



# NEWSLETTER

### This Issue's Word:

**kustingsbrief** *n.* A term used to describe a special mortgage bond registered over immovable property in the case where the seller of the immovable property gives a loan for the unpaid balance of the purchase price to the purchaser and secures this loan by means of a bond over the property.

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## ITA TURNS 5! CHECK OUT OUR STATS!

It is hard to believe that it has already been five years since ITA first opened its doors in July 2004!

ITA was the brain child of Andy McPherson and Philip Steyn, directors of STBB| Smith Tabata Buchanan Boyes ('STBB'). In March 2004 Philip and Andy engaged the services of Lizelle Kilbourn, a former practising conveyancer with a special interest and experience in practical conveyancing training. Lizelle then became CEO of ITA.

ITA currently has three permanent employees:- Lizelle Kilbourn (Director), Maryna Botha (Manager), and Nailah Johnstone-Harris (Student Liaison Officer). Maryna joined ITA in November 2005. Nailah joined ITA in June 2007.

### Some Interesting Stats

Here are some interesting ITA facts we are pleased to report on in celebration of our 5<sup>th</sup> birthday:-

- We've had 34 student groups since inception;
- Approximately 536 students have attended our classes;
- ITA's first class was a group of 12 students who graduated on 16 November 2004.
- STBB's kind offering of bursaries amounting to close to R1million has set many students on a path to gainful employment.

ITA is extremely grateful to the more than 20 part-time lecturers who have contributed their time on a charitable basis to assist with lecturing and student support.

Unfortunately we don't have the space to list everyone's names, but here is a list of lecturers who made regular appearances at ITA up to this point: Maryna Botha, Lizelle Kilbourn, Lorenzo Bruttomesso, Morne Binedell, Angie Fullard, June Theron,

Leslene Petersen, Ayaz Camroodien, Sheleigh Kaindl, and Ninette Potgieter. Last, but certainly not least, all the 'regular' BCA lecturers namely: Willie Pretorius, Clinton George, Tasneem Kanjee, Chantal Manuel, Fazlin Allie, Ray Brink, Roger Block, Waheed Parker, Zaitoon Gaffoor, and Liaquat Dalvie.

Since inception, ITA has made a tremendous contribution towards the upliftment of students aspiring to work in the field of conveyancing. Despite the negative effects of the recent recession, we intend to continue doing so, with certain structural changes in place. Look out for our next issue for the details!

Until then, we hope you will enjoy this issue and wish all our students (former and current) much success in your conveyancing journeys!

# CONGRATS TO OUR GRADS!! A Listing of our Recent Graduating Classes

## Conveyancing

### LEVEL 1 & LEVEL 2

CLASS: 2009/02/18, Wednesday

Evening Part-time

GRADUATION DATE: 2009/10/12

- Zaldi Snyman
- Sharon Havir
- Jo-Ann Witbooi
- Richard Randall
- Alvira Fortuin
- Lucinda Rishworth
- Michelle Smuts
- Nashieta Lakay
- Octavia Messeur
- Zanele Nkuhlu
- Leilanie Slammat

*(cont' in next column...)*

- Sarah Geyer
- Michelle Abrahams
- Louise Johnson
- Abdulmalik Geyer
- Siyabonga Nkonqa
- Sheila Matroos
- Solethu Nobala

## Conveyancing

### LEVEL 1 & LEVEL 2

CLASS: 2009/02/05, Thursday Afternoon

Part-time [BCA]

GRADUATION DATE: 2009/10/12

- Elsabe Jacobus
- Mary Murray
- Angelique Ventura
- Caron Laubscher
- Tasneem Manuel

*(cont' in next column...)*

- Wajeah Hendricks
- Liesl Roberts
- Ruwena Hallett
- Abdudayaan Jassiem
- Heather Dreyer
- Yusrah Ebrahim
- Faesa Jassiem
- Ruth Vermaak
- Lauren Saal
- Nicholas Sederick Nero
- Aaishah Daniels
- Amiena Jaffar
- Adib Salie

## Estate Transfers

LEVEL 3 - CLASS: 2009/02/12

- Danica Coert
- Eulene Smith

# UNCOMMON PROPERTY – DUAL CITIZENSHIP – HOW TO DESCRIBE THE PARTY?

What are you to do if your client in a property transaction is a citizen of South Africa AND of another country?

If your client has been issued with a valid South African barcoded Identity document, then the ID number (instead of Date of Birth) should be reflected on all of your conveyancing documents. If the person has not yet been issued with a valid South African barcoded ID, you should obtain an

affidavit signed by the party confirming this fact and confirming that an application for an ID is in process. In the interim, you may lodge and register your transaction reflecting the date of birth (instead of the ID number). In the event that property was registered into the name of a party reflecting his/her non-SA citizenship (i.e. before that person acquired SA citizenship) then, upon transfer of that property he/she should advise the Conveyancing attorneys

attending to the subsequent transfer that he/she is now in possession of a South African ID. Such ID number will then be reflected in any new conveyancing documents.

Where the client's date of birth is reflected, the deeds office will ask the conveyancer to certify (in terms of Section 18 of the Deeds Registries Act) that the person has no valid South African ID.

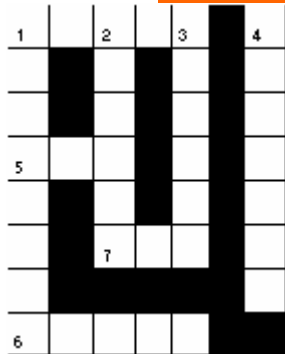
## Iq Crossword

Complete this crossword and fax (with your contact details) to 021-4197845 for attention "Nailah".

The first three correct entries received will receive a **cash prize of R50.00 each!!**

### ACROSS

- Also referred to as beetle
- deadline date = \_\_\_\_\_ date
- business sold in a zero-rated transaction = a \_\_\_\_\_ concern
- issued by SARS, but not a transfer duty receipt (abbr)



### DOWN

- a short term loan that often helps with payment of transfer duty = \_\_\_\_\_ finance.
- Opposite of register
- Take back (an undertaking)
- big diagram of a township or development = \_\_\_\_\_ plan.

## Congratulations to the winners of V2 Issue 2's puzzle!

### V2 ISSUE 2 WINNERS:-

Rebecca Palmer (L3 - Class of 02-09); Christelle Adonis (L3 - Class of 02-09) & Crystal Van Der Westhuizen

### V2 ISSUE 2 ANSWERS:-

ACROSS: 1. HOA. 2. CCT 3. DRA. 4. special. DOWN: 1. hectares. 2. codes. 5. alienate. 6. track.

Thanks to all for the tremendous response and good luck with this Issue's puzzle!



NEWSLETTER



## I "ITA'd" it!! – [About our Graduates]

We recently chatted to freshly graduated ITA student Sharon Havir. Having passed her final exam on 15 August 2009, the ITA days are still clear in her mind.

Sharon is part of a great team working at ABSA Bank Commercial Property Finance. She is one of four ladies at her office who have now taken ITA's Conveyancing for Paralegal Level 1 and Level 2 courses.

ITA: *We understand that you are a credit validation officer at ABSA Bank Commercial Property Finance. How does your job fit into the conveyancing picture?* SH: "I liaise with conveyancing attorneys regarding bonds coming through on a daily basis. We deal with checking of securities, preparing and overseeing the lodgement and registration process, etc. After two work colleagues attended the course two years ago, my department started investigating the courses and then decided to also sign me up for the Conveyancing for Paralegal course. I decided to do the course mainly because of the job I am doing. Because I regularly deal with conveyancing attorneys, it is good to understand what they

do from their perspective. It is nice to be able to see how things work from both sides. Things can get really involved and I can see that more clearly now."

ITA: *How long have you been working at ABSA?* SH: "A total of 19 years (broken service). I went overseas for nine months, but since then I have been at ABSA for 13 uninterrupted years!"

ITA: *What do you enjoy most and least about your job?*

SH: "I enjoy dealing with the attorneys and also enjoy the risk management. It is our job to mitigate risk. Although I like the administration side of things, the paperwork can be a nightmare in terms of the amount of documents you require and need to remember."

ITA: *What can you tell us about your ITA experience?*

SH: "The course was challenging, but I found that it was wonderful being able to do the course with work colleagues. Going back to studying and driving to and from town every Wednesday evening was the toughest part and I am glad that it is over. However, I will never look back and am very excited now that I am graduating

soon! It was great to have lecturers/tutors who knew what they were talking about and it was fun debating things in class. Everyone (at ITA) was so approachable and I could always contact Nailah or Maryna if I had a problem."

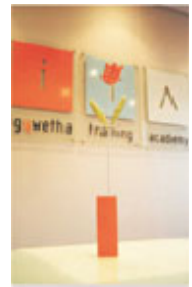
ITA: *Is there any possibility that you would consider a career in conveyancing?* SH: "Well, I have been toying with the idea of going into conveyancing, however, because of the current situation with the economy/markets, I won't be doing so now. I like everything about conveyancing and it is also something great to add to my CV."

ITA: *What are your plans after graduation?* SH: "I am getting married at the end of this year and I haven't even started preparations yet! So now that I have the ITA course behind me, I can place more focus on my wedding."

ITA: *In that case, double "congrats" are in order!! Good luck with all of the wedding preparations and congrats on your graduation!!* ☺ SH: "Thank you!"

### Estate Agent Training Update:

Following our last update in which we advised that "a study guide for persons wishing to qualify as a principal estate agent (NQF Level 5) will hopefully be published soon", we regret to report that there has as yet not been any further developments in this regard. There has however been developments regarding the co-operation between SSETA and the EAAB on how to proceed with issues surrounding estate agent accreditation. One of the decisions made was that the recently issued NQF Level 4 (for non-principal estate agent qualification) study guide be reviewed by SSETA for quality assurance purposes. Find out more about the new developments [here](#) and [here](#). We will continue to provide you with updates as they become available.



NEWSLETTER

# LEGALEYES – DOES VAT OR TRANSFER DUTY APPLY?

I am sure I am not the only one to say that the answer to this question is not always straight forward!

Most standard offers to purchase/agreement of sale templates are worded in a way which will accommodate both options. This can be cause for confusion. For example, an offer's standard wording may indicate that the purchase price includes VAT, whilst in the same offer, a costs clause may state that the purchaser is liable to pay transfer duty.

In this article, we will use some examples to assist you in determining which of these taxes apply in a matter.

First, here are some general considerations to keep in mind:-

1. Whether or not VAT will apply depends solely on whether the seller is a VAT vendor for the purpose of the transaction in question.

However, you must in addition also determine whether the sale of the property in question is "in the course and furtherance of the business" of the (seller) vendor.

2. It is not possible for BOTH VAT and transfer duty to be payable in a property transaction. It has to be one or the other; OR, the transaction must be exempt from one or the other (or

both).

## **"Mr Smith" Scenarios**

Mr Smith owns two businesses: He is a property developer and also runs a hotel business. He is a VAT vendor for the purposes of both his business activities.

Imagine the following scenarios:

1. Mr Smith decides to sell his hotel operating as "Smiths Hotel (Pty) Ltd" which he has been (and still is) operating as a business.

2. He also decides to sell his private holiday home on the coast.

3. Then he proceeds to sell a residential property (owned by his property development business) which he has been letting to tenants (*in the course and furtherance* of his business).

4. A few years after conclusion of the above 3 matters, Mr Smith dies and leaves his primary residence to his daughter.

## **Smith Scenario 1 – Sale of Hotel**

VAT will be payable (regardless of the vendor status of the *purchaser*). The *seller* is liable for payment of the VAT UNLESS the agreement states otherwise. If the agreement states that the purchase price is Rx PLUS VAT, this means that the VAT needs to be secured (from the purchaser) over and above the purchase price. If this is

not indicated, the purchase price is deemed to include VAT. Either way, it is ultimately the Seller's responsibility to pay the VAT over to SARS.

If the purchaser is also a VAT vendor and is buying the hotel business as a 'going concern', then it is possible that the transaction would qualify to be "zero-rated" [ie no VAT is payable to SARS], but only if this fact is clearly stated in the agreement. (*It is advisable to get confirmation from your conveyancer that the transaction qualifies.*)

## **Smith Scenario 2 – Sale of Holiday Home**

The holiday home was not used "*in the course and furtherance*" of Mr Smith's businesses and therefore VAT is not payable. Transfer duty (payable by the purchaser unless stated otherwise in the agreement) will be payable regardless of the vendor status of the seller (and purchaser). The RATE at which transfer duty is levied depends on the purchase price, the date of sale and the type of purchaser (individual or entity). If the purchase price was below R500000, the transaction is EXEMPT from transfer duty.

## **Smith Scenario 3 – Sale of Residential Property Let Out in the course & furtherance of a business.**

In our law, rental for residential purposes is VAT exempt and so is the sale of (residential) rental property (under most circumstances). This means that transfer duty will be payable (by the *purchaser*, unless otherwise stated in the agreement). Note that this is the only case where the seller (who is a VAT vendor) can sell property belonging to his business without attracting VAT liability.

## **Smith Scenario 3 – Deceased Estate Transfer**

In this transaction Mr Smith's home was left to his daughter (in his will). Mr Smith's home was not part of Mr Smith's business activities and therefore VAT is not triggered. Furthermore, because an heir is acquiring the property from a deceased estate, the transaction is exempt from transfer duty.

The best advice anyone could give a colleague is, as usual, to READ the agreement carefully. If you find that any clauses in the agreement contradict each other, consult your conveyancer. Also avoid surprises regarding the seller's VAT status by enquiring in your initial letter to him whether he is a VAT vendor and, if so, if the sale of the property is in the course and furtherance of his business.



NEWSLETTER



## PERSEVERENCE PAY-OFF – SOLETHU’S STORY

We can all learn a lesson from the story of twenty-two year old Solethu Nobala. One day while Solethu was walking the streets of the city of Cape Town in search of work, he enquired by a lady at the Southern Life Centre on Riebeeck Street. When she found out that Solethu was in search of work, she suggested for him to enquire at Igqwetha Training Academy to see if they could help in some way. Solethu took the lift up to the 3<sup>rd</sup> floor and spoke to Nailah at ITA’s reception desk. Nailah explained that although ITA is not able to assist Solethu with a job, ITA could help better prepare Solethu for a job in a conveyancing related field.

Solethu grew up in the Eastern Cape and only recently moved to Cape Town with the aim to further his education after he finished high school. It was Solethu’s dream to study law. This, however, was not to be because he could not afford to pay Unisa’s registration fees.

Before signing up for ITA’s conveyancing course, Solethu was working at Claremont SAPS as a police reservist with the aim to become a police officer. Once again, he was unable to complete this training because he didn’t have the money or means to learn for and acquire a driver’s licence (which was one of the requirements to become a SAPS police officer). As a result of Solethu’s tireless efforts to find a job, he finally managed to get a part-time job doing stock take for a big grocery chain in the Cape

Town city centre.

After Nailah had given Solethu information regarding the conveyancing course, he decided that he would very much like to take up the challenge of studying Conveyancing for Paralegals. Solethu therefore signed up for the ITA Conveyancing for Paralegals Level 1 and Level 2 courses and was fortunate enough to receive a bursary from **STBB | Smith Tabata Buchanan Boyes** to assist him with paying for the course.

Since Solethu’s first day in class, the ITA staff immediately noticed that Solethu was a keen learner. With no conveyancing, law or any other property related background, Solethu was facing a big challenge. In addition, his computer knowledge was very limited. Regardless of the obstacles that lay ahead, Solethu persevered. By spending extra time practicing and learning on the computer at ITA in his spare time and putting all his efforts into his studies, Solethu made great progress in class. SN: “The most difficult part for me was the theory, but as the course progressed to the practical side, I could see that not everything is so difficult. I have really enjoyed the class. I have had some difficulty, but ITA has really helped me with a lot of guidance and assistance.”

Solethu told us that from what he has learned at ITA, he thinks he enjoys transfers the most, but he says bonds are also nice and not as complicated! He hopes that once he has graduated from the ITA Conveyancing for Paralegals course that he will be able to get a job at a law firm doing

conveyancing and/or he will hopefully be able to apply at UNISA to study law.

SN: “The thing that stood out most about ITA is how they give so much guidance and support throughout the course. This was really helpful.”

Solethu passed his final exam with excellent results on 15 August 2009. He will attend his graduation ceremony on 12 October 2009 and is looking forward to furthering his career in conveyancing in the near future.

We hope that Solethu’s story will encourage other students who are trying to further their careers and to remember that perseverance is the key to success. No matter how hard things seem today, by believing in yourself, having a positive attitude and enquiring mind and never giving up, you can be assured that you will go places and accomplish a lot!

### DID YOU KNOW?

On 31 July 2009, the Assistant Registrar of Deeds at the Cape Town Deeds Registry circulated a communication regarding the **external preparation of deeds (Communication 18/2009)**. This communication mainly focuses on **how lodgement covers should be dealt with** (in terms of size, colour, linking schedules, placement of barcodes, stapling of documents and confirmation of information to be included on lodgement covers). Find out more [here](#).

## Concerned about the effects of your actions on our natural environment?

Ninette, who is our reporter and co-editor of this newsletter and whom many of you know from lectures in the practical part of our courses, recently started a non-profit organisation called Free Life on Earth [FLOE]. FLOE focuses on promoting the use of renewable energy and educating

people how to start living more "eco-consciously". We, at ITA, fully support Ninette's efforts and encourage you to do the same! As a member of FLOE, you commit to start taking steps in reducing your negative impact on

our natural environment.

[Free Life on Earth by joining FLOE today!](#)

To find out more, visit <http://www.freelifeonearth.org>.

## What do you think?

An opportunity to place your vote!

THERE NEEDS TO BE MORE CLARITY ON WHAT THE RESPONSIBILITY OF A CONVEYANCER IS COMPARED TO THAT OF THE CONVEYANCING PARALEGAL WHO WORKS UNDER THE CONVEYANCER.

[YES, I think there are times when conveyancers pass specialised work on to the paralegal, when the conveyancer should actually be handling it.](#)

[NO, the paralegal should be able to handle mostly everything, except for prepping.](#)

We at ITA value your opinion. Feel free to [express yourself freely by sending us an email](#). Your interesting comments / feedback could be published in one of our future newsletters!

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igqwetha training academy

At ITA we are passionate about practical legal training, particularly in the field of conveyancing, which is our speciality.

Our aim is not in the first place to make money (although we need to do that too in order to remain in business). We want to make a difference in people's lives, by teaching knowledge and skills about law that has value in the market place and which will help them to find jobs that they enjoy.

A career in conveyancing (or in other legal fields) is demanding but also stimulating, and there are many opportunities for growth and advancement. We want our students to enjoy their studies, and to master the theory and practice of conveyancing.

