

Objection to proposed new Property Rates Bill

**Local Government: Municipal Property Rates Amendment Bill
Notice 340 of 2011**

I, Constantine Vranas, in my capacity as Chairman of the Emmarentia Residents/Ratepayers Association (ERA), lodge this objection on behalf of all the interested parties, who are opposed thereto and who reside in the suburb of Emmarentia and Emmarentia Extensions.

In the draft bill, cited as Follows:

NOTICE 340 OF 2011

DEPARTMENT OF COOPERATIVE GOVERNANCE

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT BILL,

The Minister for Cooperative Governance and Traditional Affairs intends introducing this amendment Bill in the National Assembly.

What the Bill proposes and intends, in its present form, is the amendment of the **Municipal Property Rates Act, 2004**, so as to provide for the amendment and insertion of certain definitions;

1. to provide that a rates policy must determine criteria for not only the increase but also for the decrease of rates;
2. to further regulate the categories of property in respect of which rates may be levied;
3. to further regulate the exemption, reduction and rebates to owners of property so as to provide that the rate on a specific category of properties must be limited to an amount in the rand as determined by the Minister with the concurrence of the Minister of Finance;
4. to limit the period within which the Minister may be requested to decide whether a rate is unreasonably prejudicing any of the matters listed in section 16
5. to provide for sectors of the economy to consult the MEC in terms of section 16 (3) (a) (J);
6. to provide for the Minister to make a decision in terms of section 16(5) with the concurrence of the Minister of Finance; to provide for the exclusion from rates of certain categories of public service infrastructure as well as mining rights or mining permits, excluding infrastructure above the surface in respect of mining property;
7. to provide that the exclusion from rates in respect of land belonging to a land reform beneficiary is extended to the spouse and dependants;
8. to provide that an exclusion from rates in respect of the seashore lapses if 6 No.34357 GOVERNMENT GAZETTE, 9 JUNE 2011 any part thereof is alienated;
9. to provide that a municipality may not levy a rate on the first amount of the market value as determined by the Minister with the concurrence of the Minister of Finance of a residential property owned and occupied by a recipient of an older persons grant or a disability grant;
10. to provide that a municipality may levy different rates on residential property not used for the permitted purpose or not used for any purpose;
11. to provide that a municipality may levy different rates on vacant property;
12. to provide that a municipality may not recover rates in respect of a right of exclusive use registered against a sectional title unit from the body corporate;
13. to provide that a person liable for a rate must furnish the municipality with his or her postal address;
14. to provide that municipalities are not required to value properties excluded from rates;
15. to provide for the period of validity of a valuation roll to be five years;
16. to provide for the extension of the period of validity of valuation rolls by the MEC for local government to seven years;
17. to provide that a body corporate is required to provide information to a valuer;

18. to provide that a mining right or a mining permit may not be considered in determining the market value of property;
19. to provide that a valuer must provide reasons for decisions in respect of objections;
20. to delete the requirement for the payment of interest in specific instances;
21. to delete the requirement for the establishment of a valuation appeal board in every district municipality;
22. to provide for an appeal board to include a professional associated valuer without restrictions and with a minimum of ten years experience;
23. to amend the dates on which a supplementary valuation takes effect;
24. to provide for the notification of owners of property affected by a supplementary valuation;
25. to provide for the extension of the provisions the non-compliance of which may not be condoned;
26. to provide for more effective monitoring of municipalities in the implementation of the Act;
27. to extend the Minister's regulatory powers;
28. to provide for the phasing in of STAATSKOERANT, 9 JUNIE 2011 No. 34357 7 certain regulations;
29. to provide for the phasing in of the prohibition on the levying of rates on certain types of public service infrastructure;
30. to provide for transitional arrangements in respect of municipalities that have been affected by a redetermination of municipal boundaries; and
31. to provide for matters connected therewith.

To summarise the above 31 points into what in effect the intention of this amendment is and what it amounts to is to be found under:

Amendment of section 1 of Act 6 of 2004

Section 1 of the principal Act, is hereby amended by-

(o) The substitution for the definition of "**residential property**" of (probably what is meant is 'with') the following definition:

" '**residential property**' means property of which the primary use or permitted use is for residential purposes, excluding such property used to accommodate persons other than the owner for gain;"

While we are very much aware of the news reports on both 702, aired on 17 July, in the evening, and the Afrikaans speaking radio (RSG), aired on 18 July, in the evening, as well as the assurance from the Minister that the amendment will only affect commercial properties that are let, we still feel that our (ERA's) objections should be tabled so as to avoid any misunderstanding of our position in the future should this Bill be re-introduced, without the necessary public participation, as has been the case with other legislation in the past.

Irrespective of the assurance of the Minister, and I quote "that is not what is intended" in answer to a question about the meaning of the term 'residential property', it is felt that if it was indeed intended to effect only Commercial properties such as 'Guest Houses' and 'Property bought strictly for commercial gain' there would have been a specific definition setting this out in the proposed amendment. It is clear, even to a lay person, that the intention of legislature and indeed legislation must be clear and unambiguous so that anything indicating the contrary must be viewed and analysed with suspicion.

To take this argument a step further the impression has been created, (especially after the Minister in the news reports, in desperation, tried to appease a concerned public) that should this piece of legislation, be enacted and allowed to proceed unhindered, it will in fact detriment not only current property owners but also all future owners of immovable property.

On Parliaments own Website reference is made to the procedure to be followed in the passing of a Sec. 75 Bill. ¹

1. A draft Bill, which has been drafted by a government department, is submitted by the relevant Minister to the Cabinet for approval.
2. The state law advisers must refine and approve the draft Bill.
3. The Bill is then introduced and tabled in the National Assembly for what is known as the First Reading. The Bill is also published in the Government Gazette.
4. The Bill is then referred to the relevant Committee in the National Assembly which considers the Bill and may agree to it, propose amendments or reject the Bill, generally after a process of public consultation.
5. The Second Reading then takes place where the Bill is debated and voted on at a sitting of the National Assembly.
6. If there is a majority of votes in favour, the Bill is passed and the Bill is then referred to the NCOP for consideration.
7. The NCOP can accept or reject the Bill or propose amendments to it:

Point 4 talks of 'generally after a process of public consultation'

To consult, we must be aware of the facts and since we are not aware of all the pertinent facts surrounding this piece legislation, we would rather err on the side of caution and object to the Bill in its present form on the following grounds:

1. Morally unjustifiable

We maintain that there is no moral justification for levying higher rates on certain residential properties when there is not necessarily any larger consequential consumption of municipal services. There is also no obligation on the local authority to render any higher level of services in return for this increase in rates. We submit that the parlous state of so many municipalities is as a direct consequence of mismanagement. Morally, it therefore behoves Government to enforce due fiduciary responsibility at the Local Government level rather than attempting to find new and unjustified revenue streams. Significant rates increases have recently been levied and property owners are already subject to higher Capital Gains Taxes on non-primary residential properties as well as income tax on any earnings.

2. Depression of Housing Market

The proposed change would have a negative effect on the housing market as a whole. Since many individuals use the legitimate investment vehicle of rent-to-buy, the demand for such properties would decline significantly, as the return on investment would be diminished, making other investment avenues more attractive by comparison. The consequences of this would be a reduction in property values in an already depressed economy, with its attendant knock-on and inflationary effects. Another consequence would necessarily be the reduction of available rental stock, which would result in an increase in rentals because of the imbalance in supply and demand. Some landlords would also pass on rates increases to their tenants. Downward pressure on the housing market would therefore lower property values of people's primary residences, and negatively impact on people who, for whatever reason, rent properties.

3. Unforeseen negative consequences

It would be grossly unfair to suddenly depreciate so many people's primary asset (and in many cases their only asset), namely their homes, as highlighted above.

The proposed amendment as it stands would have further negative consequences for a variety of people who simply cannot afford the increases. No differentiation is made between a person's primary residential property and an investment property. While we maintain that an unmotivated increase in rates (in many cases more than double) is morally reprehensible on its own, here are some examples of people who would be affected by this proposal who can ill afford the consequences:

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We submit that the Bill under consideration is indeed a Sec 75 Bill in that it does not fall into the inclusions stated as Sec 76 Bills (These include casinos; racing; gambling; cultural matters; disaster management; education excluding tertiary education; environment; health services; housing; population development; public transport; tourism; trade; traditional leadership; welfare services; and child care facilities.)

- An elderly pensioner or widow who is compelled to take in one or more lodgers in order to make ends meet would be negatively affected by this proposal.
- A teacher (South Africa has a shortage of these underpaid, pressured individuals) who takes up a post (for example as a house mother) which offers a room as the only perk, and who rents out their own hard-earned flat to help supplement their income, would be negatively affected by this proposal.
- An ordinary individual who allows their gardener to occupy an outside room in exchange for a day's gardening would be negatively affected by this proposal. Their only recourse would be to evict their gardener, thereby affecting the tenant as well as the property owner.
- Somebody who has made sacrifices in order to buy a flat for their adult child, in many permutations and instances would be negatively affected by this proposal.
- A young person who buys their first flat and takes in a flat-mate in order help to pay off their bond would be negatively affected by this proposal.

There are many more such examples of people simply trying to make ends meet, and ***who are resisting becoming a drain on the State's resources***, who would be adversely affected by this proposal.

Accordingly, accept, herewith our objection as the interested parties in the non approval of the passing this legislation without further comment and deliberation.

Chairman
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