rural development
& land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

MINUTES

REGISTRARS CONFERENCE HELD AT KLEINKAAP, CLUBVIEW: CENTURION FROM 12 TO 15 OCTOBER 2015

(i) OPENING AND WELCOME

Ms Knoesen opens the conference and welcomes all the attendees.

(ii) ATTENDANCE

CCE Knoesen	: Chief Registrar of Deeds (Chairperson)
A Gwangwa	: Registrar of Deeds: Pretoria
MT Lemme	: Registrar of Deeds: Vryburg
NW Mantanga	: Registrar of Deeds: Mthatha
R Mukhakhululi	: Registrar of Deeds: Mpumalanga
M Mahlangu	: Registrar of Deeds: Johannesburg
U Frazenburg	: Registrar of Deeds: Kimberley
JL Badenhorst	: Registrar of Deeds: King William's Town
GDN Tsotetsi	: Registrar of Deeds: Legal Support /Deeds Training
D Mngcolwani	: Acting Registrar of Deeds: Bloemfontein
W Ngququ	: Acting Registrar of Deeds: Pietermaritzburg
V Tango	: Acting Registrar of Deeds: Cape Town
AS Reynolds	: Deputy Registrar of Deeds (Office of the CRD)
J Dreyer	: Deputy Registrar of Deeds: Cape Town
P Moshodi	: Deputy Registrar of Deeds: Bloemfontein
J Maphomolo	: Deputy Registrar of Deeds: Johannesburg
TG Gabara	: Deputy Registrar of Deeds: Mpumalanga
D Fatyela	: Deputy Registrar of Deeds: King William's Town
S Nzuza	: Deputy Registrar of Deeds: Pietermaritzburg
E Maphosa	: Deputy Registrar of Deeds: Pretoria
A van der Ross	: Deputy Registrar of Deeds: Vryburg
M Grové	: Acting Deputy Registar of Deeds: Training (Scribe)

M Mekwe	: Law Lecturer: OCRD
W Bhuqa	: Law Lecturer: OCRD
N Seshoka	: Assistant Registrar of Deeds: OCRD
M Pretorius	: Assistant Registrar of Deeds: Training (Vbg)
S Thebus	: Assistant Registrar of Deeds: Training (Kwt)
D Swarts	: Assistant Registrar of Deeds: Training (Mpu)
L Madikela	: Assistant Registrar of Deeds: Training (Kby)
T Ayres	: Assistant Registrar of Deeds: Training (Mthatha)
B Daniels	: Assistant Registrar of Deeds: Training (Ctn)
H de Klerck	: Assistant Registrar of Deeds: Training (Bfn)
H Lourens	Assistant Registrar of Deeds: Training (Pmb
S Mlotshwa	: Assistant Registrar of Deeds: Training (Jhb)
S Hurter	: Assistant Registrar of Deeds: Pretoria
S Damons	: Assistant Registrar of Deeds: Pretoria
J Christie	: Law Society KZN
H Goga	: Law Society of South Africa
S Mokose	: Law Society Gauteng
P Van Aswegen	: Law Society Free State
S le Roux	: Law Society Cape Town

Attendees of meeting on 15 October 2015:

P Gubuza	: Chief Director: OCRD
A Sepp	: Deputy Registrar of Deeds: OCRD
S Pretorius	: Assistant Registrar of Deeds: Pretoria
SB Vilakazi	: Quality Assurance
CL Towell	: Conveyancer: Kimberley
M Jolwana	: Conveyancer: Mthatha
S Naidoo	: Conveyancer: King William's Town
J van Broekhuizen	: Conveyancer: Pretoria
P Wessels	: Conveyancer: Mpumalanga

(iii) APOLOGIES

K Pillay	: Registrar of Deeds: Cape Town
J van der Merwe	: Acting Deputy Registrar of Deeds: Kimberley
W Mketshane	: Deputy Registrar of Deeds: Mthatha
T Shawe	: Law Lecturer

(iv) CONSTRUCTING THE AGENDA

(v) PARAGRAPHS A TO I - ITEMS PERTAINING TO DEEDS REGISTRATION ISSUES

(vi) **PARAGRAPH J - PROPOSALS RECEIVED FROM SURVEYORS-GENERAL**

(vii) **PARAGRAPH K - DEEDS REGISTRY PRACTICE AND PROCEDURE**

(viii) **PARAGRAPH L - GENERAL INPUTS FOR DISCUSSION**

(ix) **PARAGRAPH M - PRESENTATION ON SPATIAL PLANNING AND LAND MANAGEMENT ACT, 2013 (ACT NO. 16 OF 2013)**

(x) **PARAGRAPH N - DISCUSSION ON BRANCH AND CONVEYANCING MATTERS**
(ITEM (i) TO (viii) FOR DISCUSSION ON 12 TO 14 OCTOBER)

(ITEM (ix) TO (x) FOR DISCUSSION ON 15 OCTOBER

(xi) **CLOSURE**

A. WITHDRAWAL OF REGISTRARS' CONFERENCE RESOLUTIONS

1. The following Registrars' Conference Resolutions must be withdrawn:

1.1 RCR 26/1989

RCR 26/1989 is in contradiction with RCR 44/2013. (RCR 31/1987 was withdrawn by RCR 44/2013) RCR 26/1989 must also be withdrawn.

Resolution:

RCR 26/1989 is hereby withdrawn.

1.2 RCR 53/1994

RCR 53/1994 which confirms RCR 41/1967 must be withdrawn as RCR 41/1967 was withdrawn by RCR 4/2014.

Resolution:

RCR 53/1994 is hereby withdrawn.

1.3 RCR 4/2003 RCR 5/1991

RCR 4/2003 must be withdrawn because exclusive use areas cannot be subdivided (see minutes of Sectional Titles Regulations Board meeting of 2014, paragraph 4.30).

Resolution:

RCR 4/2003 is hereby withdrawn.

1.4 RCR 6 /2004 RCR 43 of 2003

RCR 6/2004 confirmed RCR 43/2003. RCR 43/2003 was withdrawn by RCR 5/2014. RCR 6/2004 must be withdrawn.

Resolution:

RCR 6/2004 is hereby withdrawn.

1.5 RCR 37/2010: Section 56 (1) (b) of Act 47 of 1937: Voluntary Liquidations

This resolution must be withdrawn in light of the provisions section 56(1)(b) of Act 47 of 1937.

Resolution:

RCR 37/2010 is hereby withdrawn.

1.6 RCR 60/2012: Regulation 28 and separate title for exclusive use area

Form I has been amended. RCR 60/2012 must be withdrawn.

Resolution:

RCR 60/2012 is hereby withdrawn.

1.7 RCR 20/2013: RCR 57 of 2012 - Creation of servitudes under section 29(3)

This resolution must be withdrawn in view of RCR 2/2014.

Resolution:

RCR 20/2013 is hereby withdrawn.

1.8 RCR 46/2013: Section 15B (5)

RCR 46/2013 (a) – (c) must be withdrawn due to the amendment of Act 95 of 1986 (see section 15B (8) to (11)).

Resolution:

RCR 46/2013 is hereby withdrawn.

1.9 RCR 20/2014: Regulation 44A (*d*) (ii) (*aa)* and (*bb*) - General Power of Attorney

Regulation 44A of Act 47 of 1937 and Regulation 16C of Act 95 of 1986 has been amended.

Resolution:

RCR 20 / 2014 is hereby withdrawn.

- CRC 4/2013 must be amended.

1.10 RCR 21/2014: Regulation 44A(*d*)(ii)(*aa*) and (*bb*) - General Power of Attorney

Regulation 44A of Act 47 of 1937 has been amended.

Resolution:

RCR 21 of 2014 is hereby confirmed.

- The matter must be referred to both the regulation boards for possible amendment of regulation 44A (d) (ii) (aa) and (bb) and regulation 16C (d) (ii) (aa).
- Not for publication

1.11 RCR 22/2014: Regulation 68(11B) (*a*) - Unserviceable Deeds Registry and client's copy of mortgage or notarial bond

Regulation 68 (11B) (*a*) of Act 47 of 1937 has been amended.

Resolution:

RCR 22/2014 is hereby withdrawn.

1.12 RCR 23/2014: Regulation 73(2) – Diagrams

Regulation 73 (2) of Act 47 of 1937 has been amended.

Resolution:

RCR 23/2014 is hereby withdrawn.

1.13 RCR 36/2014: Regulation 28(2) - Cession of Exclusive Use Areas in terms of section 60(3)

Regulation 28 (2) of Act 95 of 1986 has been amended.

Resolution:

RCR 36/2014 is hereby withdrawn.

B. PREVIOUS REGISTRARS' CONFERENCE RESOLUTIONS

2. The following resolutions must be revisited:

2.1 RCR 55/1967 – section 97 of Act 47 of 1937: Notice of motion not an interdict

Can a notice of motion prevent registration of any transaction?

Resolution:

Item withdrawn. RCR 55/1967 is clear.

2.2 RCR 8/2003 Section 4 (1) (b)

May RCR 8/2003 also be extended to instances of an error in the number of other forms of land rights?

Resolution:

Item withdrawn.

2.3 RCR 18/ 2004

A notarial servitude in general terms over agricultural land is lodged for registration (RCR 18 0f 2004 refers). The deed clearly states that there will be compliance with section 6A of Act 70 of 1970. Should RCR 18 of 2004 not be amplified?

Resolution:

RCR 18/ 2004 is withdrawn and replaced with the following resolution:

RCR ---- of 2015
Where a servitude over agricultural land is not depicted on a diagram but is described in general terms, must the consent of the Minister as contemplated in terms of section 6A of the Subdivision of Agricultural Land Act 70 of 1970 be insisted upon?
RESOLUTION
The consent must be insisted upon unless it is clear from the notarial deed that the provisions of section 6A of the Subdivision of Agricultural Land Act 70 of 1970 are not contravened.

2.4 RCR 29/2004

It appears that there is a lacuna in Act 47 of 1937 in as far as section 3 only provides for a waiver of the usufruct in favour of a mortgage bond.

If the waiver of the usufruct in favour of the mortgage bond is compared in the common law, what prohibits the waiver in favour of a lease?

RCR 29/2004 already provide for a waiver of preference of a mortgage bond in favour of a registered lease.

Resolution:

Item withdrawn (see item 31).

2.5 RCR 7/2007: RCR 6.12/1999 – Regulation 68(11)

RCR 7/2007 prohibits an agent authorized by way of a registered General Power of Attorney from making an affidavit on behalf of someone else. What is the position with a Regulation 68(1) and (11) application which prescribed by law and require an affidavit to either be lodged separately or incorporated with the application?

Resolution:

An agent is allowed to make an affidavit if the facts contained therein are within the personal knowledge of the agent. See *Hiltunen vs Hiltunen [2008] ZWHHC 99*

- RCR 7/2007 and RCR 6.12 of 1999 are therefore withdrawn

2.6 RCR 46/2008 and RCR 67/2010

RCR 46/2008 and RCR 67/2010 must be amended as the amount changed to R250 000.

Resolution:

Item withdrawn.

2.7 RCR 34/2009: one township on three properties

RCR 34/2009 which was confirmed by RCR 14/2011 dealt with the question if different owners, who own different properties separately, may open one township on the different properties.
RCR 34/2009 determines that the provisions of Section 22 of Act 47 of 1937 cannot be applied where the remainder of the township is to be transferred. Owners do not have *locus standi* in respect of the property not owned by them to open such a township.

Resolution:

Item withdrawn.

2.8 RCR 38/2010: Section 56(1)(b) of Act 47 of 1937: Voluntary liquidation of company/close corporation and cancellation of bonds

The heading of RCR 38/2010 creates ambiguity in that it refers to "Voluntary Liquidations". Should "voluntary "not be removed?

Resolution

Item withdrawn.

2.9 RCR 87/2010 Creation of servitudes on or over public land

The Spatial Planning and Land Use Management Act 16 of 2013 passes decision making on planning and development within a local authority area to a Municipality i.e therefore decision now vests with Municipalities and no other bodies eg Premier, COGTA etc.

Resolution:

Item withdrawn.

2.10 RCR 45/2012- Purchase date of a first transfer before the proclamation date of the township

In "Basfour 2994 (Pty) Ltd v Registrar of Deeds: Bloemfontein (497/2014) [2014] ZAFSHC 38" the judge stated that "the resolution adopted at the Registrar's conference of 2012, RCR 45/2012, is based on an erroneous understanding of the legal position, is wrong and cannot be endorsed." It is submitted that the resolution be revisited.

Resolution:

RCR 45 of 2012 is hereby withdrawn in view of the court case.

2.11 RCR 13 /2013: Erroneously registered exclusive use areas (RCR 36 of 2002 and RCR 2 of 2012)

It is proposed that the resolution in RCR 13/2013 must be replaced by "In the event of two holders holding one exclusive use area by different deeds of cession, both parties may cede the exclusive use area to the body corporate who then cedes same to the rightful owner using both certificates/deeds as holding titles", or "In the event of two holders holding one exclusive use area by different deeds of cession, the incorrect deed of cession/certificate of real right is cancelled by a notarial deed between the holder and the body corporate".

Resolution:

RCR 13 of 2013 is withdrawn and replaced with the following resolution:

> ***RCR 13 /2013 Erroneously registered exclusive use areas (RCR 36 of 2002 and RCR 2 of 2012***
> *There is no basis in law for ruling that there is no authority for the "cancellation of an erroneously registered right of exclusive use area" but which then permits both the "erroneously registered right of exclusive use area as well as the correctly registered exclusive use area" to be cancelled. This does not make sense. Section 27(5) of the Sectional Titles Act clearly authorises a cancellation of a right to the exclusive use area of a part of the*

common property in favour of an owner by the holder thereof and the Body Corporate, and it is not clear where the prohibition against the cancellation of only an "erroneously registered" right of exclusive use area comes from – while a "correctly" registered EUA can be freely cancelled.

Resolution:

Where the same exclusive use area is erroneously registered in the name of two or more owners, the erroneously deed registered may be cancelled in terms of section 27(5).

- The matter must be referred to the sectional title regulation board for amendment of section 27(5) to provide for the cancellation of the exclusive use area.

2.12 RCR 52/2013

This resolution must be revisited. Where only the conduct rules are lost or destroyed, the substitution can be effected with a special resolution as provided for in section 35(2)(b) of Act No. 95 of 1986.

Resolution

RCR 52/2013 is hereby withdrawn and replaced with the following resolution:

RCR ---- of 2015

RCR 52 /2013 Lost or destroyed rules of scheme

What procedure must be followed where the rules of a Sectional Titles Scheme have been lost or destroyed?

Resolution:

A certified copy of the resolution together with a certified copy of the rules must be obtained from the body corporate and is then submitted for filing in the deeds registry - in which case the lodgement of form "V" is not required. Lost or destroyed rules may be substituted by lodging the substituted rules, supported by a unanimous resolution for management rules and a special resolution for conduct rules.

2.13 RCR 1/2014 and RCR 4/2014

The Sectional Titles Regulations Board resolved, in October 2014, that section 29 of Act 95 of 1986 be amended to provide for instances where servitudes benefiting the land are cancelled. This amendment must provide for the notary to obtain the written consent of every bondholder as at the date of the execution of the notarial deed of cancellation of such servitude, and for the filing of such consents in the notary's protocol. Section 29 must also be amended to provide for the lodgement of a certificate by a notary to the effect that the necessary written consent, as contemplated above, have been obtained and filed in protocol. In view of the above, RCR4/2014 must be withdrawn. RCR 41 of 1967

though should not be withdrawn as it was in existence even before the Sectional Act came into operation. RCR 41/67 is still applicable as it requires that it is not necessary to endorse the bonds. This requirement is also applicable on conventional deeds.

Resolution:

RCR 4/2014 is hereby withdrawn.

- Not for publication.

RCR 41/1967 must be reinstated as it covers conventional deeds:

> ***RCR 41/1967 - Section 75 (2) (bis) Act 47 of 1937: Endorsement of bond***
> *Why should the bond be produced and should it be endorsed and if so how should the endorsement read?*
> ***Resolution:***
> *As the production of the bond facilitates examination, the section should remain unchanged. The bond need not be endorsed.*

2.14 RCR 4/2014, RCR 41/1967, RCR 20/2011, RCR 89/2010 and RCR 8/2012 - Cancellation of servitudes over the common property

This resolution must be revisited. The heading is wrong it must refer to servitudes benefiting the common property.

Resolution:

The heading of RCR 4/2014 must be substituted with the following heading:

> ***RCR 4/2014: RCR 41/1967, RCR 20/ 2011, RCR 89/ 2010 and RCR 8/ 2012 - Cancellation of servitudes benefitting the common property***

RCR 4/2014 is hereby withdrawn.

2. 15 RCR 4/2014: RCR 41/1967, RCR 20/2011, RCR 89/2010 and RCR 8/2012 - Cancellation of servitudes over the common property

Heading of RCR 4/2014 is faulty. Should it not refer to servitudes benefiting the common property?

Resolution:

Item withdrawn in view of item 2.13.

2.16 RCR 5/2014: Consent by Home owners Association

RCR 5/2014 states that where a Home Owners Association's consent is needed in a condition of title and a conveyancer's certificate is given that the Home Owners Association was never established, a consent must be insisted upon, failing which it must be referred to court.

Who must provide the consent of the Home Owners Association which does not exist and should the condition not be removed from the title?

Resolution:

RCR 5/2014 is hereby withdrawn and replaced by the following resolution:

> ***RCR ---- of 2015: RCR 43/2003 and RCR 2/ 2007 - Home Owners Association***
> *Where a condition prohibiting the alienation or transfer of a property without the consent of the Home Owners Association is contained in the title deed of the property and the conveyancer lodges a certificate stating that the Home Owners Association has not been established, may the Registrar of Deeds accept this certificate, and must the condition be brought forward in the transfer deed?*
> ***Resolution:***
> *Consent must be obtained from a duly established Home Owners' Association, failing which the matter must be referred to court for permission to transfer without the consent. The condition must be brought forward in the title deed, unless the court provides otherwise.*

2.17 RCR 24/2014: Transfer and vesting of State Land in respect of certificates issued in terms of Item 28(1) of Schedule 6 of the Constitution of the Republic of South Africa

The alternative procedure taken under RCR 24 of 2014 (a) to endorse the title first in terms of item 28(1) and subsequently issue a certificate of registered title in terms of section 36 is in conflict with CRC 7 of 1994 paragraph 6, and seems to defeat the fact that the national and provincial governments may not own property under the same title. RCR 24 of 2014(a) must be reconsidered.

Resolution:

RCR 24/2014 is hereby withdrawn. Refer to item 2.18.

- CRC 7 of 1994 must be amended.

2.18 RCR 24/2014: Transfer and vesting of State Land in respect of certificates issued in terms of Item 28(1) of Schedule 6 of the Constitution of the Republic of South Africa

This resolution is creating inconsistency; the practice must be clarified and put into one resolution. If the resolution is not amended it would allow the vesting authority to affect the item 28(1) vesting without being compelled to do the certificate of registered title, this will result in the contravention of Section 16 of Act 47 of 1937.

Secondly, the resolution is in conflict with various other Conference resolutions and Chief Registrars Circulars, practice and procedures with similar scenarios but with different resolutions.

Resolution:

The properties may be transferred in terms of section 31. Alternatively the title deed must first be endorsed in terms of item 28(1) and simultaneously a certificate of registered title in terms of section 36 must be issued.

Item 28(2) provides for an endorsement in terms of item 28(1) to be exempted from the payment of duties or fees. Office fees are payable in respect of the registration of a certificate of registered title in terms of section 36 and a deed of transfer under section 31.

2.19 RCR 29/2014: Transfer of an undivided share in agricultural land

An owner owns a whole of a farm (being agricultural land) in shares held under different titles. Will the Deeds registry allow the owner to transfer, for example, a ½ share to person A and the remaining half share to person B by different deeds of transfer?
The resolution is indirect contradiction with the interpretation of section 3(b) in CRC 4 of 1970. Further the question to conference which led to the adoption of the resolution is misleading quote: "An Owner owns a whole of a farm (being agricultural land) in shares". Ownership in shares takes place only in the existence of co ownership/joint ownership. The words "land not already held by any person" has nothing to do with the number of title deeds by virtue of which ownership of the whole land is held". Held by any person in the syllable refers to the state being separately held as an undivided share in co ownership.

Resolution:

Item withdrawn.

- Legal Support and Deeds Training will consult with Department of Agriculture.

2.20 RCR 39/2014: and RCR 20/2006

Both resolutions averred that consent by the home owners' association may be on a letterhead or contain a regulation 44 certificate. If the consent does not contain a regulation 44 certificate, who takes the responsibility for the facts in regulation 44A?

Resolution:

Item withdrawn.

2.21 RCR 39/2014: Home owners' consents and certificates by architects or land surveyors as contemplated in RCR 61 of 2008

RCR 39/2014 requires that consent from the Home Owners Association must be either on the Home Owners' Association Letterhead, or it must have a preparation clause.

Complying with Regulation 44 of Act 47 of 1937 puts the conveyancer in a position whereby he/she must take responsibility for information which is not known to him/her on a document which was not prepared by him/her. In practice, these consents are frequently issued by a management company and not by the home owners association. Should RCR 39/2014 not be amended?

Resolution:

Item withdrawn.

2.22 RCR 41/2014: Diagram of a real right of extension

Surveyors-General are not in agreement regarding the cancellation of plans when a right of extension is cancelled.

(a) RCR 41/2014 must be reconsidered because Surveyors-General offices are not in agreement pertaining the practice when a section 25 right of extension is cancelled. When subdivided section 25 rights are depicted on the block plan, the block plan cannot be cancelled.

(b) When a notarial lease is cancelled, will the diagram also be cancelled or

can the lease diagram be lodged for the registration of the new lease which will be exactly the same as the cancelled lease?

Resolution:

Item withdrawn and to be submitted to the cadastral conference.

C. DEEDS REGISTRIES ACT 47 OF 1937

3. Section 7 of Act 47 of 1937- Office Fees

Section 7 of Act 47 of 1937 deals with the aspect of inter alia the obtaining of copies of records and the providing of information upon payment of the prescribed fees. In terms of section 7(2) of Act 47 of 1937, no person (including the State) shall, notwithstanding anything to the contrary in any other law contained, be exempt from payment of the prescribed fee.
Under what valid authority are exemptions of the payment of fees currently granted to inter alia certain Departments?

Resolution

No exemption for the provision of information or copies of deeds may be granted as section 7(2) does not permit any exemption contained in any other Act.

- Legal Support will obtain an opinion from the state law advisors.
- Finance must refer this matter to Treasury for discussion.
- Legal support and DRS to prepare a circular in this regard.

4. Transfer pursuant to a divorce settlement

Taking into account the provisions of section 14 of Act 47 of 1937, may property from a joint estate be transferred to a third party by virtue of a divorce settlement? Scenario in the divorce settlement: *"Immovable property shall be defined and distributed as follows: The plaintiff or her nominee shall be entitled to the property situated at Erf 7689 Saulsville."* Is direct transfer to a third party (nominee) permitted? Also refer to CRC 21/1990.

Resolution:

The property may be transferred to the person or entity mentioned as a nominee in instances where the divorce settlement has been made an order of court. Both former spouses must give transfer and the nominee must accept in writing.

5. Section 18 (3) of Act 47 of 1937 – State Land

Section 18(3) of Act 47 of 1937 still requires that when unalienated state land is registered in a deeds registry, that a diagram for the land must be lodged in duplicate.

Regulation 32 of Act 47 of 1937 only refers to "a diagram" and on that basis conference correctly so ruled in RCR 3/2009 that only one copy of a diagram need to be lodged for registration purposes. In the light of the above, is it still required that the diagram for unalienated State land be lodged in duplicate?

Resolution:

Pending the amendment of the Act, only one copy of a diagram relating to unalienated State land as referred to in Section 18(3) of Act 47 of 1937 will suffice.

- The matter must be referred to the deeds regulation board.

6. Section 24*bis* of Act 47 of 1937 – Transfer from firm or partnership

If a sectional title unit and an exclusive use area in a scheme is owned by a firm or partnership and the firm or partnership is dissolved, may the application in terms of Section 24*bis* (2) of Act 47 of 1937, to vest the unit and the exclusive use area in the members or partners, be lodged in one application or must there be separate applications for the unit and the exclusive area respectively?

Resolution:

Yes: A single or separate application(s) for the unit and the exclusive use area may be lodged.

- Matter must be referred to the deeds registries regulation board for possible amendment of section 24bis, 45, etc.
- The matter must be referred to the sectional title regulation board of section 27 to provide for transfer of exclusive use areas by endorsement.

7. Section 39 (1) of Act 47 of 1937- Double Registrations

The same property (Proclamation R293/1962) has been registered in the name of "A" vide two titles (e.g. T11/2014 and T12/2015). The same property is further registered in the name of "B" by means of another deed of transfer, i.e. 3 titles deeds exist for one property.
Can the provision of section 39(1) of Act 47 of 1937 be invoked or must the matter be referred to court?

Resolution:

The provisions of section 39(1) of Act 47 of 1937 can be invoked. However, where proclamation R293/1962 makes provision for the cancellation of a title deed, such procedure may be followed.

8. Section 45, Section 45*bis* and Section 45*bis* (1A) of Act 47 of 1937–Transfer by endorsement

If a sectional title unit and an exclusive use area in a scheme forms part of a joint estate and is dissolved through death, divorce or change in matrimonial property system, may the application in terms of section 45, section 45*bis* and section 45*bis* (1A) of Act 47 of 1937, to vest the unit and the exclusive use area in the surviving spouse, former spouse or individual spouses/former spouses, be lodged in one application or must there be separate applications for the unit and the exclusive area respectively?

Resolution:

Yes, a single or separate application(s) for the unit and the exclusive use area may be lodged.

- Matter must be referred to the board. See item 6.

9. Section 45 (1) and Section 45*bis* of Act 47 of 1937- Fee

Is the fee on a section 45(1) or section 45*bis* application payable on a half-share of the property or a full share?

Resolution:

Item withdrawn.

D. REGULATIONS TO THE DEEDS REGISTRIES ACT 47 OF 1937

10. Regulation 44A - General Power of Attorney

The amendment to Regulation 44A(d)(ii)(aa) Act 47 of 1937 to include natural persons has removed all uncertainties whether examiners must check General Power of Attorney's when referred to in deeds for examination. Where agents act in accordance with General Power of Attorney's in deeds with no preparation

clauses, eg consents to cancellations of bonds registered over Proclamation 293/1962 property, surely these General Power of Attorney's must still be checked?

Resolution:

Proof of appointments of agents in deeds with no preparation clauses must still be checked and lodged where necessary.

11. Regulation 65 (6) and Regulation 65 (8) General Power of Attorney

The Pretoria Deeds Registry experiences the following challenges in respect of Regulation 65(6) and Regulation 65(8) of Act 47of 1937.

(a) A copy of a General Power of Attorney issued under the hand and seal of a Registrar in terms of regulation 65(6) to be used in another office will not necessary be registered in that office.

There is also no practice in place which prescribes the procedure to follow to ensure whether such a General Power of Attorney is registered in that Registry or not.

(b) Regulation 65(6) does not prescribe a certain time in which such a copy must be registered in the other office.

There is a risk that the copy can be registered long after being issued and the original already being cancelled

(c) When a notice of cancellation of an original General Power of Attorney is received by a Registrar of another office as referred to in regulation 65(8), the Registrar may have to search through a high volume of Power of Attorney's against the name of the Principal, to find the correct General Power of Attorney in respect of which the cancellation must be noted.

If the Registrar can't find the General Power of Attorney, then it is assumed that the copy was never lodge for registration in that office although no caveat is noted to indicate that the copy can't be registered as the original is cancelled.

Resolution:

Item withdrawn.

- The matter must be referred to the regulation board to amend regulation 65 to provide for:

- A time frame in which the power of attorney must be registered in the second office, or provide for simultaneous registration.
- For the first office to inform the second office within a prescribed period when the power of attorney is cancelled.

- A CRC must be issued.

12. Regulation 73 (2) - Lease Diagram

If a lease over a portion of land is cancelled, is it possible to use the lease diagram of the cancelled lease contract and attach it to a new lease contract to be registered?

Resolution:

Item withdrawn and to be submitted to the cadastral conference.

13. Regulation 84 Item 1 (*a*) of Act 47 of 1937

Regulation 84 Item 1 (*a*) seems to be in contrast with Item 1 (*d*) of the last proviso (where no purchase price is involved).

Is it correct that office fees are charged as per the value of the property whereas Item 1 (*d*) indicates otherwise?
Should the last proviso of Item 1 (*d*) not be deleted (where no purchase price is involved) to only make provisions for any other registrations or annotations in register or records, certificate of titles, any other registrations which are not exempted by Law?

Resolution:

This is not a contradiction. Item 1(*a*) refers to 'transfer' and item 1(d) refers to 'other registration or annotation and certificates of title'.

E. GENERAL - (ACT 47 OF 1937)

14. Tie conditions

How should the deeds registries note an attachment against a component of a tie condition? Does the condition fall away upon attachment? If the interdict is noted, is the ultimate transfer by the sheriff permissible without any notification to the enforcer of the tie.

Resolution:

The registrar must note the attachment against the relevant property. The condition does not fall away and the issue in respect of the tie condition must be dealt with upon transfer of the property.

15. General Power of Attorney

A General Power of Attorney is lodged for registration simultaneously with a transfer that implicitly exhausts the mandate granted by the Power of Attorney. Should the deeds registry insists that it be lodged as a supporting document or allow its registration as a General Power of Attorney?

Resolution:

Item withdrawn in view of RCR 1/1996.

16. Expropriation of attached Property

When an expropriation transfer is lodged at the deeds registry and there is an attachment noted against the property, how must the attachment be dealt with? May it be dealt with in the same way as when an insolvent's property is sold and there is an attachment noted against that property, i.e. the examiner withdraws the attachment?

Resolution:

The attachment must be purged on the basis of section 31(4) (a) of Act 47 of 1937.

17. The mandant in a General Power of Attorney /Special Power of Attorney

The mandant in a General Power of Attorney /Special Power of Attorney whose marriage is governed by the laws of a foreign country and is duly assisted by his/her spouse in accordance with section 17 (6). Would it still be required of the spouse to assist if the mandant transfers or mortgage his/her property?

Resolution:

Item withdrawn in view of RCR 4/1996.

18. Consent in terms of section 40(3) or 4(5)(*a*) and (*b*)

Two or more properties are held by one title. These properties are mortgaged with same bond/different bonds. The trustees of insolvent estate first consolidate these properties and simultaneously transfers consolidated property. Is a bondholder's consent in terms of section 40 (3) or 40 (5) (a) and (b) required keeping in mind that section 56 (1) (b) of Act 47 of 1937 does not require a bondholder's consent to be lodged if the trustee in the insolvent estate is the transferor?

Resolution:

If the transactions are registered simultaneously, no consent/s is/are required.

19. Cancellation of a General Plan

What is the procedure when a general plan registered against a property is cancelled by the surveyor general?

Resolution:

By virtue of the provisions of section 37(4) of the Land Survey Act No. 8 of 1997 the registrar of deeds must endorse the title deed.

20. One or more deeds of transfer

May the deeds registry accept one deed of transfer for the same transferor, and the same transferee in respect of two or more deed of sales for different properties and different purchase prices? If yes, how is office fees charged?

Resolution:

Yes, it is permissible in terms of section 22(2) of Act 47 of 1937. The causa of the deed must make reference to both transactions, and the purchase price of the transactions must be reflected separately in the consideration clause.

RCR 20/2012 is hereby confirmed pertaining to the payment of fees.

21. The appearer and the transferor in a deed of transfer is one and the same person

The appearer and the transferor/seller in a deed of transfer is one and the same person. How should the pre-amble be cited?

Resolution:

No reference must be made to the appearer or to the power of attorney in the pre-amble of the deed.

22. Parties were married in South-West Africa (now Namibia) prior to independence

Parties were married to each other. At the time of the marriage the husband was *domiciled* in South-West Africa (now Namibia) prior to independence. An antenuptial contract was registered prior to independence in terms whereof the marriage is regarded to be out of community of property. How should their status be cited in a deed after independence?

Resolution:

It must be cited as: '*Married, which marriage is governed by the Laws of Namibia*'.

23. A beacon certificate when application is made for the issuing of a Certificate of Registered Title for an erf on a provisionally approved general plan

It is generally understood that an erf indicated on a provisionally approved general plan cannot be transferred without the beacon being placed (section 14 of the Land Surveys Act No. 8 of 1997 refers). Is a beacon certificate required when application is made for the issuing of a Certificate of Registered Title for an erf on a general plan?

Resolution:

In terms of section 14 of the Land Survey Act No. 8 of 1997 a beacon certificate is required in respect of a provisionally approved general plan for the issuing of certificates of title.

24. Tie condition

Two or more farm properties are tied subject thereto that it shall not be separately dealt with without the written consent of the Minister of Agriculture. The Minister subsequently granted consent to the subdivision of one of these farms and further asked that it be consolidated with other farm properties and thereafter endorsed by the deeds registry that it shall not be separately dealt

with. Is the Minister's approval necessary in so far as the tie condition is concerned or is the consent for subdivision sufficient?

Resolution:

The consent of subdivision will also serve as consent to a separate dealing with the subdivision.

25. Negative Personal Servitude/Restrictive Condition

Can a negative personal servitude/restrictive condition hidden behind the pivot reference be cancelled in terms of section 68 of Act 47 of 1937?

Resolution:

Yes, it may be cancelled in terms of section 68 (2) of Act 47 of 1937 or the lapsing thereof may be noted in terms of section 68(1) of Act 47 of 1937.

26. Inheriting property subject to the exclusion of community of property

A got married in community of property to B. A subsequently inherited a property subject to the exclusion of community of property. A dies after transfer of the property without leaving a valid will. Leaving behind B and one child. The total value of the estate was above R2 000 000, 00 and an executor was therefore appointed. In the liquidation and distribution Account B, the husband, is excluded and the only child gets the whole of the property because of the exclusion of community of property condition registered against the property. In terms of section 1 (c) (i) of the Intestate Succession Act 81 of 1987, the surviving spouse is supposed to inherit a child's share or so much of the intestate estate as does not exceed in value the amount fixed from time to time by the Minister of Justice by notice in the Gazette, whichever is the greater. Who should the property be transferred to in this instance?

Resolution:

Item is withdrawn.

27. Maiden Surname on Marriage

Must a spouse who has elected to retain her maiden surname on marriage and who thereafter elects to adopt her husband's surname comply with section 93 of Act 47 of 1937 when dealing with property registered in the name of her and her spouse?

Resolution:

Item withdrawn. Section 93(1) (c) of Act 47 of 1937 is clear.

28. Parties' married in community of property to each other

Parties are married in community of property to each other. The wife inherits the property from her late father with the exclusion of community. The wife dies intestate. She leaves behind her husband and two minor children. The property is worth R1, 000 000, 00.

The estate of the rest (joint) is worth R750 000, 00.

How will the estate devolve?

Resolution:

Item withdrawn.

29. Transfer Duty Receipts

Transfer Duty Receipts often disclose the fair value being an amount less than the consideration paid for the land. Is it a requirement to disclose this amount in the consideration clause of the deed and the power of attorney?
It is established practice only to disclose the difference in the consideration clause and not the power of attorney when the fair value is higher than the purchase price

Resolution:

Item withdrawn in view of item 36.

30. Registration in wrong Deeds Registry

It happens frequently that property is registered/dealt with in the incorrect deeds registry. How must these transactions be dealt with?

Resolution:

Item withdrawn.

31. Waiver of preference of Usufruct

Can a usufructuary waive preference of his usufruct over a property in favour of a lease to be registered over that property? The effect will be that the lease ranks ahead of the usufruct on insolvency of the landowner.

Resolution:

Pending the amendment of the Act, the Registrar of Deeds must allow such a waiver of preference of the rights of the usufructuary in favour of a lease over the property.

- The matter must be referred to the board.

32. Hyphenated Surname

Does the taking on of a hyphenated surname by a person on marriage or civil union require a Government Gazette, if a section 93 (1) of Act 47 of 1937 application is brought?

Resolution:

Where a person wishes to update his/her title deed, proof in the form of a copy of the government gazette or a letter by the Department of Home Affairs must be submitted. In the case of any of the exceptions in terms of section 26 (1) of the Births and Deaths Registration Act No. 51 of 1992, an affidavit by such person may be accepted.

33. A new conversion certificate in which the bond amount is expressed in foreign currency

Does conference agree that a new conversion certificate is needed in cases where a notarial bond, in which the bond amount is expressed in foreign currency, is to be registered in more than one deeds registry?

Resolution:

Yes, a new certificate must be lodged for the purpose of calculating registration fees.

34. General Power of Attorney

(a) May a Registrar refuse to register a copy of a General Power of Attorney issued for registration in terms of regulation 65(6), if upon examination thereof it is found that it is defective in some or other aspect, ie incorrect/incomplete information of the grantor?

(b) How must the defect be dealt with?

Resolution:

Item withdrawn in view of RCR 34/2008.

35. Appointment by Resolution

May a Company or Close Corporation appoint a person by resolution to act on its behalf if such person is not a director or employee of such Company or Close Corporation, or must such person be appointed by a power of attorney?

Resolution:

It is the responsibility of the preparer in terms of the provisions of regulation 44A of Act 47 of 1937

- Not for publication

36. Value of property

According to item 2.4 of CRC 7/2010 the purchase price and the value of property must be disclosed in the consideration clause of deeds if the value is reflected on the transfer duty receipt.

Seeing that the purpose is for calculation of office fees, it serves no purpose to require the disclosure of the value if it is less than the purchase price. The provision of the said item 2.4 as it stands result in the unnecessary rejection of deeds.

It is proposed that item 2.4 of CRC 7/2010 be suitably amended to require the value of the property to be inserted only in instances where it is higher than the purchase price.

Resolution:

Only the value of the property must be inserted in the deed of transfer in instances where it is higher than the purchase price.

- Item 2.4 of CRC 7 of 2010 must be suitably amended.

37. Implementation Date of Resolutions - CRC 16 of 2005

According to item 1 of CRC 16 of 2005, resolutions taken will be effective from 2 January of the year following the year of such conference.
It is submitted that the provision can only apply to aspects that relates to a practice to be followed by offices, and not to aspects that relates to the correct application of legislative provisions.

Resolution:

Seeing that a Chief Registrar's Circular cannot override the provisions of an Act, CRC 16/2005 should be withdrawn and a new CRC should be issued in this regard.

- Not for publication

38. Section 38 of Act 47 of 1937 - Issuing of one certificate of title in respect of more than one title deed

In instances where a number of title deeds (or some pages thereof) of the same owner have been lost or destroyed, and the deeds registry copies thereof has also been lost or destroyed, is it possible to invoke section 38 of Act 47 of 1937 and issue one certificate of registered title in respect of the many title deeds that have been lost (each property with its conditions to be referred to in a separate paragraph).

Resolution:

Yes, one certificate may be issued in terms of section 38 of Act 47 of 1937 in respect of two or more titles deeds that are lost or destroyed, provided all title deeds are registered in the name of the same person or entity.

F. OTHER LEGISLATION THAT HAS AN IMPACT ON ACT 47 OF 1937

39. Section 40 of Act No. 66 of 1965

RCR 55 of 1987 is stating that the conditions of the will (reservation of usufruct) is merely noted, implicating that cession of the reserved usufruct is not necessary before or simultaneously with the section 40 application.
RCR 21 of 2002 is stating that the personal servitude must be ceded prior to or simultaneously with the section 40 application.

(a) The abovementioned RCR's are in conflict with each other. Conference must provide clarity. Must bondholders consent to the cession of the ususfruct?

(b) How must RCR 21/2002 be applied in the same scenario where the spouses were married out of community of property and the property is registered in both their names?

Resolution:

Item withdrawn.

40. Consent by Guardians in terms of section 18 (3) of the Children's Act No. 38 of 2005

Section 18 of the Children's Act 38 of 2005 refers to the following:

> *"(3) Subject to subsections (4) and (5), a parent or other person who acts as guardian of a child must*
>
> *(a) administer and safeguard the child's property and property interests;*
>
> *(b) consent to the alienation or encumbrance of any immovable property of the child"*

Section 80 of the Administration of Estates Act No 66 of 1965 also requires besides assistance by the child's guardians the authorization of the Master of the High Court where the value does not exceed R250 000,00 and the High Court's consent if the value exceeds R250 000,00. The question from the above is the following:

(a) If the Master has consented in terms of section 80, is a separate consent by the guardian's as stipulated in section 18(3)(c)(v) of the Children's Act No 38 of 2005 needed where a minor's immovable property is alienated?

(b) If the minor is duly assisted by the guardian in the power of attorney, do we still need additional consent?

Resolution:

(a) Yes, the guardian will still have to consent in terms of section 18(3) of the Children's Act No 38.

(b) No.

41. Section 134 of the Companies Act No. 71/2008

There is no provision in the Company's Act No 71/2008 to inform the Registrar of Deeds when a company is under business rescue proceedings. How must section 134(1) – (3) be applied in the deeds registry, because a company under rescue proceedings may deal with immovable property in contradiction to the section mentioned above, i.e. without the knowledge of the business rescue practitioner? The deed registry will not be able to control this.

Resolution:

Item withdrawn.

42. Section 42 (2) of Act 66 of 1965

Spouses who were married out of community of property got divorced. The property was registered in the name of both spouses. Spouse A obtains half share by stipulation in the divorce order. Before transfer of half share, B dies. Does the executor transfer half a share in terms of the court order to the ex-spouse without section 42 (2) approval? Is a section 42 (1) certificate required?

Resolution:

Item withdrawn.

43. Consent in terms of section 15 of Act 88 of 1984

Must the lessee, who is married in community of property, obtain consent in terms of section 15 of Act 88 of 1984 when concluding a notarial lease agreement?

Resolution:

Item withdrawn. Compliance in this regard is the responsibility of the notary.

44. Appointment of representative in terms of the Administrative of Estate Act No. 66 of 1965

Section 18(3) have been amended by Gazette dated November 2014 thereby changing the amount to R 250 000, 00.The effect of the amendment on the application of Section 18(3) is, where a person has died and the value of the estate does not exceed R 250 000, 00 the Master may dispense with the appointment of an executor and give directions as to the manner in which any such estate shall be liquidated and distributed. Is it the duty of the Registrar of Deeds to ensure this provision is correctly complied with?

Resolution:

No, in terms of section 18(3) of Act 66 of 1965 it is clear that it is the discretion of the master to dispense of the appointment of an executor, provided that the amount of the estate does not exceed the amount determined by the Minister from time to time for the purposes of section 18(3) of Act 66 of 1965.

45. Expropriation / Vesting transfers and Spatial Planning Land Use Management Act No. 16 of 2013

Do the provisions of section 53 of SPLUMA find application with the registration of expropriation and vesting transfers as contemplated in terms of Section 31 of the Deeds Registries Act, Act 47 of 1937?

Resolution

Item withdrawn. Item to be referred to the cadastral conference.

46. Land Claims and Land Restitution Transactions and Spatial Planning and Land Use Management Act No. 16 of 2013

Does the provision of section 53 of SPLUMA find application with the registration of subdivisional transfers, Certificates of Registered Title in terms of Section 43 and Certificates of Consolidated Title required for the purpose of land claims and land restitution?

Resolution:

Item withdrawn. Item to be referred to the cadastral conference.

47. Registrability of conditions that no rates may be levied - Local Government – Municipal Property Rates Act No 6 of 2004

May conditions in respect of the exemption from the payment of rates be registered against a property on transfer to a land reform beneficiary?

Resolution:

No, the condition does not restrict the exercise of any right of ownership in respect of immovable property and shall therefore not be capable of being registered. See Section 63(1) of Act 47 of 1937.

- Legal Support must convey the resolution to the Chief Land Commissioner.

48. Act No. 70 of 1970 – Lodgement of the original consent to subdivision or a certified copy thereof

May a deeds registry accept a certified copy of the consent (certified by a conveyancer)? If SG has the original on their file, may a certified copy from the SG be accepted in the deeds registry?

It is argued by the conveyancers that because a duplicate original is issued to the client, the conveyancer may certify a copy thereof as an original, and that should be accepted in the deeds registry. The practice is to only accept original consents.

Resolution:

Yes, in terms of regulation 20 (7) of Act 47 of 1937 a deeds registry may accept an originally certified copy by the conveyancer or notary public, or by the head of a government department if such document is filed in that government office.

G. SECTIONAL TITLES ACT 95 OF 1986

49. Section 11 (2) Conditions

Section 11 (2) of Act 95 of 1986 allows the developer when making application for the opening of a sectional title register and the registration of a sectional plan, to impose registrable conditions in the schedule referred to in subsection (3) (b) of section 11.

Section 65 (1) of Act 47 of 1937 allows the transferor in a Deed of Transfer to impose restrictive conditions. In view of section 65 (1) of Act 47 of 1937:

(a) Should the conditions imposed by the developer in terms of section 11 (2) of Act 95 of 1986 not be registered notarially where such restrictive condition is imposed for the benefit of a third party?

(b) Should the deeds office not insist on a transfer duty receipt if imposed in favour of a third party?

Resolution:

(a) No, the condition may be imposed by the developer in terms of section 11(2) and contained in the section 11(3) (b) certificate, provided that the

third party accepts the benefit in writing. Alternatively the condition may be created notarially.

(b) A transfer duty receipt or exemption certificate must be insisted upon if it is imposed in favour of a third party.

- The matter must be referred to the board to reconsider the provision of section 11(2) in so far it relates to the imposition of such conditions in favour of third parties.

50. Section 15B (3)(a)(i)(*aa*) - certificate must be certified by a Conveyancer

According to section 15B (3)(a)(i)(*aa*) a conveyancer must certify as to whether monies due have been paid or arrangements made for payment. The question is whether the conveyancer must choose between the two possibilities, or may the practice be continued to refer to both?

Resolution

No, the conveyancer does not have to choose. The content of the certificate is the conveyancer's responsibility and the certificate must not be questioned in this respect.

51. Issuing of a certificate of registered title for a portion of the common property

A developer is the sole owner of a sectional title scheme and no body corporate exist. The developer wants to subdivide the common property and register a certificate of registered title for that portion. Section 17 of Act 95 of 1986 allows for the subdivision of common property in a sectional title scheme, but it only allows for the subdivision to be registered as a transfer and there is no provision made for a certificate of registered title to be issued to by the Registrar.

How can the developer obtain a title for the portion of the common property where he/she want to retain the subdivided portion?

Resolution:

Section 3 (1) of Act 95 of 1986 can be invoked to allow for a Certificate of Registered title in terms of section 43 of Act 47 of 1937 to be issued, provided a certificate by a conveyancer as provided for in regulation 29 of Act 95 of 1986 is provided. The provisions as provided for in section 17 and section 18 of Act 95 of 1986 must be applied *mutatis mutandis*.

52. Section 26 - authorization for the purchasing or acquiring land to extend the common property

Section 26(1) requires the written authorization of all the members of the Body Corporate for the purchasing or acquiring of land to extend the common property. However, according to paragraph 15.1 of CRC 6/1988 the written authorization must be lodged. There is currently not a uniform application of the provisions of section 26(1) in Deeds Offices. Must the written authorization be lodged as supporting document for registration of land in the name of a Body Corporate under the circumstances contemplated by section 26?

Resolution:

The written authorization is not required as a supporting document for the registration of a transfer.

- Paragraph 15.1 of CRC 6/1988 should be repealed.
- Not for publication.

53. Section 49-Closure of a scheme

The body corporate is the registered owner of a unit. The scheme is closed in terms of section 49. Certificates of Registered Titles are to be issued in the names of the owners of the units according their Participation quota. In whose name must the certificate of registered titles be issued in respect of the unit registered in the body corporate name, i.e. in the name of the body corporate or in the name of the members, i.e. the owners in equal shares?

Resolution:

The procedure of section 49 must be applied and the certificate of title must be issued in the name of the body corporate.

H. REGULATIONS TO SECTIONAL TITLES ACT 95 OF 1986

54. Regulation 31 – Destruction of or Damage to Building and Transfer of interest

Regulation 31 (2) have been amended to read that the notification to the registrar pursuant to sub regulation (1) shall be accompanied by a sectional plan. However, regulation 31 (4) have not been amended accordingly and still require a copy of the schedule to be submitted to the local authority and the Surveyor-General.

Resolution:

Until the Act has been amended, the sectional plan must be lodged for purposes of regulation 31(4).

I. GENERAL (ACT 95 OF 1986)

55. Liquidation of a Developer

A Developer of a sectional title scheme was liquidated; some of the sections were transferred and were subject to the scheme bond and merely purged against sections as they were transferred. Before the remaining sections could be transferred, the liquidation order was withdrawn and a receiver appointed by a court order. How does one deal with the scheme bond on transfer of the remaining sections? Do we merely purge the bond on the strength of the liquidation order or should it be cancelled in terms of section 56 (1) of Act 47 of 1937?

Resolution:

Item withdrawn.

56. Termination of the Scheme

The Body Corporate is the owner of a section and exclusive use area upon termination of the scheme. What happens to these assets? Will it be bona vacantia assets? Does RCR 77/2011 address this issue?

The RCR states that section 48 and 49 apply, but it does not state in whom the section(s) will vest on dissolution by unanimous resolution.

Resolution:

Item withdrawn.

57. Share block-causa for transfer of property to members

What will be the causa if a share block company transfers immovable property?

Resolution:

When the intention is not to do a conversion, but merely alienate property belonging to the share block to its members, an appropriate causa must be

furnished e.g. sale, donation, *dividend in specie,* etc. Transfer duty will be payable.

58 **Consents in terms of the Subdivision of Agricultural Land Act No 70 of 1970 in respect of township establishments.**

(a) Why must the Department of Agriculture issue an additional letter to confirm that the provisions of the Subdivision of Agricultural Land Act No 70 of 1970 are no longer applicable if the said department prior to approval of the township was afforded time in terms of the relevant township establishment legislation to object to or comment on the township application and such township was subsequently approved with conditions of establishment, an approved general plan as well as proof of compliance with the conditions of establishment?
(b) Why must the Department Agriculture issue a letter to confirm that the provisions of the Subdivision of Agricultural Land Act No 70 of 1970 are no longer applicable if the township applicant is the State (local authority, provincial government or national government)?

Resolution:

Item withdrawn.

59 **Servitudes not affecting a township**

Why must a servitude which does not affect a township due to its situation be carried forward to a township title if the ancillary rights linked to such servitude cannot be exercised outside the confines of the actual servitude as described in the servitude agreement?

Resolution:

Item withdrawn.

J. INPUTS RECEIVED FROM THE OFFICES OF THE SURVEYORS GENERAL FOR DISCUSSION

Items 60 to 66 are withdrawn. The Chief Registrar of Deeds requested that these items be submitted to the Cadastral Conference for discussion.

K. DEEDS REGISTRY PRACTICE AND PROCEDURE

67. Item withdrawn. See discussions under annexure K (see separate agenda and minutes in this regard.).

L. GENERAL INPUTS FOR DISCUSSION

i. The agenda should include an item: *'Matters arising from the previous minutes'.*
ii. The minutes will be circulated for inputs/comments/approval to all attendees who must indicate that they confirm the resolutions, where after it will be signed off by the chair person.
iii. A decision register must be prepared. (Decision, responsible person, date to be complied with, date completed)
iv. The agenda must be sent out at least one month before the conference and late proposal will therefore not be accepted.
v. The cadastral conference will be held in November.
vi. The following persons will attend the Registrars Conferences:
   - Registrars;
   - Deputy Registrars on examination;
   - Law Lecturers;
   - Assistant Registrars: Training;
   - Other persons may attend with the approval of the office of the chief registrar of deeds. Such persons will be responsible for their own expenses.

vii. The same presentation for purposes of training in respect of the conference resolutions must be used by all deeds offices.
viii. Conveyancers will be permitted to attend the training that is presented by the deeds offices.
ix. Terms of Reference for the conference must be prepared by Legal Support for adoption at the next conference.
ix. Vryburg will be the next host.

M. PRESENTATION ON SPATIAL PLANNING AND LAND MANAGEMENT ACT, 2013 (ACT NO. 16 OF 2013)

69. Mr WZ Bhuqa gave a presentation on SPLUMA.

N. DISCUSSION ON BRANCH AND CONVEYANCING MATTERS

70. See Annexure K (separate agenda and minutes).

O. CLOSURE

The Chief Registrar of Deeds closed the conference at 14:00. Appreciation is conveyed to Mr Badenhorst for his contributions throughout the years. Mr Sepp will also leave the branch soon and is also thanked for his contributions. All attendees were thanked for their attendance and contributions. Ms Reynolds who arranged the conference is thanked.

I hereby certify that these Minutes constitute a true reflection of the proceedings of the meeting

SIGNED

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CHIEF REGISTRAR OF DEEDS

DATE: 23/11/2015.