

## WHAT IS CONVEYANCING?

Conveyancing is the administrative and legal process describing the transfer of ownership in immovable property from one person / entity to another. A Conveyancer is the Attorney who has written and passed the National Conveyancing exams to specialise in property law. To qualify as a conveyancer one must first become an attorney.

### What does a Conveyancer do and why do we need them?

A conveyancer deals with all matters related to property law and the registration of transactions in the Deeds Office. Most of you will deal with a conveyancer when you sell or buy property, or register a mortgage bond over your property. Only a Conveyancer is allowed to register a transfer, cancel a bond and register a mortgage bond.

### Conveyancing Attorneys involved in the transfer of an immovable property:

- Bond Attorney: Prepares the Buyer's bond documents for signature and registration.
- Bond Cancellation Attorney: Cancels the Seller's bond.
- Transfer Attorney: Transfers the property from Seller to Purchaser

### Sellers:

When you decide to sell your property, you should at this point involve a conveyancer. They can contribute to the effectiveness of the sale and marketing process together with the estate agent. Remember, after you have signed and accepted an offer, it is difficult to undo. It is always better to understand the process beforehand and consider your options, rights and obligations, than to only at a later stage find out what you in actual fact agreed to and then you are already legally bound to the contract.

If the seller does not have his own attorney, your estate agent is allowed to recommend a conveyancer. Estate Agents will always recommend a conveyancer who has a proven track record, is reputable, efficient and can expedite the transfer.

- Importance of understanding latent and patent defects that you have to declare
- Servitudes attached to property
- Endorsements on property
- Availability of Building plans / Occupation Certificate
- Contractual capacity to sign
- Transfer duty or Vat applicable
- Rates / levies payable
- Compliance certificates required
- Agent's Commission payable
- Bond cancellation and notice period

### Purchasers:

The same can also be said to the Purchasers of immovable property. It is also best to involve the conveyancer prior to making an offer, to ensure that you know what issues there are to consider such as:

- Proper inspection of the property
- Understanding of latent and patent defects
- Servitudes attached to property
- Endorsements on property
- Building plans / Occupation Certificate
- Contractual capacity to sign
- Transfer duty or Vat applicable
- Rates / levies payable
- Compliance certificates required
- Property Insurance
- Alterations / Maintenance
- Investment of deposit / balance purchase price
- Mortgage Bond registration

When you buy a car, you can go for a test drive, but with buying a house you don't necessarily have this luxury. Nevertheless, a proper inspection and research is important, and understanding the process and the legal obligations is of the essence when putting pen to paper.

### Who appoints the Conveyancer:

In most cases the Seller chooses the conveyancer who will attend to and work towards the goal of the successful registration process. The conveyancer will assist both Seller and Purchaser to reach this goal. If a dispute however arises between the parties, the conveyancer will represent the Seller.

When it comes to the registration of a Mortgage Bond, the Purchaser may in some cases choose the conveyancer who will register the mortgage bond. However, the conveyancer appointed by the bank represents the bank that has granted the mortgage bond.

Our firm is on the Panels of the following banks:

- ABSA Bank
- ABSA Private Bank
- First National Bank
- Standard Bank
- Nedbank
- Nedbank Private Wealth

When you apply for a bond, you are welcome to contact our firm prior to starting the process to assist you herein.

### Who pays the Conveyancer?

The Purchaser pays the conveyancer's costs based on a tariff recommended by the Law Society. These will be transferring fees as well as bond registration fees.

You are welcome to contact our firm to provide you with more information and guidelines.

### The Seller pays for?

- Agent's commission
- Compliance certificates
- Bond cancellation costs
- Settlement of Mortgage Bond
- Rates clearance fees
- Levy clearance fees
- Home Owners Association fees
- Fees for lost title deed

### How long is the Conveyancing process?

After an offer has been accepted by the Seller, and handed over to the Conveyancer, and the transfer process starts. A paralegal is assigned to the day to day running of a matter and works closely in conjunction with a member of the professional team. The Conveyancers and paralegal work very closely, and the conveyancer working on the file will always be available to assist in queries relating to any transaction dealt with by our offices.

Herewith the steps that follows:

- Conveyancer request payment of deposit from Purchaser and invest same
- Purchaser bond is approved by the Bank
- Suspensive condition are fulfilled, ie sale of Purchaser's property
- Cancellation figures are requested from the Seller's Bank (mortgage holder)
- Title deed is requested from Seller if no bond is registered over property
- Application for rates figures are made to Municipality
- Application for levy figures are made to Managing Agent
- Once all suspensive conditions have been met, the transfer and bond documents are drafted by the relevant Attorneys
- The Buyer & Seller sign the respective transfer documents.
- The Buyer signs the bond documents
- All relevant Transfer costs are paid by the Buyer
- The Seller pays their rates, including advance rates
- The Conveyancer applies for a transfer duty assessment from SARS

- The Conveyancer requests compliance certificates to be delivered
- The Conveyancer provide Guarantees to the Bond Cancellation attorneys and the Seller's existing bond over the property is prepared to be cancelled
- FICA Compliance as a protective measure against fraud is ensured
- When all documents are signed, costs are paid and certificates obtained, the documents are prepared for lodgement in the Deeds Office
- The documents are examined in the Deeds Office (±10 working days).
- After 7 - 10 working days, the Attorneys will be advised that the matter is "Up for Registration" and have 5 working days to finalise anything outstanding
- The Conveyancers appear at the Deeds Office to register the Deeds
- The property is registered into the name of the Purchaser
- The Purchaser's new Bond is registered
- The Seller's existing Bond is cancelled
- The Guarantees are paid out
- The Seller is paid out the net proceeds
- The Estate Agent is paid their commission
- The property is handed over to the Purchaser

This whole process takes anything from 4 to 6 weeks, provided that there are no unexpected surprises which will cause a delay.

#### **Our vision:**

The aim of the VanderMerwe & Robertson Inc's Conveyancing Department, is to team up with sellers, purchasers and estate agents in order to ensure an effective and efficient transfer process. Our Conveyancing Department's professional team comprises 7 attorneys, of which 6 are qualified Conveyancers, and 5 experienced paralegals.

Timeous registration is of the utmost importance to us. This ensures a smooth handover and both Seller and Purchaser can plan ahead.