

SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (SPLUMA)

1. What is SPLUMA?

The Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) is a national law that was passed by Parliament in 2013. The law gives the Department of Rural Development and Land Reform (DRDLR) the power to pass Regulations in terms of SPLUMA to provide additional detail on how the law should be implemented. The final version of these Regulations (Regulations in terms of SPLUMA GG 38594 GN R239) was published on 23 March 2015. The law came into effect on 1 July 2015.

2. Why are SPLUMA and its Regulations important?

SPLUMA aims to develop a new framework to govern planning permissions and approvals, sets parameters for new developments (such as subdivisions, rezoning and sectional title openings) and provides for a range of lawful land uses in South Africa. SPLUMA is a framework law, which means that the law provides broad principles for a set of provincial laws (which is called Bylaws) that will regulate planning.

The law is important because the repeal of many apartheid era laws has left our planning laws fragmented, complicated and inconsistent. For this reason, section 3 of SPLUMA states that the law endeavors to develop a 'uniform, effective and comprehensive system' of planning that 'promotes social and economic inclusion'.

3. Purpose of SPLUMA

SPLUMA provides a framework for spatial planning and land use management in South Africa, as follows:

- Specifies the relationship between the spatial planning and the land use management system and other kinds of planning;
- Ensures that the system of spatial planning and land use management promote social and economic inclusion;
- Provides for development principles and norms and standards;
- Provides for the sustainable and efficient use of land;
- Provides for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government; and
- Redresses the imbalance of the past and to ensure that there is equity in the application of spatial development planning and land use management systems.

SPLUMA applies to the whole of South Africa (urban and rural areas) and governs informal and traditional land use development processes.

SPLUMA is National framework legislation and as such, does not comprehensively deal with deeds registration issues.

However in terms of Section 32(1) of SPLUMA read with Section 156(1) of the Constitution of South Africa, respective Municipalities may pass By-laws which will deal with land development, land use management, township establishment, subdivision of land, consolidation of land, removal of restrictive conditions and other land use matters.

4. Application of the Act

- 4.1 All land development applications from 1 July 2015 must be submitted to a Municipality as authority of first instance.
- 4.2 The following may include an application referred above:
 - 4.2.1 Township establishment
 - 4.2.2 Subdivision of land
 - 4.2.3 Consolidation of different pieces of land
 - 4.2.4 Amendment of land use or town planning scheme; or
 - 4.2.5 Removal, amendment or suspension of restrictive condition.
- 4.3 Very important: **It is important to note** that Section 43(1) of SPLUMA provides that a conditional approval referred to above lapses if a condition is not complied with, within a period of 5 years from date of approval. The approval can also prescribe a shorter period for compliance, as well. If extension is granted, it may not exceed 5 years from date of the original approval. The effect of this is that a new land development application need to be applied for if not registered within the said period.

5. Decision making authority

Powers, functions and duties in terms of SPLUMA must be exercised by a Municipal Planning Tribunal, or an authorized official or the Municipality.

A municipality must, in order to determine land use and development applications, establish a Municipal Planning Tribunal.

The Act has certain specific references to which authorising authority must issue consents based on categorization:

- 5.1 Consents to Section 45(6) – to be approved by the **Municipality**

“Section 45 (6): Where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the administrator, a Premier, the townships board or any controlling authority, such consent may be granted by the municipality and such reference to the administrator, a Premier, the townships board or controlling authority is deemed to be a reference to the municipality.”
- 5.2 Removal, amendment or suspension of Restrictive conditions – this must be approved by the **Municipal Planning Tribunal**.
- 5.3 Certificate that all the requirements and conditions for the approval have been complied with – this must be provided by the Municipality (Section 53)

6. How does this impact on registrations in the Deeds Office?

SPLUMA provides that a Municipal Planning Tribunal must, after a land development application affecting the use of land not in accordance with a condition in a title deed, notify the Registrar of Deeds.

The notification may only be lodged with the formal application (drafted by a conveyancer).

The notification must reflect the date of approval to enable the Deeds Office to determine the date of validity. Where the notification does not make mention of the date of approval, a separate document must be lodged by the Municipal Planning Tribunal to determine the date of validity.

The notification must also make reference to the relevant categorization in terms of the By-laws.

The Registrar of Deeds and the Surveyor-General must thereafter endorse the affected records and deeds to give effect to the decision.

7. Section 53 certificates and the Deeds Office

In terms of Section 53 of SPLUMA no registration may be affected in respect of a property resulting from a land development application, unless the municipality has certified that all the requirements and conditions for the approval have been met.

The definition of “land development” as provided by SPLUMA denotes the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of applicable land use scheme.

This then means that a Municipality will have to lodge a certificate that all requirements and conditions for approval have been applied with in all cases where an opening of a scheme is lodged in terms of Section 11(1) of the Sectional Titles Act, Act 95 of 1986.

The time period with regards to lapsing of the application will also be applicable to Sectional Titles.

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Updated May 2017

