certificate does not make provision for the capturing of sectional title units / exclusive use areas / cession of real rights and the unique description thereof;
 - (ii) The certificate does not make provision for advanced electronic signatures as contemplated in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and
 - (iii) The certificate does not make provision for electronically issued clearance certificates.
- 2.2. The Department of Cooperative Governance has indicated that it will initiate the legislative process to amend the regulation dealing with the certificate in terms of section 118 of Act 32 of 2000, in order to address the issues referred to in paragraph 2.1 *supra*.

3. ELECTRONICALLY ISSUED RATES CLEARANCE CERTIFICATES

- 3.1. Pending the amendment of Act 32 of 2000, municipalities will be required to ensure that as from 1 July 2014, all electronically issued certificates contain an advanced electronic

signature as contemplated in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002).

3.2. In the interim, the Office of the Chief Registrar of Deeds, Department of Cooperative Governance, SALGA, and the LSSA, have agreed that a Registrar of Deeds may accept electronically issued rates clearance certificates, if such certificates embody the following certificate by the conveyancer:

"I (full name and surname) hereby certify that this is a print-out of a data message in respect of the original clearance certificate electronically issued by themunicipality (insert name of municipality)."

.....
Conveyancer

.....
Date: "

- *Deeds must not be rejected only because the electronically issued clearance certificate does not contain the above conveyancer's certificate. A note must just be made to the effect that the clearance certificate must be embodied with the above-mentioned conveyancer's certificate.*
- *If the electronically issued clearance certificate contains a conveyancer's certificate to the effect that it is a true copy of a clearance certificate that had been drawn from a website, a note must be raised for such conveyancer's certificate to be deleted and to be replaced with the above-mentioned certificate.*

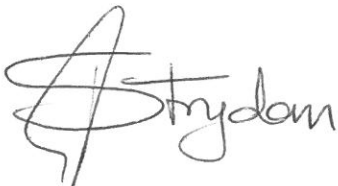
3.3 The Office of the Chief Registrar of Deeds, Department of Cooperative Governance, SALGA, and the LSSA have also agreed that the prescribed form be amended to include the description of sectional title units / exclusive use areas / cession of real rights. A copy of the proposed amended certificate is attached as 'Annexure A' and must be followed in respect of electronically issued certificates. It must be noted that although Act 32 of 2000 does not allow for a deviation from the prescribed certificate unless the regulation is amended, this interim measure will ensure that the property market continues to function and that the transfer of sectional title units / exclusive use areas / real rights is not delayed until the amendment has been affected. *However, a rates clearance certificate that follows the format as prescribed by the Regulations to Act 32 of 2000, and not that of Annexure A, must not be rejected.*

4. MANUALLY ISSUED RATES CLEARANCE CERTIFICATES

- 4.1. The Office of the Chief Registrar of Deeds, Department of Cooperative Governance and SALGA, have come to an agreement that manually issued rates clearance certificates that do not comply to the prescribed form in the Regulations to Act 32 of 2000, or to Annexure A, may also be accepted for registration purposes.
- 4.2. A manually issued rates clearance must at least make reference to the following:-
- the issuing thereof in terms of the provisions of section 118 of Act 32 of 2000;
 - by which municipality it has been issued;
 - the property description (the property must be identifiable with the property referred to in the transaction it relates to);
 - the expiry date; and
 - it must be signed and dated by the municipal manager / authorised official.

5. DATES RELATING TO AGREED PROCEDURES IN RESPECT OF ELECTRONICALLY ISSUED RATES CLEARANCE CERTIFICATES

- 5.1. All electronically issued clearance certificates, **issued on or after 31 March 2014**, must embody the certificate by the conveyancer as referred to in par. 3.2 *supra*.
- 5.2. All electronically issued clearance certificates, **issued on or after 1 April 2014**, must conform to the format as contained in *Annexure A*.
- 5.3. All electronically issued clearance certificates, **issued on or after 1 July 2014**, must contain an advanced electronic signature as contemplated in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002). *However, should the certificate not contain the advanced electronic signature, it must embody the certificate by the conveyancer as referred to in par. 3.2 supra.*



CHIEF REGISTRAR OF DEEDS

DATE: 11/6/2014

REFERENCE: A. 6/2/P
RINGBINDER 68

ANNEXURE "A"

**CERTIFICATE IN TERMS OF SECTION 118 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT No. 32 OF 2000)
(AS PRESCRIBED IN TERMS OF SECTION 120 OF ACT No. 32 OF 2000)**

ISSUED BY XYZ MUNICIPALITY

In terms of section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), it is hereby certified that all amounts that became due to XYZ Municipality in connection with the undermentioned property situated within that municipality 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 this certificate, have been fully paid.

DESCRIPTION OF PROPERTY (see definition of property in section 1 of Act 32 of 200)

Erven:

Portion:

Extension:

Registration division / Administrative District:

Suburb :

Town :

Sectional Title unit number:

Exclusive use area and number as referred to on the registered plan:

Real right:

Scheme registration number:

Sectional Title Scheme Name:

Registered owner :

This Certificate is valid until:

Given under my hand at, **on**

**MUNICIPAL MANAGER
XYZ Municipality**

Date Issued:

Authorised Official: