

LOST TITLE DEED

You have sold your house and all parties are now ready to proceed with the transfer process. But you cannot find your original holding Title Deed to your house!

For the moment, to replace the lost original is not a problem. Regulation 68(1) of the Deeds Office Regulations provides a procedure wherein the registered owner(s) apply to the Registrar of Deeds for the issue of a certified copy of the Title Deed, which copy will then replace the lost original.

What to do:

1. Contact your Conveyancer to prepare the Application in the form of an Affidavit, which will have to be signed in front of a Commissioner of Oaths;
2. The original Affidavit will be lodged in the Deeds Office by the Conveyancer;
3. A copy is then printed from the microfilmed/scanned records at the Deeds Office and an endorsement is placed on the copy;
4. The issue of the copy is also noted against the Deeds Office data records;
5. The Application gets registered by the Conveyancers at the Deeds Office;
6. The endorsed copy gets delivered to the Conveyancers.

You now have a certified copy that will replace the original lost Title Deed. However, this simple procedure was all set to change on 25 February 2019. Why? To combat fraud!

The Minister published amendments to the Deeds Office Regulations in the Government Gazette which amended the procedure to be followed when bringing an application for the issue of a certified copy under Regulation 68(1). The amendments made the following changes:

- The application will still be in the form of an affidavit, but that affidavit must be attested by a Notary Public and no longer a Commissioner of Oaths. The reason - stricter enforcement of identity verifications.
- Prior to lodgement of the application at the Deeds Office, the owner must publish a Notice of Intention to apply for a certified copy in the Government Gazette. The reason -, interested parties will then have an opportunity to object to irregular applications.
- Copies of the lost Title Deed shall be open for inspection by any interested party at the Deeds Office for a period of 2 weeks after the Notice is published, during which time such interested party may lodge an objection to the application.

A much more complicated and expensive procedure, but as you can understand within reason! But despite the good intentions behind the amendments, they are not without problems. Due to problems with the practical implementation the Chief Registrar of Deeds suspended the implementation until further notice.

For the time being, the old procedure remains unchanged, but we certainly expect changes to come. These may not be in the same format as those initially set out in the amended Regulations, but certainly, soon, it will not be so easy to obtain a certified copy of your lost Title Deed.

Christelle Pansegrouw
christelle@vrincorporated.co.za