

Clearance certificates - how much can the municipality recover?

In terms of section 118(1) of the Local Government: Municipal Systems Act, 32 of 2000, a municipality can, with a clearance certificate, recover all taxes and service charges due in respect of the specific property for “the two years commencing preceding the date of the application for the certificate”.

In the case of *Real People Housing v City of Cape Town*, those above brought an application to compel the Municipality to issue a certificate for an amount excluding all amounts older than two years.

The municipality’s counterargument was that, in terms of the relevant Municipal Ordinances, they were entitled to first allocate all payments received in respect of debt older than two years: in order to pay the last two years’ debt, Real People Housing first had to pay all the old pay-off debt.

However, after analysing the background and intent of the Act, the court concluded that Real People Housing’s argument is correct and ordered the Municipality to deduct the old debt from the clearance figure.

So, this is good news for sellers. However, remember that the municipality still has the right to sue the seller for the balance.