

What should a Seller know?

The following is deducted from a Sellers proceeds:

- The final settlement amount on the Sellers existing bond.
- The cancellation costs of the attorneys attending to the cancellation of the existing bond in the deeds office.
- The Estate Agents commission.
- Rates and taxes.
- The costs of obtaining an electric compliance certificate.

Is there an existing bond on the property?

When the bank receives notice that a Seller will be cancelling their existing bond they add a penalty amount to the final settlement amount on the bond. The reason for this is that there is a condition in every bond which stipulates that a Seller is required to give the bank 90 days written notice of their intention to cancel their bond.

The penalty amount will be reduces pro rata daily. At the end of the 90 days period the penalty amount will be zero. It is very important that should a Seller give notice to the bank of his or her intention to cancel their bond, when they place their property on the market, that they must renew the notice every 90 days. Many of us was under the impression that the 90 days notice period has fallen away with the NCA, but it is still in effect and applicable.

The cancellation costs of the attorneys:

The bank gives through instruction to one of their attorneys to attend to the cancellation of the Sellers bond in the deeds office. The cancellation attorney's fee is usually approximately R2000.00 and this amount is deducted from the Sellers proceeds.

Estate Agents commission:

The Estate Agents commission together with VAT thereon (if applicable) is deducted from the Sellers proceeds.

Rates and taxes:

To obtain a clearance certificate from the municipality, the law stipulates that a Seller needs to pay 6 months rates and taxes in advance. For the conveyancing firm to obtain clearance figures from the municipality they require an electricity account of the property being transferred.

After registration has taken place, the conveyancing firm notifies the municipality of the registration and change of ownership. The municipality is supposed to attend to closing the Sellers rates and taxes account, creating a new account for the Purchaser and to refund the Seller his or her credit.

In our experience the City of Tshwane Metropolitan Municipality does not comply with this procedure and therefore we make use of a consultant who attends to same where the local authority is City of Tshwane. We obtain consent from the Seller beforehand as the consultant charges a fee of R420.00. It can however still take up to 3 months to receive the credit of the Seller back from the municipality.

The cost of obtaining an electrical compliance certificate:

An electrical compliance certificate does not guarantee that all appliances and fittings in a property are in good working order. This is one of the most common ill perceptions that Purchasers have. An electrical compliance certificate only guarantees that the electrical installation is safe and in good working order.

An electrical compliance certificate is essential in the conveyancing process. The bank requires an electrical compliance certificate on every property before lodgement; therefore it is advisable to obtain an electrical compliance certificate as soon as the Purchaser has obtained bond approval to avoid any delay in the transfer process.

What should a Purchaser know?

A Purchaser will receive a statement of account comprising of the following from the transferring attorneys:

Transfer – Full Title

Description	VAT	Debit	Credit
To transfer duty			
To transfer costs *			
To memo			
To pro rata rates and taxes (± R2,000.00)			
To Deeds Office fee			
Document Generation Charge (±R130.00) *			
To FICA Charge (±R200.00) *			
To Deeds Office search (±R50.00)			
To postage and petties (±R600.00) *			
VAT (on items marked with *)			
Total Amount due (incl VAT)			

Transfer – Sectional Title

Description	VAT	Debit	Credit
To transfer duty			
To transfer fees *			
To pro levies (±R900.00)			
To levy certificate (±R989.00)			
To memo (±R385.00)			
To pro rata rates and taxes (± R300.00)			
To Deeds Office fee			
Document Generation Charge (±R130.00)			
To FICA Charge (±R200.00) *			
To Deeds Office search (±R50.00)			
To postage and petties (±R600.00) *			
VAT (on items marked with *)			
Total Amount due (incl VAT)			

Transfer duty and deeds office fees are determined by the purchase price of the property and the transfer fees are prescribed by the Law Society, thus the fees do not differ from attorneys firm to attorneys firm.

The difference between a sectional title and full title statement of account is the inclusion of pro rata levies and the fee for obtaining a levy certificate from the body corporate.

A full title statement of account only contains pro rata rates and taxes.

A Purchaser will receive a statement of account comprising the following from the bond attorneys:

Description	Fees	Disbursements	VAT
To our fees for taking instruction, drawing Power of Attorney to pass Bond, drawing Bond and other documents, lodgement and registration, correspondence, etc.			
To bank admin fees			
To postages, petties and telephone			
To Deeds Office fee			
To initiation fee			
To provision for Sectional Title Insurance Certificate			
To Document Generation Charge			
TOTALS			
TOTALS DUE			

Steps in the transfer process:

Attorneys receive instruction to attend to the transfer of the property into the name of the Purchaser and courtesy calls are made to both the parties and should a deposit be payable, they will furnish the banking details of their trust account, in writing, to the Purchaser.

The transferring attorneys request cancellation figures from the Sellers bond holder. (if applicable) The bond holder will send instruction to their attorneys to attend to the cancellation of the bond simultaneously with the transfer of the property. The bond holder will also furnish their attorneys with the original title deed and bond deed for lodgement in the deeds office.

As soon as the Purchasers bond is approved, the transferring attorneys will arrange for signing of the documents by the parties. Both parties need to supply the transferring- and bond attorneys with their FICA documents on signing of the documents.

FICA documents are as follows:

Natural Persons:

- Identity document, South African Resident.
- Passport, non resident.
- Proof of residence. (not older than 3 months)
- Marriage certificate. (if applicable)
- Antenuptual Contract. (if applicable)
- Proof of income tax number. (if applicable)

Close Corporations:

- Most recent version of the Founding Statement and Certificate of Incorporation (form CK1).
- Amended Founding Statement (form CK2), if applicable, bearing the stamp of the Registrar of Close Corporations and signed by an authorised member or employee of the Close Corporation.
- The address from which the Close Corporation operates example a utility bill reflecting the name and business address which is not older than 3 months.
- Proof of SARS number of the Close Corporation.
- FICA documents of all members:
 - Identity document.
 - Proof of residence. (Not older than 3 months).
 - Proof of income tax number.

South African Companies:

- Most recent version of the Certificate of Incorporation (form CM1) and notice of Registered Office and Postal Address (form CM22) bearing the stamp of the Registrar of Close Corporations and signed by the Company secretary.
- The address from which the Company operates example a utility bill reflecting the name and business address which is not older than 3 months.
- Proof of SARS number of the Company. FICA documents of all directors:
 - Identity document.
 - Proof of residence. (Not older than 3 months).
 - Proof of income tax number.

Trusts:

- Trust deed.
 - Letters of Authority issued by the Master of the High Court.
 - Proof of SARS number of the Trust.
 - FICA documents of all trustees:
 - Identity document.
 - Proof of residence. (Not older than 3 months).
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- The bond attorneys will furnish the transferring attorneys with their guarantees once the Purchaser has signed the bond documents.
 - Transfer and bond costs is payable on signing of the documents.
 - On receipt of the transfer costs the transferring attorneys will submit their transfer duty documents to SARS to obtain their transfer duty receipt.
 - Payment of the rates clearance figures is made by the transferring attorneys to obtain the clearance certificate from the Local municipality.
 - Payment of the levy figures is made by the transferring attorneys to obtain their levy certificate from the body corporate.
 - The transferring attorneys will arrange lodgement of the transaction in the deeds office once they are in possession of their guarantees, transfer duty receipt, clearance certificate from the local municipality, levy certificate from the body corporate and once the cancellation attorneys and the bond attorneys are ready for lodgement.
 - From date of lodgement in the deeds office registration is effected within approximately 10 working days.
 - On date of registration the attorneys inform all parties.
 - The proceeds of the Seller as well as any credit the attorneys have for the Purchaser is paid to them within a day or two after registration.
 - Registration of a property into the name of a Purchaser takes approximately 6-8 weeks after the bond approval of the Purchaser.