

M.C. MONTHLY

NO. 30

FAMINE WEED

The newsletter with a difference

Jun/July 2015

INDRINGER SPESIES: DIE NUUTSTE INLIGTING

INVASIVE SPECIES UPDATE

In ons Maart/April uitgawe van die MC Monthly het ons onderneem om ons lesers op hoogte te hou van verwikkelinge rakende die vereistes soos uiteengesit in die National Environmental Management Biodiversity Act 10 of 2014 (NEMBA) en die regulasies daartoe. Die Departement van Omgewingsake sal 'n kennisgewing uitreik gedurende Oktober 2015 wat verdere besonderhede van die implementering van die regulasies sal gee.

In terme van regulasie 29 moet die verkoper die koper van enige indringspesies op die eiendom in lig.

Dit is duidelik dat verkopers nie die nodige kennis het om indringer plante te identifiseer en kopers in te lig nie, en dus sal die verkoper 'n geakkrediteerde en geregistreerde Indringspesies Konsultant moet aanstel. Die opleiding en akkreditasie van die konsultante is goed op dreef en ons is instaat om jou te verwys na 'n geakkrediteerde Indringspesies Konsultant.

Die Indringspesies Konsultant sal 'n verklaring uitreik waarin die kategorieë van indringerplante op die eiendom uiteengesit word.

Indien enige indringspesies soos omskryf in kategorie 1 (a) (spesies wat uitgewis moet word) teenwoordig is op die eiendom sal die Indringspesies Konsultant verplig wees om 'n bestuursplan aan die Biodiversiteit Eenheid voor te lê vir goedkeuring.

Enige koste wat aangegaan moet word ter uitvoering van die bestuursplan ten aansien van enige kategorie van indringspesies sal vir die rekening van die verkoper wees.

Ons raad is dat daar geen praktiese werkbare manier is om die wet en regulasies af te dwing voordat die kennisgewing nie gepubliseer word in Oktober 2015 nie. Agente moet dus versigtig wees om die vereiste van 'n Indringspesies Verklaring te inkorporeer in hul pro forma kontrakte op die oomblik. Net so moet verkopers nie persoonlik verklarings maak aan kopers oor die aan- of afwesigheid van indringspesies op die eiendom nie.

Ons gaan die volgende uitgawe van die MC Monthly in geheel wy aan hierdie onderwerp sodat ons kliënte ten volle ingelig is.



In our March/April edition of the MC Monthly we undertook to keep our readers abreast of developments regarding the requirements as set out in the National Environmental Management Biodiversity Act 10 of 2014 (NEMBA) and the regulations thereto. The Department of Environmental Affairs will issue a notice during October 2015 which will give further details of implementation of the regulations.

In terms of regulation 29 the seller should inform the purchaser of any invasive species on the property.

Obviously sellers do not have the necessary knowledge to identify and inform purchasers, and thus an accredited and registered Invasive Species Consultant must be appointed by the seller. The training and accreditation of the consultants are well under way, and we will be able to refer you to an accredited Invasive Species Consultant.

The Invasive Species Consultant will provide a declaration setting out the categories of invasive plant species on the property.

If any invasive species as defined in category 1 (a) (species which must be eradicated) are present on the property, the Invasive Species Consultant will be obliged to complete a management control plan, which plan must be submitted to the Biodiversity Unit for approval.

Any costs which results from the adherence to the requirements in the management control plan relating any category of invasive species will be for the seller's account.

It is our advice that until the notice is published in October 2015 there is no practical way for the act and regulations to be enforced. Agents should thus be wary to incorporate the requirement for an Invasive Species Declaration in their pro forma contracts at present. Similarly sellers should not make declarations to purchasers about invasive species or the absence thereof.

We are dedicating our next MCMonthly to the topic of Invasive Species to fully inform our clients and agents about the requirements of the act and regulations.

Written by/Geskryf deur: Sonja du Toit

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

Your Property Attorneys

LOODGIETER OF WATERSERTIFIKAAT

Die uitreiking van 'n water- of loodgietersertifikaat word kragtens artikel 14 van Kaapstad se Water-By-Wette van 2010 gereguleer. Hierdie By-Wette is op 18 Februarie 2011 gepromulgeer, en plaas sedertdien 'n verpligting op 'n verkoper om so 'n sertifikaat vanaf 'n geakkrediteerde Loodgieter te bekom.

Sodanige sertifikaat moet dan deur die oordragprokureurs by die Munisipaliteit ingedien word. Die Munisipaliteit sal nie die uitreiking van 'n uitklaringertifikaat verlaag indien hul nog nie die watersertifikaat ontvang het nie. Die oordrag sal egter verlaag word indien die eienaar nie die nodige herstelwerk voor registrasie laat doen het nie, aangesien die sertifikaat voor registrasie by die Munisipaliteit ingedien moet word.

Die uitreiking van sodanige sertifikate is dus 'n vereiste vir suksesvolle oordragte van eiendomme in die Munisipale jurisdiksiegebied van Kaapstad ("City of Cape Town").

In terme van die By-wette moet 'n nuwe sertifikaat uitgereik word indien daar 'n verandering in eienaarskap ten opsigte van die tersaaklike eiendom is. Die rede hiervoor is dat daar geen waarborg is dat die koper geen veranderinge aan die watersisteem aanbring het alvorens hy die eiendom herverkoop nie.

Die koste vir die uitreiking van hierdie sertifikaat, tesame met die herstelwerk wat voor die uitreiking daarvan gedoen moet word, sal vir die verkoper se rekening wees.



PLUMBING OR WATER CERTIFICATES

The issuing of a water or plumbing certificate is regulated by section 14 of Cape Town's Water By Laws of 2010. These By Laws were promulgated on 18 February 2011, and places an obligation on a seller to obtain such a certificate from an accredited Plumber.

These certificates must be lodged at the Municipality by the transferring attorneys. The Municipality will not delay the issuing of a clearance certificate if they have not received the water certificate. The transfer will however be delayed if the owner does not see to the necessary repairs prior to registration, as the certificate must be lodged at the Municipality prior to registration.

The issuing of the certificates is therefore a requirement for the successful transfer of properties which fall under the Municipal jurisdiction of Cape Town ("City of Cape Town").

In terms of the By Laws a new certificate needs to be issued when there is a change in ownership with regards to the relevant property. The reason for this is that there is no guarantee that the purchaser has not altered the water system prior to the selling of the property.

The costs for the issuing of such certificate, as well as any repairs that need to be done for the certificate to be issued, will be for the seller's account.

Written by/Geskryf deur: Annelé Odendaal

MCADemy TRAINING

Our training schedule for June and July at our MCademy Facility, based at: c/o Saxby & Frederik Streets, Eldoraigne, Centurion, is as set below: The training is free of charge and bookings must be made with **Liza Louw: MCademybookings@mcdvberg.co.za or contact her at 012 660 6109 to reserve your seat.**

PTA EAST – THEME TRAINING

22 July 09:00 – 11:00 ENG Subdivision, Consolidation & Rezoning c/o Saxby & Frederik Streets, Eldoraigne Centurion.

CENTURION – THEME TRAINING

24 Jun 09:00 – 11:00 ENG Subdivision, Consolidation & Rezoning c/o Saxby & Frederik Streets, Eldoraigne Centurion.

23 Jul 09:00 – 11:00 ENG Subdivision, Consolidation & Rezoning c/o Saxby & Frederik Streets, Eldoraigne Centurion.

CENTURION - ROOKIE 1 TRAINING 2015 (2DAYS)

29-30 July 09:00 – 16:00 ENG Basic Rookie Training c/o Saxby & Frederik Streets, Eldoraigne Centurion.

CENTURION - ROOKIE2RECRUIT

18 Jun 09:00 – 15:00 ENG Defects, CPA, Subject-To Transactions & Existing Lease Agreement c/o Saxby & Frederik Streets, Eldoraigne, Centurion.

13 Aug 09:00 – 15:00 ENG Defects, CPA, Subject-To Transactions & Existing Lease Agreement c/o Saxby & Frederik Streets, Eldoraigne, Centurion.

CENTURION - ROOKIE3REALTORS

25 Jun 09:00 – 13:00 ENG Capital Gains Tax & Transfer Procedure c/o Saxby & Frederik Streets, Eldoraigne, Centurion.

CENTURION – INFORMATION EVENING – SELLERS & PURCHASERS – NO AGENTS

24 Jun 19:00 – 21:00 ENG General information on selling and purchasing a property c/o Saxby & Frederik Streets, Eldoraigne Centurion.

23 Jul 19:00 – 21:00 ENG General information on selling and purchasing a property c/o Saxby & Frederik Streets, Eldoraigne Centurion.

20 Aug 19:00 – 21:00 ENG General information on selling and purchasing a property c/o Saxby & Frederik Streets, Eldoraigne Centurion.

TRUSTBATES EN EGSKEIDING

Jou huis is geregistreer in die naam van 'n trust en nou vind jy jouself in 'n egskeiding. Is jy geregtig tot 'n deel van die huis se waarde? Die antwoord is gewoonlik nee aangesien die trust 'n aparte entiteit is van die boedels van die gades, maar daar is uitsonderings gebaseer op die feite.

In die onlangse Appèlhof (SCA) saak van WT en ander v KT (933/2013) [2015] ZASCA het die hof met die bogenoemde vraag gehandel. Die vrou het aangevoer dat die bates van die trust die gemeenskaplike boedel toeval aangesien haar man haar onder 'n wanvoorstelling gebring het dat die eiendom in 'n trust geregistreer is om beide partye te beskerm teen krediteure.

Sy het aangevoer dat hulle ooreengekom het dat die vrou 'n begunstigde van die trust sal wees en verder, dat wanneer die partye sou skei, die vrou 50% van die bates sou kry. Sy het ook aangevoer dat die trust haar man se "alter ego" was en dat hy die trust ge-administreer het vir sy eie persoonlike voordeel.

Die Hof het beslis dat:

1. Daar geen bewyse is van die man se bedreiglike optrede nie
2. Die vrou het geen regsbevoegdheid om die man se bestuur van die trust uit te daag nie aangesien die vrou nie 'n trustee of begunstigde was nie. Die eindresultaat, die trust behou die huis.

Twee aspekte om in ag te neem rakende situasies soos bogenoemde:

- 1) Kry behoorlike regsadvies rondom die huweliksgoederebedeling. Jou huweliksvoorwaardekontrak moet jou onderskeie regte ten opsigte van jou bates te alle tye beskerm, selfs bates wat in 'n trust gehou word.
- 2) As 'n trustee moet jy jou trust bestuur soos vereis deur toepaslike wetgewing om te voorkom dat dit as jou "alter ego" beskou word.

Written by/Geskryf deur: Nicole Rokebrand



TRUST ASSETS AND CLAIMS ON DIVORCE

Your house is registered in the name of a trust and now you find yourself in divorce proceedings. Are you entitled to a share of the house's value? The answer is usually no, as the trust is a separate entity from the estates of the spouses, but there may be exceptions based on the facts.

A recent Supreme Court of Appeal (SCA) judgment of WT and others v KT (933/2013) [2015] deals with the aforesaid. The wife argued that the trust's assets fell into the joint estate as her husband had deceived her by saying that the property was registered in a trust to protect it from business creditors.

She averred that they agreed that they would jointly decide who would be beneficiaries and that she would get 50% on divorce. She also argued that the trust was her husband's "alter ego" as he controlled it for his personal benefit.

The Supreme Court held that:

1. There was no evidence that supported the wife's claims of deceit.
2. Even if the trust was the husband's "alter ego" the wife could not challenge the husband's management of the trust as she was neither a beneficiary nor a trustee. The end result, the trust keeps the house.

Two things to take away from this:

- 1) Obtain proper legal advice whether being married in or out of community. Your ante-nuptial agreement should record your respective rights to any assets, even assets held in trust.
- 2) As a trustee, manage your trust strictly as required by law to avoid claims that the trust was nothing more than your "alter ego"

WAT ONS KLIËNTE SÊ

- We could never have dreamt of getting a law firm as good as MC van der Berg. I will recommend you with a clear conscience. You are very efficient, friendly & everything is completed promptly. Thank you so much for the excellent service you render.
- It is really great to receive service which goes beyond my expectations, and will definitely recommend M.C. Van Der Berg Inc to all my family and friends who are still in SA. Many thanks again. Also I have put a compliment on Hello Peter recommending M.C Van Der Berg Inc.
- Ons sal julle beslis weer in die toekoms gebruik.
- This has been a great transaction and everything has run so smoothly. Thank you for all your hard work and professional attitude. Have a lovely day.

FREQUENTLY ASKED QUESTIONS? GEREELDE VRAE EN ANDWOORDE?

My loan makes provision for a 'Future use amount'. How does this facility work?

This facility enables you to register a bond greater than the home loan amount that was granted. The facility will create a surplus amount that you can access at a later stage. A second bond will not have to be registered to access the surplus amount, but will be subject to credit approval.

My verband maak voorsiening vir die verkryging van fondse in die toekoms. Hoe werk hierdie fasiliteit?

Hierdie fasiliteit maak dit vir u moontlik om 'n verband te registreer vir 'n groter bedrag as die lening wat aan u toegestaan is deur die bank. Ingevolge hierdie fasiliteit is daar surplus fondse beskikbaar waartoe u toegang kan verkry op 'n latere stadium. 'n Tweede verband hoef nie geregistreer te word nie, maar toegang daartoe sal onderhewig wees aan kredietgoedkeuring deur die bank.

Written by/Geskryf deur: Vernée Henning



We embarked on a new venture namely- Information Evenings for the general public.

This move resulted from the fact that various purchasers and sellers contacted us and expressed their desire to attend an information session that explains the legalities involved in a property transaction.

M.C van der Berg Inc. hence realized that a real need exists in the broader community to attend such informative evenings. This is an attempt to equip the seller and purchaser with the correct information when selling or buying a property. Amongst other, the following topics are discussed: Mandates, the liability for commission, the ambit of the CPA, the responsibility of the seller and purchaser before entering into an agreement, patent and latent defects, VAT and Transfer Duty, the various compliance certificates, costs, FICA, the role of the various attorneys, the bond application process, the transfer process.

We make it very clear at these information sessions that we believe sellers and purchasers alike should make use of the services of estate agents for various reasons. Because we however have alliances with many agencies, we neither promote nor effect the relationship between any specific real estate agent and/or bond originator. Many purchasers and sellers are wary and hesitant to attend these kind of information evenings because they believe that they are going to be trapped into a marketing gig by developers, agents, banks, insurance brokers or originators.

We invite any estate agent to inform their clients to reserve a seat at one of these information sessions. Because we want all of our estate agent colleagues to be comfortable to refer their clients to attend, we made the decision not to open the event for agents as we don't want a situation where agents try to farm clients. Not only will this scare the sellers and purchasers off for the future but also create animosity amongst estate agencies. You can also be assured that other agents will not target your clients either.

We have earmarked the following future dates for Information sessions.

- 24 June 2015
- 23 July 2015

We believe that you trust us in our attempt to fulfil our obligation as market leaders in good faith.



RICH'S REVIEW

What is the name of the tallest mountain in the world? - Mount Everest?

Who invented the telephone? - Alexander Graham Bell?

Who said "let them eat cake"? - Marie Antoinette?

All wrong. That is according to authors John Lloyd and John Mitchinson of the Book of General Ignorance.

If you enjoy a television program like QI hosted by Stephen Fry on BBC, Dstv channel 120, this is a book that will definitely interest you.

General knowledge is taken to an advanced level in "The Book of General Ignorance". To all three questions above I had exactly those answers in mind, until I read the authors John Lloyd and Mitchinson's answers and explanations to it.

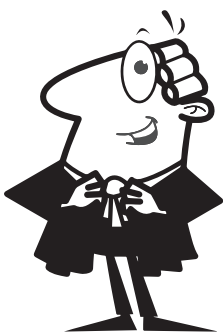
The tallest mountain can't be Everest. When it comes to mountains, the convention is that 'highest' means measured from sea level to summit and tallest means measured from the bottom of the mountain to the top. The correct answer being Mauna Kea – the highest point on the island Hawaii. From seabed to summit it measures 10,200m, about a quarter of a mile taller than Mount Everest.

The telephone was not invented by Alexander Graham Bell but by Antonio Meucci – who filed a caveat (a kind of stopgap patent in the USA) in 1871, five years before Bell's telephone patent. Interesting enough Meucci couldn't afford \$10 to renew his caveat in 1874. In 1876 Bell registered his caveat. Meucci have sent his original sketches and working models to the lab at Western Union. Bell worked there, and the models mysteriously disappeared...

I will allow you to discover who came up with the phrase 'Let them eat cake'...

This pocket size book is a very interesting read that should be kept close when you enter into an argument – I keep mine in the cubbyhole of my car!

The Book of General Ignorance, Pocket Edition ISBN 978-0-571-24139-2



Looney Law

A doctor and a lawyer in two cars collided on a country road. The lawyer, seeing that the doctor was a little shaken up, helped him from the car and offered him a drink from his hip flask.

The doctor accepted and handed the flask back to the lawyer, who closed it and put it away. "Aren't you going to have a drink yourself?" asked the doctor. "Sure; after the police leave," replied the lawyer.

Boereraat:

Naglig

Konnekteer jou buitenste sekuriteitslig met die lig in jou motorhuis. Sodoende sal die lig reeds aangeskakel wees as jy die motorhuis binne ry.

ADVERTENSIE

TOIT'S Vleismark

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ETHICAL CODE

In terms of the estate agents' general duty to members of the public and other persons or bodies, an estate agent-

2.5 shall not through the medium of a company, close corporation or third party, or by using such company, close corporation or third party as a front or nominee do anything which would not be permissible for him to do if he were operating as an estate agent;

2.6 shall not deny equal services to any person for reasons of race, creed, sex, or country of national origin;

LIEFDADIGHEIDSPROJEK – HUIS GIDEON

ALMANAK WERKSWINKEL

Kom geniet 'n dag van prèt en inspirasie, met ons Verjaardag Almanak Werkswinkel.

Plek: Huis Gideon - 180 Monument laan, Lyttleton Manor
Datum: 25 Julie 2015
Tyd: 10:30 – 13:30
Foeie: R175.00 - Koste sluit in die Verjaarsdag Almanak pakkie en 'n donasie vir Huis Gideon.

Kontak asseblief vir **Rene Odendaal** om U plek te bespreek. Ons sien uit na U bywoning op die dag.

Tel: 079 214 3290

SUDOKU

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