

PREPARED FOR YOU BY MILTONS MATSEMELA INC. (THE CONVEYANCERS)

INFORMATION GUIDE TO CONVEYANCING

An informed client is a happy client!

Please read this.

This information guide has been prepared for you so that you may understand the process which has now commenced and more particularly understand what can be expected of the process in its entirety; what you can expect of us as the Conveyancers appointed to attend to the transfer of ownership of the property which has been bought and sold and what we expect of you. It is our conviction (based on many years of experience) that the most common cause of frustration and unhappiness with the conveyancing process is a lack of proper understanding by the parties of these matters.

We also know from experience that although we might stress to the parties the importance of gaining the required understanding, many are reluctant to read an overly long explanation. We have therefore divided this guide into two parts. The first is a "**Quick Guide**" which highlights some of the more important aspects and the second is a **Comprehensive Explanation**. We urge you to, at very least, read the "Quick Guide".

Part A - The Quick Guide

(We have included references to the Comprehensive Explanation where appropriate)

1. Who are we and what can you expect of us –

- 1.1 We are the conveyancing attorneys who have been appointed by the Seller to deal with the transfer of ownership of the property to the Purchaser thereof. In this role we will be interacting with a host of other persons and entities whose cooperation and efficiency we depend upon.
- 1.2 Although this firm has built its reputation on processing property transfers faster than most and although we will do our best to coordinate the activities of all of the above role players, we cannot predict which of the above parties (if any) might drop the ball and therefore cannot promise when your transfer will be registered. A normal property transfer where all the parties work reasonably efficiently **takes between 2 to 3 months from the date on which all suspensive conditions are fulfilled.**
- 1.3 We will report to you on a regular basis on the progress of the transfer so that you may be kept abreast of problems and the expected date of registration. These reports will constitute our best guestimate based on the facts at that time of when we anticipate registration to occur, but not a promise.

2. What do we expect of the Seller of the property (in no particular order) -

- 2.1 Make yourself available to sign required transfer documents when called on. (B7)
- 2.2 Provide to us such documentation which we might ask for as quickly as possible. (B3)
- 2.3 Provide the correct account number for your existing bond to us as soon as possible and if you don't have a bond deliver your original Title Deed to us as soon as possible. (B5)
- 2.4 Make sure that all the certificates which you have promised the Purchaser are delivered to us as quickly as possible. (B8)
- 2.5 If you have promised to do any work on the property then make sure that the work is done as soon as possible and that the Purchaser has been given an opportunity to inspect it well before transfer is expected. In addition make sure that, on hand over to the Purchaser, the property is in the same condition as when sold.
- 2.6 Pay to **us** (and not to the Municipality) the amount required for the Municipality rates clearance without delay and debate. (B6)

3. What do we expect of the Purchaser of the property (in no particular order) -

- 3.1 Make sure that you understand what you have promised to pay, when payment is due and then make payment timeously. This includes deposit, costs of transfer and occupational interest. (B4, B7, B9)
- 3.2 Ensure that bankers' guarantees of payment, if promised in the sale agreement, are produced within the timeframes promised. (B3, B4)
- 3.3 Make yourself available to sign required transfer documents when called on. (B7)
- 3.4 Provide to us such documentation which we might ask for as quickly as possible. (B3)
- 3.5 If you are taking a bond then ensure that you apply timeously for the bond, supply all required documents to the bank or mortgage originator required for the bond application and attend at the office of the attorneys who will be instructed by your bank to prepare your bond documents to sign the documents. Make sure that their account is settled without delay and that you deliver to them all documents which they ask for. (B10)
- 3.6 If the Seller has promised to do any work on the property then make sure that you are given an opportunity to inspect it well before transfer is expected.
- 3.7 Appreciate that you have probably purchased the property voetstoots and that submitting complaints about defects in the property to us is unlikely to be sympathetically received.

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Part B – Comprehensive Explanation

1. Conveyancing describes the legal procedure whereby the ownership of houses, flats and land is transferred from a Seller to a Purchaser and registered in the Deeds Office.
2. Conveyancing is a complex process involving many role-players, all managed as best as possible by the Conveyancer which in this case is ourselves. Usually the Seller nominates the Conveyancer, whose primary duty is to protect the interests of the Seller. However, a co-operative Purchaser will find that he will be treated fairly by us and that he does not require separate representation.
3. This information guide describes the process in a typical property transfer. It starts when we receive the Deed of Sale (Offer to Purchase). This is the contract signed by the Seller and Purchaser for the property, setting out their rights and obligations. After making contact with the parties to request information or documentation which we require, we do a search in the Deeds Office to confirm the full details of the parties, the property description, any mortgages registered over the property, any court attachments and any interdicts which might prevent us from transferring the property. We also order a copy of the current Title Deed to establish further details such as problematic Title Deed conditions which might affect the transfer, such as homeowners' associations and the like.
4. We will at this stage remind the Purchaser to pay any deposit due and to provide a guarantee for the full/balance purchase price when due. Production of a guarantee can be quite a challenge for the Purchaser and it would be a good idea to approach us for advice in this regard if any uncertainty exists. Failure to produce the guarantee can have serious consequences and this aspect should receive proper attention by the Purchaser.
5. Once all suspensive conditions (such as a mortgage bond) have been met, we then write to the Seller's bondholder (if any) to set up cancellation of the existing mortgage bond over the property and to obtain to the owner's current Title Deed for submission to the Deeds Office (lodgement) in due course. If the Seller's bond account number is not recorded in the information schedule attached to the Deed of Sale then the Seller is advised to inform us of that number urgently. We cannot write to the bondholder without providing that number and if we do not write to the bondholder as soon as possible the transfer process could be unnecessarily delayed. If the Seller has a so-called "access bond" facility, the Seller should remember to draw any funds which may be needed as this facility will be frozen at this point. If the Seller has not given his bondholder the required three months notice of cancellation, our letter will serve as such a notice. The Seller's bondholder will respond by giving us the figure required to settle the mortgage loan on the date of transfer, and instruct bond cancellation attorneys to supervise the cancellation process. We will, as Conveyancers, be required to produce a banker's guarantee of payment to the bond cancellation attorneys which guarantee we would expect to obtain from the Purchaser and/or the attorneys registering the Purchaser's bond, if applicable. If the Seller does not have a bond the Seller is required to deliver the original Title Deed to the property to us as soon as possible. If a Title Deed has been lost, we have to apply for a duplicate original thereof but this will create additional expense and cause a delay to the transfer. On registration we shall pay to the bondholder the amount required by them which will probably not take into account any bond instalment payments made by the Seller in the interim. The Seller need not be too anxious about this as the excess will be refunded to the Seller by the bondholder within a few days after registration of transfer.
6. Our next step is to apply to the local municipality for rates clearance figures. No property can be transferred until the current rates account, usually together with a four month pre-payment for rates, water and services, have been paid. We will ask the Seller to pay this outstanding amount to us to enable us to pay the municipality and obtain a Rates Clearance Certificate which is a requirement for lodgement in the Deeds Office. The Seller should make this payment to us and not to the municipality direct. The payment called for by the municipality is often irreconcilable with the normal account which the Seller last received and it is tempting to most Sellers to want to debate the amount called for. The best advice we can give is for the Seller to pay the amount asked and to argue later. Overpayments will be refunded by the municipality a few months after the transfer is registered and the Seller should apply for this refund. Debating seldom changes the figure and merely causes great frustration and more importantly a long delay to the transfer!
7. We then set up our transfer documents for signature by the Seller and the Purchaser. These are not contracts. They are normal conveyancing documents required for the conveyancing process but they are necessary and must be signed. We will then make contact to arrange for the parties to call on us to sign such documents. At this consultation, the Conveyancer will explain the transfer process, supervise the signature of the transfer documents and discuss the Deed of Sale and the finances of the transaction. The Purchaser will be required to pay transfer costs at this stage. These include transfer duty, the conveyancing fee plus VAT, disbursements, homeowners association and/or levy clearance fees, Deeds Office fees and searches, electronic license fees, postages etc. Bear in mind that this account does not include any bond registration or bank fees which will be supplied to the Purchaser by the mortgage bond attorneys separately. The charges reflected in the account are

as per the tariff recommended by the Law Society and cover normal conveyancing processes. They do not cover attendances relating to preparation of addendums to the agreement or the resolution of disputes between the parties which can be charged additionally. If any of the parties know that they will be away during any part of the transfer process then we should be advised of this as a matter of urgency so that signature of such documents can be arranged before departure. This is especially applicable to the Seller

8. The Seller should ensure that the certificates catered for in the Deed of Sale (such as Electrical Certificate) are handed to the Conveyancer at this stage. These certificates are often required by the bank granting the Purchasers bond and if they are not timeously delivered the transfer can be unnecessarily delayed. Many transfers are delayed by late delivery of these certificates and the Seller should therefore be particularly attentive to this aspect.
9. The next stage of the conveyancing process involves paying the transfer duty which might be due to SARS and obtaining an official receipt. We can of course not pay this until the Purchaser has settled the costs of transfer account. This transfer duty receipt is needed before we may approach the Deeds Office for lodgement and registration purposes.
10. By now (if the Purchaser is taking a mortgage bond loan) mortgage bond instructions should have been sent to his bank's mortgage bond attorneys. These are the attorneys who will prepare the mortgage bond documents. These attorneys will contact us for certain information and documentation which they will need to enable them to prepare the mortgage bond documents. They will contact the Purchaser as mortgagor to sign their documents as soon as possible and pay their fees and bank costs. The Purchaser should also co-operate and comply with any other bank requirements such as insurance policies. Failure to do so will make it impossible for the mortgage bond attorneys to lodge their bond at the Deeds Office and accordingly delay the transfer.
11. The above processes (which occur before we lodge our documents at the Deeds Office) normally take about six to eight weeks and once the three law firms involved in the above typical conveyancing process are all ready (in other words us as the conveyancing firm; the firm attending to the cancellation of the Seller's existing bond and the firm attending to the registration of the Purchaser's new bond), we will contact the other firms to arrange for simultaneous submission to the Deeds Office (lodgement) of all the required documents. The Deeds Office then processes and examines all the documents for a period which normally lasts between two to three weeks. The Deeds Office has the right to reject any documentation which they find to be technically unacceptable and this will necessitate the re-lodging of all the documents and cause a delay. If the Deeds Office is happy with all the documents they will inform us that the transactions are available for registration. We then have five working days in which to arrange the actual registration in the Deeds Office of the transactions.
12. Once the transaction is registered in the Deeds Office, the finances of the transaction will be finalised by us and the parties will be accounted to. The Seller should receive the sale proceeds on the day after the registration of the transfer. For all practical purposes, this is the end of the conveyancing transaction. However, after a period of two to four months, the Deeds Office will deliver the Purchaser's new Title Deed to us and we will either deliver the Title Deed to the Purchaser, or if the Purchaser took a bond, then to the mortgage bond attorneys who deliver it to the bank.
13. From the above guide, it will be clear that the conveyancing process is complicated and there are many participants and accordingly pitfalls which can slow down a transaction. The exact date of transfer can therefore not be guaranteed. It is for this reason that most Deeds of Sale provide for a fixed occupation date with occupational interest/rental to apply from that date to the date of registration of transfer. **A normal transfer takes between 2 to 3 months from the date on which all suspensive conditions are fulfilled. Expecting better than this is expecting the impossible and will simply lead to unnecessary frustration and unhappiness.**
14. At our firm, we do our very best to achieve the target date for transfer agreed to by the parties and to cause the transfer to be registered within the quickest possible time. You will receive information from us from time to time on progress in the transaction and the reason for any delay. The information which we will supply will constitute our best guesstimate based on the facts at that time of when we anticipate registration to occur, but not a promise. Please give our firm your prompt co-operation to help us to achieve a quick and trouble-free transfer.
15. We thank you for making use of our services and should you require any further assistance, we invite you to contact any of our Property Department Directors namely:-

Andrew 082 448 8902
David 082 496 3791
Deon 082 451 0676
Francois 083 565 1881
Fred 083 450 1122

Michael 082 820 1895
Milton 082 555 9090
Robert 082 823 6781
Teresa 082 221 2412
Willie 083 261 4222

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