THE CONVEYANCING PROCESS IN THE ACQUISITION OF A SECTIONAL TITLE UNIT IN A DUET SCHEME

In South Africa you can either purchase a conventional property (registered as an "erf") or a sectional title property. A Duet Scheme is a sectional title scheme comprising of only two units in the scheme. For a Duet Scheme a Body Corporate is registered in the Deeds Office, however in most sale agreements, the developer informs the purchasers that the developer will not appoint a managing agent to manage the scheme and therefor there will be no levies. Each owner will pay its own rates and taxes, other municipal services and property insurance. Most developers of duets will also survey and register the garden area surrounding the unit as an Exclusive use area, meaning that the purchaser will obtain an ownership deed for the garden area in the form of a Notarial Deed of Cession of Exclusive use area.

It is important to understand that when you purchase a unit in a new Development the registration process will be slightly different from the normal property registration process.

When a sectional title unit is being transferred the Conveyancer is dependent on various factors which influence the process of registration.

The Developer is in control of the building operations and the time frame involved. It is important to remember that weather elements play a huge roll in whether anticipated building targets are being met. Shortage of building materials and delays in delivery has become the norm post-covid.

Developments are sold and registered in a phase and in the case of Duet developments, the two units on one erf is sold and registered simultaneously. The process for registration can be described as follows:

STEP 1:	Signing of Contract with Estate agent or Developer and application for bond. The Conveyancer will contact you and keep you informed of approval of your bond and signing of initial documentation. At this stage you must deliver all personal data to the conveyancer to process the documentation.

STEP 2:	Once both units in the duet are built to window height, the Developer will instruct the Land Surveyor to survey the units which will both reflect on one Surveyor Plan which will then be forwarded by the Land Surveyor to the Surveyor General in Bisho for approval. This process can take between 4 and 9 weeks.
STEP 3:	Once the Conveyancer has the correct surveyed square metres of the units, the transfer documentation and bond documentation can be prepared and the Purchaser must sign. Should the square metres on the approved plans vary from the transfer and bond documentation, an amended bond instruction must be obtained, and new documentation signed.
STEP 4:	The Conveyancer can now also obtain the Transfer Duty Receipts/Vat receipts via e-filing from the Receiver of Revenue. This takes a week up to 10 days. Unless the Purchasers provide their tax numbers, the receipts cannot be issued. These receipts are lodged in the deeds office with the other transfer documentation.
STEP 5:	Whilst the Land Surveyor Plans are awaited, the Developer during that period also arrange the following building documentation: 1. The Wiring certificates from a qualified electrician confirming that the property adhere to the rules and regulation of the Electrical Board; 2. The NHBRC enrolment certificate issued by the National Building Council giving a warranty against all structural defects; 3. Engineer's certificates regarding the foundation and structures if required by the Purchasers' banks. 4. Occupancy certificates which are issued by the Municipality after the Roads-, the Sewerage-, the Water-, and the Electricity Departments visited the site and satisfied itself that the units comply with the necessary Municipality regulations and By-laws. 5. Letters of Satisfaction ("Happy Letters") to be signed by each Purchaser once the unit is completed.
STEP 6:	Once the Conveyancer obtain the Land Surveyor approved plans from Bisho and all the other building documents referred to above, the Conveyancer will forward this plan to the Municipality to load the units on their system and to obtain rates clearances. This process takes a minimum of 3 weeks. The Conveyancer also forwards this plan to the Ombudsman in Pretoria to obtain a Certificate regarding the body corporate rules and regulations. Both the rates clearance certificate and the ombudsman's certificate have to be lodged in the deeds office with the other transfer documents for registration.

STEP 7:	The Conveyancer also forward all Surveyor Plan, all the signed bond documentation and the building documents to the Purchasers' banks to request the upliftment of the retentions against the bonds and to request authority to proceed to Lodgement in the Deeds Office.
STEP 8:	Once the rates clearance and all other clearances are obtained and all the retentions uplifted, the Conveyancer will forward all documentation to their Correspondent Attorneys in King Williams Town to prepare the documents for lodgement in the Deeds office (this takes 2/3 days). Although the Conveyancer endeavour to register all units in accordance with the occupation dates agreed to between the Developer and the Purchasers, this is in most instances not possible because of the complication of the process and due to the fact that the units are registered in phases. Therefore, in most instances the Purchaser will take occupation and pay occupational interest prior to registration.
STEP 9:	Once all the transfer-, bond and release documentation are lodged in the deed's office, the deeds office will take approximately 1 week for the registration.
STEP 10:	On date of registration the Purchasers' banks are informed, the funds are released and all payments made.

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