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**RATES WATCH**  
MONITORING AND WATCHING YOUR VALUATIONS & PROPERTY TAXES

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26 April 2024

The Municipal Manager  
Buffalo City Municipality

Sir

## **BUFFALO CITY METROPOLITAN MUNICIPALITY: COMMENTS ON THE 2024/25 DRAFT RATES POLICY**

Rates Watch (Pty) Ltd was appointed by the South African Property Owners Association (SAPOA) to submit comments on the draft Rates Policy.

SAPOA represents approximately 1,300 companies and organisations (amongst which include the following: ABSA, Nedbank, Investec Property Group, Old Mutual Properties, Liberty Properties, Eskom, Transnet, East London IDZ, Growthpoint Properties, the V&A Waterfront Company, ACSA, Eris Property Group, Encha Properties, Zenprop, Redefine properties, Resilient Properties.).

SAPOA members own and control about 90% of all commercial, retail, office and industrial properties in SA to the value of over R500bn and constitute some of the largest ratepayers in South Africa.

We have the pleasure to submit comments on the 2023/24 draft policy.

### **1 General**

To avoid confusion, it is suggested that reference to the Municipal Property Rates Act, (Act No. 6 of 2004) should be consistent. In this policy, both “MPRA” and “The Act” are used.

There are more than 20 instances where “MPRA” is used in the policy. “The Act” is used in the last bullet of clause 9.3.4 and should be replaced with “MPRA”

### **2 Clause 7: Definitions**

#### **2.1 “Business and commercial”**

- 2.1.1 The inclusion of properties that are used for the trading and hunting of game in the definition will have a devastating effect on the financial viability of these properties. The monthly rates on a farm where game is hunted will increase by a factor of 10 or 1 000%. It will wipe out game farms.

The rating of these farms should not be different from a farm that is used for the grazing of livestock. It should be noted that the unit value of a game farm is typically higher than a farm that is used for the grazing of livestock and more rates are collected from game farms.

The explicit exclusion of these properties from the definition of agricultural properties does not mean that they must be included in the "Business and commercial" category

- 2.1.2 There is no rationale to include hostels, flats, communes and old age homes in the category 'Business and commercial'.

Hostels typically provide inexpensive lodging for a specific group of people, such as students or workers.

A commune is a group of people living together and sharing possessions and responsibilities.

Flats can be described as a suite of rooms forming one dwelling within a larger building containing several such dwellings.

Old age homes, also referred to as retirement homes or old people's homes, are multi-dwelling facilities intended for the elderly. Old age homes that are not owned by a Public Benefit Organisation will not qualify for the 100% rebate (refer to clause 9.3.3)

All of the above are used for human habitation and it is in principle not different from the building for human habitation on an erf in a township.

The fact that rental may be paid by the occupants of these properties cannot be the criteria to categorise these properties as "Business and commercial". The use of these properties remains for residential purposes.

The view that properties that are used for residential purposes and are rented out should be as categorised as "Business and commercial" should also apply to dwellings that are rented out. There must be a distinction between the use as a normal place of habitation and the use for holiday purposes.

This definition conflicts with the definition of "residential property" in the MPRA<sup>1</sup> and should be removed because the definition in the MPRA takes precedence over the definition in the rates policy. Section 3(1) of the MPRA states that the policy must be consistent with the MPRA.

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<sup>1</sup> MPRA definition: "residential property" means a property included in a valuation roll in terms of section 48(2)(b) in respect of which the primary use or permitted use is for residential purposes without derogating from section 9

A property used for residential purposes **must** be categorised as “Residential property”.

## 2.2 “Residential property”

The definition could be ultra vires as it conflicts with the MPRA definition. There are numerous judgements confirming that a rates policy is subject to the MPRA and regulations.

The definition should reflect the amendments to the definition in the MPRA.

The MPRA definition refers to “residential purposes”. It is suggested that a definition for “residential purposes” be included in the policy and the MPRA definition be included verbatim in this policy.

## 3 Clause 8.1: Categories of properties

In terms of section 8(2)(i) of the MPRA, the category for multiple purposes is compulsory and must be created. If the category is not created this policy will not be consistent with the MPRA.<sup>2</sup>

## 4 Clause 8.2: Criteria for categorising properties for multiple purposes

The category ‘Multiple purposes’ is compulsory which means that there is no longer the discretion provided for in sections 9(1)(a) & (b). These properties must be dealt with in terms of sections 9(1)(c) and 9(2).

The values of properties that are used for more than one purpose (e.g. Business & Commercial and Residential) must be apportioned between the different uses based on the area occupied by them.

The principle to apportion the value based on the extent of the different uses was confirmed by the Supreme Court of Appeal in *The City of Johannesburg Metropolitan Municipality v The Chairman of the Valuation Appeal Board of the City of Johannesburg (282/2103) [2014] ZASCA 5*.

Leach LE, held that “*The obvious intention is that where a property is used for multiple purposes, those categories of use – in respect of which different rates are to be applied under s 9(2)(c) – should be determined and recorded, as should the values be apportioned to each such category. This is all to be done by the municipal valuer who is, after all, the person possessed with the necessary skill, expertise and experience to do so (which the municipal council lacks) Moreover, although s 48(2) does not specifically state that the market value apportioned between categories of use should be recorded in instances of multiple use properties, the provision in s 48(2)(g) that the valuation roll is to include ‘any other prescribed particulars’ in addition to those specifically mentioned, reinforces my conclusion that the Act, properly interpreted, requires it to be done.*”

It was also stated that in the case of properties used for multiple purposes, it is the function of the municipal valuer to determine and record those uses and apportion the market value of the property between them.

<sup>2</sup> MPRA section 3(1).



The market value of the property that is used for more than one purpose must be reflected in the valuation roll with the category “multiple purposes”.

The market value must be apportioned between the different uses of the property.

The manner of apportionment has not been prescribed as provided for in section 9(2)(a) of the MPRA and until it is done, the precedent set by the Supreme Court of Appeal must be followed.

This clause must be removed from the policy or redrafted to refer to section 9(2) of the MPRA.

## **5 Clause 9: Rates relief measures relating to categories of property and categories of owners of property.**

### **5.1 Municipal owned properties must be removed from this list**

The municipality has the discretion, in terms of section 7(2)(a)(i) of the MPRA, not to rate properties of which the municipality is the owner.

The municipality must exercise the discretion not to levy rates on its properties. It is not part of the relief measures.

A new clause should be introduced to exercise the discretion. It should not be a sub-clause under clause 9, but it should have a separate number.

The proposed wording:

*Properties owned by Buffalo City Metropolitan Municipality will not be levied rates in terms of Section 7(2)(a)(1) of the Act; except for the where:*

*(a) Where Council owned property is leased to a third party and the lease agreement provides for the levying of property rates; or*

*(b) Where Council owned land is sold to a third and the deed of sale provides for the levying of property rates.*

### **5.2 Clause 9.1 Exemptions**

#### **5.2.1 Municipal properties**

Municipal properties are not exempted in terms of section 15.

A new clause should be created:

**‘Municipal properties’**

The clause should be moved because it does not belong under clause 9.

### **5.3 Clause 9.2 Exclusions**

Section 17(1) of the MPRA lists the properties that may not be rated or are excluded from the payment of property rates.

Why are only religious properties and the R15 000 exclusion on residential properties mentioned?



The clause should be moved because it does not belong under clause 9.

#### 5.4 Clause 9.3.1 Pensioners and Disabled Persons

5.4.1 Clause 9.3.1(i) states that the senior citizen must own the property, the words *'The applicant must be the registered of the property'* could be deleted from clause 9.3.1(ii). The alternative is to delete clause 9.3.1(i).

5.4.2 Clause 9.3.1(iii) could be deleted because a 'Senior Citizen' is defined as a person *' who is sixty (60) years or older.'*

5.4.3 Clause 9.3.1(iv) – it does not make sense to include the alternative effective date (on which the application is received) The date on which the applicant turned 60 will always be the oldest date and should be the only applicable date.

The reference to *'retired person'* should be changed to *'person'*. There is no requirement in this policy that the person must be retired.

5.4.4 Clause 9.3.1(v) – The drafting can be improved.

Proposed wording:

*'(v) ~~Submit an application~~ Apply for the 2023/24 financial year and thereafter when the age category changes or a person qualifies as a Senior Citizen'*

5.4.5 Clause 9.3.1.1 states the obvious and can be deleted.

#### 5.5 Clause 9.3.2: Disabled or medically boarded persons

5.5.1 The reference should be to clause 7 and not Section 7.

5.5.2 Clause 9.3.2.1 states the obvious and can be deleted.

#### 5.6 Clause 9.3.3 Public Benefit Organisations and not for gain institutions

5.6.1 The subclauses should be numbered (i) to (xi) to align them with the numbering format in the policy.

5.6.2 Is it realistic to set a deadline of 30 June, a realistic deadline of 31 August is suggested.

It also means that the applications must be submitted before the rates policy is approved.

5.6.3 Exemptions should be backdated to the beginning of the financial year or the date of qualification.

#### 5.7 Clause 9.3.5: General Relief

5.7.1 The numbers A and B should be replaced with 9.3.5.1 and 9.3.5.2 to align the numbering with the format applied to other clauses.

5.7.2 Clause 9.3.5 B – The rebate will apply to properties where the services listed are not available.

Will the test not apply to individual properties?



It is not clear why it is stated that '*This rebate **will not** be granted on an **individual** basis*'.

**6. Social housing**

The metro should take cognisance of the judgement by Hartle J in Own Haven Housing Association NPC and Lorles CC v Buffalo City Metropolitan Municipality and Minister of Human Settlements, Water and Sanitation (Case No. 1217/2019).

The policy should provide for a rebate or other suitable relief for the providers of social housing who are accredited with the Social Housing Regulatory Authority.



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