



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE REGISTRAR OF DEEDS, PRETORIA, PRIVATE BAG X 183, CORNER PRETORIUS AND BOSMAN STREETS, PRETORIA,
0001.TEL: (012) 338 7000, FAX: (012) 338 7103

REGISTRAR'S CIRCULAR 15 of 2015 **DEVELOPMENT FACILITATION ACT, ACT 67 OF 1995**

1. Purpose

This circular is issued to provide for a transitional measure to finalize all pending applications before a tribunal established in terms of section 15 of the Development Facilitation Act, Act 67 of 1995 that have not been disposed of.

2. Background

From 18 June 2012, chapter v and vi of Act 67 of 1995 was declared unconstitutional in the judgement of City of Johannesburg v Gauteng Development Tribunal and others (CCT89/09) [2010] ZACC11; 2010 (6) SA 182 (CC); BCLR 859 (CC). The Constitutional court ruled that municipal planning vests in Municipalities. From 1/07/2015, the whole of the Development Facilitation Act will be repealed in terms of the Spatial Planning and Land Use Management Act, Act 16 of 2013 (hereafter referred to as SPLUMA). Section 60(2)(a) of SPLUMA provides that pending matters (applications received prior to 18 June 2012) must be continued with and disposed of in terms of SPLUMA.

3. Requirement of Section 60(2)(b and c) of SPLUMA

Section 60(2)(b) of SPLUMA refers: A reference to a tribunal in terms of section 15 of the Development Facilitation Act, 1995 for the purposes of deciding or otherwise disposing of any application, appeal or other matters pending before a tribunal at the commencement of this Act must be construed as a reference to a local or **metropolitan municipality**.

Section 60(2)(c) of SPLUMA refers: References to a designated officer and the registrar in terms of the Development Facilitation Act, 1995 must for the purposes of deciding or otherwise disposing of any application, appeal or other matters pending before a tribunal at the commencement of this Act must be construed as a references to an **official** of a local or **metropolitan municipality** designated by such municipality to perform such function.

4. Requirement of Section 60(3) of SPLUMA

Section 60(3) of SPLUMA refers: Despite the repeal of the Development Facilitation Act, 1995, a **municipality** must continue to perform the **functions** conferred on a designated officer **in terms of the Development Facilitation Act, 1995** –

- (a) to inform the Registrar of Deeds that the conditions of establishment which have to be complied with prior to the commencement of registration, have been complied with as contemplated in Section 38(1)(c) of the Development Facilitation Act, 1995; and
- (b) to inform the Registrar of Deeds that the applicant and the municipality have fulfilled their obligations relating to the provision of services as contemplated in Section 38(1)(d) of the Development Facilitation Act, 1995.

5. Resolution

Pending matters will be finalized in terms of the Regulations of the Development Facilitation Act.

As section 60 of SPLUMA does not refer to the Municipal Planning Tribunal as the decision making authority, all pending matters will be decided on by a Local or Metropolitan Municipality.

6. Lapsing

Section 60(2)(d) of SPLUMA declares that the Minister may prescribe a date by which pending matters must be **disposed** of. The Department of Rural Development and Land Reform has decided that 24 months would be a reasonable timeframe to deal with all pending matters. The period will start from date of Gazetting (which date will be communicated in future as soon as Gazetting has taken place).

7. Checklist

Find attached a checklist for all requirements to finalize an application in terms the Development Facilitation Act.

This circular will come into operation on 1/07/2015 (in accordance with SPLUMA which will come into operation on 1/07/2015 as per gazette notice number 38828 published on 27/05/2015).



REGISTRAR OF DEEDS
PRETORIA

Date: 01/07/2015

CHECK LIST FOR OPENING OF TOWNSHIP Development Facilitation Act, Act 67 of 1995

	J/E	S/E
Certain conditions of establishment may be imposed and decided whether certain Acts are to apply (Section 33)		
A notice may be lodged dealing with the suspension and removal of servitudes and restrictive conditions. Provincial Gazette lodged (Section 33(4)). Title to be endorsed re removal when subdivisional register is opened (Section 34(3))		
Act 70/70 complied with or letter of exemption filed		
Caveat noted in terms of Section 38 (1)(c and d)		

GENERAL PLAN

1) General Plan approved on:		
2) General plan extended till: (General Plan must be lodged within 2 months of date of approval by SG (Regulation 19(10)) NB Not applicable if Local Authority is owner)		
3) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
4) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB)		
5) Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Notice of approval of land development application in terms of Section 33(6) is filed on township file		
2) Certificate to be lodged stating Conditions of Establishment complied with NB Not applicable if Local Authority is owner)		
3) Heading refer to owner in Title		
4) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion...))		
5) Heading refer to Chapter v or Section 33 of Act 67 of 1995		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		
7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General Plan		
11) Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner: