

Rates Clearance Figures: Complicated Questions

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INTRODUCTION

This is a follow up article to our prior publication entitled “Rates Clearance Figures: the Basics” available at <https://hbgschindlers.com/rates-clearance-figures-the-basics/>. In this article we will take a look at some of the more complicated legal issues that arise from disputes over Rates Clearance Figures (“RCF”) and Rates Clearance Certificates (“RCC”).

CAN A MUNICIPALITY REQUIRE ME TO PAY OUTSTANDING ENGINEERING CONTRIBUTIONS BEFORE IT WILL ISSUE ME WITH A RCC?

According to the law as it stands today, the answer is no. The municipality cannot lawfully make you pay outstanding engineering clearance figures, or refuse to issue you a RCC, because of outstanding engineering contributions. If this happens, contact an expert in municipal disputes for assistance to compel the municipality to provide you with your RCC to facilitate transfer.

CAN A MUNICIPALITY REQUIRE ME TO OBTAIN APPROVED BUILDING PLANS BEFORE IT WILL ISSUE ME WITH A RCC?

According to the law as it stands today, the answer is no. The municipality cannot lawfully make you obtain approved building plans, or refuse to issue you a RCC, because of there not being approved building plans for your property on file at the municipality. If this happens, contact an expert in municipal disputes for assistance to compel the municipality to provide you with your RCC to facilitate transfer.

CAN A MUNICIPALITY REQUIRE ME TO PAY AMOUNTS OWING BY MY BODY CORPORATE BEFORE IT WILL ISSUE ME WITH A RCC?

According to the law as it stands today, the answer is no. The municipality cannot lawfully make you obtain approved building plans, or refuse to issue you a RCC, because of there not being approved building plans for your property on file at the municipality. If this happens, contact an expert in municipal disputes for assistance

to compel the municipality to provide you with your RCC to facilitate transfer.

CAN A MUNICIPALITY CHARGE ME FOR AMOUNTS WHICH HAVE PRESCRIBED IN LAW?

Legally speaking no, but this often happens. Either you can liaise with the municipality to get the RCF fixed before transfer, or you can pay the disputed amounts under protest and then claim a refund back later after you have pursued the dispute with the municipality and obtained an adjustment to the account. You can obtain adjustments to the account to reverse incorrect charges even after transfer.

WHEN I PAY MY RCF, IS THIS “FULL AND FINAL SETTLEMENT” OF EVERYTHING I OWE THE MUNICIPALITY ON THIS PROPERTY?

No. If you do not pay historical or full figures, after transfer there will still be amounts owing to the municipality. This remains owing – it does not magically disappear – and the municipality can choose whether or not to take action against you to recover these amounts.

Also, even if you do pay full or historical figures, if there is a reason that the municipality needs to do an adjustment to your account (for example, the municipality was undercharging you for rates and needs to adjust the account to add additional rates charges to your account for the period that you were the owner, due to the outcome of a valuation appeal board hearing, or for example if the municipality was undercharging you for water or electricity based on estimated readings, where it needs to adjust your account to add extra charges after doing a reconciliation based on actual readings which were higher than the estimated charges), you may still end up owing money to the municipality after transfer.

Although this does not happen often, it is possible that you will owe the municipality after transfer.

CAN A MUNICIPALITY TAKE ACTION AGAINST THE PURCHASER OF A PROPERTY, FOR THE SELLER'S DEBT?

No, the law forbids this. If you are affected as a purchaser as a result of a termination of supply to your property based on debt owed by the seller, approach an expert in municipal law disputes for assistance. In these cases there is nothing the seller can do – it is the fault of the municipality alone in not updating its records and wrongly pursuing you for debt that you are not liable for. Do not blame your conveyancers for this situation if you are affected by it – it has nothing to do with them and they could not have done anything to avoid it.

CONCLUSION

If you have difficulty obtaining your figures, or they are incorrect, or you are unable to obtain your RCC and this is costing you money and putting your property sale in jeopardy, contact an expert in municipal law for assistance to compel the municipality to comply with the law.



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