

**USEFUL  
INFORMATION  
FOR SELLERS AND  
PURCHASERS**

**STBB** The  
Big Small  
Firm

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# THE FIRM

Established in 1900, STBB is a firm of more than 100 business-minded lawyers practising from 13 offices throughout South Africa.

By understanding our clients' needs and objectives, we strive to deliver cost-effective legal solutions for all business and personal matters. We are committed to developing close working relationships with our clients, enabling us to succeed consistently on their behalf.



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about **STBB**

# CONVEYANCERS VS ATTORNEYS

## WHAT YOUR ATTORNEY DOESN'T KNOW CAN HURT YOU!

A conveyancer is an attorney who specialises in all matters related to property law and who has:

- Qualified as an attorney after passing the necessary exams;
- Passed further conveyancing exams set by the Law Society; and
- Been admitted as a conveyancer by the High Court of South Africa.

Not all attorneys are qualified as conveyancers and only qualified conveyancers may register property transactions in the Deeds Office.

Acquiring property is an important and expensive investment. Transferring not only title to the property but also security of title, is crucial. Conveyancers must ensure that:

- The transaction documents are 100% correct;
- The seller owns the property and is capable of selling it;
- The seller and purchaser have the contractual capacity to sell and purchase the property; and
- The transaction complies with all relevant laws.



## **APPOINTING A CONVEYANCER: WHY IT IS THE SELLER'S RIGHT**

The seller of a property has the right to nominate the conveyancing attorney who will attend to the registration of the transaction in the Deeds Office. Sellers, however, often take little interest in who is appointed as conveyancer because the purchaser pays the conveyancer's fee.

However, even though the purchaser finances the transaction costs, the election to nominate the conveyancer rests with the seller to ensure that the process is driven by the party who has the least interest in delaying transfer. A late transfer costs a seller money in lost interest and opportunity costs and, if transfer of the property sold was intended to occur simultaneously with property that the seller has purchased, delays can also cause much anxiety and embarrassment.


Clearly, it is not only advantageous but crucial that the seller exercises discretion when appointing a conveyancer. Ask yourself:

Is the conveyancer known and from an established firm? Does the conveyancer have adequate experience? Is the conveyancer prepared to assist with the sale transaction prior to the conclusion thereof? Does the firm have a sound track record?

Make sure that you appoint a professional conveyancer to take care of your biggest investment. Speak to STBB today.

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# A QUICK GUIDE TO THE BOND REGISTRATION PROCEDURE

## **STEP 1: RECEIPT OF INSTRUCTIONS FROM BANK**

- Receipt of instructions from the bank to register the bond. Usually, the instructions are received electronically.
- Contact the purchaser to confirm receipt of the instructions and request the requisite documentation.

## **STEP 2: PREPARATION OF DOCUMENTS**

- If a transfer is involved, request a flysheet from the transfer attorney, issue guarantee requirements, and obtain relevant FICA documents from the purchaser.
- Obtain a Deeds Office printout for the property and the purchaser to check for any interdicts, insolvencies, or other caveats that may be registered against the purchaser or the property.
- If a further advance is involved, obtain the title deed from the bank and prepare the bond documents.




### **STEP 3: SIGNATURE OF DOCUMENTS**

- On receipt of the flysheet and other documents, prepare the bond documents for signature.
- Contact the purchaser and arrange for signature of the documents and payment of costs.

### **STEP 4: GUARANTEES AND FICA**

- Advise the transfer attorneys that the bond documents have been signed. Send guarantee, if requested, or advise of the amount available under the bond. Advise of position to lodge upon request or let the transfer attorneys know what is causing the delay.
- Comply with any of the bank's pre-lodgement requirements and confirm FICA compliance.

### **STEP 5: LODGEMENT OF BOND DOCUMENTS**

- If a further bond is involved, proceed with lodgement.
  - If a transfer is involved, lodge on request of the transfer attorney.
  - The deeds generally take seven to ten business days to be examined in the Deeds Office, whereafter they come up for registration. The conveyancer then has five days to register the bond.
  - If a further bond is involved, the bond is handed in for registration and registered on the following day. If a transfer is involved, the transfer and bond attorneys arrange the date of registration, within the five-day period.
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## **STEP 6: REGISTRATION**

- On the day of registration, the bond attorney arranges for the payment of the bond proceeds and registers the bond with the other linked transactions.
- If there is a guarantee, the transfer attorney will present it for payment after registration has taken place. The bank and purchaser are advised of registration.
- In the case of a further bond, the bond proceeds are paid to the client in terms of payment instructions.

## **STEP 7: DELIVERY OF BOND DOCUMENTS**

- Once the bond has been numbered and microfilmed, it is delivered to the bond attorney from the Deeds Office. This can take up to three months.
- The bond attorney then obtains the title deed from the transfer attorney, if applicable, and delivers the title deed, bond, and other security documents to the bank. If no transfer is involved, only the bond documents are delivered to the bank.

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# A QUICK GUIDE TO THE CONVEYANCING PROCEDURE

## **STEP 1: RECEIPT OF DEED OF SALE**


- Acknowledgement of receipt. Deeds Office search and copy of title deed requested.
- Apply to the municipality for rates clearance figures and valuation certificates.
- Apply for levy clearance figures from the body corporate or consent from the homeowners' association, if applicable.

## **STEP 2: FULFILMENT OF SUSPENSIVE CONDITIONS**

- Follow up on the fulfilment of suspensive conditions, e.g. bond approval or sale of the purchaser's property.
- If the property is bonded, make sure that the seller's bank is advised of the transaction and has issued cancellation instructions.
- Collect the necessary FICA documentation from the seller and purchaser and draft transfer documents.

## **STEP 3: SIGNATURE OF DOCUMENTS AND PAYMENT OF COSTS**

The seller and purchaser sign the transfer documents. The purchaser signs bond documents, if registering a bond.

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- The purchaser pays transfer (and bond) costs. The seller pays the rates, including advance rates, for the rates clearance certificate.
  - Apply for transfer duty receipt, rates clearance certificate, and levy certificate, if applicable.

#### **STEP 4: COMPLIANCE CERTIFICATES**

- The seller is required to provide an electrical, beetle, gas, and electric fence certificate, if applicable. If the property falls within the jurisdiction of the City of Cape Town, a plumbing certificate is required.

#### **STEP 5: GUARANTEES AND FICA**

- Ensure satisfactory guarantees in place for purchase price.
- Check FICA compliance.

#### **STEP 6: LODGEMENT OF DEEDS AT DEEDS OFFICE**

- Upon receipt of the transfer duty receipt, rates and/or levy clearance certificate(s), as applicable, and original title deed, arrange with the linked bond cancellation and bond attorneys for simultaneous lodgement.
- Deeds are lodged at the Deeds Office and allocated a barcode for tracking purposes. Deeds are examined.
- The examination process takes seven to ten business days, depending on the Deeds Office.
- On about the seventh or tenth working day, the deeds appear in the prep room and are 'up for registration'. The conveyancer has five working days to finalise any outstanding items and hand the deeds in for registration the next day.



## **STEP 7: REGISTRATION**

- Once handed in, the deeds appear in the execution room.
- The conveyancer registers the deeds at 10h00.
- Ownership passes from the seller to the purchaser. The purchaser's new bond (if applicable) is registered. The seller's existing bond (if applicable) is cancelled.
- Final accounts are drawn for the seller and purchaser. The seller is paid out the net proceeds and the agent's commission is paid on registration.

## **STEP 8: DELIVERY OF DEEDS**

- Once registered, the deeds are numbered and microfilmed. It can take up to three months for the Deeds Office to deliver the original title deed and mortgage bond back to the conveyancers. Upon receipt, the conveyancer will remit the original title deed to the purchaser (if the property is not bonded) or the relevant bank (if the property is bonded).

# SOLE OR OPEN MANDATE

## OPEN MANDATE

When a seller chooses to appoint various estate agencies to market their property, it is called an open mandate. It may or may not be in writing and various agents are given a non-exclusive right to market a property. Usually, there is no defined time limit.


## SOLE MANDATE

A sole mandate must, by law, be in writing. It is an agreement whereby a single agent is granted the sole/exclusive right to market a property. The agent has a limited time period, usually 3 months, to find a purchaser.

## WHICH IS PREFERABLE?

There is undoubtedly added value to marketing your home through one agency. They take full responsibility for marketing the property and thus use their resources to the fullest extent within the set time frame.

On the other hand, a seller may feel that using several agents might secure a better deal.



# KNOW YOUR RIGHTS AS A PROPERTY OWNER

## **IS AN OFFER TO PURCHASE LEGALLY BINDING?**

Yes, an offer to purchase is a document in which a purchaser makes an offer to purchase a property, and, is therefore binding on the purchaser as offeror. Often, there is a clause in an offer stating that it is open for acceptance by a certain date only. Once the offer is timeously accepted by the seller, the offer becomes an agreement and both the seller and purchaser are then bound to the terms thereof.

## **WHAT DOES IT MEAN TO SELL A PROPERTY VOETSTOOTS?**

If a property is sold voetstoots, it means the property is sold 'as it stands'. The seller cannot be held liable for any defects in the property once it is sold, unless they fraudulently hid the existence of the defect from the purchaser. The position is more complex if the Consumer Protection Act applies to the sale.



## YOU AND STBB

STBB is one of South Africa's largest and most experienced property law firms, and we pride ourselves on providing our clients with personal and dedicated service. We are committed to delivering on the following promises:

- We undertake to ensure your transfer is completed on time. While delays can sometimes be caused by other parties beyond our control, we pledge to make every effort to overcome obstacles and expedite the process. We understand that any delay in the transfer date can have adverse financial consequences for you.





- We undertake to be available for any questions or queries, even outside regular office hours. We recognise that questions can arise at any time, so we make ourselves accessible throughout the day.
- We undertake to provide you with free consultations until the transfer is successfully registered.

Why make selling your property or registering your bond any more complicated than it needs to be?  
Put your mind at ease – appoint the best!

STBB DIRECT

Welcome to  
your **one-stop**  
**property platform**



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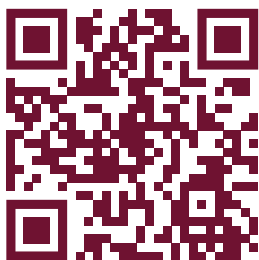
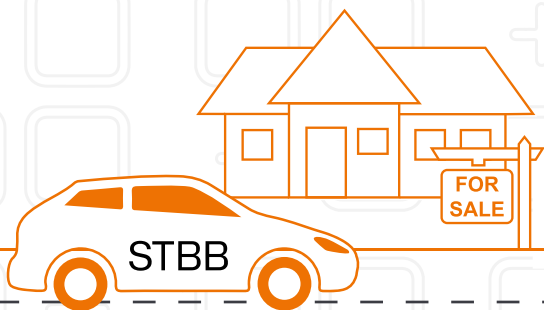
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THE QR CODE**

For more information  
about **STBB DIRECT**

STAY: ✓ ON TRACK ✓ SECURE ✓ INFORMED

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**Big** enough to take  
on any challenge.

**Small** enough to  
make it personal.



# AREAS OF EXPERTISE

- All Conveyancing
- Commercial Law
- Commercial Property Law
- Constitutional Law
- Construction Law
- Correspondent Services
- Divorce, Child and Family Law
- Insolvency Law
- Insurance Law
- Labour Law
- Litigation and Dispute Resolution
- Mergers and Acquisitions
- Motor Vehicle Accident and Personal Injury Claims
- Municipal Planning Law
- Non-Resident Services
- Property Development and Environmental Law
- Residential Property Law
- Tax Law
- Wills, Trusts and Deceased Estates

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