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Rates Clearance Certificates in the Transfer Process and the Local Authority

Do you really understand how the rates work in a transfer? It's probably the single most confusing part of any transfer and creates the most post-registration queries.

The first thing for any Seller and Purchaser to understand, is that the transferring attorney **only** facilitates the obtaining of the rates clearance certificate, but does not have any other control over the process – the local authority sets the rules and everybody has to abide by them.

The transferring attorney requests the rates clearance figures from the local authority. The local authority works these out for a FOUR/FIVE month period in advance and sends them to the transferring attorney. It is important to note that the local authority also includes FOUR/FIVE months of **estimated** water and electricity consumption in the figures. It is the Seller's responsibility to pay for the full account of four/five months. The transferring attorney pays the local authority (remember that the actual funds for payment will be requested from the Seller). The local authority, on receipt of payment (they do not accept any undertakings or guarantees) issues the rates clearance certificate and sends it to the transferring attorney. This document forms part of the bundle that is lodged at the Deeds Office for registration of transfer. The Seller can stop paying the rates from the time that the transferring attorney requests the figures from the local authority, as the transferring attorney will pay them on the Seller's behalf and the Seller's account will go into credit.

After the matter has been registered, the local authority waits for notification **from the Deeds Office** before finalising the accounts – they ignore the letter sent by the transferring attorney, but the transferring attorney sends it anyway in an attempt to assist the local authority.

Within the local authority of **JOHANNESBURG CITY COUNCIL AND EKURHULENI METROPOLITAN MUNICIPALITY**, the Seller is refunded everything from the date of registration of transfer, to the end of the four/five month clearance period. The Purchaser is charged directly by the local authority, from the date of registration of transfer. This alleviates any need for the transferring attorney to apportion anything and the refund received from the local authority is paid to the Seller. The Purchaser is not requested to pay an "estimate of rates" up front.

The refund cheque from the local authority is sent to the transferring attorney, who has to deposit it, wait for the 10 day clearance period and then a cheque is made out to the Seller.

The transferring attorney has no further dealings with the local authority other than that explained above. How the local authority then apportions the money they receive from the transferring attorney and what refund is given, is exclusively within their own knowledge and the transferring attorney cannot answer any queries relating thereto.

The transferring attorney **does not follow up on the refund after registration**. Should the Seller want their refund urgently, they will be required to attend at the local authority personally or instruct someone on their behalf.

PLEASE NOTE FURTHER – the Seller is expected to CLOSE their electricity account with the local authority and the Purchaser is expected to OPEN their new account and pay the requisite deposit. This must be done by the Seller and Purchaser personally (at any time but not later than date of occupation and preferably by date of registration) and is not attended to by the transferring attorney. If this is not attended to, the local authority does not finalise the rates account and no refund is attended to by them. The account then also risks becoming muddled with incorrect payment debits and credits.

**Levy Clearance Certificates in the Transfer Process
and the Body Corporate**

When it comes to Sectional Title transfers, a Levy Clearance Certificate has to be obtained from the Body Corporate, in addition to a Rates Clearance Certificate. The procedure is similar with a few subtle differences.

The transferring attorney requests the levy clearance figures from the Body Corporate. The Body Corporate works these out for a FOUR/FIVE month period in advance and sends them to the transferring attorney. The transferring attorney pays the Body Corporate (remember that the actual funds for payment will be requested from the Seller). The Body Corporate, on receipt of payment (they do not accept any undertakings or guarantees) issues the levy clearance certificate and sends it to the transferring attorney. Based on this document, the transferring attorney signs another document called a Section 15(b)(3) Certificate which is part of the bundle of documents that are lodged at the Deeds Office.

The Seller can stop paying the levies from the time that the transferring attorney requests the figures from the Body Corporate, as the transferring attorney will pay them on the Seller's behalf and the Seller's account will go into credit.

On registration, the transferring attorney has to divide the amount paid to the Body Corporate into **two** – that part of the period **before** the date of registration and the one **after** the date of registration. With respect to the part before, the Seller was the registered owner and is therefore responsible for that portion of the levies. With respect to the time after, the Purchaser is now the registered owner and will be responsible for that portion of the levies. The Purchaser therefore has to refund this portion to the Seller directly and this refund is attended to by the transferring attorney. The funds for this refund are obtained from the Purchaser with their payment of costs and are reflected in the pro forma account as an item called "Estimate of Levies".

The transferring attorney sends a letter to the Body Corporate confirming registration and reflecting the breakdown, so that they can adjust their accounts accordingly.

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Receipt hereof acknowledged by:
(We confirm that this document has been explained to me/us)

Date : _____