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

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REGISTRAR'S CIRCULAR 14 of 2015
REMOVAL OF RESTRICTIVE CONDITIONS

1. Purpose
This circular is issued as a guideline to deal with Removal of Restrictive Conditions.

2. Background
From 1/07/2015, the Removal of Restriction Act, Act 84 of 1967 will be repealed in terms of the Spatial Planning and Land Use Management Act, Act 16 of 2013 (hereafter referred to as SPLUMA). The Gauteng Removal of Restrictions Act, Act 3 of 1996 is not repealed.

3. Removal of Restriction Act, Act 84 of 1967
Section 60(1) of SPLUMA determines that the repeal of laws does not affect the validity of anything done in terms of that legislation. The consequence of this is that all applications received by a Local or Metropolitan Municipality before 01/07/2015, will be finalized in terms of the Removal of Restriction Act, Act 84 of 1967 as contemplated in Section 12 of the Interpretation Act, Act 33 of 1957. Post 1 July 2015, no application can be submitted in terms of any Act that has been repealed by SPLUMA.

4. Gauteng Removal of Restrictions Act, Act 3 of 1996
PRIOR TO 01/07/2015: A valid application should be finalized in terms of the Act. Decisions must be made by the relevant Land Use regulator (e.g. Townships Board) in terms of Section 12 of the Interpretation Act, Act 33 of 1957.

After 01/07/2015:

Section 2(2) of SPLUMA will only come into operation on 01/07/2015 and will be applicable until By-laws are in place. It restricts the applicability of alternate or parallel mechanism, institutions or system that are inconsistent with SPLUMA.

BY-LAWS NOT IN PLACE:

Applications will be submitted and accepted in terms of the Gauteng Removal of Restrictions Act. Decisions will be made by the Municipal Planning Tribunal (therefore, applications will not be processed until a Municipal Planning Tribunal has been established).

BY-LAWS IN PLACE (Adopted and Gazetted):

Applications will be finalized in terms of the By-Laws. Decisions will be made by the Municipal Planning Tribunal. In view of Regulation 14, 15 and 16 of SPLUMA, if a By-law has been enacted, that is what will prevail.

5. Requirements of SPLUMA

Section 41(1) and Section 47(1) of SPLUMA determines that the Municipal Planning Tribunal, upon application in the prescribed manner, may remove, amend or suspend a restrictive condition. SPLUMA is only framework legislation and the prescribed manner will therefore be determined in the different By-laws of the Municipalities.

Section 43(2) of SPLUMA determines that an application will lapse if it is not complied with within a period of 5 years from date of approval. Therefore, it has the effect that the Title deed will have to be endorsed within 5 years to ensure that the application does not lapse.

Section 47(5) of SPLUMA determines that an applicant at whose instance a restrictive condition is removed, amended or suspended, must apply to the Registrar of Deeds concerned for the appropriate recording of such removal, amendment or suspension, and the Registrar of Deeds must in the prescribed manner record such removal, amendment or suspension.

This circular will come into operation on 01/07/2015(in accordance with SPLUMA which will come into operation on1/07/2015 as per gazette notice number 38828 published on 27/05/2015)..

REGISTRAR OF DEEDS
PRETORIA
Date: 01/07/2015