

Select the right attorney for transfer

 By [Adrian Goslett](#)

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Working with the right attorney during a property sales transaction can make all the difference to how long and cumbersome the process can be.



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During the property transfer and registration process, there are usually three different conveyancers involved – a bond attorney, bond cancellation attorney and the transferring attorney. The bond attorney represents the bank or financial institution that is issuing the finance to the purchaser. Their role would be to handle the registration of the bond in favour of the mortgagee over the specified property, which occurs at the same time as transfer.

In the instance where the seller of the property currently has an outstanding bond, the bank holding the bond would instruct a bond cancellation attorney to attend to its termination. This occurs once guarantees have been provided for the outstanding bond amount on the property and all the necessary documentation has been completed by the bank.

Appointment of attorneys

Although it is generally the appropriate bank that will appoint both of these attorneys, in most cases it is the seller who gets to appoint the transferring attorney. The attorney who is appointed will be tasked with handling the transfer of the property from the seller's name into the new buyer's name. They will also be responsible for co-ordinating the registration process with the other two attorneys to ensure that all processes register at the same time with the deeds office. It is important that sellers choose the right attorney to act as the transferring attorney, as they play a vital role in protecting the seller's interests and ensuring the process runs smoothly.

While there are real estate companies that want the seller to use a certain attorney, it is entirely up to the seller as to who they decide to use. There have been cases where agencies have forced their clients to make use of attorneys that are situated more than 100km away from both the buyer and seller's physical address. As per the Estate Agents Affairs Board code of conduct, an agent is not permitted to force a seller to use a specific attorney firm. The other issue is that the buyer and seller are required to sign documentation at the attorney's office, so it would be unfair to appoint an attorney that is hundreds of kilometres away from where they are staying. When an out-of-town attorney is appointed, they then have to appoint a local attorney for the signing of the documentation. This logistical issue and cost can be avoided by appointing a local attorney firm.

Use a specialist in property transfers

Due to the fact that conveyancing is a complex series of tasks that requires specific conveyancing knowledge; it is advisable to select an attorney who is well-versed with the property transfer process. It is best to appoint an attorney from a conveyancing firm that handles property transfers on a daily basis. The legal fees charged by the transfer attorney are based on the value of the property, not their experience with regard to conveyancing - therefore it makes sense to use an attorney that specialises in property transfers.

If everything goes as it should, the transfer process should take between two and three months to be finalised. The process can be delayed if there are certain conditions of the sale that still need to be fulfilled or if documentation and certificates are not in order. Legislation requires the transferring attorney to acquire a rates clearance certificate from the local council. Sellers are often required to pay a few months rates in advance in order to obtain their clearance certificate. Once the transfer is complete, any money that has been overpaid will be refunded to the seller.

Selecting the right attorney is a crucial element to the property transfer process. It is imperative that the seller is comfortable with their choice and trusts their attorney. Working with an experienced, local attorney will ensure that the process is as quick and easy as possible.

ABOUT ADRIAN GOSLETT

Adrian Goslett is CEO and regional director of RE/MAX Southern Africa. He joined RE/MAX Southern Africa in 2005 as a franchise development consultant, supporting various regions and offices. Throughout his career at RE/MAX he has held various positions. In 2010, after successfully leading 160 offices and over 1500 agents in six countries through the worst years real estate has ever seen in South Africa in 30 years, Goslett was appointed as CEO of RE/MAX Southern Africa.

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