rural development
& land reform
Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE REGISTRAR OF DEEDS: JOHANNESBURG
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REGISTRARS CIRCULAR NO 01 OF 2018

1. PURPOSE

The purpose of this circular is to clarify the position with regards to conditions inadvertently registered in the Deeds Registry which were created upon establishment of townships but were incorrectly incorporated in the Title Deeds.

2. BACKGROUND AND DISCUSSION

It has become apparent that some conditions incorporated in the Title Deeds are unregistrable (contravenes section 63 of Act 47/1937) which poses the following questions that need to be answered:

2.1 How to deal with unregistrable conditions created on establishment of township but, brought forward into the first transfer and perpetuated in subsequence transfers?
For example (not limited to the bellow):

(i) Where in the opinion of the Local Authority, it is impracticable for storm water to be drained from higher-lying erven direct to a public street the owner of the lower lying erf shall be obliged to accept and/ or permit the passage over the erf of such storm water. Provided that the owners of any higher-lying erven, the storm water from which is discharged over any lower-lying erf, shall be liable to pay a proportionate share cost of any pipeline or drain which the owner of such lower-lying erf may find the necessary to lay or construct for the purpose of conducting the water so discharged over the erf.

(ii) The local authority had limited the electricity supply to the erven in the township to 210KVA/300Amps and should the registered owners of any of the erven exceed the supply or should an application to exceed such supply be submitted to the local authority, additional electricity contribution as determined by the local authority, shall become due and payable to the local authority by such owners.

2.2 How should the provisions of Registrars Conference Resolution 21 of 2017 be implemented with regards to opening of townships.
For example see below:

(i) Erven and/or units in the township may not be alienated or transferred into the name of a purchaser nor shall a Certificate of Registered Title (CRT) and Certificates of

Consolidated Title (CCT) be registered in the name of the township owner without a Section 82(1) Ordinance 15/1986 service certificate being lodged.

3. PRACTICE AND PROCEDURE TO BE FOLLOWED.

The following practice and procedure must be followed In respect of all the conditions incorporated in the title deed that does not comply with the provision of Section 63 of the Deed Registries Act 47/1937.

3.1 **With regards to paragraph 2.1(i)(ii) above.**

3.1.1 In respect of the registered title deeds, a Section 4(1) (b) of the Deeds Registries Act47 of 1937 must be complied with to remove the said condition from the affected individual title deeds,

alternatively

An application in terms of Section 4(1) (b) of the Deeds Registries Act 47 of 1937 over the affected erven in the township may be lodged and filed in the township file in which a caveat will be noted for piecemeal endorsing of all affected title deeds as and when they are lodged for registration.

3.1.2 However in respect of those conditions that the municipality would want to be registered in the Deeds Registry the provisions of Section 63 of Act 47/1937 must be complied with.

The proclamation must be amended to that effect, see also Registrars **Circular 2 of 2015** for further guidance.

3.2 The following practice and procedure must be followed with regards to paragraph 2.2(i) above.

3.2.1 In respect of the opening of townships and proclaimed townships with conditions/restrictions imposed by municipality, such conditions will be fully enforced. See the provisions of relevant Ordinances and relevant By-laws.

4. This circular must be read with Registrars Circular 2 of 2015.

5. This circular is effective immediately.

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REGISTRAR OF DEEDS: JOHANNESBURG

DATE: 08 March 2018