

How to Fix Incorrect Valuations/ Categorisations of Properties “In Between” Property Rolls

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INTRODUCTION

It often happens that property owners miss the deadline for objection to incorrect details on a property roll. If municipal staff advise you that there is nothing you can do after the fact to fix the problem, they are wrong. This article describes the steps that a property owner can take to compel the municipality to investigate and correct an error on a valuation roll outside of the prescribed time periods for objection to that roll.

WINDOW PERIOD FOR SUBMISSION OF OBJECTIONS

The Local Government: Municipal Property Rates Act 6 of 2004 (“the Act”) governs municipal property valuations. The municipality is legally obliged to advertise every roll for public inspection/objection, for a minimum period of 30 days (although most municipalities leave the roll open for inspection for longer than this). This is referred to as the objection ‘window period’. The municipality is also legally obliged to post notices to property owners to warn them that their property is being placed on a roll for valuation.

During this inspection/objection period it is the property owner’s responsibility to examine the roll and determine if his/her property is on it, and if the owner is dissatisfied with the municipal property valuation/categorisation attributed to such property, to take the necessary steps to submit an objection within the prescribed ‘window period’. Ordinarily, a municipality will not permit the late filing of objections, although in exceptional circumstances some municipalities will make an exception and allow same.

RE-VALUATION/RE-CATEGORISATION OF PROPERTY OUTSIDE OF “WINDOW PERIOD”

Apart from the situation where a property owner missed the deadline to file an objection, there are other good reasons for the Act to provide that municipalities can re-investigate and re-value/re-categorise properties

after the roll concerned has “closed” for inspection/objection.

Consider the situation where a vacant piece of land has been developed into a luxury home. Not only will the valuation be too low (as a result of which the municipality will lose rates revenue) but the categorisation will also be incorrect – it must be amended to residential from vacant lest the poor property owner end up paying rates on the improved value of the land at around 4 times what he should. This is why the legislature created a mechanism for the re-valuation/re-categorisation of properties in section 78 of the Act.

SECTION 78 OF THE ACT

Section 78 of the Act provides that a supplementary roll must be published at least once every year (following on from the publication of a GV) for each year of the duration of the GV. Section 78 contains a closed list of reasons for the inclusion of a property on a supplementary roll. These reasons essentially relate to properties that either did not exist (or did not exist in their present form) at the date of the publication of the GV, alternatively properties that need to be re-valued because their value has changed substantially or re-categorised for whatever reason.

An example of a property in the first category might be a property that has been subdivided, and an example in the second category would be of a vacant stand that has, since the GV, been developed.

Section 78 also includes a category to the effect that a property that has been “substantially incorrectly valued during the last general valuation” can be included on a supplementary roll. It is this section of the Act that allows owners of property to approach the municipality and request a re-valuation/re-categorisation even though the property was valued on a GV or supplementary roll and even where the owner failed to object. This process is known as “submitting a section 78 query”.

Most municipalities appreciate that a request to re-value/re-categorise a property triggers an obligation on their part to put the property onto the next supplementary roll.

SUBMITTING A SECTION 78 ENQUIRY

A Section 78 enquiry is essentially a submission made to the municipality that a property has been incorrectly valued or categorised, coupled with a request that the municipality re-consider the valuation/re-categorisation of such property and put the property onto the next supplementary roll, such that when the roll opens the property owner can formally object to the incorrect information in order to have it corrected.

In Johannesburg, you can utilize the standard section 78 query form, a copy of which can be obtained from the COJ's website, at this address:

https://joburg.org.za/services_/Documents/GVR%202023/Section%2078%20Query%20form_Residential.pdf

Note that each municipality will have its own form, and that you cannot use the COJ form for other municipalities. You will need to acquire with each of them as to what the process for submission is, with each municipality as the process differs from one to the next.

Once a Section 78 enquiry has been submitted, the property should then appear on the next supplementary roll, and the property owner can then object formally to the valuation. Even if the property is omitted from the roll the owner can still lodge his objection, but it is then known as an "omission" objection because the property owner is objecting to the omission from the roll as well as the incorrect details on the prior roll.

BACKDATING OF OUTCOME OF SECTION 78 OBJECTION

- If the valuation is ultimately reduced, then the property valuation should be reduced with retrospective effect to the date of commencement of the GV or the date that the change in valuation occurred, whichever is earlier, which will mean that the property rates charged to the owner will be reduced by the passing of a credit to the tune of the amount by which the inflated property valuation caused inflated rates to be billed.
- The same applies to categorisation changes – they can be backdated to the commencement of the GV or the date when the change actually occurred, whichever is earlier.
- If, however, the property value increases as a result of an objection filed to a roll pursuant to a section 78 enquiry, the increased valuation will only be effective from the date of the commencement of the supplementary roll on which the property

appeared (or if the property was omitted from that roll, the roll to which the owner filed the omission objection).

SECTION 78(5) "REVIEWS"

The above (relating to retrospectivity of outcome) does not apply to section 78(5) "reviews". This happens where the municipality, between rolls, sends the property owner a notice stating that it plans to recategorize or re-value the property on the next supplementary roll and giving the owner an opportunity to make representations to the municipality about whether this should be done or not.

The municipality must then "review" the representations. In the Johannesburg area, the COJ has specific "review" forms for use in this situation. They can be accessed at the COJ's website, at this web address: <https://eservices.joburg.org.za/Pages/Overview.aspx>

Select the appropriate form, depending on your type of property, from the box on the bottom of the page that looks like this:

Review Forms

Select below to download:

- ▶ [Review - Form A - Residential](#)
- ▶ [Review - Form B - Business](#)
- ▶ [Review - Form C - Farms](#)

WHAT DOES THE MUNICIPALITY DO, AFTER IT HAS LOOKED AT THE "REVIEW" FORMS SUBMITTED?

- If it decides to abandon the re-valuation/re-categorisation, it must reverse any increased rates it has already billed based on its proposal to re-value/re-categorise.
- If it decides to continue with the re-valuation or re-categorisation, it must put the property onto the next supplementary valuation roll at which point the owner (if he is unhappy) can formally object and have his say in relation to the issue.

Unfortunately for property owners, the municipality can start charging rates on the proposed re-categorisation or proposed re-valuation in terms of section 78(5) a few days after the notices advising of same are sent out. The municipality does not have to wait until the roll has been published or any objection submitted been dealt with on the supplementary roll in order to implement the change on the invoices. However, any incorrect valuation or categorisation brought about in terms of section 78(5) later overturned will be backdated to the time when it was first incorrectly billed by the municipality.

REVERSAL/WRITE OFF AFTER SUCCESSFUL OBJECTION/APPEAL

The Act obliges the municipal manager to ensure that after a property valuation has been reduced on objection/appeal, a reversal/write off is effected to adjust the account accordingly. If this does not take place within a reasonable time after notification of the outcome has been released, then you may need to seek legal assistance, because this is dealt with by the municipality's billing department and is not a function of the valuations department.

It is important to note, however, that disputes in relation to changes to be effected to an invoice as a result of a revaluation or recategorisation are dealt with in law as account queries/disputes with the revenue/finance department, and not through the Act with the valuations department.



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