

Cape Town drought may delay property transfers

A prolonged interruption of Cape Town's water supply may significantly impact the property sale process.

This is according to Craig Guthrie, Specialist Conveyancing Attorney at Guthrie Colananni who says that a disruption in supply property will see transfers be delayed due to the City's by-law requirements.

And to exacerbate matters, disputes are likely to arise between buyers and sellers regarding the condition of the property, damage to water infrastructure and possibly misrepresentations made at the date of sale.

"According to the City of Cape Town Water By-law 2010, criminal liability will be imposed on any person who transfers property without first supplying a Plumbing Certificate to the City. It further stipulates that a certificate cannot be issued unless an accredited plumber has tested the water system to ensure that the installation complies, the meter works correctly, and that there is no cross connection between potable supply and any alternative supply.

"However, the water installation cannot be checked without municipal supply so anyone considering selling their home in the near future should get a Plumbing Certificate without delay before water supply is interrupted.

"We doubt that the City will easily be in a position to exempt sellers from this requirement as there is no discretion given to the City in the Water By-law to waive compliance with section 14. Even the proposed new amendments to the Water By-law that are receiving so much attention have not catered for exemptions."

Unfortunately, the potential pitfalls that could delay or even scupper a sale don't end with compliance certificates.

"When concluding sales during this time of supply uncertainty, both parties and the estate agents should carefully consider the implications," says Guthrie. "For example, whether the seller will be obliged to deliver the property on transfer a few months later in the same condition it was at the date of signing the agreement of sale. By this time, the garden and pool could be in poor condition and may even be permanently damaged, the bathrooms are no longer able to fulfil their function and the geysers may have burnt out. "

"In most sale agreements this risk stays with the seller until transfer and it may be very costly for the seller if the purchaser insists that the seller fill the pool, re-establish the garden or even render the bathrooms operational to bring the property back to the condition it was at the date of sale."

Lew Geffen, Chairman of Lew Geffen, Sotheby's International Realty, says: "Now more than ever, it's essential to appoint experienced agents and professionals and to pay careful attention when signing a conventional agreement of sale which often allows" the purchaser to escape the agreement or sue for a reduction of the purchase price if the condition of the property deteriorates between the date of sale and transfer.

"Deal with these issues now to avoid dispute later and before the agreement is signed, both the seller and the estate agent should disclose the possibility of an interruption in water supply to potential buyers, especially those buyers who are not local and are viewing the property

online. Failure to disclose this information could be a misrepresentation and result in the sale collapsing."

Water-saving features are now becoming common installations in new homes and a new development 'The Courtyard' in Tokai, is the first residential estate in the city to be completely off the water grid with its own well point water supply.

"We have also seen water saving features shoot to the top of the buyer wish list, with new homes increasingly being fitted with water saving measures, from aerated sanitary ware nozzles and spouts to rain water catch pits," says Brendan O'Brien of the developers Urban Space Property Group.

"When building new developments with multiple homes, where viable, a communal borehole can work well with water pumped to each property and from a construction perspective, many development companies like Urban Space have moved to using treated effluent."

"Most purchasers now ask direct questions relating to water, and what provisions (if any) have been made regarding the availability of water. Boreholes, well points and water tanks are now very strong selling points," adds Nina Smith of Lew Geffen Sotheby's International Realty.

Sotheby's International Realty Press Release