

# M.C. MONTHLY



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The newsletter with a difference

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## MUNICIPAL ZONING AND HOME OWNERS ASSOCIATION RULES

The question in *Vanilla Street Home Owners Association v Ismail and Another* was whether the Home Owners Association (HOA) had the power to bar an owner from running a home-based business.

The facts in this case was that a homeowner in the estate ran a hair salon from her house. The HOA's constitution and rules prohibited the use of homes for anything other than residential purposes.

The homeowner contended that her home business was permitted by the local zoning regulations. The High Court found in favour of the HOA and held that "there is nothing contained in our law which prevents a property owner from agreeing to the limitation of its rights". The homeowners had agreed to be bound to the HOA rules and thus forfeited their right to use their properties for non-residential purposes.

The homeowner had to stop running her business from home and was also ordered to pay the HOA's legal costs.

The moral of the story is that purchasers should, before entering into a deed of sale for a property within an estate, peruse the Memorandum of Incorporation and rules of the HOA. Most HOA's require purchasers to sign a consent that they have read and understand the rules and that they will abide by the rules. The effect of signing this consent is that purchasers voluntarily limit the rights that they would otherwise have.



## MUNISIPALE SONERING EN HUISEIENAARSVERENIGING REËLS

Die vraag in *Vanilla Street Home Owners Association v Ismail en 'n Ander* was of die huiseienaarsvereniging (HEV) die bevoegdheid het om 'n eienaar te verhoed om 'n besigheid van sy of haar huis af te bedryf.

Die feite van hierdie saak is dat 'n huiseienaar 'n haarsalon vanuit haar huis bedryf het. Die HEV se Memorandum van Inkorporasie en reëls het egter die gebruik van wonings vir enigiets anders as residensiële doeleindes verbied.

Die huiseienaar het aangevoer dat die plaaslike soneringsregulasies die bedryf van die besigheid toelaat. Die hooggeregshof het in die guns van die HEV bevind en bevestig "daar is niks in ons reg wat verhoed dat 'n eienaar kan toestem tot die beperking van sy regte nie". Die huiseienaars het hulself verbind om lid te word van die HEV en om aan die reëls gebonde te wees en dus verbeur hul die reg om hul eiendom te gebruik vir nie-residensiële doeleindes.

Die huiseienaar is verbied om haar besigheid vanuit haar huis te bedryf en is ook beveel om die HEV se regskoste te betaal.

Die les hieruit te leer is dat kopers, voor die aangaan van 'n koopkontrak, die Memorandum van Inkorporasie en reëls van die HEV moet nagaan. Die meeste huiseienaarsverenigings vereis dat kopers 'n toestemming moet teken welke bevestig dat hulle die Memorandum van Inkorporasie en reëls van die HEV nagegaan het en dit verstaan en dat hulle sal hou by die reëls. Die effek van hierdie toestemming is dat kopers vrywillig die regte, wat hulle andersins sou hê, beperk.

Written by/Geskryf deur: Sonja du Toit

**M.C. VAN DER BERG**<sup>INC</sup>  
ATTORNEYS, CONVEYANCERS & NOTARIES

Your Property Attorneys

## DIE BETEKENIS VAN DIE TERM “OPSKORTENDE VOORWAARDE”

’n Aanbod om onroerende eiendom te koop mag aan die vervulling van sekere opskortende voorwaardes onderhewig wees. Die mees algemene opskortende voorwaardes is:

- Die koper moet ’n verband vanaf ’n finansiële instelling bekom;
- Die koper moet sy bestaande eiendom verkoop;

Nie-voldoening aan ’n opskortende voorwaarde veroorsaak dat die kontrak van nul en gener waarde is, en sou die partye met die transaksie wil voortgaan, sal ’n nuwe koopkontrak aangegaan moet word. Indien daar andersyds aan die opskortende voorwaarde voldoen is, tree die kontrak in werking en is die partye gebonde daaraan.

Opskortende voorwaardes word normaalweg tot voordeel van een van die partye in die kontrak gevoeg, en sodanige party kan te enige tyd voor die vervaldatum vir die voldoening aan sodanige voorwaarde, afstand van die voorwaarde doen.

Wees waaksaam wanneer u ’n koopkontrak wat ’n opskortende voorwaarde bevat aangaan. Maak seker dat u bewus is van die vasgestelde tydsraamwerke vir voldoening aan die voorwaarde, ten gunste van wie die voorwaarde in die kontrak gevoeg is, sowel as die vereistes vir voldoening aan die voorwaarde. Win regsadvies in alvorens u die kontrak onderteken, sowel as u wil afstand doen van ’n voorwaarde wat tot u voordeel in die kontrak gevoeg is.



## THE MEANING OF THE TERM “SUSPENSIVE CONDITION”

An offer to purchase immovable property may be made subject to the fulfilment of certain suspensive conditions. The most common suspensive conditions are:

- The purchaser needs to obtain a mortgage bond from a financial institution;
- The purchaser needs to sell his existing property.

Non-fulfilment of a suspensive condition renders the contract null and void and should the parties still wish to continue with the sale, a new sale agreement will have to be concluded. On the other hand, once the condition has been fulfilled, the contract comes into full force and effect.

Suspensive conditions are usually inserted into a contract for the benefit of one of the parties and can be waived by the relevant party, at any time prior to the expiration of the period for the fulfilment of the condition. The contract will then become unconditional and the parties will be bound thereto.

Be vigilant when entering into a contract which is subject to a suspensive condition. Be aware of the stipulated time frames for compliance, for whose benefit the conditions have been inserted and the requirements to prove compliance. Seek legal advice prior to signature of the contract and also obtain advice before you waive any conditions that have been inserted for your benefit.

Written by/Geskryf deur: Annelé Odendaal

## MCADREMY TRAINING Training will resume in February 2015



## BONDS: FREQUENTLY ASKED QUESTIONS

### I AM BUYING A SECTIONAL TITLE – DO I STILL NEED BUILDING INSURANCE?

The bank will still require that the property be insured, but the body corporate of the scheme will be responsible for taking out insurance over all the buildings in the complex. The amount payable to the relevant insurance company will form part of your monthly levies.

### EK KOOP ’N DEELTITELEENHEID – BENODIG EK STEEDS EIENDOMSVERSEKERING?

Die bank sal steeds vereis dat die eiendom verseker moet word, maar die beheerliggaam van die skema sal daarvoor verantwoordelik wees om versekering uit te neem oor al die eiendomme in die kompleks. Die bedrag betaalbaar aan die relevante versekeringsmaatskappy sal deel vorm van u maandelikse heffings aan die beheerliggaam.



Written by/Geskryf deur: Vernée Roets



## HOW ARE MY PROPERTY RATES AND TAXES DETERMINED?

Property rates and taxes are calculated with reference to the municipal valuation thereof, which valuation is based on the market value of the property and is periodically updated.

All properties are valued at the same date of valuation to ensure that rates are levied fairly with different levy rates for the following categories of properties:

1. Use of the property
2. Permitted use of the property (residential or commercial)
3. Geographical area in which the property is situated.

Residents are provided with the opportunity of commenting on or raising objections against the municipal valuation if they believe these have not been fairly or correctly determined. If you are not satisfied with any of the information contained in the valuation roll or if any information is omitted, an objection must be lodged before the closing date for objections.

If the valuation is adjusted by more than 10%, the municipal valuator must state the reason for such adjustment.

It is required by law that the Municipality correct wrong valuations upon finalising objections and refund the objector. Where the property is undervalued, the ratepayer would be required to pay the additional outstanding rates, with interest, to the Municipality.

Written by/Geskryf deur: Nicole Rokebrand



## HOE WORD MY ERFBELASTING BEREKEN?

Erfbelasting word bereken met inagneming van die munisipale waardasie van die spesifieke eiendom, waarvan die waardasie gebaseer is op die markwaarde van die eiendom wat van tyd tot tyd opgedateer word.

Alle eiendom word op dieselfde datum gewaardeer om te verseker dat belasting redelik gehef word. Daar is verskillende belastingkoerse vir die volgende kategorieë van eiendom:

1. Die gebruik van die eiendom
2. Die toegelate verbruik van die eiendom (residensieël of kommersieël)
3. Die geografiese ligging van die eiendom.

Huiseienaars word die geleentheid gegun om kommentaar te lewer of beswaar te maak teen die Munisipale waardasie indien die huiseienaar van die opinie is dat die belasting nie redelik of korrek bereken is nie. Indien die huiseienaar nie tevrede is met die inligting wat op die waardasierol verskyn nie, of enige inligting weg-gelaat is, moet die huiseienaar 'n beswaar indien by die Munisipaliteit voor die afsny datum vir besware.

Wanneer daar 'n aanpassing gemaak is op die waarde van die eiendom en dit is meer as 10%, moet die munisipale waardeerder skriftelik redes verskaf vir die aanpassing.

Die munisipaliteit word deur wetgewing verplig om verkeerde waardasies reg te stel by finalisering van besware en dus ook die huiseienaar te vergoed vir oortollige gelde gehef. Die huiseienaar sal aanspreeklik wees om die munisipaliteit te vergoed vir addisionele uitstaande belastinge en rente indien die eiendom onder waardeer was.

## ONS PERSONEEL



Ronelle Horak is 'n senior aktekster by ons firma sedert 1 Mei 2012 en doen nuwe ontwikkelings asook gewone transporte. Sy is getroud met Tertius en hulle is trotse ouma & oupa van Melindi wat hulle totaal en al om haar pinkie draai!

## WAT ONS KLIENTE SÊ

- It is a rare occurrence nowadays to come across a business that instills trust as you do with your introduction. Thank you, we look forward to working with you.
- Your services are excellent, I will definitely use you in future and will recommend M.C VAN DER BERG as the attorneys of choice!!!
- Allow me to thank you for efficient manner in which you assisted with the signing of the documents.
- Baie dankie vir jou deurlopende vriendelike en sorgvuldige hulp. Dit is diens soos wat jy lewer wat maak dat ons keer op keer na MC vd Berg kom met die verkoop van ons eiendomme.
- Thank you for your prompt and competent assistance in this matter.
- I would like to thank you for the professional and helpful manner in which you handled this transaction.
- Wil graag baie dankie se vir julle puik diens!!
- Diens was uitstekend...dankie julle....
- Thank you for your prompt and efficient work!!
- Verder kan ek net vir julle verseker dat ek julle uitstekende diens waardeer met elke transaksie.
- You're service was excellent, thank you very much.
- Thank you so much! As always the best service!
- Baie dankie dat ek gereeld terugvoer gekry het van jou af, dit beteken regtig baie.

Die meeste van julle weet seker reeds dat ons in die proses is om ons kantore te vergroot asook om 'n splinternuwe MCademy langs ons kantoor te bou.

Tesame met die opening van die nuwe MCademy in 2015 beplan ons ook om 'n reeks nuwe en baie interessante onderwerpe aan te bied.

Ons nader nou die einde van die jaar en daarmee tesame skaal ons ook die opleiding af.

Vir ieder en elk wat die geleentheid deur die jaar aangegryp het om MCademy by te woon wil ons van harte bedank.

Hou gerus ons webwerf dop vir die nuutste lesings wat in Februarie 2015 afskop.



## RICH'S REVIEW:

September bêre almal die braai seile en neem afskeid van sloerkook. Met dit kom bykosse en het ons eie Kokkedoor hierdie maand 'n stampmielietert-bederf wat ander disse sleg op hul neuse laat kyk.

Die resep deel ek graag, soos ontvang van Tiaan se persoonlike assistent Sarie:

- Bestel een foeliebak gaar stampmielies by Saxby Spar sommer die vorige dag (±1 kg), of maak dit self gaar;
  - 1 pak versnipperde spek (250g);
  - 3 uie fyn gekap;
  - 2 pakkies sampioene opgesny (500g)
  - knoffel na smaak
  - 1 bottel Miami tamatiesmoor;
  - 500ml suurroom;
  - gerasperde kaas na smaak.
- 1) Braai spek tot bros – haal uit pan en dreineer.
  - 2) Braai uie en knoffel tot sag en deurskynend op 'n lae hitte – moenie skroei nie, dit raak bitter.
  - 3) Voeg sampioene by en braai tot sag – roer gereeld dat dit nie vasbrand nie.
  - 4) Gooi stampmielies in 'n groot mengbak en meng met die suurroom.
  - 5) Roer tamatiesmoor by.
  - 6) Voeg spek en uie, knoffel en sampioen mengsel by.
  - 7) Geur met sout en swartpeper na smaak.
  - 8) Roer dit goed deur, gooi in 'n oondvaste bak.
  - 9) Strooi gerasperde kaas oor.
  - 10) Bak teen 180°C totdat dit deurwarm is en kaas gesmelt en effens verbruin is.

Soos Sarie sê, 'n resep is bloot 'n riglyn. Voeg by en verwyder, verminder of vermeerder soos jou hart of jou smaakkliere vir jou sê!

### Blood Drive - 17 Sept 2014

Our blood donation day was a huge success as a result of your loyal support and participation in this vital community service which ultimately improves the quality of life for many.

We would like to thank all the staff from The South African National Blood service for the time and effort spent and the very strict protocols followed to ensure that all blood donation procedures were safe and hygienic.

The South African National Blood Service expected 20 units to be donated and we were able to donate 36 units in total.

The aim for our next blood drive donation day is 50 units and we will appreciate your ongoing support towards this worthy cause. We will keep you informed of our next blood drive date.

## Looney Law

ATTORNEY: How old is your son, the one living with you?  
 WITNESS: Thirty-eight or thirty-five, I can't remember which.  
 ATTORNEY: How long has he lived with you?  
 WITNESS: Forty-five years.

Boereraad:

Vla-opkikker

'n Skeppie appelkooskonfyt by  
 'n bak vla ingeroer sal dit  
 heerlijk opkikker en die smaak aange-  
 naam verander!

## ADVERTENSIE

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 Cnr Heuvel & Mike Crawford Street  
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 Fax: 086 614 6350  
 steve@godfather.co.za  
 jan@godfather.co.za

www.godfatherrestaurant.co.za

## ETHICAL CODE

### 6.2 The estate agent shall –

6.2.3 without undue delay furnish every contracting party with a copy of an agreement of sale, lease, option or mandate with which he is concerned as an estate agent, provided that the foregoing shall also apply in respect of an offer to purchase or lease if the offeror specifically requests a copy thereof.

## WHAT MAKES US UNIQUE?

Purchasing or selling a new home could be a once in a lifetime occurrence for some and for some it is a regular occurrence.

As attorneys, we can therefore not assume that our clients have the knowledge they need to give or take transfer of immovable property. To make this, often uncertain, event easier for buyers and sellers alike, we make available certain tools to explain the processes, obligations, rights etc. These tools are named Guides (Purchasers Guide, Sellers Guide etc.) and can be found on our website ([www.mcvdberg.co.za](http://www.mcvdberg.co.za) or [www.mcvdberg.mobi](http://www.mcvdberg.mobi)) in Afrikaans and English.

Further to these written tools, we also have professional videos available to purchasers and sellers for an overview of the process.

Our costs calculator is an up to date tool to give potential buyers an indication of the expected transfer and bond registration costs they need to consider when budgeting for the purchase of their new home. In the top right-hand corner of the website, you will find a translate button to switch the site between Afrikaans and English.

Our friendly staff are looking forward to be of service and will ensure that your transaction is handled and finalised as quickly and professionally as possible.

At M.C. van der Berg we believe that knowledge is power – if you have any further questions, please do not hesitate to contact our office.

Written by/Geskryf deur: Retha Beukes

## SUDOKU

3	4		8	2	6		7	1
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7	6			9			4	3
	8		1		2		3	
	3						9	
	7		9		4		1	
8	2			4			5	9
		7				3		
4	1		3	8	9		6	2

Tel: 012 660 6000 | Fax: 012 660 6001

CENTURION: Cnr Saxby East & Frederik, Eldoraigne

PRETORIA EAST: 32 Garsfontein Office Park, 645 Jacqueline Drive, Constantia Park

Email: [info@mcvdberg.co.za](mailto:info@mcvdberg.co.za) • Web: [www.mcvdberg.co.za](http://www.mcvdberg.co.za) • Mobi: [www.mcvdberg.mobi](http://www.mcvdberg.mobi)

