

ITEM 9A & B TO 37/2022CSJ
ANNEXURE 15

ITEM 67/2022CSJ
ANNEXURE 15

LEPHALALE

LOCAL MUNICIPALITY



PROPERTY RATES POLICY

2022/2023

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LEGISLATIVE CONTEXT

This policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No.6 of 2004), which specifically provides that a municipality must adopt a Rates Policy.

In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a municipality may impose rates on property.

In terms of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) a municipality in accordance with:

- a. Section 2(1), may levy a rate on property in its area; and
- b. Section 2(3), must exercise its power to levy a rate on property subject to:
 - i. Section 229 and any other applicable provisions of the Constitution;
 - ii. The provisions of the Property Rates Act and any regulations promulgated in terms thereof; and
 - iii. The rates policy.

In terms of Section 4 (1) (c) of the Local Government: Municipal Systems Act, 2000 (No.32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, inter alia, rates on property.

In terms of Section 62(1) (f) (ii) of the Local Government: Municipal Finance Management Act, 2003 (No. 56 of 2003) the municipal manager must ensure that the municipality has and implements a rates policy.

This policy must be read together with, and is subject to the stipulations of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) and any regulations promulgated in terms thereof from time to time.

In terms of Section 13 of the Local Government: Municipal System Act no.32 of 2000 as amended; the Lephalale Local Municipality hereby published the Property Rates By-laws set forth hereinafter, which have been made by the Municipality in terms of Section 6 of the Local Government: Municipal Property Rates Act 6 of 2004.

1. PREAMBLE

WHEREAS Section 229 of the Constitution of the Republic of South Africa empowers municipalities to levy property rates, subject to national legislation;

AND WHEREAS Section 2 of the Local Government: Municipal Property Rates Act No. 6 of 2004 is the national legislation that empowers a municipality to levy a rate on property in its area;

AND WHEREAS in terms of Section 3(1) of the Local Government: Municipal Property Rates Act No. 6 of 2004 the council of a municipality must adopt a rates policy consistent with the Act on the levying of rates on rateable property in the municipality;

AND WHEREAS Section 3(2) of the Local Government: Municipal Property Rates Act No. 6 of 2004 prescribes what issues are to be addressed in the rates policy;

AND WHEREAS any exemptions, rebates or reductions provided for in the Rates Policy must, in terms of Section 3(5) of the Local Government: Municipal Property Rates Act No. 6 of 2004, comply and be implemented in accordance with a prescribed national framework;

NOW THEREFORE the Council of Lephalale Local Municipality has adopted the Policy as set out hereunder.

2. INTRODUCTION

In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (the Constitution), a municipality may impose rates on property.

When imposing rates on property a municipality may not exercise that power in a way that materially and unreasonably prejudice national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour.

Section 3(1) of the Local Government: Municipal Property Rates Act 2004 (Act 6 of 2004) (MPRA) and Section 62(1)(f) of the Local Government Municipal Finance Management Act 2003 (Act 56 of 2003 (MFMA) provide that a Municipality should adopt and implement a policy on the levying of rates on rateable properties. This document sets out the policy of Lephalale Municipality with regard to levying rateable properties. In applying this policy, the Municipality will meet all requirements of the MPRA and the MFMA, including any regulations made in terms of these Acts.

The Municipality will, as part of its annual operating budget process, impose a rate in the Rand on the market value of all rateable properties as recorded in the Municipality's valuation roll or supplementary valuation roll(s). Rateable property includes any rights registered against the property, with the exception of a mortgage bond. Generally, all land within the municipal area is rateable unless it is specifically exempted in terms of Section 15 of the MPRA.

The Municipality must, in accordance with Section 3 of the MPRA, adopt a rates policy that sets out the broad policy framework within which the municipality rates its area and must, in accordance with Section 5 of the MPRA, review and, if necessary, amend its rates policy annually.

3. DEFINITIONS

Definitions, words and expressions as used in the Act are applicable to this policy document wherever it is used. However, the following definitions pertinent to the policy are not covered within the Act:

"Agricultural smallholding" means a small farm larger than one hectare and less than 10 hectares and be deemed to be agricultural land when the owner thereof is a bona fide farmer.

"Bona fide farmer" is a person farming with the intention of making a living from the development, cultivation and utilisation of agricultural land and includes a subsistence farmer.

"Business" in relation to property, means the use of the property for the activity of buying, selling or trading in goods or services on a property and includes any office or other accommodation on the same property, the use of which is incidental to such activity but does not include the business of agriculture farming or any other business consisting of the cultivation of the soil, the gathering-in of crops, the rearing of livestock or game or the propagation and harvesting of fish or other aquatic organisms.

“Community participation” – means participation in accordance with the provisions of chapter 4 of the Local Government: Municipal Systems Act, No. 32 of 2000.

“Farming community” means the owners of agricultural land and their dependants.

“Government” in relation to property, means property owned and exclusively used by an organ of state.

“Illegal use” means the use of a property in a manner that is inconsistent with or in contravention of the permitted use of the property, whether in terms of the title deed of the property or in terms of the applicable town planning scheme.

“Improvement” means any building or permanent structure on or under a property but excludes

- (a) a structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
- (b) any building, structure or equipment or machinery referred to in Section 46(3) of the MPRA.

“Indigent debtor” means a debtor who is a poor private household as defined by the Municipality's Indigent policy.

“Industrial use” means the use of the property for a branch of trade or manufacturing production, assembly or processing of finished or semi-finished goods or from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation, the use of which is incidental to the use of a factory.

“Lodge” means accommodation in a non-urban area provided for paying visiting guests with a focus on aspects of nature and/or places of interest, and includes a restaurant and conference facilities.

“Multi purposes”, in relation to property, means the use of the property for more than one purpose and the property thus not being assigned to a single category of property and, where one use represents on average 90% or more of the property's value, the property is rated as though it were used for that use only. This definition is only applicable to property defined as “urban land”.

“Municipal” in relation to property, means the land owned and exclusively used by the Municipality.

“Municipality” means the Municipality of Lephalale.

“Non-urban land” means land that is not situated in a proclaimed township, but that is used for residential or agricultural purposes or is not in use. Where the whole or a portion of non-urban land is used for business, industrial or mining purposes, the market value of such land or portion of it, must be recorded separately in the valuation roll and rated according to the applicable category.

“Rates policy” means a document compiled by the Municipality in a transparent and participative manner, encompassing all aspects pertaining to the MPRA with regard to the payment of rates.

"Remainder of township" means the remaining extent of an approved proclaimed township which is still registered in the name of the applicant for township development, and which has not yet been transferred to another owner and on which no improvements have been erected except for public service infrastructure.

"Residential" means in relation to property whether urban or non-urban, a property having a suite of rooms which forms a living unit that is exclusively used for human habitation purposes or a multiple of such units, but does not refer to a hotel, commune, boarding or lodging undertaking, hostel or place of instruction.

"Residential smallholding" means a property of less than 10 hectares, which is exclusively used for residential purposes and where no bona fide farming takes place.

"Urban land" means land that is situated within a proclaimed township.

"Vacant land" means

- (a) land on which no immovable improvements have been erected; or
- (b) land where the value added by immovable improvements is less than 10% of the value of the land with no immovable improvements on it.

"Public service purpose properties" - means properties owned by an organ of state used exclusively for public services such as, hospitals, clinics, schools, pre-schools, early childhood development centres, further training colleges and education, national and provincial libraries and archives, police stations, correctional facilities and courts of law but excludes properties defined as Public Service Infrastructure.

4. STRATEGIC FOCUS

In determining the rates, exemptions, rebates and reductions, the Municipality will consider the following:

- ♦ the impact of rates on the community,
- ♦ the impact of rates on business,
- ♦ the Integrated Development Plan (IDP) of the Municipality,
- ♦ the Local Economic Development (LED) strategy of the Municipality,
- ♦ the impact of the new rating system on poor private households, agricultural communities and owners of communal land, and
- ♦ the prevention of major shocks to ratepayers when moving from a site rating system to a system based on a rating on the market value of the property as a whole.

5. ANNUAL ADOPTION OF THE POLICY

The rates policy will be reviewed annually in compliance with Section 5(1) of the MPRA and according to the time schedule tabled by the Mayor in accordance with Section 21(1)(b) of the MFMA. Community participation will take place in accordance with Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000). For this purpose public meetings will be advertised in local newspapers in the Lephalale area including those in Vaalwater, Lephalale, Thabazimbi and Koedoesrand and also local agricultural publications and organisational newsletters.

The rates policy will be approved with the annual budget in compliance with Section 24(2)(c)(i) of the MFMA.

The rates policy will be available for perusal, free of charge, at:

- (i) The Municipality's head office and pay points;
- (ii) Municipal libraries;
- (iii) Customer Care Centres of the Municipality;
- (iv) Municipal website.

Copies of the rates policy will be available for purchase at all the pay points at the applicable charge, as determined by the Municipality from time to time.

6. KEY PRINCIPLES

The following principles will ensure that the Municipality treats persons liable for rates equitably:

➤ Equity

- Equity means that each ratepayer will be fairly treated relative to other ratepayers. The fundamental principle is that ratepayers in similar circumstances will pay similar levels of rates and ratepayers with greater ability to pay, will pay greater amounts of rates.
- Rates are levied on an ad valorem (by value) basis i.e pro rata to the value of the property. This literally means that a ratepayer with a higher valued property will pay proportionally more than a ratepayer with a lower valued property.
- The following are the reasons why ratepayers may pay different rates –
 - Different rates levied on different categories,
 - Exemptions,
 - Rebates, and
 - Reductions.

Although these mechanisms were created by the MPRA, their use should be justified. The main reason is to retain the historical level of contribution of the various categories of properties to the income from assessment rates and therefore minimise the impact on ratepayers.

➤ Affordability

- The ability of ratepayers to pay for their total municipal services will be taken into account by the Municipality. In dealing with the poor and indigent ratepayers, the Municipality will provide relief measures through exemptions, reductions or rebates.
- The Municipality will endeavour to limit the annual increase in revenue from the property rates to the increase in the consumer price index (CPI), and the budget growth guidelines provided by National Treasury, except when the integrated development plan (IDP) of the Municipality provides for a greater increase.

➤ **Poverty alleviation**

- The effect of rates on the poor/indigent ratepayers will be taken into account through the Municipality's Indigent Policy. **(Note: This policy must be an attachment to this Policy document.)** All residential properties with a value below an amount to be determined during the budget process, are exempted from assessment rates which amount should not be less than R30 000.

➤ **Limitation of rates increases**

- The transformation from a site rating system to a system where the total value (land and buildings) is rated, could cause major shifts in the rates burden on owners of certain properties.

Guidelines from national government are that the implementation of the MPRA should not lead to an onerous increase in income from assessment rates and it should also not result in major shocks to ratepayers. To give effect to these guidelines, it is necessary to set limits on the increase in rates for the financial years in which the first valuation roll prepared in terms of the MPRA is implemented.

7. IMPOSITION OF PROPERTY RATES

7.1 Determination of a rate

The Municipality shall, as part of its annual operating budget process, impose a rate expressed as cents-in-a-Rand on the market value of all rateable immovable properties recorded in the valuation roll and supplementary valuation roll(s) of the Municipality.

In determining the rate the Municipality shall take into account the following:

- the estimated income and expenditure for the particular financial year,
- the cost of rendering and maintaining services,
- the overall financial situation of the Municipality,
- the services that do not generate income or that are being rendered at a loss,
- the impact of the proposed rate on indigent members of the community,
- the limitation on increases permissible in terms of Section 20 of the MPRA,
- the current inflation level as prescribed by the Minister of Finance in terms of Section 20(1)(b)(iii) of the MFMA,
- inputs and/or comments of the public on the proposed rate,
- the determination of an upper limit for property rates by a national or provincial organ of state in terms of Section 43(1) of the MFMA.

7.2 Properties used for multiple purposes

Properties used for multiple purposes which for example do not fall within the definition of Residential Properties and, accordingly, do not qualify for the residential rate, will be included into the category of multiple-use properties, as per Section 9 (1) (c) of the Property Rates Act, for which an apportionment of value for each distinct use of the property will be calculated by the municipal valuer and used for billing at the appropriate and applicable rate, in cases where the municipal valuer considers it reasonable to apply this category as per Section 9 (1) (c) of the Property Rates Act.

7.3 Properties not rated

The rates impermissible in terms of Sections 16 and 17 of MPRA.

Section 16

Constitutionally impermissible rates include those that materially and unreasonably prejudice –

- (a) national economic policies;
- (b) economic activities across its boundaries; or
- (c) the national mobility of goods, services, capital or labour.

Section 17

- (a) the first 30% of public service infrastructure;
- (b) any part of the seashore; [not applicable];
- (c) any part of the territorial waters; [not applicable];
- (d) any islands [not applicable];
- (e) special nature reserve, national park, or a national botanical garden; (Limited applicability).
- (f) mineral rights;
- (g) property belonging to a land reform beneficiary for the first 10 (ten) years;
- (h) on the first R30 000 of a property assigned for residential purposes;
- (i) a place of public worship including an official residence owned by the relevant church and occupied by the religious officer.

Rates are not levied on the transportation corridors of public service infrastructure.

7.4 Categories of properties

7.4.1 The Municipality has in terms of Section 8(1) of the MPRA determined the categories of properties based on the use of the properties so as to enable the Municipality, should the need therefor arise, to determine different rates for the different categories of properties. The following are the determined categories of properties by the Municipality.

- Residential properties 1, 2 and 3 (Including Sectional titles)
 - Any properties used for residential purposes
 - Residential flats
 - Residential sectional title units
 - Hostels
 - Old age homes
 - Residences at institutions of higher learning or at schools (where Section 9(2) is applied)
- Business and Commercial properties.
 - Properties on which the buying and selling of goods and services take place
 - Shopping centres
 - Shops
 - offices
- Industrial properties
 - Warehouses

- Factories
- Workshops
- Properties owned by organ of the state and used for public service purposes (PSP)

Types of properties (description) within PSP properties include the following:

- Public hospitals
- Public clinics
- Public schools
- Public pre-schools
- Public early childhood development centres
- Public further education and training centres
- National libraries
- National archives
- Police stations
- Correctional facilities (prisons)
- Court
- Vacant Properties:
 - Vacant residential,
 - Vacant business
 - Vacant agricultural
- Agricultural properties
 - Properties that are used for agricultural purposes
- Municipal properties.
- Mining and related uses properties.
- Public Service Infrastructure.
- Properties owned by public benefit organizations and used for specified public benefit activities
- Properties used for multiple purposes, subject to section 9
- any other category of property as may be determined by the Minister, with the concurrence of the Minister of Finance, by notice in the Gazette

7.4.2 In determining the category referred to in 7.3.1 the Municipality shall take into account the following criteria, or a combination thereof:

- The formal zoning of the property;
- Township establishment approvals;
- The lawful use of the property;
- Township development area(remainder of township)
- Permitted use of the property; and
- The geographical area in which the property is situated.

7.5 Exemptions, Reductions and Rebates as Relief Mechanisms

The following will be taken into account for the purpose of granting exemptions, rebates and reductions:

- Indigent status of the owner of the property.
- Sources of income of the owner of the property.
- Social or economic conditions of the area where the property is located or of the property owner.

Exemptions

The Municipality grants an exemption from the payment of rates in respect of the following:

- (a) any rateable property registered in the name of a welfare organisation registered in terms of National Welfare Legislation.
- (b) any hospital, health clinic or institution for mentally ill persons that is operated not with the intention to make profit and is registered for tax exemptions in terms of the Income Tax Act because of those activities;
- (c) any rateable property registered in the name of a public benefit organisation that carries out specified public benefit activities and is registered for tax exemptions in terms of the Income Tax Act because of those activities;
- (d) Any museum, art gallery, library or botanical garden that is registered in the name of a private person and that is open to the public, whether admission is charged or not;
- (e) Any national monument, including ancillary business activity conducted at a national monument;
- (f) Any rateable property registered in the name of a trustee or trustees or any organisation that is being maintained for the welfare of war veterans.
- (g) any sports grounds used for the purposes of amateur sport or any social activity connected with such sport.
- (h) any rateable property registered in the name of a youth organisation or any organisation that promotes the welfare of the youth or any rateable property let by the Municipality to any such organisation.
- (i) any rateable property registered in the name of a cultural institution, declared as such in terms of relevant legislation.
- (j) on the first R30 000 of the market value of any residential property, whether the property is improved or unimproved, and non-urban property on which the owner resides.
- (k) any person who is the owner of a residential property and who -
 - i) has reached the age of 55 years or more during the financial year; or
 - ii) is physically or mentally disabled and can prove that he/she receives a social pension; or
 - iii) is certified by a district medical officer, as being physically or mentally handicapped.

Subject to the following conditions:

- (aa) the joint income of that person and his/her spouse, if any, for the year ended 30 June may not exceed R36 000 (thirty six thousand Rand) per year or such higher amount as may be determined in the Municipality's budget;
- (bb) the rateable property in question may be occupied only by that person and his/her spouse, if any, and by dependants of that person who have no income, or by other people due to circumstances that, in the opinion of the Municipality's Chief Financial Officer, are specific to that person;
- (cc) there may not be more than one dwelling unit on the rateable property in question;
- (dd) the application for exemption from rates for the financial year must be received prior to 30 September of that financial year, alternatively: (prior to 31 March in the financial year preceding the new financial year under consideration), on a form made available for this purpose by the Municipality's Chief Financial Officer and the information provided in the application must be substantiated by an affidavit by the applicant;
- (ee) the applicant must submit proof of his/her age and identity and, in the case of a physically or mentally handicapped person, also proof that he/she receives a social pension or, if he/she does not receive a social pension, proof of certification by a district medical officer;
- (ff) the value of the rateable property in question, as reflected in the valuation roll or a supplementary valuation roll, may not exceed R250 000 on the person's first application;
- (gg) that person's current services account must be paid in full; and
- (hh) the rateable property in question must be categorised as residential;

The exemption in (a) to (k) will be granted after an application with all required documentation has been considered and approved by the Municipal Manager or delegated official.

- (l) Owners of residential property with a market value below R30 000 as determined by the MPRA.
- (m) Owners of property situated within an area affected by a disaster within the meaning of the Disaster Management Act 2002 (Act 57 of 2002).
- (n) Municipal properties that are not leased or rented out by the Municipality.

Rebates

When a specific category of owners of properties or the owners of a specific category of properties qualify for more than one rebate at a given time, the next rebate is calculated on the previously rebated rates amount payable. The order in which the rebates are calculated is as follows:

(a) Rebate for indigent debtors

The rebate is as determined by the Municipality's policy on indigent debtors. (Refer also to the definition of "indigent debtor").

(b) Rebate to limit the increase in rates

Note:

This is not related to the provisions of Section 21 of the MPRA regarding the compulsory phasing in of rates.

The rebate to limit the increase in rates when moving from the site rating system to the system of rating the total value of the property in the event of such increase being 40% (forty percent) or more will be calculated by phasing in the amount in excess of 40% (forty percent) at 25% (twenty five percent) per year over 4 (four) years commencing 1 July 2008.

This rebate does not apply to an increase in rates owing to a supplementary valuation made in terms of Section 78(1) of the MPRA.

(c) Rebates for State Property

Until the current valuation roll (prepared in terms of the Ordinance) expires, all property owned by the State as provided for in the Rating of State Property Act, No. 79 of 1984 will be eligible for the rebates provided for in the act.

(d) Rebates for Residential Properties

No rebate to be given to residential properties, but a separate rate in the Rand to be calculated for this category of property.

(e) Rebates for township developments (areas)

The developer shall be given a rebate of 40% on the ervens to be developed while they are still registered in his name until they are sold to the new owner. In the event where the developer keep the erven for himself, the rebate will last for a period of three(3) years where after it lapses.

Rebates applicable to non-urban land

(a) Reduction based on the guidelines provided in Section 3(4) of the MPRA

- (i) The extent of services provided by the municipality in respect of agricultural properties. Where the municipality doesn't provide any of the undermentioned services, the relevant indicated reduction will apply.

Roads maintenance	-	7,5%
Water	-	20%
Electricity	-	7,5%
Sewerage	-	7,5%
Refuse collection	-	7,5%
Housing	-	5%

- (ii) The contribution of agriculture to the local economy:

Where the bona fide farmer is

- a registered taxpayer with SARS – 5%
- registered for VAT with SARS – 5%

- (iii) The contribution of agriculture to the social and economic welfare of farm workers.

Where the owner provides land for a cemetery, or a clinic, or a school on the said property, a further reduction of 5% respectively will be made.

Note:

- (1) Agricultural land used for game farming, game hunting or eco-tourism will also qualify for the abovementioned reductions after the portion with the improvements thereon used for purposes related to the abovementioned uses (e.g slaughter facilities, cold storage areas, lapas, lodges and other forms of accommodation facilities), has been deducted from the remainder of the agricultural property. The portion so deducted will be fully rated.
- (2) Any portion used for any illegal use (e.g business or industrial) will also be fully rated.

8. LIABILITY FOR RATES

- The owner of the property shall be liable for the payment of rates levied on the property.
- If the owner of the property fails to pay the amount due, the Municipality may recover the amount from the tenant/occupier of the property or from his agent as per Sections 28 and 29 of the MPRA.
- For joint property owners, the liability for rates will be dealt with in the context of their agreement regarding payment. Such agreement must be in writing and signed by all affected parties and a certified copy must be submitted to the Municipality.
- In the circumstances where joint owners of an agricultural property that meets the requirements of the Subdivision of Agricultural Land Act, No. 70 of 1970 have not informed the Municipality in writing about who is liable for rates, the Municipality will apply Section 24(2)(b)(ii) of the MPRA.
- If the joint property owners are not traceable with the exception of one joint owner and such joint owner is occupying or using the entire or part of the property, the Municipality will hold that joint owner liable for the total rates bill for that entire property.
- The recovery of rates by the Municipality will be in accordance with the credit control and debt collection policy of the Municipality as determined in terms of the MFMA.

9. PHASING IN OF RATES

The rates to be levied on newly rateable property and property of specified public benefit organizations shall be phased in as provided for in Section 21 of the MPRA.

10. GENERAL VALUATION OF RATEABLE PROPERTY

- The Municipality shall undertake a general valuation of all rateable properties as defined by the MPRA and prepare a valuation roll every 5 (five) years in terms of Section 32 of the Amendment Act.
- In accordance with the Act the Municipality, under exceptional circumstances, may request the MEC for Local Government and Housing to extend the validity of the valuation roll to seven (7) years in accordance with Section 32 of the Amendment Act.
- Supplementary valuations will be undertaken on an ongoing basis and a supplementary valuation roll will be prepared annually.
- Amendments to the valuation roll will be made annually in accordance with Section 79 of the MPRA, and only the electronic copy of the valuation roll will be updated.
- The first valuation roll prepared in terms of the Property Rates Act, 2004 (Act 6 of 2004) will take effect from the start of the financial year following completion of the public inspection period.
- As the Municipality does not have the human resource capacity to compile its own valuation roll, the services of a suitable qualified valuer shall be obtained in accordance with its supply chain management policy.
- Rates on Sectional titles shall be paid by the owner of the unit.

11. RATES CLEARANCE CERTIFICATES

- Will be valid for up to 60 days from date of issue.
- After the property is transferred to the new owner, rates and service charges will be levied on the new owner from the month following date of registration.

12. DISCLAIMER AND APPENDIX

Rates cannot be challenged or withheld on the basis of non-compliance by the Municipal Council with this rates policy and must be paid in accordance with the payment requirements.

Where a ratepayer believes that the Municipality has failed to properly apply this rates policy, he/she should raise the matter with the Municipal Manager.

Any decision of the Municipal Manager in favour of the ratepayer who raised the matter shall be applied retrospectively to 1 July of the relevant financial year.

APPENDIX: SUMMARY OF THE LEGAL POSITION RELATING TO THE SETTING AND COLLECTION OF RATES

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, 2004 (ACT 6 OF 2004 ("MPRA"))

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 53 OF 2003) ("MFMA")

This is a summary of the legal position and is not intended to cover the full content of either the MPRA or the MFMA. The summary focuses on those requirements that are immediately relevant to a municipality's rates policy.

A municipality may levy rates in its municipal area. It must exercise its power to levy rates subject to Section 229 and any other applicable provisions of the Constitution, the provisions of the MPRA and its rates policy.

In terms of Section 46 of the MPRA, the basis of valuation is market value. Property must be valued by a valuer engaged or employed by the municipality in terms of Section 33 of the MPRA. Anyone may lodge an objection to an entry in the valuation roll that is prepared by the municipal valuer.

Rates are based on the market value of a property, multiplied by a rate in the Rand set each year by the municipality in question in terms of Section 7 of the MPRA. The owner of the land (unless the municipality is advised otherwise) is the principal ratepayer, and rates may be recovered as a debt against the principal ratepayer. In certain cases the occupier of the land may be classed as the principal ratepayer in terms of Sections 24 and 25 of the MPRA.

Section 26 of the MPRA provides that rates may be paid either monthly or annually, but Section 64 of the MFMA currently requires that accounts for municipal tax be prepared on a monthly basis or less often as may be prescribed. A municipality may also make payment arrangements with ratepayers if an installment of rates is not paid by the due date. A municipality's credit control and debt collection by-laws must prescribe the process for recovering rates in the case of non-payment.

In terms of Section 3 of the MPRA, the council of a municipality must adopt a policy consistent with the MPRA on the levying of rates on rateable property in the municipality. The rates policy must take effect on the effective date of the first valuation roll prepared by the municipality in terms of the MPRA, and the policy must accompany the municipality's budget for the financial year concerned when that budget is tabled in the council in terms of the requirements of the MFMA.

The rates policy must treat persons liable for rates equitably and determine the criteria for levying different rates for different categories of property and granting exemptions, rebates or reductions. The effect of rates on poor residents and organizations conducting specified public benefit activities must also be considered.

Any exemptions, rebates or reductions granted under and provided for in the rates policy adopted by a municipality, must comply and be implemented in accordance with a national framework that may be prescribed after consultation with local government.

No municipality may grant relief in respect of the payment of rates to the owners of properties on an individual basis.

Before a municipality adopts its rates policy, the municipality must follow the process of community participation envisaged in Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000). The draft policy must be displayed for a period of at least 30 (thirty) days at the municipality's head office, satellite offices and libraries and on the official website of the municipality. An advertisement informing the community of this must be placed in the media.

The rates policy must be reviewed annually and by-laws must be adopted to give effect to the policy.

The MPRA provides for the exclusion of certain properties from the payment of rates. The first R15 000 of the value of residential properties is excluded and land belonging to land reform beneficiaries is excluded for the first 10 (ten) years of ownership.

A municipality may not levy different rates on residential properties.

The Minister of Provincial and Local Government may set an upper limit on the percentage by which rates on properties or a rate on a specific category of properties may be increased.

Rates levied on newly rateable property and on property owned by a land reform beneficiary must, after the exclusion period has lapsed, be phased in over a period of three financial years.

A register in respect of all properties situated within a municipality must be maintained. Part A of the register is the current valuation roll and supplementary valuation rolls, and Part B contains those properties that are exempted, receive a rebate or reduction, are subject to phasing or are excluded from rates.

Written accounts must be issued by the municipality and a ratepayer is obliged to make enquiries if an account is not received.

If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole, or in part from a tenant, occupier or agent of the owner, despite any contractual obligation to the contrary. The amount recovered is limited to the amount of the rent or other money due.

SIGNED AT LEPHALALE ON _____

**M M COCQUYT
MUNICIPAL MANAGER**