

Why does the seller have to pay clearance figures before the transfer of fixed property?

A municipal clearance certificate must be obtained and lodged before transferring any fixed property at a deeds office. The certificate confirms that all amounts due to the municipality linked to the property have been settled to date, as well as an advance amount for typically three to four months. The law states that a clearance certificate must remain valid for 60 days from the issue date.

Therefore, the transferring attorneys will always obtain the municipal clearance figures as part of the registration process and provide them to the seller for payment. After payment, the municipality will issue a clearance certificate.

The advanced payment is required to ensure that the account is up to date on the registration date. The measure also protects purchasers who always take over the account after registration.

The relevant legislation, section 118 of the Local Government: Municipal Systems Act, 2000, therefore, assists municipalities with debt collection. Furthermore, the transfer of property is not possible without it, as the Deeds Registries Act prohibits the Registrar from passing a transfer without such a certificate.

All payments into the municipal account are credited to that account. Therefore, the transferor will, in most cases, have a credit available on the account after the registration date, which the municipality is obliged to pay back to the seller. The seller must submit a refund form to the municipality and then be patient, as it often takes them several months to update the records and process the refund payment.

Similar principles apply to a sectional title unit, where the body corporate would issue the clearance figures and the clearance certificate. Similar principles also apply where the property is subject to the rules of a homeowners' association.

The aforesaid is relevant for any transfer of fixed property, including from a deceased estate.

Volker Krüger