

# Rates Clearance Figures: The Basics

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## WHAT ARE “RATES CLEARANCE FIGURES”?

When a seller sells a property and wants to transfer it to the buyer in the Deeds Office, he/she/it is required by law to obtain a rates clearance certificate (“RCC”) from the local municipality, which certifies that all rates and other municipal charges (like electricity, water, refuse and/or sanitation) are paid up. Without the certificate from the municipality, transfer cannot pass to the buyer.

## WHAT AMOUNTS MUST I PAY, TO GET MY RATES CLEARANCE CERTIFICATE?

In order to calculate how much you are lawfully obliged to pay, municipalities issue a document known as “Rates Clearance Figures” (“RCF”). This document deals with two different types of charges – the first being amounts owed at the date of application, and the second type of charge being amounts that might become owing in the months following transfer.

## TWO TYPES OF CHARGES INCLUDED IN THE RCF

The two types of charges are:

- i. Amounts owing at the date of application for RCF (dealt with in the section immediately hereunder)
- ii. Projected amounts, also known as Forward Projections. Because it can take anywhere from 3 to 6 months to transfer a property in the ordinary course, the law provides that when a conveyancer requests that the municipality issue such a certificate, the municipality is entitled to demand, before issuing same, that the seller make payment of any/all arrears in connection with the property, and also make payment in advance of at least 3 to 4 months of the average of the monthly municipal charges in respect of the property.

The document that the municipality issues that contains the amounts payable to obtain the RCC, is known as the rates clearance figures. This allows the clearance certificate to be valid for 3 - 4 months (because the City has been paid in advance for 3 to 4 months' worth of the average of the monthly

municipal charges). This is necessary because sometimes property transfers take longer than expected, and if the certificate was valid for a shorter period, it would be necessary for the seller's conveyancer to apply for and pay for the issue of a certificate twice, which would be an unnecessary duplication of effort and costs.

## AMOUNTS OWING AT THE DATE OF APPLICATION FOR RCF

These are any amounts owing to the municipality by the property owner at the date of application for the RCF. It can include rates, electricity, water, sewerage, refuse and sundry charges, interest, debt collection charges, deposit charges or any other type of charge a municipality is lawfully allowed to claim from a property owner on their municipal account.

## THERE ARE TWO TYPES OF RCF

- i. **Full or Historical RCF** - These contain all amounts owed by the property owner, for all time, which remain unpaid at the date of application for the RCF. These are often (wrongly) referred to as “section 118 figures”.
- ii. **Abridged RCF** - These contain only amounts incurred in the two year period preceding the application for RCF. These are often (wrongly) referred to as “section 118” figures.

Whether you pay only abridged RCF, or whether you pay full/historical RCF, the municipality must, by law, provide you with a RCC to enable you to pass transfer. A refusal to do so, is unlawful, and you can take the municipality to court and compel them to provide this certificate to you, and hold the municipality liable for a portion of your legal costs in the process.

## MAKING APPLICATION

Your conveyancer will make application for you from the municipality and send you the figures. Many municipalities now have online application systems but some are still working off of manual systems.

It can take anything up to two weeks, or longer if there are any issues with the account itself, to obtain the RCF from the municipality.

It could take a long time, or create a problem getting your RCC issued, if there are problems with the account, such as:

- Where one service is not being charged for, where it should be;
- Where the meters have not been read in a very long time;
- Where the meter numbers reflecting on the seller's accounts, are incorrect;
- Where there has been an illegal reconnection of supply, that was terminated by the municipality;
- Where there are other accounts incorrectly linked to the property (such as the old owner's account, or a body corporate or developer's account);
- Where a rezoning application has been approved but the engineering contributions due to be paid to finalize the rezoning, have not been paid;
- Where the seller disputes the amount claimed by the municipality (this could be the case for a variety of reasons linked to the billing crisis); and/or
- Where the seller has lodged an objection/appeal to the municipal property valuation or requested a change of tariff, which has not yet been processed.

#### **PAYMENT OF YOUR RCF**

If you are in agreement with the amounts claimed by the municipality in the RCF, you will make payment. You must pay precisely in the manner specified by your conveyancer. If you do not use the correct reference number, your conveyancer may have trouble getting your RCC because the municipality cannot pick up your payment.

#### **VALIDITY OF YOUR RCC**

Once you have paid, the municipality usually takes a few days (up to two weeks) to provide your conveyancer with the RCC needed to pass transfer in the Deeds Office. The RCC will remain valid for the period of validity specified on the RCF (which must be a minimum of 60 days, but can be longer – commonly 90 to 120 days). In cases where the municipality regards the RCC as being valid for longer than the Deeds Office (which unfortunately does happen as government departments are not always on the same page) you may have to re-apply for a new RCC if your first one expires before your transfer has been registered.

#### **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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