

## **PROPERTY VALUERS PROFESSION**

77 Kariba Street, Lynnwood Glen, PRETORIA 0081 • Tel: +27 12 348 8643 • Fax: +27 12 348 7528 • PO Box 114, MENLYN 0063  
info@sacpvp.co.za • [www.sacpvp.co.za](http://www.sacpvp.co.za)



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Ms K Pasiya-Mndende  
Secretary for the Portfolio Committee  
Department of Human Settlement  
3 Floor W/S 3/077  
90 Plein Street  
CAPE TOWN  
8001

**By email:** [Kpasiya-mndende@parliament.gov.za](mailto:Kpasiya-mndende@parliament.gov.za)

Dear Ms Pasiya-Mndende

### **INPUT TO THE PROPERTY PRACTITIONERS BILL BY THE SOUTH AFRICAN COUNCIL FOR THE PROPERTY VALUERS PROFESSION**

#### **1. Purpose**

The purpose of this submission is to provide input to the new Property Practitioners Bill (the Bill) on behalf of South African Council for the Property Valuers Profession (SACPVP). SACPVP was established by section 2 of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000). Its main functions are to register candidates and professionals and to regulate the profession thereby ensuring that the public is protected from the conduct of these registered persons.

#### **2. Introduction**

The Long title of the Bill intends to provide for the continuation of the Estate Agents Affairs Act, 1976 (Act 112 of 1976) which now falls under the Department of Human Settlements (DHS). The Bill has been under consideration for some time even though by mid July the DHS website still contained that stakeholder consultations in required in 2017. Thanks that discussions have now been opened once more.

The SACPVP Registrar met with members of the Estate Agents Affairs Board (EAAB) on or about the 19<sup>th</sup> of July 2017. Present was the Chair of the Board Mr Nkosinathi Biko, Advocate Tladi who represented the EAAB and the apparent drafter of the Bill, a representative from the Policy Unit of the Department of Public Works and others.

The meeting concluded on a note that the facts discussed will be taken into account in the amendment of the Bill. None of the facts discussed have been taken into account as the Bill stands today, despite the assurance then. It must also be mentioned that a second meeting with another EAAB representative was held at Southdowns in Centurion, Pretoria in or about September 2017 and the same issues were mentioned by the SACPVP Registrar.

### 3. Submission by SACPVP

The main point of contention from SACPVP are in the Definition of a property practitioner as it appears in the Bill.

#### 3.1 Qualifications of a property valuer

A valuer qualifies after obtaining a three year tertiary national diploma, a four year degree or a masters degree in real estate, property valuation or property studies. Apart from valuation itself, key subjects in these qualifications are mathematics, economics, finance and law. During the studies, students are required to submit at least two valuation reports, one for residential property and another for either commercial, business, township development or agricultural valuation.

#### 3.2 The valuation process

A valuer, after obtaining instructions from a client (most preferably in writing), will perform a deeds and surveyor general property search about the property description, visit the subject property to confirm the property description (with the deeds and surveyor general information), compare local municipality information, compare the subject property with similar and comparable properties in the area or surroundings, do economic property analysis, motivate the value of the property, determine its value and issue a Certificate of value to the client.

#### 3.3 Confusion caused by the Definition of a Property Practitioner

With the foregoing, one can detect that there could be confusion (to an ordinary person) in what a valuer does and what the Bill intends in the Definition of a Property Practitioner. Section 1(a)(v) of the Bill under "Definitions" states that, "property practitioner— means a(ny) person or business who ... assesses property to determine defects, value for money and fit for use as part of the conclusion ... ". (*Underline my emphasis*).

A property valuer values, evaluates, appraises or assesses property. The use of these words depends on the country or preference of the speaker. They mean the same where property is the object in the sentence. Further, in Law, unless the word "assess" is defined in the Bill, the ordinary or dictionary meaning will be used. The ordinary meaning of **assess** in this context (of property) includes to make a judgement about (property) or to officially tell or determine the amount or value of property. (the Merriam-Webster Dictionary).

SACPVP submits that the Definition of a property practitioner in the Bill should **exclude the phrase "assesses property to determine (defects), value for money".**

SACPVP suggests that an alternative to obviate the inclusion of property valuers in this Bill could be to exclude them in section 1(a)(vi) where attorneys and sheriffs are excluded.

SACPVP asserts that if the definition is left as is, it will be an intended confusion to an ordinary person, alternatively permission for a property practitioner to perform valuation work without being registered as a property valuer. During our meeting of July 2017, EAAB stressed that the Bill is not intended to include property valuers who, by their own right are governed by the Property Valuers Profession Act, 2000 (Act No. 47 of 2000) (PVP Act), under the custodianship of the Department of Public Works. The intention of Parliament to legislate the valuers profession by the PVP Act was that only qualified valuers should undertake valuation work and that SACPVP should ensure that it registers competent valuers to perform valuation work.

#### 4. Other issues to consider

The following points also impact on the Bill as it stands:

Should a property practitioner determine the value of property, the Competition Commission might easily construe this to be a *possible conflict of interest*. Knowing that there is a direct relationship between the price of the property and the property practitioner's commission for the sale thereof, it is not far-fetched that there might be a property practitioner who may be tempted to advise the seller to increase a property's list price so as to increase his or her (property practitioner) commission- this time around, with some authority provided by this Bill.

Without digressing much, such deliberate confusion and cannibalisation of property valuers is becoming common in the country. For example, the SA Revenue Services (SARS) now request estate agents (future property practitioners) to do assessment of property for estate duty purposes. Strange, when the values provided do not satisfy SARS, SARS solicit a valuation report from a registered property valuer as they (SARS) not only know the competence of a registered valuer, but also that should there be an issue in the determination of value, or the value so determined, the valuer will be accountable to a regulatory body duly responsible for persons qualified to determine property values- the SACPVP. Much can also be said about appraisers who are registered with the Department of Justice (DoJ) under the Administration of Estates Act, 1965. The work of these appraisers is also impacted by the Bill.

#### 5. Conclusion

When SACPVP approached the EAAB in July 2017, the intention was to explain the valuation process and concerns about the possible overlaps of a property practitioner's work with that of a property valuer. It is the responsibility of Parliament to ensure that the country's suite of Laws, especially the new order legislation, are aligned to guide professionals to and protect the public, and not to confuse the public.

SACPVP is available for further discussion on this matter and will appreciate an audience with EAAB and the Parliamentary Portfolio Committee, should more clarity be sought.

Yours faithfully



M C Seota  
Registrar