

# M.C. MONTHLY



The newsletter with a difference

Aug/Sept 2014

## BUYING PROPERTY IN A NEW DEVELOPMENT

## KOOP VAN EIENDOM IN 'N NUWE ONTWIKKELING

The economy has stabilised since the previous recession and as a consequence we have seen many new developments being built. Before buying a property in a new development, ask the following:

1. How far has the township development or opening of the sectional-title scheme progressed? It may be that the developer has just initiated the township development process or that the sectional-title register still has to be opened, and it can take months before the property can be transferred to the purchaser.
2. Will the transfer and bond costs be included in or excluded from the purchase price? Examine the marketing package as the developer will sometimes pay the transfer and bond costs on behalf of purchaser, and in other cases only the transfer costs will be paid. If the latter is the case, the purchaser will have to budget to pay the bond attorney's account.
3. When can the purchaser take occupation? There are several steps in the establishment of a township and in the building process that can cause unexpected delays. The purchaser should be prepared for the eventuality that he or she may only be able to move in much later than was initially expected. Communicate with the transferring attorney regularly to confirm that all is still on course regarding the date of occupation.
4. Is the Consumer Protection Act applicable in this case? Yes, the Act is applicable as the developer delivers the "goods" (e.g. the property) in the normal course of his business. The voetstoots clause may therefore not be included in such a contract, and the purchaser will be entitled to a property transferred to him or her without any defects.

It is clear from the above that if you buy a property in a new development you should be prepared for a transfer process that will differ significantly from a normal property transfer. Contact us if you need any assistance in this respect.



Namate die ekonomie gestabiliseer het na die vorige resessie, het ons gesien dat daar weer meer nuwe ontwikkeling plaasvind. Voor jy 'n eiendom of erf koop in 'n nuwe ontwikkeling, moet jy die volgende vrae vra:

1. Hoe vër het die proses van dorpsstigting of opening van die deeltitelskema reeds gevorder? Dit kan wees dat die ontwikkelaar nou eers begin met die dorpsstigtingsproses of dat die deeltitelregister nog eers geopen moet word, en dit kan dus nog maande wees voor registrasie na die koper kan plaasvind.
2. Word die transport- en verbandkoste ingesluit by of uitgesluit van die koopprys? Kyk baie mooi na die pakket wat bemark word, want soms betaal die ontwikkelaar die transport- en verbandkoste namens die kopers, en soms net die transport kostes. As laasgenoemde die geval is, moet die koper begroot om self die verbandkoste te betaal.
3. Wanneer kan die koper okkupeer? Daar is verskeie stappe in die dorpsstigtings- asook die bouproses wat onverwagte vertraging kan veroorsaak. Die koper moet voorbereid wees daarop dat hy of sy dalk eers later sal kan intrek as wat aanvanklik verwag is. Dit sal die koper baat om gereeld met die transportprokureur te kommunikeer en te bevestig dat alles nog op koers is met betrekking tot die okkupasiedatum.
4. Is die Wet op Verbruikersbeskerming hier van toepassing? Ja, die Wet is van toepassing, aangesien die ontwikkelaar die "goedere" (naamlik die eiendom) lewer in die normale loop van sy besigheid. Die voetstootsklausule kan dus nie by so 'n kontrak ingesluit word nie en die koper is geregtig daarop dat die eiendom vry van defekte aan hom oorgedra word.

Dit is duidelik uit bostaande dat die koper in 'n nuwe ontwikkeling voorbereid moet wees op 'n transportproses wat baie verskil van 'n normale eiendomsoordrag. Skakel ons gerus indien ons u kan bystaan in hierdie verband.

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

Written by/Geskryf deur: Sonja du Toit

Your Property Attorneys

## DIE GEVOLGE VAN 'N VERSUIM OM DIE JAARLIKSE BELASTINGOPGAWES VAN U MAATSKAPPY/BESLOTE KORPORASIE IN TE DIEN

Die direkteure van ABC Beleggings Eiendoms Beperk besluit om onroerende eiendom te koop. Die oordragprokureurs lig hulle egter in dat die maatskappy gederegistreer is. Die rede vir hierdie deregistrasie was hul versuim het om die afgelope paar jaar die jaarlikse KMIE-opgawes in te dien. Die eiendom kan nie oorgedra word voor herregistrasie van die maatskappy nie.

Versuim om die jaarlikse opgawes van 'n entiteit in te dien kan tot deregistrasie van die entiteit, sonder die toestemming of kennis van die direkteure of lede, lei.

Maatskappye en beslote korporasies moet jaarliks opgawes by die Kommissie vir Maatskappye en Intellektuele Eiendom (KMIE) indien binne 30 dae na die jaardag van die inlywing daarvan. Versuim kan daartoe lei dat die KMIE aanneem dat sodanige entiteit nie meer sake doen nie wat tot die verwydering van die entiteit se naam van die register kan lei.

Die Wet bepaal dat direkteure, aandeelhouders en lede nie geaffekteer word deur deregistrasie nie, hulle bly aanspreeklik vir enige handeling voor deregistrasie.

Die bates gaan oor op die staat as bona vacantia (dws as onopgeëiste goedere of goedere sonder 'n aanspraakmaker). Dit is die nadeligste gevolg van die deregistrasie.

Gelukkig maak die Wet voorsiening dat aansoek gedoen kan word om herregistrasie. Die maatskappy of beslote korporasie as geheel herleef, en alle repte en verpligtinge gaan voort asof die entiteit nooit gederegistreer is nie.

Herregistrasie 'n lang prosedure wat die oordragproses kan vertraag, dus moet die status van 'n entiteit nagegaan word voor 'n koopvooreenoms met so entiteit aangegaan word.



## THE CONSEQUENCES OF FAILING TO SUBMIT THE ANNUAL RETURNS OF YOUR COMPANY / CLOSE CORPORATION

The directors of ABC Investments Proprietary Limited decide to purchase a property. The transferring attorneys inform them that the company had been deregistered. The reason for deregistration was the failure to submit the company's annual CIPC returns. The property cannot be transferred onto the name of the company before it has been reinstated.

Failure to submit the annual returns of an entity can lead to deregistration of the entity without the consent or knowledge of the entity's directors or members.

Companies and close corporations must submit annual returns with the Companies and Intellectual Properties Commission (CIPC) within 30 days of the anniversary date of its incorporation. Failure to do so will result in the CIPC assuming that such entity is no longer doing business, which will lead to the deregistration of such entity.

The Act states that deregistration doesn't affect the liability of the directors, shareholders or members of legal entities. They remain liable for any acts prior to de-registration.

The assets of the entity will vest in the state as bona vacantia (i.e. as goods that are unclaimed or without an apparent owner). This is the most adverse consequence of deregistration.

Fortunately, the Act provides that the CIPC can re-instate the registration of the entity. The entity is revived and all its rights and obligations will continue as if the entity was never deregistered.

As re-instatement is a lengthy procedure which will delay the transfer process, it is important to verify the status of an entity prior to entering into a sale agreement with such an entity.

Written by/Geskryf deur: Annelé Odendaal

## MCADemy TRAINING

During the past few years, agents in and around Pretoria have come to know our MCAdemy training as a regular fixture in their training schedule.

We strive to give training on topics that are relevant and current and we hope that our training adds value to the agents we reach.

We are very excited about the way MCAdemy has grown in the last few years:

Our newest addition is training in Midstream with our first session held at the end of July. We will visit Midstream again in the near future and plan to make this one of our regular training venues.

The toddler amongst our training facilities is MCAdemy in the East, which has been greatly supported by our agents from the eastern suburbs of Pretoria and is growing from strength to strength.

Our big brother, the original MCAdemy in Saxby Avenue is about to see some big changes: The Saxby Venue is moving down the road to our stunning new venue (next to our offices). Currently being built, with expected completion towards the end of the year, we are very excited to open the doors of this new facility and welcome you for training in this beautiful venue early in 2015.

Our training dates can be found in our MC Monthly or on [www.mcvdberg.co.za](http://www.mcvdberg.co.za). Please book for the time and venue that best suits your schedule.

## McAdemy - Centurion

19 Aug 2014	09:00 to 10:30	ENG	Court cases, new legislation and trends applicable to the Real Estate Industry
	11:00 to 12:30	AFR	Regspraak, nuwe wetgewing en tendense van toepassing op die Eiendomsmerk
26 Aug 2014	09:00 to 10:30	ENG	Court cases, new legislation and trends applicable to the Real Estate Industry
	11:00 to 12:30	AFR	Regspraak, nuwe wetgewing en tendense van toepassing op die Eiendomsmerk
10 Sept 2014	09:00 to 10:30	ENG	Court cases, new legislation and trends applicable to the Real Estate Industry
	11:00 to 12:30	AFR	Regspraak, nuwe wetgewing en tendense van toepassing op die Eiendomsmerk
18 Sept 2014	09:00 to 10:30	ENG	Transfer Procedures
	11:00 to 12:30	AFR	Subject - To Transaction
21 Aug 2014	09:00 to 11:00	ENG	"Your punishment paying Tax - Capital Gains Tax"
23 Sept 2014	09:00 to 11:00	ENG	Court cases, new legislation and trends applicable to the Real Estate Industry

## McAdemy - Pretoria East

Practical training by Practitioners

During the month of August and September the following topics will be presented:

## HOLIDAY HOME – REGISTRATION IN MY PERSONAL NAME OR A TRUST?

Personal financial circumstances and estate planning objectives will have to be considered when deciding whether to buy in a trust or not. The purchaser should ask himself or herself the following questions:

1. For what purposes and for what time period will the property be used?
2. Will the property be my primary residence?
3. Do I wish to sell and make a profit or do I wish to bequeath it to my children?
4. Will it be a rental property?
5. Am I exposed to risks relating to creditors?
6. What are the tax implications?



In this regard capital gains tax and estate duty needs to be considered and discussed with your auditor. In the event that the property is the primary residence, the first R2 million of the capital gains on the sale will be exempt from Capital Gains Tax. This rebate is however not available when purchasing in a trust.

It is advisable to seek professional help when deciding whether to purchase a property in a trust or in your personal capacity.

## VAKANSIEHUIS – REGISTRASIE IN MY PERSOONLIKE NAAM OF IN 'N TRUST?

Persoonlike finansiële omstandighede en boedelbeplannings doelwitte is faktore wat oorweeg moet word in die besluit of eiendom in 'n trust gekoop moet word al dan nie. Die koper moet die volgende vrae vra:

1. Waarvoor gaan die eiendom gebruik word en vir watter tydperk?
2. Gaan die eiendom my hoofwoning wees?
3. Wil ek die eiendom verkoop en 'n wins maak of wil ek dit aan my kinders bemaak?
4. Gaan dit 'n huureiendom wees?
5. Wat is die risiko's van 'n moontlike skuldeisers waaraan ek blootgestel is?
6. Wat is die belastingimplikasies?

Hier moet veral kapitaalwinstbelasting en boedelbelasting oorweeg een bespreek word met jou ouditeur. Indien sodanige eiendom die hoofwoning is, word die eerste R2 miljoen van die kapitale wins op die verkoop daarvan van kapitaalwinstbelasting vrygestel. Die vrystelling is egter nie beskikbaar wanneer die eiendom in 'n trust gekoop word nie.

Dit is raadsaam om professionele advies te kry om u te help met die hierdie besluit.

Written by/Geskryf deur: Nicole Rokebrand

## BONDS – FREQUENTLY ASKED QUESTIONS

### WHAT IS THE DIFFERENCE BETWEEN A BOND AND A NOTARIAL BOND?

A bond can only be registered over immovable property. A notarial bond can only be taken over movable property and must be notarially executed. Both notarial bonds and bonds over immovable property must be registered at the Deeds office.

### WAT IS DIE VERSKIL TUSSEN 'N VERBAND EN 'N NOTARIËLE VERBAND?

'n Verband kan slegs oor onroerende eiendom geregistreer word. 'n Notariële verband word oor roerende goed geregistreer, en moet notarieel verly word. Verbande en notariële verbande moet egter albei by die Aktekantoor geregistreer word.



Written by/Geskryf deur: Vernée Roets

## ONS PERSONEEL

Melandri du Plooy is sedert 1 Junie 2011 werksaam by ons firma as assistent vir Ina Jansen.

Sy is 'n harde werker wat met haar vrolike geaardheid somer diep in die harte van haar kollegas sowel as die kliënte inkruip. Sy hoop om in die nabye toekoms Mevrou Dr Boshoff te wees.



## WAT ONS KLIENTE SÊ

- Ek wil graag laat weet dat ek julle diens van hoogstaande gehalte gevind het. Julle het altyd uiters professioneel opgetree en was behulpsaam in alle opsigte, wat ek baie hoog op prys stel. As dit van my afhang sal ek beslis met graagte weer met julle firma sake doen.
- MC Van Der Berg is the best! The whole process of selling my house was an absolute pleasure and peace of mind. Thank you for a job well done, keep it up.
- I would like to thank you for everyone's effort in insuring a very quick and efficient transfer. It was nothing but a pleasure to deal with each of you.
- Julle diens was uitstekend en sal julle gerus gebruik in die toekoms.
- If I should need to transfer another property I would most probably knock on your door first.

Soos meeste van julle reeds weet het ons 'n paar maande gelede begin om ons MCademy ook in die ooste van Pretoria by die Nedbank auditorium aan te bied. Ons opregte dank aan almal wat die lesings so gereeld bywoon. 'n Spesiale woord van dank aan Nedbank wat hulle puik geriewe aan ons beskikbaar stel.

Ons het die afgelope maand vir die eerste keer Mcademy begin aanbied in Midstream. Dankie aan al die Midstream agente en ontwikkelaars wat dit bygewoon het. Ons sal voortaan die Mcademy lesings ook maandeliks in Midstream aanbied.

Tesame met die gewone Mcademy lesings het ons ook die maand ons sewende Rookie- seminaar vir die jaar aangebied. Ons word oorval met rookies wat hierdie twee-dag seminaar wil bywoon. Die oorweldigende positiewe terugvoer wat ons uit alle oorde kry is werklik 'n riem onder die hart.

Ons is baie opgewonde oor ons nuwe opleidingsfasiliteite wat ons besig is om reg langs ons Centurion kantoor te bou. Na alle verwagting sal dit teen die einde van die jaar klaar wees en sal ons aan die begin van volgende jaar begin om die Centurion lesings daar aan te bied. Ons is besig om verskeie nuwe lesings te ontwikkel wat agente se kennis net nog verder sal verbreed. Onthou Mcademy se leuse... "If you think education is expensive, try ignorance"

Besoek gerus ons webwerf en bespreek een van ons lesings indien jy nog nie deel is van die Mcademy - familie nie



## RICH'S REVIEW:

This month I just have to share one of my soul secrets with all of you...

Brooklyn Theatre – a classical music enthusiasts dream. The theatre hosts opera productions, solo recitals and then, as any reputable city should have – a philharmonic orchestra! The Gauteng Philharmonic Orchestra (GPO) was created a year ago to fill a gap for all music lovers. Their repertoire is as diverse as our country, from Beethoven to Paganini. The theatre will host, for the very first time in Africa, both of Brahms Piano Concerto's 1&2 consecutively in one performance. The soloist will be the phenomenal Professor Gustavo Romero from the USA.

The theatre's website, [www.brooklyntheatre.co.za](http://www.brooklyntheatre.co.za), is very user friendly. You can choose the preferred performance, book and pay online – then just arrive for the performance. If you suffer like I do of technophobia, you can contact the Brooklyn Theatre on (012) 460 6033 or visit their music shop iSalon in the Brooklyn Mall, Shop 10 (next to Cinema Nouveau) to make arrangements for your booking and payment thereof.

Experiencing live classical music is truly a soul cleansing exercise!

### We Can Make A Difference!

The South African Blood service has a continuous shortage of blood. There are patients in hospital that need both blood and platelets and all of us can make a difference by donating blood.

Join us in our upcoming blood drive on:

17 September 2014 @ MC van der Berg's offices  
Corner of Sawby and Frederik Streets  
Eldoraigne  
Any time between 12:00 – 17:00

Donors need to weigh more than 50 Kg, be between 16 and 65 years of age and be in good health.

We hope to see you there!

## Looney Law

Attorney: "What was the first thing your husband said to you that morning??"

Witness: He said, 'Where am I, Cathy?'

Attorney: And why did that upset you?

Witness: My name is Susan!

### Boereraad:

## Meer Maskara

Voeg velvogmiddel by oogmaskara wat uitgedroog het eerder as om dit weg te gooi.

## ADVERTENSIE



Hair • Nails • Make-up  
Tel: (012) 643 0454  
Address: 81 Lenchen South, Shop No. 4A & 5A, Centurion Crescent Shopping centre, Centurion

## ETHICAL CODE

### 6.2. An estate agent shall –

6.2.1 explain to every prospective party to any written offer or contract negotiated or procured by him in his capacity as an estate agent, prior to signature thereof by such party, the meaning and consequences of the material provisions of such offer or contract, or, if he is unable to do so, refer such party to a person who can do so;

## WHAT MAKES US UNIQUE?

For your convenience, we have created the below-mentioned videos and trust that these tools will be a valuable asset to you as agent.

**MCPromoVideo:** a short video about the wide-ranging services M.C. van der Berg Incorporated renders.

**MCPurchasersVideo:** a short, but detailed visual explanation of the MCPurchasersGuide. An absolute must for the prospective purchaser before he/she makes an offer to purchase a property.

**MCSellersVideo:** a short, but detailed visual explanation of the MCSellersGuide. This is also a must for the prospective seller before he/she accepts an offer to purchase. These videos are readily available at [www.mcvdberg.co.za](http://www.mcvdberg.co.za) as well as at our MC-Mobisite at [www.mcvdberg.mobi](http://www.mcvdberg.mobi).

You will now find it even easier to provide essential information to purchasers and sellers before they enter into an agreement.

The valuable information in these videos will not only benefit your prospective seller or purchaser but will also eliminate endless frustration for you as the agent and protect you legally.



Website: [www.mcvdberg.co.za](http://www.mcvdberg.co.za)

## SUDOKU

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