

CIRCULAR TO SAACPP MEMBERS

TOWNSHIP ESTABLISHMENT AND ASSOCIATED NIGGLY NIGGLES

During a recent online course dealing with the formulation of Conditions of Establishment, a number of experienced attendees drew attention to various niggles which often combine to make the life of a planning practitioner ever more challenging.

Whilst some of the matters addressed below may have formed part of prior circulars, we gladly repeat them as this may serve as a reminder to those members who may be confronted by these matters.

“KROONGROND NEDERSETTINGSWET/CROWN LAND SETTLEMENT ACT, 1912 (112 OF 1912)”

In certain older title deeds of properties which may be the subject township establishment or other land development applications, this proverbial “*blast from the past*” may raise its less than handsome face. The long and the short of it is that, when confronted with a title condition making reference to the aforesaid legislation, it implies that, to pass muster in the Deeds Registry, written consent must be procured from the Department of Public Works and Infrastructure in its capacity as the successor in title to the erstwhile “Crown”.

Such application is submitted in terms of Section 2(2C) of the State Land Disposal Act, 1961 (Act 48 of 1961). The contact person(s) at DPW are:

T Matsheng/M Mogodi
National Department of Public Works and Infrastructure
Directorate: Town Planning Services
Room A656
CGO Building
c/o Bosman and Madiba Streets
Pretoria
Cell: 0785192249
E-mail: Tshiamo.Matsheng@dpw.gov.za
Mashikoane.mogodi@dpw.gov.za
Zandre.Allen@dpw.gov.za

“CROWN LAND DISPOSAL ORDINANCE, 1903”

Not to be confused with the aforesaid Act dating back to 1912, this makes reference to a now repealed Ordinance which, thankfully, has no further bearing on a land development applicant's intention to establish a township on a property which boasts the aforesaid as a condition in the relevant title deed. In short, the responsible planning practitioner



012-3621741



info@saacpp.org.za



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may ignore the condition given that the Ordinance has been repealed and is no more. This should preferably be confirmed in the relevant Conveyancer's Certificate (Courtesy of Theuns van Brakel's Office).

"PARK, P.O.S., OPEN SPACE OR PUBLIC PLACE? WHAT'S IN THE NAME?"

The senior members of our esteemed profession (fondly known as the "*Oldies*") may recall that, when establishing a township which includes one or more erven set aside as public open spaces (to be transferred to the Municipality), such erven would be singled out and described as "Parks" on the final township layout plan and ultimately on the General Plan to be approved by the Surveyor General.

In consequence, the heading on the General Plan would typically describe the township as comprising *Erven 1 up to and including "X" and two park erven and roads*", or similar. On the General Plan under the number of the affected erf, the word "Park" would be reflected in brackets. The aforesaid practice is aligned with certain provisions of Section 63 of the Local Government Ordinance, 1939 (this Ordinance is still alive and kicking).

Following the adoption of various municipal by-laws dealing with spatial planning and land use management matters, certain municipalities elected to bring about their own definitions of public places and public streets or similar terms. This resulted in township layout plans being approved including descriptions of certain erven which did not align with the 1939 Ordinance, nor the commonly accepted protocols applicable in the office of the Surveyor General. Terms such as "*Ecological Open Space*" found their way onto township layout plans and, although the underlying intention was to set the affected erf aside for public purposes, such description was ultimately not permitted on the General Plan of the township. It appears from the most recent feedback from the office of the Surveyor General (and courtesy of the office of Alida Steyn) that the following terms/descriptions in regard to so-called open spaces meant for public use will be acceptable to the Surveyor General:

- Park;
- Public Open Space; and
- Public Place.

The abbreviation P.O.S. or something similar will not suffice.

Per: SAACPP