

# Municipal Property Rates Act

## SOME VALUATION ISSUES

The deadline for implementation of the Municipal Property Rates Act (MPRA) is fast approaching. By no later than 1 July 2009, all municipalities, without exception, will be required to implement the Act fully. It was for this reason that the Local Government Project hosted a one-day conference on the domestic and international perspectives of municipal property rates. The conference, attended by municipal practitioners from across the country as well as international experts, provided a platform for sharing perspectives on the MPRA and key issues that affect its implementation.

This article highlights a few issues regarding the valuation of properties as presented to the conference by Professor Riël Franzsen of the African Tax Institute at the University of Pretoria.

### Market value

Property tax legislation in some countries (notably Canada and the United States) allows, for example, for farms to be valued with reference to their current use, rather than with reference to their potential highest and best use (ie market value). This preferential valuation of a specific property use category (eg farms) is not allowed in terms of the MPRA. The MPRA provides for a single standard for the determination of rateable

value for all properties, irrespective of use, namely 'market value'.

In principle this uniform standard, which must be applied by all municipalities across all property use categories, is to be welcomed. If applied strictly, it means that, at least from a valuation point of view, all property owners are treated equitably and fairly. Property owners deserving of relief should not be assisted through preferential valuations which are difficult (if not impossible) to quantify. As prescribed by the MPRA, relief must be granted annually through rebates, reductions or exemptions. The fact that rebates, reductions and exemptions must be justified and their impact quantified ensures that those who benefit from and those who subsidise these forms of tax relief are properly informed.

### Value reductions

In respect of public service infrastructure (PSI) and residential properties, the MPRA mandates value reductions. For PSI the reduction is a percentage (currently 30%) of the market value

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and in respect of residential properties it is a minimum amount (currently R15 000). These value reductions can obviously only be applied once the market values of the relevant properties have been determined.

The MPRA also allows municipalities to apply value reductions in respect of other categories of property. These reductions are determined according to criteria set out in their rates policies and are taken into account before determining a rate payable in respect of such property. Many municipalities use additional value reductions (beyond the minimum R15 000) to provide, for example, further relief in respect of residential properties. However, not all municipalities that provide an additional value reduction in respect of residential properties identify and quantify the revenue foregone as a result of that reduction. This is despite the fact that the Act mandates that such revenue be identified and quantified both in a municipality's annual municipal rates policies and in its annual budget.

## Municipal valuers: Capacity and skills

The MPRA provides that each municipality must appoint a "municipal valuer" to conduct a general valuation and prepare a valuation roll in respect of all rateable properties. To ensure that proper standards are maintained, the municipal valuer must

be registered as a professional valuer or professional associated valuer in terms of the Property Valuers Profession Act.

According to the South African Council for the Property Valuers Profession there are only 599 professional valuers and 702 professional associated valuers registered in terms of the Property Valuers Profession Act. Apparently fewer than 25% of these registered valuers actually do municipal valuations and many currently lack the technical skill to utilise computer-assisted mass appraisal valuation techniques. Others lack the experience to value unique properties, such as certain types of PSI.

Given the shortage of registered valuers and limited skills levels, and given that general revaluations must be undertaken at least once every four years in all municipalities, it remains to be seen whether the valuers profession can actually cope with what is required by the MPRA.

## Objection and appeal

The MPRA specifies a detailed objection and appeal process in terms of which "any person" has a right to object to any matter reflected in or omitted from the roll in respect of an individual property. However, no one can object to the validity or quality of the valuation roll as such.

Allowing property owners to lodge informal queries could significantly reduce the numbers of formal objections (and

appeals) and the concomitant costs. It could also have a positive impact on the relationship between property owners and the municipality. Although the MPRA does not explicitly provide for informal queries in respect of property values determined by the municipal valuer, it does not prohibit them either.

The low percentage of objections received by the City of Johannesburg Metropolitan Municipality in response to the publication of its 2008 valuation roll can be explained, at least to some extent, by the publication of a draft valuation roll at the end of 2007. The draft roll gave property owners an opportunity to challenge inaccurate data, and municipal valuers an opportunity to informally address misconceptions regarding the valuation of individual properties or the valuation process, before the actual valuation roll was published.

## Sectional title property

Under the pre-MPRA dispensation, a sectional title scheme was deemed to constitute a single property owned by a single owner, and was valued and rated accordingly. The MPRA provides that each sectional title unit constitutes property to be valued at market value and to be rated individually. This is a much more equitable approach, not only in respect of sectional title units within a specific scheme, which may have significantly different market values, but also in relation to other property categories that have always been valued as individual properties in the past. However, equity comes with a price tag. Municipal valuers must:

- value many more properties – as each unit constitutes rateable property; and
- obtain data on individual sectional title units and their owners – a laborious and costly exercise, especially where bodies corporate are uncooperative and gaining access to individual units is difficult, which is often the case.

Some municipalities are also finding it difficult to comply with the added administrative burden of serving valuation notices and rates bills on so many new property owners.

## Public service infrastructure

PSI presents municipalities and especially municipal valuers with significant challenges. Firstly, an analysis of the definitions of “public service infrastructure” and “property” reveals that:

- there is uncertainty as regards the scope of these definitions;
- there are property types (especially types of PSI) that

could be classified in more than one of the four categories of “property” defined; and

- certain types of PSI that would have constituted “equipment or machinery” (and as such would have been excluded from the tax base) have now been defined as PSI and therefore also as property (eg power lines and communication masts).

From a practical point of view it could be extremely difficult for a municipal valuer to determine the market value of linear PSI (eg pipelines and power lines) that forms part of a network extending beyond the boundaries of the municipality concerned.

Recent amendments to the MPRA were effected to address some of the PSI-related problems. Although municipalities now have the option not to value PSI if they do not plan to levy a rate on it, some problems remain. For example, a municipality with a national or provincial airport may decide not to rate (and therefore not to value) PSI. But as only the runways and aprons at the airport constitute PSI, the remainder of the airport must be valued, so some apportionment of value between the runway and apron on the one side and the remainder of the airport on the other is still required! Lastly, even if it is not to be valued, PSI must be properly identified and described, as it must still be reflected in the municipal property register and on the valuation roll.

## Quality control in respect of valuation rolls

The introduction of monitoring and oversight powers for the provincial and national spheres of government must be welcomed in principle. However, if the problems experienced in some provinces with the appointment of valuation appeal boards are anything to go by, much will have to be done before the general provincial oversight powers given to MECs for local government become effective.

The pre-MPRA provincial legislation did not provide for the external quality control of valuation rolls. The MPRA now provides that the national government Minister responsible for local government “may monitor, and from time to time investigate and issue a public report on, the effectiveness, consistency, uniformity and application of municipal valuations ...”. Such an investigation *may* include:

- studies of the ratio of valuations to sales prices; and
- other appropriate statistical measures (eg the relative treatment of high- and low-value properties).

Furthermore, these investigations may be undertaken in respect of one, more or all municipalities.

It is unfortunate that this important oversight function has

been assigned to the Minister and provides for mere ad hoc interventions. What is really needed is an independent technical government valuation agency to perform this task. Australia, Canada and New Zealand all have government valuation agencies performing, in some instances, valuation functions on behalf of municipalities, and, in most instances, also some oversight as regards the overall quality of valuation rolls.

In a South African context such an agency could:

- undertake the monitoring of the quality of valuation rolls on a continuous basis and at a technical level – rather than at the political level, as is the case at present;
- value network PSI (such as railway lines and pipelines) on a national scale in a uniform manner, and apportion the values in an equitable manner among municipalities – a task that simply cannot be performed by the “municipal valuer” in an individual municipality;
- advise and assist provincial MECs with the appointment of valuation appeal boards; and
- step in and undertake general valuations on behalf of municipalities where even the skills to appoint a municipal valuer seem to be lacking.

## The fast-approaching deadline

When it was enacted in 2005, the MPRA provided a four-year

period within which municipalities had to implement its provisions. To date only 104 municipalities have implemented the MPRA. A further 162 municipalities (more than 60%) still have to implement new valuation rolls and municipal rates policies by the 1 July 2009 deadline.

Given all of the preliminary tasks required to implement a general valuation roll, it is highly unlikely that all of these remaining municipalities will be able to implement a credible valuation roll prepared in accordance with the MPRA by 1 July 2009. Without an amendment to the MPRA, defaulting municipalities will be unable to lawfully determine and levy rates from 1 July 2009. The impact of this on the revenue side of their budgets is likely to be significant, as will be the impact on the already strained levels of service delivery.

How national government will respond to the looming crisis remains to be seen.



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