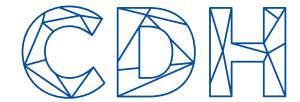


Real Estate Law

ALERT | 15 October 2024



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SOUTH AFRICA

Building a community: A step-by-step guide to township establishment in Johannesburg



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Building a community: A step-by-step guide to township establishment in Johannesburg

Township establishment involves the process of converting land, usually farmland, into a township by opening a township register. This township register maps out the land into streets and individual erven (smaller parcels of land) according to an approved general plan.

The Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) came into operation on 1 July 2015. SPLUMA aims to develop a new framework to govern planning permissions and approvals, set parameters for new developments, and provide broad principles for a set of provincial laws that will regulate planning. These regulatory laws are set out in the relevant by-laws passed by each municipality.

All applications for the establishment of a township submitted to a municipality after 1 July 2015 will accordingly be finalised in terms of the applicable by-laws of the relevant municipality, as read together with SPLUMA. All applications for the establishment of a township submitted to a municipality prior to 1 July 2015 must be finalised in terms of the relevant ordinances.

In terms of The City of Johannesburg Metropolitan Municipality: Municipal Planning By-Law, 2016 (By-Law), there are four phases to follow when wanting to establish a township. Each phase is briefly discussed below.

Evaluation phase

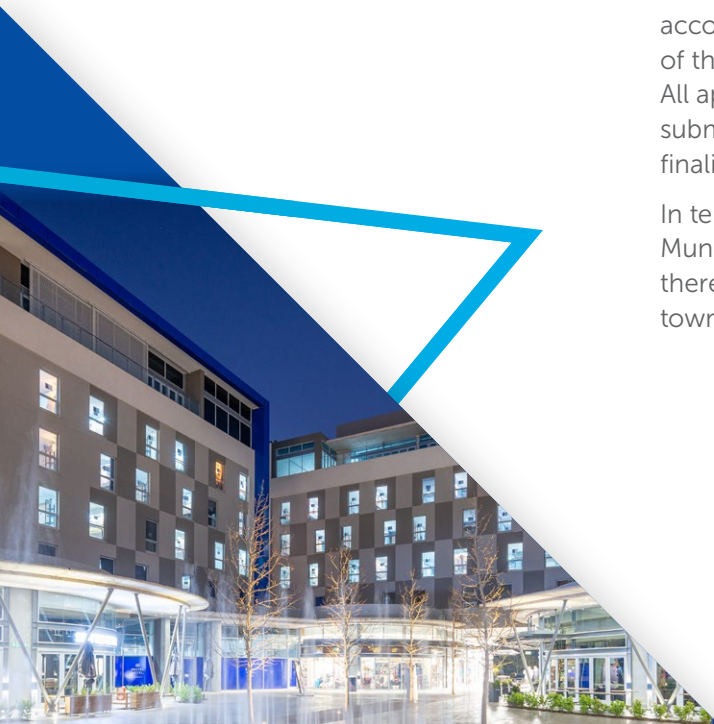
Section 26(1) of the By-Law states that an owner of land who wishes to establish a township on its land may submit an application in terms of the By-Law for consideration. A town planner is generally instructed to submit such an application on the owner's behalf.

The following documents need to be submitted to the Executive Director, Development Planning:

- covering letter;
- application information – Form A;
- a copy of the registered title deed for each erf/farm/ agricultural holding that is included in the application;
- if the land is mortgaged, full details of the bond holder and the bond holder's consent;
- a proposed layout plan of the proposed township prepared by a land surveyor;
- a geotechnical and radon report prepared by a professional geotechnical engineer, where required; and
- any other information deemed necessary.

The City of Johannesburg Municipality (City) will then submit a copy of the application to:

- any roads authority, whether local, provincial, or national, that may have an interest in the application;
- any neighbouring municipality that may have an interest in the application; and
- any other stakeholder, municipal department, provincial department, and/or national department that may have an interest in the application.



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The interested parties then have 60 days from the date of receipt of the application to submit any objections or comments on the application.

If the application is unopposed, a decision on the application will be taken by the authorised official within 90 days from the date on which the complete application was submitted.

Approval phase

Once the township application has been approved, the City must issue conditions that will be applicable to the establishment of the township; these conditions are then referred to as Conditions of Establishment.

A conveyancer will be required to prepare a certificate in respect of the land on which the township is to be established, which will assist the City in framing the Conditions of Establishment.

As township establishment takes place primarily on farmland, the provisions of the Subdivision of Agricultural Land Act 70 of 1970 (SALA) must be complied with, and it will therefore be necessary to obtain consent from the Department of Agriculture, Forestry and Fisheries to establish the township on the land in question. This is normally referred to as the "70 of 70 Consent" or the "SALA Consent".

If the land in the title deed is described as an agricultural holding, the town planner, with the application to establish the township, will simultaneously apply to the City for excision in terms of which the land will be excised from the Agricultural Holding Register and will revert back to a farm portion.

Registration phase

If the township is established on a portion of the farmland, a small-scale diagram will be issued for the farm portion. It will then be necessary to prepare an application for the issuing of a Certificate of Registered Title in terms of section 43 of the Deeds Registries Act 37 of 1947 and a Certificate of Registered Title.

If the township is to be established on two or more farm portions, the portions will have to be consolidated to create the land parcel on which the township is to be established. It will then be necessary to prepare an application for the issuing of a Certificate of Consolidated Title in terms of section 40 of the Deeds Registries Act 37 of 1947 (Deeds Registries Act) and a Certificate of Consolidated Title.

If a mortgage bond is registered over the farmland, then it will be necessary to obtain the bondholder's consent for the opening of the township register on the farmland and all matters ancillary thereto.

An application for the opening of a township register and registration of a general plan in terms of section 46 of the Deeds Registries Act must also be prepared.



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Post registration phase

In terms of section 28(14) of the By-Law, the Registrar of Deeds must notify the City of registration of the opening of the township register, without delay.

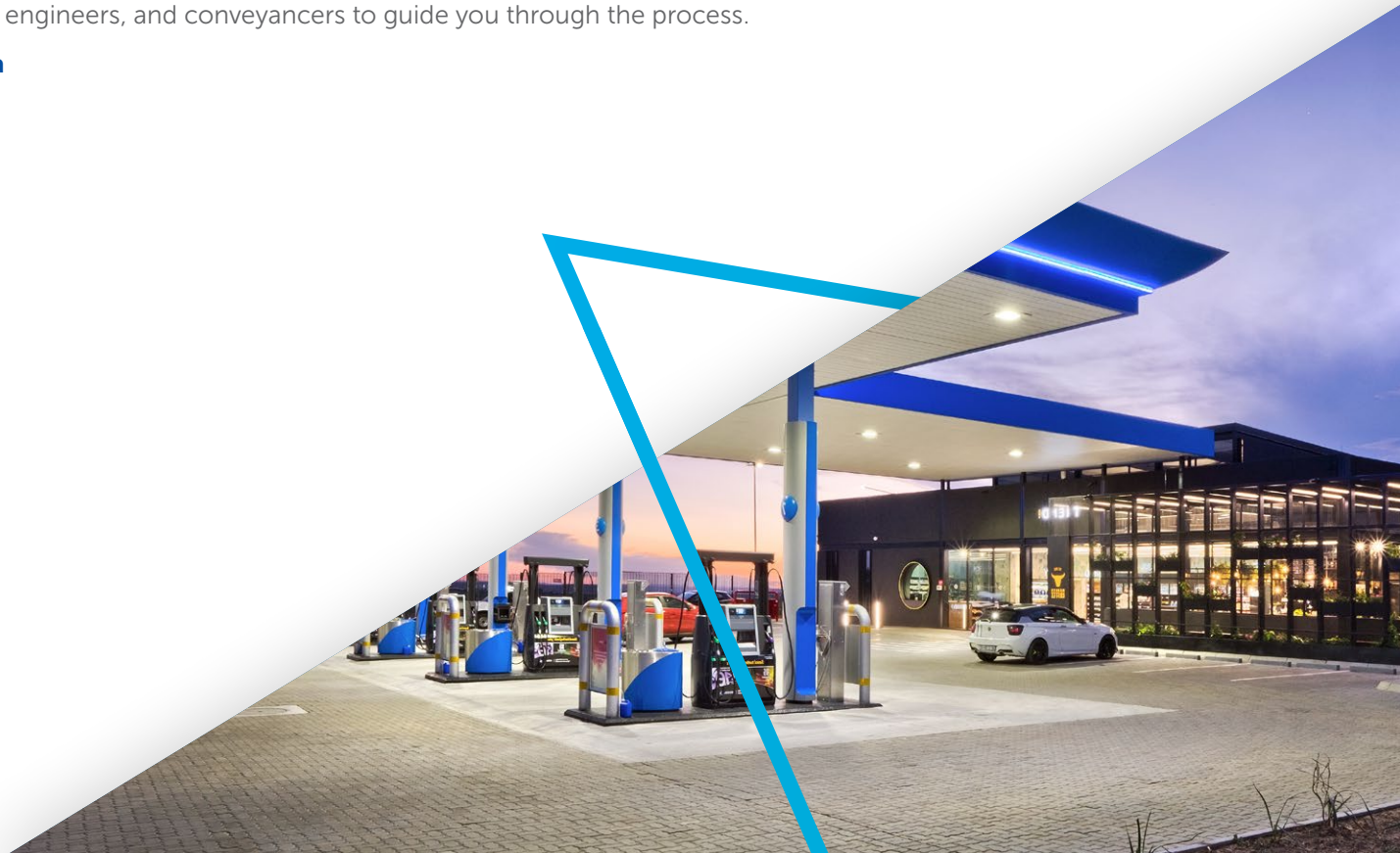
Upon notification by the Registrar of Deeds, the City shall, by giving notice in the Provincial Gazette, declare the township an approved township and it shall, in a schedule to the notice, set out the conditions on which the township is declared an approved township.

With effect from the date of this notice, the ownership in any public road in a township established in terms of the By-Law will vest in the City.

Conclusion

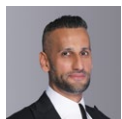
Establishing a township in South Africa is a complex and time-consuming task; if you are thinking of doing it, it would be advisable to engage the services of reputable town planners, geotechnical engineers, and conveyancers to guide you through the process.

Lutfiyya Kara

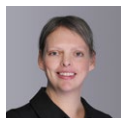


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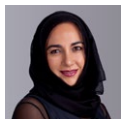
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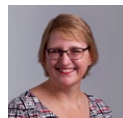
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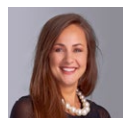
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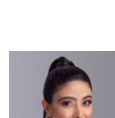
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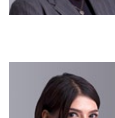
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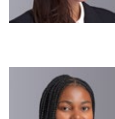
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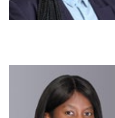
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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