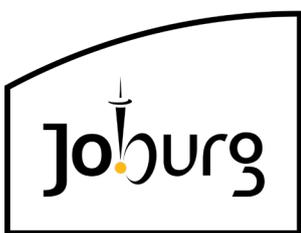




Buying and Selling Property



a world class African city

Buying and Selling: Everything you need to know about sectional titles.

When you buy into a sectional title, you purchase a unit/s and an undividable share of common property. Sectional title properties comprise mini subtype houses, semi-detached houses, townhouses, flats, apartments, duet houses, factory complexes, etc. They can also be mixed use, meaning part of the building could be for residential purposes and another part for business.

The owners of sectional titles become members of a scheme and this scheme is known as a body corporate with a board of trustees that will represent the interests of the rest of the owners within the scheme. Often a company or managing agent is then appointed to handle all administrative matters of the body corporate. This means the company will act on behalf of all the owners and trustees to ensure that municipal payments for bulk services and common areas are made and maintenance of the common property is done.

- In a sectional title the City supplies services such as water, electricity and sewer in bulk. Bulk supply means there is only one meter which is billed for the whole complex, the sectional title owners are in turn billed by the managing agent individually so that each sectional title owner has their own bill.
- It is important for sectional title owners to note that, other than paying levies which are used for administrative duties and paying for water and electricity consumption, each owner has a municipal rates and refuse account assigned by the municipality to their names for rates and refuse removal. This account is directly paid by each sectional title owner to the municipality.

When the City of Johannesburg bills for rates provided to a sectional title, it will note different types of use and bill according to the category of use.

The City of Johannesburg has three categories for sectional titles: Business, Residential and Other:

Property in the business category includes three different types of property:

Business Sectional title properties are those zoned for business or have businesses operating out of them. Where a property not zoned residential has been developed and is used exclusively as residential, the residential tariff will be applicable on application. The property owner must submit a declaration as to the purpose for which the property is being used, so that it can be rated accordingly. The residential property value reductions and rebates will be applied to such property.

Where a property is used for residential purposes, even if it is zoned for another purpose, the owner of such property may apply to the Council in writing for the levying of residential rates. The Council has the right to call for documentary evidence and/or conduct a physical inspection of the property. Where the actual usage is primarily residential, the residential rates and property value reductions and rebates will apply to such property.

The changes that will be done on the billing system will be effective from date of application.

Sectional Title Residential includes sectional title properties, zoned residential, zoned specially for residential use or property used exclusively for residential purposes.

Sectional Title Other properties include structures within a sectional title complex zoned residential that need to be valued separately including but not limited to garages, maids' quarters and security houses. These structures will be rated at the residential tariff but will not qualify for residential threshold rebate. The City has been experiencing huge growth in property development over the past two decades. While this is a positive reflection on our economy, it does present the City with certain issues. These problems exist when Developers try to get services (water and power) to the property they want to

develop or developers want to transfer a developed piece of property into the names of individual owners which requires a clearance certificate and issues can also arise when a consumer buys a home in a new development from a developer:

Water

To install new water or sewer connections, visit a municipal customer service centre in the area where the development is happening. Once again, an official will need to visit the property before giving a quote on a connection fee. This application is done by the developer, so the owners don't need to go individually, connection fees are payable at a customer service centre. Only after a connection fee is paid will Joburg Water effect connectivity usually connection is given to the developer at the time of development. A deposit is required once the connection fee has been paid, and deposits can be made at any customer service centre.

Power

To install electrical cables and new meter boxes, you can do so by visiting a municipal customer services centre. An official will need to visit the property before providing a quote on a connection fee. Connection fees are payable at the customer services centre. Only after the connection fee is paid will City Power effect connectivity and after that a deposit is required once the connection fee has been paid, and deposits can be made at any municipal office.

Getting a Clearance Certificate for a new development

On the purchase of the property site for development, a developer has to get a Council rates Clearance Certificate, and this is usually done through a conveyancer who bases it on the undeveloped value of the property.

However, on completion of the development project, the City will re-evaluate the property and issue an occupancy certificate. In most cases, the City's revaluation takes place when developers have already sold off the development and once revalued, the property and a new assessment rate will be levied and sent to the property owners.

How to get a municipal account for your new property

A bill for rates, sanitation and waste collection charges is automatically opened when the registration of your property is completed by the Deeds Office. Each owner will have to visit the offices to ensure that the postal information and contact details are correct for this account- these bills are sent individually to each owner.

However, the new service accounts for water and power for a sectional title is the responsibility of the managing agent for the complex. The Body Corporate or Managing Agent representative (as a juristic person) must present themselves at one of the regional offices.

The 'person' in whose name the account is going to be issued must also sign the application forms and present their ID and other required documents to any customer service centre.

Even though a sectional title is governed by a body corporate or managing agent, a seller will require the body corporate to apply for a clearance certificate from the municipality. It is the seller's responsibility to ensure that the rates account for the unit the customer owns is up to date.

However, sectional owners need to note that should their water and electricity payments be outstanding, the Managing Agent on behalf of the body corporate will not issue a clearance certificate, meaning the sale will be prevented until the money owed to the body corporate is paid. It is important for owners of sectional titles to request a copy of the municipal account on a monthly basis to ensure that it is up-to-date and paid in full.

People who are buying new developments should ask their developer a few simple questions that may save problems in the future.

Here is a checklist:

- Have the planning rights been approved by the City of Johannesburg's Development Planning Department? Understand the Zoning and its relation to categories as per the Rates Policy.
- Did the Surveyor General approve your diagrams for your development?
- If it is a township development has the township register been opened?
- Does the developer have permission to sell erven out of the township development from the City of Johannesburg?
- Is the township a proclaimed township?
- If it is not proclaimed are the clauses that protect the buyer in terms of the relevant legislation included in the contract?
- Are all the services for the development installed?
- Has the City of Johannesburg approved and granted clearances for the services?
- Has the developer paid all the contributions outstanding on the township?
- Has the developer complied with all the conditions relating to the development?
- Has the City of Johannesburg granted clearance for the transfer of erven from the township?
- Have building plans been approved for the development?
- If building plans have been approved and the building has been built, has the City of Johannesburg issued occupation certificates?

Buying Property?

Understanding the Property Transaction Process

The City of Johannesburg has ramped up efforts to protect home buyers by focusing a collection of outstanding debt and encouraging conveyancers to work with them. A judgement in the Supreme Court of Appeal at the end of January 2016 ruled that new property owners could be held liable for historic debt. But Johannesburg City has assured residents that a specialized firm of attorneys and consultants has been employed to ensure that all collections are concluded before the property is transferred from the old owner to the new one.

In terms of Section 96 of the Local Government: Municipal Systems Act, No. 32 of 2000, municipalities are obliged to collect monies payable to them in respect of property rates and taxes and provision of municipal services. The City of Johannesburg will apply its mandate to collect all debts outstanding prior to the transfer of the property to a new owner.

Where a sale of the property takes place, a demand will be made to the transferring attorneys and sheriffs for payment of outstanding municipal debts, this is in keeping with the Section 118 of the Systems Act. The act mandated the City to collect outstanding debts when a property is sold.

Since May 2015, the City has employed a specialist attorney to ensure the collection of outstanding debt on properties for sale. To date the City has recovered R 730 million from 25033 properties sold, ensuring that buyers start their relationship with the municipality on a clean slate.

Transferring and conveyancing attorneys were written to and were advised of the legislative

requirement. Many of the City's clients who are new property owners and sometimes first-time buyers, are often caught by surprise when they face the huge debt that is linked to the property, that has accumulated under the previous owners. Now the City wants to ensure that it collects all the outstanding debt from the previous owner before the transfer of property happens as not to negatively affect the new owner.

It had always been a norm that a City would issue the seller with a Clearance Certificate in terms of the Municipal Systems Act, Section 118 (1) if the debt for the preceding two years is paid. But this did not mean the owner is not liable for the outstanding debt linked to the property.

It is very important for the transferring and conveyancing attorneys to advise their clients about the historic debt which is attached to the property they intend purchasing. A Clearance Certificate can be obtained by transferring attorneys from the Clearance Department at 61 Jorissen Street, Braamfontein, once any historical debt or queries on the account have been resolved. It is valid for 120 days.

Section 118 states that a restraint on the transfer of property must be issued by the municipality or municipalities in which the property is situated. It also says, "any amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property."

The application form for the Clearance Certificate needs to be properly filled out and then date stamped. The application will only be considered if the information corresponds with the council's records.

This means personal information such as ID numbers and names of the owner, as well as address details.

Once the Clearance Department has verified all the applicable information, the conveyancers are informed of the clearance figures within five working days, provided there are no problems or queries.

Tips for Buyers:

Don't get caught with an outstanding municipal debt on a newly bought property.

- Request a copy of the clearance figures from the seller or estate agent.
- Take your signed letter of offer (by buyer, seller, and estate agent) to a Customer Service Centre and request a copy of the seller's municipal account.

Buyer: Opening an account

On purchase of a property, the buyer needs to apply for a new account with the Johannesburg rates department in order to receive services such.

as refuse removal and sewer. This is done by completing an application form at the city's customer service centre and paying a minimum deposit to have the electricity and water connected to their new home.

All new accounts will be charged a security deposit equal to the average consumption of two months for metered services account.

The average deemed consumption for new accounts will be averaged and automatically regulated after six months. Thereafter the City will adjust the deposit and reflect it on the account as either a credit or a debit.

Security deposit:

- Based on deemed consumption. Where a previous owner has moved out, previous consumption will be used and multiplied by two months.
- Where the accounts has no history the township average will be used, multiplied by two months. This refers mainly to new houses.

Information and documentation required when an application for the supply of water and electricity is sub-mitted:

1. The applicant's ID document.
2. A copy of the owner's ID in the case of a tenant which will apply only when the property is zoned as business as an applicant.
3. Spouse's details and ID document.
4. Spouse's employer details.
5. The applicant's next of kin details.
6. The applicant's bank account details, including the type of account, the bank account number, branch and branch code.
7. Monthly income.
8. Meter number.
9. Founding statement in the case of a Close Corporation or a Trust.
10. Certificate of Establishment of a Body Corporate.
11. Company registration Documents.
12. Letter on a company letterhead authorising a specific person to sign on behalf of the company and the signatory's ID document.
13. Lease agreement and a letter from the owner or estate agent, in the case of tenants, stating the occupation date.
14. Offer of Purchase if a transfer of ownership has not yet been registered at the Deeds Office.

Important!

1. Should the assessment rates be in arrears, the following applies:
 - The owner must pay the account in full before a new deposit will be accepted.
 - In the case where a tenant has abscond-ed, the owner must pay the arrears amount before a new deposit will be accepted.
 - Should the consolidated account be in the owner's name, the full account must be paid before a new deposit will be accepted
2. No undertakings or bank guarantees will be accepted for a deposit.

It is the responsibility of the new homeowner to ensure their rates and water fees are managed and settled each month.

Seller: finalising an account and refunds

The deeds office requires a clearance certificate in order to register the change of ownership of a property and once the property has been transferred, the seller needs to finalise the account and close it. To do this, a "cancellation of consumer agreement" will need to be filled out in order to finalise the water and electricity accounts.

Then the refund of the deposit amount can be applied for and this can take up to four weeks.

The seller may also have to request a refund once all the outstanding debt related to the account holder for additional properties has been settled. If there is still a credit balance, it is considered 'non-active' and they can apply for a refund of the credit amount.

If the account belongs to a deceased estate and transfer took place less than a year ago, an attorney's letter is required. If the transfer was more than 1 year ago, a letter of executorships will be required, including a death certificate and a letter from the estate's executor which includes his identity document.

Refunds of all kinds are done by Electronic Fund Transfer (EFT) so the correct accompanying documents are needed to effect the payment. The name of the bank account holder, bank account number, stamped letter from the bank confirming banking details and a cancelled cheque. It is also possible. to transfer the credit balance to a joint account or instruction from the consumer.

A letter of request is required which must be accompanied by copies of the identity documents. In the case of a consolidation of an account or closing one account and opening another for the same stand in the same name, no documentation is required. When a credit transfer to a company is to be affected a certificate of registration is needed. This certificate must be obtained in cases where a refund is to be made to anyone else other than the company itself - this will assist us in verifying the ownership of the company. And if the amount is to be refunded to an individual rather than the company, it must be signed to this effect.

Alternative ways to contact the City

Customers may use alternative ways to contact the City by emailing their queries to the following email addresses or contact our Call Centre On 0860 JOBURG (562 874)

Customer Service Centre	Email Addresses
Midrand Customer Service Centre	regionArevenue@joburg.org.za
Randburg Civic Customer Service Centre	regionBrevenue@joburg.org.za
Roodepoort Customer Service Centre	regionCrevenue@joburg.org.za
Jabulani Customer Service Centre	regionDrevenue@joburg.org.za
Sandton Customer Service Centre	regionErevenue@joburg.org.za
Thuso House Customer Service Centre	regionFrevenue@joburg.org.za
Lenasia Civic Customer Service Centre	regionGrevenue@joburg.org.za



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