

Powers of Valuation Appeal Boards Under the Municipal Property Act

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Can Valuation Appeal Boards Rule on the Validity of Municipal Rates Policies?

INTRODUCTION

This article considers two recent judgements handed down by the Johannesburg division of the High Court that dealt with the scope and authority of the Valuation Appeal Board (**VAB**) and briefly explains the powers and scope of authority conferred to appeal boards.

EMPOWERING LEGISLATION:

The levying of property rates and the categorisation of different properties are governed by the Local Government: Municipal Property Rates Act 6 of 2004, as amended (**MPRA**).

The MPRA creates the framework within which municipalities set and collect rates, stipulates the general criteria for categorisation and property valuation, how properties are to be recorded on a valuation roll, and the manner in which ratepayers can dispute the entry of a property on a valuation roll.

The MPRA also requires municipalities to adopt a rates policy consistent with the Act and sets out what must be provided for therein. A rates policy must, among other things, “treat persons liable for rates equitably” and set “the criteria to be applied by the municipality” if it levies different rates for different categories of properties. Just as importantly, section 19 places a substantive check on how rates and categories may operate, providing that “A municipality may not levy ... (c) rates which unreasonably discriminate between categories of non-residential properties.”

VALUATION DISPUTE PROCESS:

Where a ratepayer is unsatisfied with the entry of their property on a valuation roll, the MPRA provides a two-tiered objection and appeal system. The municipality must then submit the objection to the municipal valuer, who then considers the merits of the objection and either amends the property’s entry on the valuation roll or rejects the objection raised, in which instance the

valuation roll entry remains unchanged.

Where a ratepayer is dissatisfied with the outcome of their objection, the MPRA provides that a ratepayer may lodge an appeal against that outcome, which is heard before a panel of appointed independent experts, known as a Valuation Appeal Board.

THE VAB’s FUNCTIONS:

The VAB functions are set out in section 57 of the MPRA. Its functions are simple: the VAB must hear and determine appeals against decisions of the municipal valuer concerning objections to matters in, or left out of, the valuation roll, and it must conduct the compulsory “section 52” reviews when a valuation shifts by more than 10%.

The question that arose in both *The City of Johannesburg Metropolitan Municipality and Another v The Valuation Appeal Board for the City of Johannesburg and Another* (20074/2022) [2025] ZAGPJHC 1087 (**MSO Judgement**) and *City of Johannesburg Metropolitan Municipality and Another v Valuation Appeal Board: City of Johannesburg Metropolitan Municipality and Others* (2023/122940) [2026] ZAGPJHC 378 (**Talisman Judgement**) was whether the VAB can, in delivering judgement on an appeal, review portions of a municipality’s tariff policy and declare it unlawful, or if it has the discretion to apply portions of a rates policy or not if in the VAB’s opinion such portions of the policy are inconsistent with the MPRA.

MSO JUDGEMENT

MSO turned on what the Board actually did. The City and its Valuer accused the Board of having “reviewed” the City’s Rates Policy and effectively declared parts unlawful. The High Court disagreed. It accepted the obvious proposition that a VAB cannot set aside a rates policy, but it found that the Board had not purported to do so. What the Board did do, and what it was entitled to do, was interpret section 8 of the MPRA and the City’s policy in the course of a *de novo* appeal to decide the correct categorisation for the properties.

On that footing, the court dismissed the City of Johannesburg's review application.

One feature of MSO is worth underscoring. The VAB rejected "*highest and best permitted use*" as a basis for categorisation as neither section 8 nor the City's policy creates such a free-standing category. That is orthodox statutory and policy interpretation in service of the appeal function, not a collateral attack on the rates policy itself.

TALISMAN JUDGEMENT:

Talisman presented a different picture. There, the VAB went further and recorded that it *would not* apply certain criteria in the City of Johannesburg's rates policy as the VAB found that they were "inconsistent" with section 8 of the MPRA. The High Court held that this crossed the jurisdictional line. A VAB is a creature of statute; it does not have a court's constitutional-review powers, and administrative instruments including municipal policies, remain binding until a court sets them aside.

On that basis, the court found a jurisdictional error, set the decision aside, and remitted the matter to a differently constituted Board.

LIMITATIONS ON THE VAB'S DISCRETIONARY AUTHORITY:

The legal boundary is clear in the text and confirmed by both judgements. A VAB may conduct a full *de novo* reconsideration of the municipal valuer's decision, and in doing so, it must interpret and apply the MPRA and the municipality's rates policy to decide the correct categorisation reflected in the valuation roll entry.

That is what the Court in the MSO Judgement endorsed when it upheld the VAB's rejection of a categorisation approach not grounded in section 8 of the MPRA or the policy.

What the VAB may not do is declare a policy invalid or decline to apply it because it deems it unlawful or unconstitutional. Only a court with review powers can pronounce on the legality of governmental policy, and until a court does, the policy stands and must be applied according to its proper meaning. That is the crux of Talisman.

Put differently, the VAB can choose between competing lawful interpretations; it cannot choose between lawfulness and unlawfulness. If a genuine policy-legality issue arises that cannot be resolved by faithful interpretation, that dispute belongs in High Court review proceedings, not before the VAB.

CONCLUSION:

The takeaway is practical. The VAB is a forum that can be used by ratepayers to dispute the correctness of any entry on a valuation roll. The VAB, as a creature of statute and only has the powers that are conferred to it by the empowering legislation (being the MPRA).

A VAB cannot pass judgement on the validity of a municipal rates policy. If a rates policy is said to be inconsistent with the MPRA, such a challenge must be brought in a court with review powers, such as the High Court in separate proceedings.

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