

THE NEWSLETTER WITH A DIFFERENCE

## M.C. MONTHLY

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## The signature of witnesses to an agreement of sale of property



We are often asked whether a contract will be void or voidable should witnesses not sign the contract?

The answer to this question is that the agreement is valid and binding even without witness signatures. The only requirements are that the sale agreement must be in writing and signed by the seller and purchaser and that the seller and purchaser agree on the parties to the agreement, the property sold and bought and the purchase price.

This being said, there is evidentiary value in the signature by witnesses. Should a dispute ensue in which the seller, for example, avers that he did not sign the sale agreement, the witness can be called to testify to the fact that the seller did indeed sign.

A new requirement by certain banks are that they will not finalise a loan application if they are not provided with an agreement properly witnessed. The agent involved in the transaction can sign as witness to the contract. Keep in mind that other types of contracts may require witness signatures as a validity requirement. A will and an ante nuptial contract must be signed by two witnesses.

Written by/Geskryf deur: Sonja du Toit

## Safety requirements for swimming pools:

The owner of a swimming pool must be sure to comply with the South African National Standards (SANS), as published by the South African Bureau of Standards (SABS). Regulation D4 of SANS 10400-D states that "The owner of any site which contains a swimming pool shall ensure that access to such swimming pool is controlled" and that any owner who fails to comply with this requirement shall be guilty of an offence. In terms of Part D of the regulations: Public Safety, the following requirements must be met:

"1. A wall or fence shall be provided by the owner of a site which contains a swimming pool or a swimming bath to ensure that no person can have access to such pool or bath from any street or public place or any adjoining site other than through:

- a) self-closing and self-latching gate with provision for locking in such wall or fence, or
- b) a building where such building forms part of such wall or fence.

3. A wall or fence shall be provided in any interconnected complex which contains a swimming pool or swimming bath to ensure that no person can have access to such pool or bath from any street or public place or anywhere within the complex other than through a self-closing and self latching gate with provision for locking in such wall or fence.

4. Such wall or fence and any such gate therein shall be not less than 1,2 m high measured from the ground level, and shall not contain any opening that will permit the passage of a 100 mm diameter ball.

5. The constructional requirements of any steel fence or gate shall comply with the requirements in SANS 1390."

The following figures illustrate the various requirements in different scenarios:

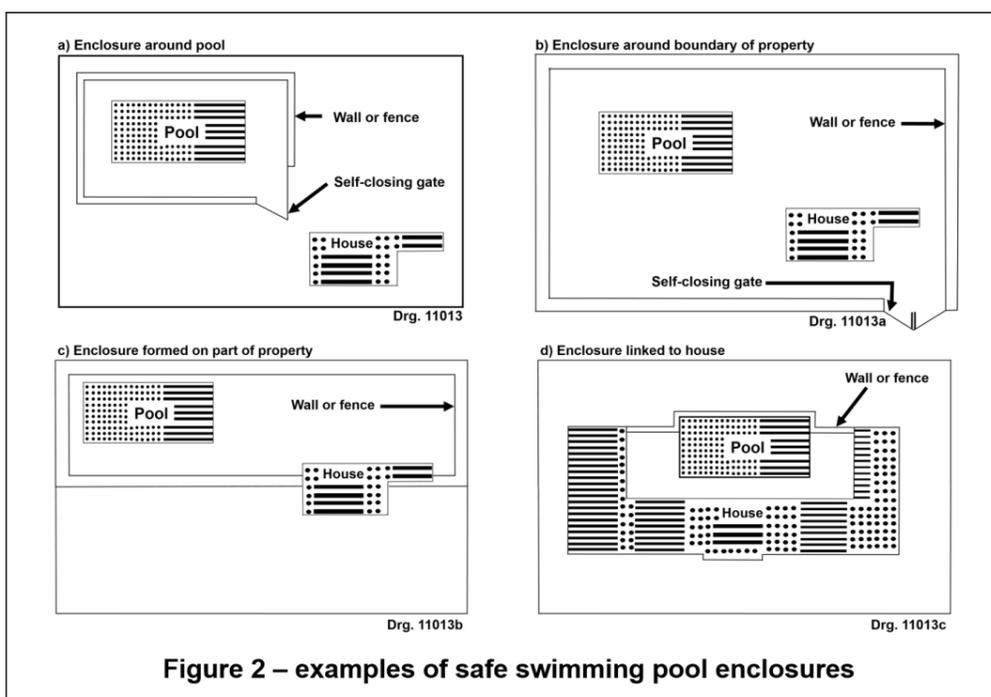


Figure 2 – examples of safe swimming pool enclosures

Where extra protection, such as pool covers, pool nets and warning devices are also used in addition to a fence, such protective measures must also meet certain SANS compliance standards. Municipal by-laws may also require additional measures. Currently City of Tshwane has no additional by-laws.

## Veiligheids vereistes vir 'n swembad:

Die eienaar van 'n swembad moet seker maak hy voldoen aan die Suid-Afrikaanse Nasionale Standaard (SANS), soos gepubliseer deur die Suid-Afrikaanse Buro vir Standaard (SABS). Regulasie D4 van SANS 10400-D stipuleer dat die eienaar van enige perseel wat 'n swembad bevat seker moet maak dat beheer toegepas is tot die toegang van die swembad en dat die versuiming om aan die vereiste te voldoen kan lei tot die eienaar wat skuldig bevind kan word aan 'n misdryf. In terme van Deel D van die regulasies: Publieke Veiligheid, moet die volgende vereistes aan voldoen word:

"1. Die eienaar van 'n perseel waarop daar 'n swembad is, moet deur middel van 'n muur of heining verseker dat geen persoon toegang tot sodanige swembad kan verkry vanuit 'n straat of openbare plek of aangrensende perseel nie, behalwe deur:

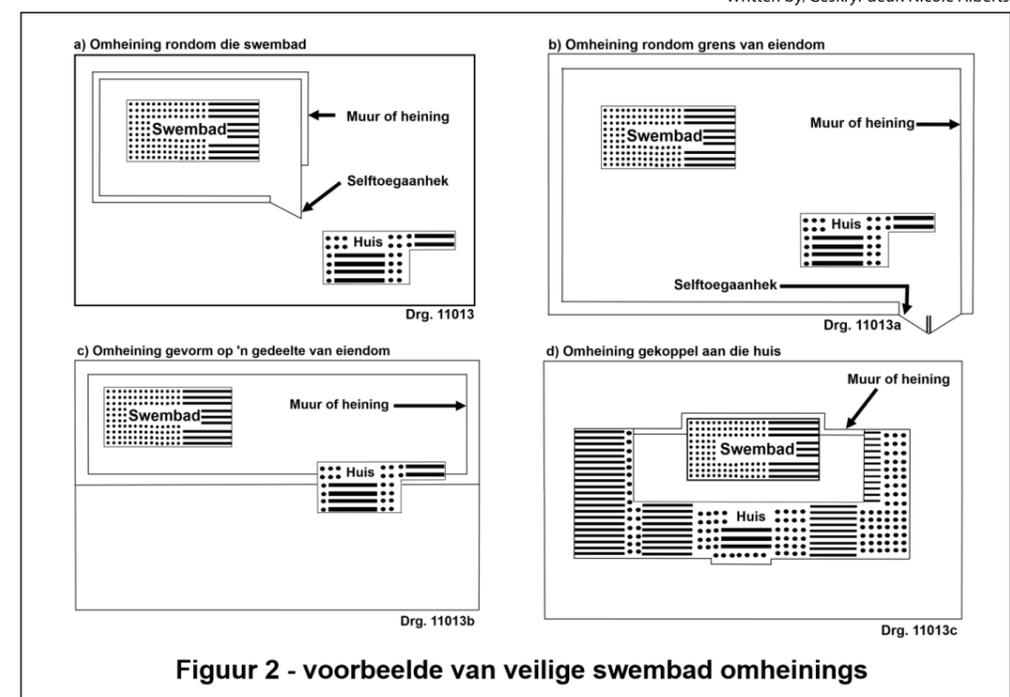
- a) 'n selftoegaan- of selfsluithek in sodanige muur of heining: Met dien verstande dat indien 'n gebou deel van sodanige muur of heining uitmaak,
- b) toegang deur sodanige gebou verkry moet kan word.

2. 'n Muur of heining moet opgerig word in 'n kompleks waar 'n swembad is om te verseker dat geen persoon toegang kan kry tot die swembad vanaf 'n openbare pad of openbare plek behalwe deur 'n selftoegaan- of selfsluithek nie.

3. Sodanige muur of heining en sodanige hek daarin moet minstens 1.2 meter hoog wees, van die grondvlak af gemeet, en mag geen opening hê waardeur 'n bal met 'n deursnee van 100 mm kan gaan nie.

4. Die konstruksie van sodanige heining of hek moet aan die vereistes van SANS 1390 voldoen."

Die figure hieronder illustreer die vereistes in die onderskeie gevalle:



Figuur 2 - voorbeelde van veilige swembad omheinings

Waar ekstra beskerming, soos swembadbedekking, swembadnette en waarskuwingstoestelle addisioneel gebruik word tot 'n omheining, moet sulke beskermende maatreëls ook aan sekere SANS standaard voldoen. Munisipale by-wette kan ook addisionele maatreëls vereis. Huidiglik is daar geen sodanige addisionele maatreëls in die City of Tshwane by-wette nie.



Written by/Geskryf deur: Nicole Alberts

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## DIFFERENT OPTIONS WITH REGARDS TO RETIREMENT SCHEMES:

When establishing a retirement village there are different legal structures on which this scheme can be based. These different legal structures can be divided into three categories: ownership, housing interest and mixed schemes. The different legislation that will be applicable is the Sectional Titles Act 95 of 1986 (STA), the Sectional Titles Schemes Management Act 8 of 2011 and the Housing Development Schemes for Retired Persons Act 65 of 1988 (HRP).

A retirement village based on ownership can be divided into two categories. The first category being freehold ownership and sectional title ownership. The property is registered in the name of the purchaser by way of a deed of transfer and the purchaser is entitled to mortgage the property. The HRP (and in the case of freehold ownership, regulations 7-14 of the HRP) will be applicable to the retirement scheme.

In a retirement scheme based on housing interest, it is not ownership that is sold but rather a real right to the property. There are four options for the acquisition of the housing interest namely:

- \* **Share block company:** A company owns all the land and structures from which the retirement scheme is operated. Purchasers purchase shares in the company and they enter into a use agreement with the company.
- \* **Club system:** A purchaser can pay a membership fee and become a member of a retirement club. The purchaser acquires use and occupation of a particular housing unit.
- \* **Long-lease agreements:** The developer enters into a lifelong lease agreement with the purchasers in the scheme. The purchaser usually pays a lump-sum upfront and acquires a right for the use of his housing unit.
- \* **Life rights:** An agreement is concluded in terms of which the purchaser advances a sum of money, interest free, to the developer, and in the return the purchaser obtains a "life right" to the property. The life right terminates on death or sale of the specific right. When the life right terminates, the purchaser or his estate is entitled to the repayment of the original capital amount.

In all of the abovementioned instances the HRP Act and its regulations will be applicable to the scheme, and all legislative formalities and stipulations must be adhered to with regards to the registration and governance of the retirement scheme.

Written by/Geskryf deur: Ramona Michael



## FREQUENTLY ASKED BOND QUESTIONS/ GEREELDE VERBAND VRAE

### WHAT IS THE ADDITIONAL AMOUNT?

It is an amount ranging between 20% and 25% of the loan amount. This amount does not form part of the loan amount and does not attract interest - it is therefore not included in the calculation of the monthly repayment. The amount merely serves as additional security for legal costs incurred by the bank should the client be in breach of any of his/her responsibilities and legal action be instituted.

### WAT BEHELS DIE ADDISIONELE BEDRAG?

Die addisionele bedrag is 'n bedrag wat wissel tussen 20% en 25% van die leningsbedrag. Hierdie bedrag word nie by die leningsbedrag ingesluit en rente word ook nie daarop gehêf nie – dit word dus nie ingesluit by die berekening van die maandelikse paaient nie. Die bedrag dien as addisionele sekuriteit vir die bank indien die kliënt nie sy/haar verpligtinge sou nakom nie, en die bank genoodsaak word om regstappe teen die kliënt te neem.

Written by/Geskryf deur: Chanel Ferguson



## Boereraat – Vis

- ◆ Gooi bietjie asyn by olie waarin vis gebraai word. Die vis absorbeer minder olie.
- ◆ 'n Stukkie brood in die pan waarin vis gebak word, sal voorkom dat dit spat.

## What our clients have to say / Wat ons kliënte sê

- ◆ Baie dankie vir die terugvoering. Julle dienste is van die beste in Pretoria!!!!!!
- ◆ Baie baie dankie vir die terugvoering! Dit was vir ons 'n groot voorreg en plesier om saam julle te werk. Jul is van die beste prokureurs saam wie ons gewerk het en ons waardeer al jul hulp geweldig baie. Baie goeie diens, baie behulpsaam, vriendelik en professioneel.
- ◆ Thank you very much for your efficient service. It was only a pleasure dealing with your company. I left the nomination of an attorney to the agent and you can be rest assured that they chose the best.... Well done on your great service....

## Ethical Code- EAAB

### No estate agent shall –

3.4 Accept a sole mandate with an option to extend the sole mandate for a certain period after the expiry of the sole mandate or to continue to render the same estate agency referred to in the sole mandate, after the expiry, unless the client has prior to his signature expressly consented in a written document; and such document contains an explanation of the reasons and is signed by both parties.

## SUDOKU

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## BOOK REVIEW

### If the dead rise not – Philip Kerr

Berlin 1934 in Nazi Germany, the main character Bernie Gunter was a Kriminalinspektor, with a serious reputation, but before he quits, he made sure he kept his contacts. They will be useful in his new private role.

Bernie Gunter drinks too much, smokes excessively, has a razor sharp mind and thinks many steps ahead.

Amidst the horrors of the Nazi regime, when lunatics were running the asylum, through the viciousness of the Eastern Front, the post war world of starvation and exploitation, on to double dealing and disregard for morality or human life. Bernie knows the blackness of the souls of the Ivans, the Frogs, the Brits, the Amis ... he is a brave man, because when there is nothing left to lose, honour rules.

Bernie is sardonic, tough-talking and cynical, but he does have a rough sense of humour and a rougher sense of right and wrong. In this book of fiction, you will find a Nazi Germany (18 months old) where Jews, Gypsies, non-Nazis and others are marginalised, losing jobs, houses, get murdered amidst a Nazi-machine which is prepared to spend huge sums to showcase the new Germany to the world as it prepares Berlin for the 1936 Olympics.

The fictional story includes murder, dirty politics, clever survival, dark human deeds, delightful romance, clever journalism, sharp criminal investigative work... brought to you in brilliant language, mostly wrapped in sardonic British humour.

Philip Kerr brilliantly evokes edgy atmosphere in this detective novel.

A splendid read, indeed.

ISBN 978-1-84724-943-2

Written by/Geskryf deur: Elbè Coetzee

## Werknemer van die maand



Retha Karemaker is een van ons staatmaker senior aktektsters en is werksaam by die firma sedert 1 Julie 2014.

Haar positiewe geaardheid en uiters akkurate werk maak haar baie gewild onder kliënte en ons kry daagliks terugvoer vanaf kliënte oor die goeie diens wat sy lewer.

One cannot help but notice the attempt by newspapers and TV to spur on racial hatred. I don't even want to comment on the quasi-journalists who think they are the star editors of their own little social media newspapers. And this all happens in the name of freedom of press.

I believe that journalists worldwide, instead of reporting the facts, actually become the news and attempt to play the lead role in the news. We all know people are inclined to believe everything they read. (Except maybe on April fool's day). The "Journalist" has become the opinion former of "Society" at large. It seems there is no such thing as responsible journalism, just people trying to influence the masses according to their own judgement. This in itself is not wrong, as long as they don't pretend that it is the news of the day.

I blame the journalists to a large extent for the racial hatred in our country. I get the impression that every journalist is sitting and waiting for something to happen which they can interpret as a racial incident.

In my every day encounters with people of all races I see people who are trying to make a good honest living. I generally find people friendly, helpful, and accommodating. On grass roots level I simply do not encounter what I read in the newspapers.

In short, I don't live the South Africa the journalists so eagerly and falsely try to mirror. Maybe I am naïve, but I don't think so.

Let others live the lives we want to live ourselves.

Keep on spreading kindness and hope.

