



fninc

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SUBDIVISION PROCESS FLOW

The following is intended as a broad outline of the processes and parties involved in the subdivision of a piece of land

Note that from the outset the appointed town planners drive the process, which includes obtaining approved subdivision diagrams and the Council's consent to the subdivision. The town planners then hand over to the conveyancing attorney who attends to the registration of the subdivision and the transfers flowing therefrom

1. Preliminary process where the Town Planners co-ordinate events:

Application is launched to council for the subdivision of the existing property. From application to approval takes approximately six to eighteen months

This process entails liaising with architects, land surveyors, the surveyor general as well as driving the approval of the subdivision process through the council to the point where:

- a) Contributions for services have been paid by the developer; and
- b) The various departments in the council (such as City Power, Water, Technical Services, Road Agency, Engineering Services) provide their written approvals and consent to the subdivision, usually subject to certain requirements and/or conditions

Once the council's written approval of the proposed subdivision and the surveyor general's subdivisional diagrams have been obtained, the transfer process can be commenced with by the conveyancing attorney

Note that in terms of the Spatial Land Use Management Act the council's written consent to subdivision has an expiration date within which the rights to subdivision must be exercised, failing which a fresh consent to subdivision needs to be obtained

2. Process after approval of subdivision plans and written approval from the council of the subdivision.

Once the conveyancing attorney has been supplied with the documents as listed above they will conduct a thorough investigation of the diagrams and specifically the servitudes delineated thereon and of the conditions of subdivision as will appear on the council's written approval of the subdivision

The conveyancing attorney will then commence with drafting the application for subdivision of the land, the transfer of portions thereof together with the notarial servitudes that may be required

Some examples of matters that customarily require action or consideration are:

- 2.1 Application for rates clearance figures on the whole stand
- 2.2 Consideration and drafting notarial deed/s of the servitudes (referred to by the local authority in their approval or on the subdivision diagrams)
- 2.3 Registration of a Homeowners' Association through the Companies and Intellectual Property Registration Office (CIPRO). This condition is usually imposed in larger subdivisions in order deal with and regulate rights and obligations of co-owners with regards to shared services and communal areas

3. The Conveyancing attorney requires the following from the town planner/ architect/ land surveyor or owner before the process of subdivision and transfer can be taken forward:

- 3.1 Duplicate original subdivision diagrams in respect of all the subdivided portions (The land surveyor will usually transmit these diagrams to the owner once he receives the approved subdivision diagrams from the surveyor general)
- 3.2 Payment of the application fee in respect of each subdivided portion to the council upon submission to them of the powers of attorneys to pass transfer for endorsement in terms of regulation 34(5) of the City of Johannesburg Municipal By-Laws, 2016 as amended
- 3.3 Proof of payment of contributions. The council will only endorse the powers of attorney to pass transfer once they have been provided with proof, by way of receipts, that all the contributions for services by the various departments at the council has been settled in full. The regulation 34(5) endorsement signifies to the deeds office that the council has approved the subdivision of land and that all their conditions of subdivision have been met
- 3.4 The original consent to subdivision letter from the council together with proof of compliance with all specified conditions of the consent to subdivision as therein contained. If necessary in terms of the consent from the council, any servitudes that the council requires to be registered will also need to be created simultaneously with the application for the subdivision
- 3.5 In the event that servitudes need to be registered with reference to separate diagrams, the land surveyor will also arrange for those approved diagrams, which the conveyancing attorney will need to attach to the notarial deed/s of servitude that he will draw for signature by the relevant parties

- 3.6 Financial Intelligence Centre Act compliance documents of the owner and if applicable a copy of owner's VAT registration certificate from SARS
- 3.7 Particulars of all subdivided portions sold, being the agreements of sale and respective bond approvals
- 3.8 Written instruction regarding the distribution of the proceeds derived from the transfer of subdivided portions
- 3.9 Particulars of where the deed pertaining to the land to be subdivided is held, together with details of any mortgage bonds registered over the land and applicable mortgage account numbers
- 3.10 The name reservation for the Homeowners' Association in the event that a Homeowners' Association is a condition of subdivision. If necessary the following will be required:
 - 3.10.1 Approximately four names in order of preference for the Homeowners' Association. It is customary to use the name of the estate development also as the name of the Homeowners' Association
 - 3.10.2 A registered address of the Homeowners' Association as well as a postal address
 - 3.10.3 The full names of the members and at least three directors of the Homeowners' Association
 - 3.10.4 The full details of the auditor of the Homeowners' Association

Note: Where a Homeowners' Association, Residents Association or similar body is created upon subdivision and negative personal servitudes are registered in favour of the Homeowners' Association, Residents Association or similar body, a transfer duty receipt or exemption needs to be lodged upon the creation of these conditions in terms of Chief Registrar's Circular 43/2012. Failure to do so will result in rejection of the subdivision set

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