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City of Joburg accused of illegally changing property ratings

The City of Johannesburg is illegally changing its residents’ property ratings from residential to business, thereby increasing their monthly rates.

The accusation has been made by municipal specialist attorney Chantelle Gladwin, who says many clients come to her with this complaint.

“It has come to our attention that the city’s valuations and rates departments have begun implementing an old policy on a mass basis.

“This is having an enormously detrimental impact on certain members of the public because they are being charged rates based on the business tariff when they should be charged rates on the residential tariff, and their attempts to rectify the problem are being met with bureaucracy,” she said.

Gladwin explained that rates charges are based on the rating categorisation the municipal valuer puts on the property. The valuer must follow the Local Government: Municipal Property Rates Act, which, she said, is “quite strict and any deviation from that procedure will render the imposition of the charge unlawful”.

The city’s rates department - or any other city official in rates or billing - had no lawful authority to decide rating categories.

“Any interference by the rates department with the rates charges billed in respect of the rating category and value determined by the municipal valuer is unlawful. Notwithstanding this, which has been explained to various officials many times over the years, the city’s rates and/or billing departments continue to interfere.

“For several years now we have been fighting the city in cases where the rates department unilaterally, and without following legal procedures, simply changes the tariff from residential to business, on the basis that their property, although being used for residential purposes, was zoned business.”

When one files an objection/appeal to information on the property roll, residents are objecting/appealing the property’s categorisation or value, yet the city’s rates department has created tariff change application forms, and it tells people who are being billed on the incorrect rating category to complete these. This too was unlawful, she said.

Also, the rates department makes this process available only to some consumers, such as those where a sectional title property is billed on business rates because of certain zonings.

Gladwin also has reports of officials being rude to residents who complained, threatening to increase the value of the property.

The city, however, says it applied the new property rates policy since July 1 this year.

“It’s factually incorrect to say the city is using the old policy to charge property rates. The policy states all rateable property will be classified in a category and will be rated based on the category of the property from the valuation roll, which is based on the permitted use of the property,” said revenue department spokesperson Kgamanyane Stan Maphologela.

The policy says that where a property is used for residential purposes, notwithstanding that it is zoned for any other purpose, the owner of such property may apply for residential rates, which will apply.

“The city doesn’t interfere with zoning. Once the residential tariff is granted, it doesn’t affect the zoning at all. For instance, if your zoning was business, and the property owner applies to use the property for residential, only the usage right changes to residential, but the zoning still remains as business.”

At no stage would the city unilaterally change the customer’s tariff without consent, Maphologela said. The rates policy was a public document available to everyone. Customers who were victims of harassment should immediately report those incidents.

He added building inspectors had the right to visit properties to determine the use of properties, whether they were being used for residential or business.

Gladwin, however, said that in its response, the council was avoiding the core issue - that it was unlawful for the city to adopt a policy that gave it the right to change a person’s tariff without a corresponding change in rating categorisation.

“It simply forges ahead assuming that what it is doing is lawful, when none of the laws give the city the right to change the tariff. The city’s response actually acknowledges that it is changing the tariff and not the category.

“We have a number of cases in our offices where the city changed our clients from a tariff to the ‘illegal use tariff’ because their building plans/zoning were not lawfully compliant. We are fighting this in court,” she said.

The city annually conducts a public participation process and runs education campaigns on rates.

Bay rates highest among SA metros

Council concedes burden on ratepayers but asks for patience with strategy

Nelson Mandela Bay ratepayers are forking out more in rates for residential properties than any other metro – surpassing Cape Town, Durban and Johannesburg by far.

An analysis of municipal rates across the country’s eight metros shows a R2-million property in Nelson Mandela Bay will reflect R1 840.92 a month on your municipal bill.

But if you lived in Cape Town or Durban, you would only pay R993.75 and R1 660.67, respectively.

In Johannesburg, a property of the same price will set you back R1 101.75.

The Herald analysis also shows residential rates for properties valued at R500 000, R1-million and R1.5-million are higher in the Bay than any other metro.

Budget and treasury political head Retief Odendaal conceded that ratepayers were being charged to the hilt for residential properties, but said the municipality had no choice.

How municipality determines charges

“No one wants to make this difficult decision, especially as a politician, but we had no choice,” he said.

“We have far too few ratepayers and the valuation roll is too small.

"We had to ensure we get a specific budget from the rates.

"We realise our ratepayers are carrying a significant burden but we ask them to trust us and know we realise how to turn this city around.

"Their money is in good hands and we will use it to the benefit of the city.

"We have had to make a lot of difficult decisions and part of that was to budget for a 9.5% rates increase."

The city's valuation roll lists 264 835 properties, which are worth a combined R156-billion.

This brings in R2-billion a year to the city's coffers.

Of the total number, 223 000 are residential properties. But only 119 000 are actually charged a residential rate, which brings in a large chunk of the R2-billion.

The other 104 000 properties fall under the municipality's assistance to the poor programme.

"We don't want to have the financial burden of this institution on those 119 000 ratepayers," Odendaal said.

"It is high and we realise that. It is not where we want to be. But our challenge is, how do we change it?

"We must grow this economy and make this institution as efficient as possible. We know how to turn this financial situation around, because the current financial model is not sustainable."

A possible reason for the high rates is the low rebate offered to residents, according to the analysis.

The Local Government Municipal Rates Act states a municipality cannot levy rates on the first R15 000 of a property's value.

Residents in Cape Town and Johannesburg enjoy a R200 000 rebate. In Pretoria and Durban, residents get a R120 000 rebate.

The Bay has opted to stick to the bare minimum – the prescribed R15 000 rebate – since 2008.

If the municipality increased the rebate to R200 000, the rates payable on a R2-million house would be R1 669.35 and not R1 840.92.

But Odendaal said the rebate could not be increased at this time as there was a massive backlog in fixing and replacing infrastructure.

"The rebate does need to be upped, but we are trying to spend as much money on the maintenance of infrastructure [as we can] as this has been ignored for years."

Asked how the municipality planned on removing the burden from ratepayers, Odendaal said: "We need to grow the economy by attracting businesses. But it is not going to happen overnight."

He said if there was not a significant change, residents should vote the coalition government out.

"The bottom line is we need to increase the rates base and if we don't, we have failed the city." Odendaal said they had introduced an extra rebate for pensioners but would be looking to add more benefits for other groups soon.

Bay rates and valuations deputy director Roelf Weyers said it was difficult to compare a property's value and its rates between metros.

"The most expensive house sold in South Africa was in Cape Town for more than R290-million.

"Taking into account their rates tariff, that person pays R2-million in rates alone," he said.

"Compared to Port Elizabeth, that easily equates to about 1 000 of our assistance to the poor properties.

"Those properties with high valuations bring in huge amounts of money, despite the lower rates tariff."

The first entries on a Property24 search last week for a R2-million property shows:

Cape Town: A two-bedroom, twobathroom duplex apartment in Rosebank;

Durban: A nine-bedroom house in Clare Estate;

Johannesburg: A three-bedroom house in Turffontein; and

Port Elizabeth: A five-bedroom house in Providentia.

Remax agent Kobie Potgieter said the increased rates were not only affecting the property market, but were taking disposable income out of the market, effectively hitting the entire economy.

"Higher property valuations and rates are not only affecting sellers negatively, but homeowners are left with less money to spend.

"The current rates structure really does seem unfair," Potgieter said.

Thousands of residents have objected to the exorbitant rates listed in the 2017 General Valuation Roll.

Mike Klee, 63, of Walmer, had his property valued at R3.8-million by the municipality.

He has since objected to the valuation that sees him pay R3 510.27 a month on the Golf Road property.

"We have the most expensive rates in the country. It is shocking," Klee said.

"I do sympathise [with the municipality] but they have placed a massive burden on the existing base of ratepayers.

"There must be another mechanism to fund things."

Phillip Hattingh, 59, who owns a house in Winterhoek Park in Uitenhage, said he did not understand why Bay residents were paying such high rates.

"What services are we getting for this huge amount of money?"

Hattingh's Tugela Road home was recently valued at R1.3-million, putting his rates at R1 191.73.

"I admit I live in a wealthy neighbourhood, but my house is one of the smallest. I will never get R1.3-million if I try to sell it," he said.

Gordon Smart, of Smart Properties, said there had been a major backlash from homeowners following the recent general valuation.

"Many people are questioning the accuracy of the valuations and the process followed to calculate property values," Smart said.

"These amounts seem to be an absolute thumb-suck."

He said the valuations were inconsistent and unrealistic, and the municipality needed to rethink its method.

COMPARING FACTS AND FIGURES

Metro	Rates Rebate	R500k residential	R1-m residential	R1.5-m residential	R2-m residential
East London	R15,000.00	R430.84	R875.01	R1,319.18	R1,763.34
Cape Town	R200,000.00	R115.62	R441.67	R717.71	R993.75
Johannesburg	R200,000.00	R183.62	R489.66	R795.70	R1,101.75
Pretoria	R120,000.00	R346.43	R802.27	R1,258.10	R1 713.93
Germiston	R15,000.00	R 388	R 788	R 1,118	R1,588
Durban	R120,000.00	R335.67	R777.33	R1,219	R1,660.67
Bloemfontein	R80,000.00	R245.04	R596.74	R828.45	R1,120.16
Nelson Mandela Bay	R15,000.00	R449.80	R913.51	R1,377.21	R1,840.92

TELLING THE TALE: Many of the metros offer extensive social packages such as rates rebates for the indigent and senior citizens