



SOUTH AFRICA – June 2020

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Ratepayers dispute drastic increases in property valuations

The overwhelming majority of residents have not been informed by the municipality of these drastic changes, notwithstanding that legislation compels you to inform owners

Since Inkosi Langalibalele Local Municipality has published the New Property Valuation Roll, there have been a number of queries made with the local ratepayers association.

Some business and residential property owners dispute the increase in the valuations, and have called on the association to liaise with municipal management regarding various concerns.

Detailing the concerns, the Estcourt Ratepayers Association has sent the following letter to Municipal Manager Patrick Mkhize.

“The Estcourt Ratepayers Association has received a deluge of complaints from residents with regards to the astronomical increase in valuations of their properties. The overwhelming majority of residents have not been informed by the municipality of these drastic changes, notwithstanding that legislation compels you to inform owners. According to Section 49 of the Municipal Property Rates Act of 2004/49:

- (1) The valuer of a municipality must submit the certified valuation roll to the municipal manager, and the municipal manager must within 21 days of receipt of the roll –
 - (a) publish in the prescribed form in the provincial Gazette, and once a week for two consecutive weeks advertise in the media, a notice
 - (i) stating that the roll is open for public inspection for a period stated in the notice, which may not be less than 30 days from the date of publication of the last notice; and
 - (ii) inviting every person who wishes to lodge an objection in respect of any matter in, or omitted from, the roll to do so in the prescribed manner within the stated period;
 - (b) disseminate the substance of the notice referred to in paragraph (a) to the local community in terms of Chapter 4 of the Municipal Systems Act; and
 - (c) serve, by ordinary mail or, if appropriate, in accordance with Section 115 of the Municipal Systems Act, on every owner of property listed in the valuation roll a copy of the notice referred to in paragraph (a), together with an extract of the valuation roll pertaining to that owner’s property.

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We implore you to send these notices to all the owners, informing them of the changes to their property valuations, and extend the deadline so that aggrieved parties may participate in the lodgement of objections. We await your urgent response.

Kind regards and warm wishes.

MA Osman (chairman – Estcourt Ratepayers Association”

South Africa: Property Rates And Prescription In A Nutshell

All property owners are obliged to pay rates and utilities in respect of their properties. Section 229 of the Constitution of the Republic of South Africa states that municipalities can charge rates on property and surcharges on fees for services provided by or on behalf of the municipality. These powers of municipalities are enshrined in the Municipal Systems Act 32 of 2000 (as amended) ("the Systems Act") and Municipal Property Rates Act 6 of 2004 (as amended) ("the Rates Act").

The only variable is that certain categories of owners of certain categories of properties or specific properties may attract different rates, exemptions, and rebates. In terms of section 11 of the Rates Act read with section 2 of the Rates Policy of the City of Cape Town for the applicable jurisdiction, the rate charged is an amount-in-the-land. The rate for residential properties is the base rate and the rates which are charged in respect of all other categories of properties are reflected as ratios to the residential rate. The residential rate of a property is calculated on its market value.

Being on good terms with your local municipality is dependent on the municipality providing you with adequate and timeous bills to ensure timeous payment. These charges are part levies and part service fees and are chargeable by a municipality by virtue of a person or company owning a property.

To see what the ratios are in respect of various categories of properties in the area of jurisdiction of the City of Cape Town, please see:

<http://resource.capetown.gov.za/documentcentre/Documents/Bylaws%20and%20policies/Rates%20Policy.pdf>

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RATES POLICY 2019/20 (POLICY NUMBER 21144B)

rates policy 2019/20 (policy number 21144b) approved by special council : 29 may 2019 spc06/05/19
resource.capetown.gov.za

Duty of municipalities

Section 11(d) and 11(e) of the Credit Control and Debt Collection Policy 2019/20 states that:

"(d) if payment is not received or suitable payment arrangements are not made by the due date, a notice may be served in terms of section 115 of the Systems Act, warning of an imminent restriction, disconnection or discontinuation of a service after 14 (fourteen) days from the date as stated on the notice; (e) if payment is not received or suitable payment arrangements are not made by the due date as shown on the notice, the supply or supplies may be restricted, disconnected or discontinued for any service in respect of any arrear debt; and (i) notwithstanding sub-item 11 (1) (e), services may be limited, if deemed necessary, by the City Manager".1

Section 15 of the Systems Act refers to the manner in which service of the document or in this case bill must be served on the property owner.2 The above places a duty on municipalities to account to ratepayers on a regular basis.

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Duty of property owners/ratepayers

A ratepayer is liable to pay property rates and such rates are a recoverable debt in respect of taxation in terms of section 11 of the Prescription Act 68 of 1969 (as Amended).³ A ratepayer remains liable for the payment of the rates whether or not an account has been received and if an account has not been received, the ratepayer makes the necessary inquiries from the City to establish the amount due for the rates and to pay that amount to the City. Section 27(2) of the Municipal Property Rates Act 6 of 2004 (as amended) states that:

"(2) A person is liable for payment of a rate whether or not that person has received a 15 written account in terms of subsection (1). If a person has not received a written account, that person must make the necessary inquiries from the municipality."

Not receiving an account will not absolve a ratepayer from liability to pay rates as there is a duty placed on ratepayers to make inquiries if no account is received from the relevant municipality.

Prescription Act and Claims by municipalities

A 3-year prescription period applies to debt not mentioned in section 11 of the Prescription Act 68 of 1969, such as debts, including but not limited to, debts arising from a breach of contract between private parties or a debt arising from a cause of action in delict relating to bodily injury etc. Any debt owed to the State in respect of any share of the profits, royalties, or any similar consideration payable in respect of the right to mine minerals or other substances attracts a 30-year prescription period.

Property rates, sewerage and refuse charges fall within the bracket of the thirty (30) years period of prescription. This means property rates, sewerage and refuse charges will only be extinguished by prescription once thirty (30) years has lapsed. Placed in a practical scenario, should a ratepayer fail to pay property rates for months, the municipality will be legally entitled to recover those debts within thirty (30) years from the date on which the debt became due, i.e. when the ratepayer ought to have been aware of the debt.

Conclusion

There is a duty of care on both the municipalities and ratepayers in respect of accounting and payment. To avoid surprises from the municipality it is advisable to stay informed and to inquire when you have account related queries.

1. Section 11(d) - 11(e) Credit Control and Debt Collection Policy 2019/20
2. Section 15 of the Municipal Systems Act 32 of 2000 (as Amended)
3. Section 11 of the Prescription Act 68 of 1969 (as amended):

Periods of prescription of debts. The periods of prescription of debts shall be the following:

(a) thirty years in respect of:

- (i) any debt secured by mortgage bond?
- (ii) any judgment debt?
- (iii) any debt in respect of any taxation imposed or levied by or under any law?

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