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

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REGISTRAR'S CIRCULAR 23 of 2015

REFERENCE TO DEED OF CREATION WHEN SERVITUDE INDICATED ON GENERAL PLAN IS REGISTERED IN FAVOUR OF 3RD PARTIES

1. Purpose

This circular should be read (where applicable) together with Registrars Circular 3 of 2015, dealing with establishment of townships.

2. Background

A servitude which will be registered over an erf in favour of other erven in the same township as mentioned in paragraph 7.1.4 of Registrars Circular 3 of 2015 or is in favour of the Local Authority itself, will be dealt with under the heading of "CONDITIONS OF TITLE", subheading "Conditions imposed by the Authorizing Authority in terms of...." on the CONDITIONS OF ESTABLISHMENT.

A servitude which will be registered over an erf in favour of a 3rd party as mentioned in paragraph 7.2 of Registrars Circular 3 of 2015, will be dealt with under the heading of

"CONDITIONS OF TITLE", subheading "Conditions in favour of 3rd parties to be registered" on the CONDITIONS OF ESTABLISHMENT.

3. Problem

If the same servitude note on the General Plan states that an erf is subject to a servitude in favour of other erven in the same township/ the Local Authority as well as in favour of a 3rd party, the part of the servitude note dealt with under "Conditions imposed by the Authorizing Authority in terms of...." will be brought over onto the erven automatically in terms of proclamation while the part of the servitude in favour of the 3rd party will have to be registered.

If the servitude in favour of the 3rd party is registered at a later stage over the exact same area of the servitude in favour of the Local Authority/other erven in the same township, it would seem as if consent from the holders of the right would be required in compliance with Section 65(3) Act 47 of 1937, while it is in fact the same servitude indicated on the General Plan.

If a deed of creation (K...../..S or T..... (Open number) would appear next to the servitude note on the General Plan it creates the impression that the servitude over the erf in favour of the other erven/ in favour of the Local Authority will also have to be registered.

4. Servitude note as it would normally appear on the General Plan

Erf ..... is subject to a .....meter servitude of ..... (Without reference to a deed of creation).

5. Resolution

In future, two servitude notes will be indicated on the General plan.
The servitude note on the General Plan stating that an erf is subject to a servitude in favour of other erven in the same township/ the Local Authority will still be dealt with as per paragraph 4 above.

The servitude note on the General Plan stating that an erf is subject to a servitude in favour of a 3rd party will have to be registered. A deed of creation will therefore be referred to on the Servitude note on the General Plan. This deed number will be endorsed on the General Plan by the Office of the Surveyor General upon receiving notification of such registration from the Deeds Office.

This circular will come into operation with immediate effect.

REGISTRAR OF DEEDS
PRETORIA
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