



## THE PROCEDURE TO A TRANSFER:

### **What is conveyancing?**

Conveyancing is the name given to the specialized process of transferring immovable property from one person to another. A Conveyancer is an admitted attorney who has passed a specialized exam and been admitted in the High court.

In a nutshell, conveyancing encompasses all property related work, including the registration of transfer of immovable property (such as vacant land, flats, commercial or residential property), bonds over immovable property as well as subdivisions and consolidations of property in the deeds office.

### **Who appoints a Conveyancer?**

It is always the sellers' right to appoint a Conveyancer, only when the seller and purchaser agree otherwise may this rule change.

### **So what happens next?**

Once the Conveyancer has received this instruction, their tasks include making the seller and purchaser fully aware of all the important dates, ensuring the purchaser has paid their deposit and checking that bond approvals have been granted on time.

Once all the necessary information and documentation has been gathered, all the documents signed and receipts and clearances received, the Conveyancer will then lodge the transaction for registration at the deeds office. From lodgment, the examination process takes roughly six to nine working days before they come up for registration.

The Conveyancer will continue with registration if all monies for the purchase price have been paid or secured by a guarantee or bond and all costs have been paid.

### **Who do I pay a deposit to?**

The 'Agreement of sale' or 'Offer to purchase' normally sets out where the deposit must be paid normally to the Conveyancer and into their trust accounts. The Conveyancer will invest it on your behalf, and the interest earned will be paid to you on registration of transfer.

### **Is a power of Attorney really necessary?**

The seller or purchaser may sign a special power of attorney authorizing another person to sign all documents on their behalf. This is handy if you have bought or sold property and you are not in the country.

Due to South African law, any documents signed outside the borders of the country have to be signed according to strict procedures i.e. before a Notary Public or member of the South African Consulate or both (depending on which country you are in).

### **What is a Declaration in respect of status?**

This is basically a declaration regarding whether you are married or not, and if you are married, whether you are married in or out of community of property, according to Moslem rites or according to the laws of any other country. The Conveyancer needs to know this as the documents will be drawn up according to this status.

### **What is Transfer Duty Declaration?**

This document is submitted to the receiver of revenue when transfer duty is paid. It confirms that the purchase price stated in the Agreement of sale is the correct one. This declaration also needs to state your income tax number, and if you are not registered for income tax, your annual income from all sources.

### **What is FICA?**

FICA (The financial Intelligence Centre Act) requires individuals to provide the following documentation in order for the attorney's to transfer a property into your name.

- 1.1 Copy of identity book
- 1.2 Copy of marriage certificate (if applicable)
- 1.3 Copy of a utility bill confirming residential address
- 1.4 Copy of Tax return reflecting tax number
- 1.5 Copy of Divorce Order (if applicable)
- 1.6 Copy of Antenuptual Contract (if applicable)

### **What is the procedure with mortgage or bond documents?**

Upon signature and payment of your deposit you will need to make a bond application through the appointed bond originator. Contractually you have 30 days in which to do so. If you do not wish to make use of the appointed bond originator, the developer is unable to absorb the costs of transfer, i.e. conveyancing attorneys, bond attorneys and transfer duty (if your purchase is over R500,000). The appointed bond originator will require copies of your ID, three months bank statements and proof of income in order to make the application on your behalf to a financial institution. When your bond is approved, your bank will forward the bond registration instructions to the Conveyancer.

The documents will then be drawn up in accordance with the transfer documentation and banks instructions. You will have to sign all of these documents, including the Mortgage loan agreement, which sets out the interest rate, installments and terms, the mortgage bond which gets registered at the deeds office as well as affidavits and the debit order authority.

### **Who arranges these transactions?**

The Conveyancer attending to the transfer and bond registration will handle all the transactions.

### **What happens at the deeds office?**

Once the deeds are lodged, they are examined by a junior and senior examiner. The chief deeds controller then makes the final decision whether to pass or reject them. If the deeds get passed, they must be handed in for registration to take place the next working day.

Deeds may be rejected for various reasons, such as a discrepancy regarding the spelling of names, ID numbers, Erf descriptions etc. If it is something that can be easily remedied, the Conveyancer will re-lodge the deeds after amending them.

**Where and when will I get the keys to the property?**

You will be provided with 30 days written notice of occupation. This "Occupation Letter" will include all details regarding the handover of your unit.