

THE NEWSLETTER WITH A DIFFERENCE

M.C. MONTHLY

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**HURPAG OF
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KONTRAKTE**

**REAL RIGHTS OF
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**REQUIREMENTS
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**ESTATE AGENTS!
MCADEMY TRAINING INSTITUTE 2016**

HUIS REMME-LOS FUNDRAISING — ELVIS



Every second year, MC van der Berg Inc. hosts and sponsors an event in aid of Huis Remme-los, a self-help centre for quadriplegics, who desperately needs financial assistance on an ongoing basis.

This year we approached Elvis Blue for the event held at Atterbury Theatre, and we were very lucky that he was available (and especially fortunate that we made the booking before he walked away with 7 Ghoema awards).

To create awareness about Huis Remme-los, MC van der Berg, in association with Purple Dave Films created a short film, named Boxwood, about Huis Remme-los. It tells a story of a young man who has to do community service at Huis Remmel-los. He embarks on a journey of self-discovery as he gets to know the inhabitants of Huis Remme-los and their helpers.

After months of planning, ticket sales and excitement, the evening finally arrived. Sound checks done, hair and make-up done, the theatre was a buzz of excitement and activity and the evening was kicked off with Tiaan van der Berg and Sonja du Toit handing over a cheque to Piet de Witt (the chairman of Huis Remme-los) after which Boxwood was shown exclusively to our guests for the evening.

Finally the moment arrived, Elvis, together with Mathys Maree (Piano) and Hiram Koopman (Saxophone), arrived on stage and within minutes had the crowd singing and interacting with songs like Lifeline and 'Die hemel'.

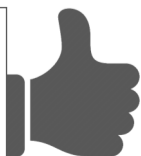
Elvis had the crowd on their feet with his beautiful music, fantastic stage personality and empathy for the cause.

We would like to thank each and every person involved in this project for their time, contributions and enthusiasm to make it a huge success.

Written by/Geskryf deur: Retha Beukes



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M.C. VAN DER BERG INC
ATTORNEYS, CONVEYANCERS & NOTARIES

Your Property Attorneys

WHAT PRECISELY ARE YOU PURCHASING WHEN YOU PURCHASE A REAL RIGHT OF EXTENSION

It is practice nowadays that 'n developer subdivides his real right of extension, which is for example depicted on a SG Diagram and indicated as RR1-RR15, for the purpose of selling the real rights to third parties. When you purchase a real right of extension, you are in fact purchasing a right to build a unit on a portion of the common property in the sectional scheme, within a specified time period. This real right of extension will be transferred to you by way of a notarial cession. You can in turn sell this real right to another party. If you decide to exercise your real right of extension, you will have an allocated portion of land on which you can build your unit.

You can however not build according to your own discretion. The developer had to file plans to scale of the buildings to be erected in terms of his real right of extension stipulating the siting, height and coverage of the buildings, at the deeds office with the opening of the sectional scheme. You will have to build according to those filed plans, any deviation from the plans can only be sanctioned by way of a court order. Home Owners Associations and Body Corporates may also have specifications on the aesthetic appearance of structures in the sectional scheme and you will have to build in accordance with these specifications. After the building is complete, a conversion from real right to sectional title has to be done. A Land Surveyor then

draws up sectional plans depicting your unit together with any exclusive use areas, and this is registered in the deeds office, where after you will be issued with a Certificate of Registered Sectional Title stipulating that you are now an owner of a specific unit, together with a Certificate of Exclusive Use Area if any.



Written by/Geskryf deur: Ramona Michael

REQUIREMENTS WHEN DEALING WITH A TRUST

Our clients are sometimes nervous when dealing with a trust. The important question is whether a trust has the authority to act. It is the responsibility of the attorney to obtain and peruse the following:

The trust deed

A trust is governed by the Trust Property Control Act 57 of 1988, the common law and the trust deed. Does the trust deed make provision for its trustees to buy, sell, or mortgage immovable property? The powers of the trustees need to be determined here. If the transaction is not authorised, the trust deed needs to be amended.

Letter of authority

This document, together with the trust deed form the source documents of a trust. If new trustees have been added or certain trustees have passed away or resigned, the letter of authority should be amended before the transaction can proceed.

Resolution

A resolution signed by all trustees authorising the transaction and nominating one trustee to sign all documents must be obtained. It is important to note that the resolution must be signed before signing an offer to purchase. The agreement cannot be ratified after the offer to purchase is entered to, as in the case with companies or close corporations.

ID documents

These trustees must also be identified and thus their identity documents must be provided.



Written by/Geskryf deur: Nicole Alberts

HUURPAG OF LANGTERMYN HUURKONTRAKTE

Eiendomsreg is die mees omvattende van alle saaklike regte (regte wat afdwingbaar is deur die houer teen die wêreld in die algemeen).

Die alternatief tot fisiese oordrag van eiendomsreg is om 'n langtermyn huurkontrak te registreer.

Die voordeel vir die grondeienaar is dat op die beëindiging van die huurtermyn die eiendom steeds aan die eienaar behoort. Tipies word die grond, hetsy onbebou of bebou, gehuur vir 'n tydperk van 10 tot 99 jaar, met of sonder hernuwingsopsies.

Die huur kan betaal word in 'n enkelbedrag of kan betaal word in paaiemente.

Die huurkontrak word notarieël verly en geregistreer in die Aktekantoor. Daar word ook soms daarna verwys as huurpag of "lease hold".

Die regte van die houer is nie absoluut nie, byvoorbeeld 'n eienaar van grond kan (ten spyte van sy omvattende saaklike reg wat afdwingbaar is teen die wêreld in die algemeen) ontnem word van sodanige eienaarskap deur onteiening. Net so kan die houer van huurpag titel ontnem word van sy reg deur die insolvensie van die grondeienaar.

Indien grond wat onderhewig is aan 'n geregistreerde langtermyn huurkontrak dan verkoop word is die koper deur die werking van ons gemene reg outomaties gebind aan die huurkontrak. Die huurder bly geregtig op al die voordele van die huurkontrak.

Selfs al word die grond verkoop word deur die likwidateur of kurator van 'n insolvente verhuurder, sal die grond eers te koop aangebied moet word onderhewig aan die huurkontrak. Dit is slegs indien sodanige verkoop nie voldoende opbrengs lewer vir die aflos van 'n bestaande saaklike reg (dit wil sê 'n geregistreerde verband) nie wat die grond vry van die huurkontrak aangebied mag word. Indien geen sodanige voorafbestaande saaklike reg bestaan nie dan is die huurder veilig.

Gevolglik is dit belangrik dat die huurder verseker dat ten tye van die huurkontrak die grond nie beswaar word deur 'n verband nie. As die grond beswaar is met 'n verband moet die huurder daarop aandring dat die verbandhouer afstand doen van sy preferente regte ten gunste van die huurder.

Indien die grondeienaar die grond na registrasie van die langtermynhuurkontrak met 'n verband wil beswaar moet die huurder van sy regte afstand te doen ten gunste van dié van die voorgestelde verbandhouer.

In terme van die Registrasie van Aktes Wet sluit "onroerende eiendom" (per definisie) enige geregistreerde huurkontrak van grond in wat aangegaan word vir 'n tydperk van nie minder as 10 jaar nie of die natuurlike lewe van die huurder of wat die opsie het dat die huurder onbepaald die huurkontrak mag hernu vir tydperke, wat tesame met die eerste periode, nie minder nie as 10 jaar is nie. Gevolglik val huurpag binne die betekenis van onroerende eiendom in terme van die Registrasie van Aktes Wet en as sodanig kan dit met 'n verband beswaar word as sekuriteit vir 'n lening of ander skuld.

As die onderliggende betrokke huurkontrak gekanselleer word vir een of ander rede (of deur 'n ooreenkoms tussen die grondeienaar en die houer van die huurpag titel, of as gevolg van wanbetaling of insolvensie van die houer van die huurpag titel, of deur regswerking) dan verdwyn die sekuriteit daargestel deur die verband in effek. Dit is om hierdie rede dat banke en ander finansiële instellings dikwels huiwerig is om lenings teen sekuriteit van verbande oor huurpag titel te verleen.

Hierdie beperking kan oorkom word deur die gebruik van "intree regte ooreenkomste" of "step in rights agreements", welke 'n ooreenkoms tussen die grondeienaar en die verbandhouer is in terme waarvan die verbandhouer / sub-huurder of sy genomineerde die reg gegee word om "in die skoene van die huurder te tree" indien die huurkontrak gekanselleer of beëindig word of "opgeskorte huurooreenkomste" waar huurkontrakte aangegaan word tussen die grondeienaar en die verbandhouer of sub-huurder wat slegs 'n aanvang neem op die beëindiging van die oorspronklike huurkontrak tussen die grondeienaar en die oorspronklike huurder.

Written by/Geskryf deur: Sonja du Toit



Bonds / Verbande

Frequently Asked Questions / Gereelde Vrae en Antwoorde

WHAT IS A GENERAL POWER OF ATTORNEY?

A general power of attorney authorises another person (the agent) to complete any legal transaction on behalf of his principal. Regulation 65(4) of the Deeds Registries Act provides that a general power of attorney can only be used to deal with immovable property if it contains an express provision which authorises the agent to sell and transfer the property and/or burden it with a mortgage bond.

WAT IS 'N ALGEMENE VOLMAG?

'n Algemene volmag magtig 'n spesifieke persoon (die agent) om enige regshandeling namens sy prinsipaal te sluit. Regulasie 65 (4) van die Registrasie van Aktes Wet bepaal dat 'n algemene volmag slegs gebruik mag word om te handel met onroerende eiendom indien dit 'n uitdruklike bepaling bevat wat die agent magtig om die eiendom te verkoop en te transporteer of om dit te beswaar met 'n verband.



Written by/Geskryf deur: Marike Snyman

WERKNEMER VAN DIE MAAND

Ria van Staden het in Mei 2014 by die MC-Familie aangesluit.

Sy is 'n senior aktetikster in ons transport afdeling.

Ria het 'n fyn sin vir humor wat gedurig haar kollegas laat skaterlag en is gewild by haar kliënte vanweë haar mooi geaardheid.

