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SIGNING DOCS OVERSEAS?

MOST COMMON OPTIONS AVAILABLE

AUTHENTICATION OPTIONS

1

SIGNATURE AT THE SOUTH AFRICAN EMBASSY:

- This option is usually available and is generally the preferred and most cost effective option.
- A Consular Officer at the Embassy will stamp and countersign the documents requiring signature by your client.
- Your client will be required to schedule an appointment with the SA Embassy for authentication purposes.
- Clients are thus “on their own” when signing documents and should take great care to follow formalities e.g. that documents are signed in Black ink.
- Even the Consular Officials get their own formalities wrong sometimes.

2

OBTAINING AN APOSTILLE:

- If your client is in a country who is a member of the Hauge Convention for the Abolition of the requirement of Legalisation for Foreign Public Documents, your client may utilise this option.
- Documents will be signed before a Notary Public where after an Apostille certificate will be attached to the documents.
- Not all countries are members of the Hague Convention and therefore this option may not be available to your client.
- Further, this may become extraordinarily expensive – Notaries charge per page for authentication in most countries.
- After the documents are notarised, the appropriate authority will issue a Certificate (Apostille) and bind the documents with an allonge – if this binder is broken, the set immediately becomes invalid.

3

SIGNATURE IN FRONT OF A NOTARY PUBLIC ONLY - NO APOSTILLE REQUIRED

- This option is only applicable if you client is in England, Northern Ireland, Botswana, Lesotho or Zimbabwe.

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SIGNING DOCS OVERSEAS?

WHY CAN SIGNING DOCUMENTS OVERSEAS BECOME AN ISSUE?

Any document signed outside the borders of South Africa must be authenticated before it may be used in SA. This might cause a delay where your buyer or seller is abroad when the transfer documents must be signed. Perhaps your client has permanently emigrated or simply venturing overseas for business/pleasure at the inopportune time that transfer documents need to be signed. Your client can either sign the documents personally or appoint someone to sign on his behalf by means of a Special/General Power of Attorney.

NOTES ON BONDS

In all cases above the Conveyancer (should) insist that the documents are scanned via email to them to check that formalities have been complied with before incurring unnecessary expenditure in sending invalid/defective documents.

•Clients must courier these documents back to the Conveyancer, via reputable services such as DHL Express or FedEx. No post – the documents will simply never reach the Conveyancer.
•Documents signed for the banks to grant a Mortgage Bond are excessive.
•An average Standard Bank Bond contains upwards of 50 pages that need to be signed.
•Banks are extremely strict with how documents are signed and will reject the pack outright if signed incorrectly.

NOTES FOR PROPERTY PRACTITIONERS:

- **If a client mentions that they will be travelling, do not ignore this fact. It will have a significant bearing on the transfer process.**
- **If a client will be going overseas prior to conclusion of a Sale Agreement, it is preferable that they sign a Special Power of Attorney in South Africa before they leave – appointing a family member or trusted friend to conclude the OTP and transfer documents.**
- **If this is not possible, brief them on the requirements and the necessity that this must be done ASAP once documents are ready.**
- **Transfer matters are often delayed by Sellers unable or unwilling to sign documents at an embassy (if they are located far away) or with a Notary (as this incurs substantial cost in some countries).**
- **Irrespective of whether the client signs a SPOA or full set of documents overseas, the procedure is the same. The only difference may be the cost to sign.**