

CIRCULAR TO MEMBERS

EXCISION OF AGRICULTURAL HOLDINGS

Our Ref: 200/032
PJ Dacomb

22 November 2017

Following recent circulars under the same title, the Office of the Premier of Gauteng has informed the Association of the latest arrangement with regard to the excision of agricultural holdings, as contemplated in the Agricultural Holdings (Transvaal) Registration Act, 1919 (the "Act").

A copy of the letter from the Office of the Premier dated 10 November 2017 is appended hereto.

As is evident from the attachment, the provincial authority has taken legal advice with its position with regard to the authority to attend to the excision of agricultural holdings, given the recent demise of the Gauteng Townships Board. As was expected, the advice suggests that the decision making with regard to excision of an agricultural holding should be moved to the municipal sphere of government, given that it is related to the use of land and requires to be attended to as part of typical land development applications (for township establishment, rezoning, subdivision and the like).

The Association has not had sight of the legal opinion relied upon by the aforesaid provincial authority and it cannot offer any comments with regard to thereto. However, the Association is concerned that the notification in the letter dated 10 November 2017 appears mainly to talk to the principle of "moving" the responsibility related to agricultural holdings to the responsible municipality. The letter is silent on any practical arrangements and confirmation of an effective date from which such matters will be dealt with by the responsible municipalities. In this regard the Association will approach the Office of the Premier to procure additional details to the extent that these may be available and members will be informed accordingly.

As reported previously, certain municipalities have been accepting land development applications which ostensibly seek to "remove" restrictive conditions of title from title deeds of agricultural holdings, which applications are typically brought in terms of the provisions of the local municipal by-law on spatial planning and land use management matters.

The approval of such an application may result in the conditions of title being "removed" by the publication of a notice in the provincial gazette or similar. However, it does not translate into the excision of the holding *per se* and the removal thereof from the Agricultural Holdings Register.

Members are cautioned to approach these matters in the correct manner and to ensure that the responsible municipality goes about its business in the correct fashion, failing which there will be possible consequences when registration in the Deeds Office is attended to.

Further circulars will follow with regard to the suggested guidelines for excision of agricultural holdings by municipalities which we anticipate will be made available by the aforesaid provincial department in due course.

SAACPP: 22 November 2017