

PERSONALISED LEGAL ASSISTANCE

Professional legal and property consulting

SONNENBERG & ASSOCIATES PROPERTY AND LEGAL ADVICE NEWSLETTER #129

1. Legal Quotes

"Lawyers are the foot soldiers of our constitution." [unknown]

"No law can give me the right to do what is wrong." [Abraham Lincoln]

"Men marry women with the hope they will never change. Women marry men with the hope they will change. Invariably they are both disappointed." [Albert Einstein]

2. A Cape Town tale

A young Benoni woman was so depressed she decided to end her life by throwing herself into the harbour at the V & A Waterfront.

Just before she could throw herself from the dock, a handsome young man from Parow stopped her.

"You have so much to live for," said the man. "I'm a sailor, and we are off to Italy tomorrow. I can stow you away on our ship. I'll take care of you, bring you food every day, and keep you happy."

With nothing to lose, combined with the fact that she had always wanted to go to Italy the woman accepted.

That night the sailor brought her aboard and hid her in a small but comfortable compartment in the hold.

From then on every night he would bring her three sandwiches, a bottle of red wine, and make love to her until dawn.

Two weeks later she was discovered by the captain during a routine inspection.

"What are you doing here?" asked the captain.

"I have an arrangement with one of the sailors," she replied. "He brings me food and I get a free trip to Italy .."

"I see," the captain says.

Her conscience got the best of her and she added, "Plus, he's screwing me."

"He certainly is," replied the captain. "This is the Robben Island ferry"

3. Inspiring quotes

"Show respect even to people who don't deserve it; not as a reflection of their character, but as a reflection of yours." [Dave Willis]

"The one who falls and gets up is so much stronger than the one who never fell." [unknown]

"Always go with the choice that scares you the most, because that's the one that is going to help you grow." [Caroline Myss]

4. Gauteng High Court case sets precedent in favour of property owners appealing against delayed municipal accounts

On 13 February 2017 Judge S Yacoob, in the Gauteng Local Division of the High Court, granted judgment against the Ekurhuleni Municipality in a matter (*Argent Industrial Investment Pty Ltd and the Ekurhuleni Metropolitan Municipality*) having wide and important ramifications in the

enforcement of delayed municipal bills (**and the defence of prescription against these accounts by homeowners**).

The judgment held that:

- If a consumer receives a utility bill citing, for the first time, charges older than three

- years, they cannot be held liable for such amounts, as the charges have prescribed.
- Where a consumer has made regular monthly payments based on their **estimated consumption**, their monthly payments do not interrupt the prescription of the actual water consumption.
- **It is not the duty of the consumer to read meters and determine their actual consumption. A consumer will not be considered to have acknowledged a debt of which they do not know the particulars.** In other words, a consumer cannot acknowledge a debt when the creditor withholds particular and necessary details of the debt or when only the creditor has the ability to quantify the debt and fails to do so.
- **The prescription period commences when the municipality should have become aware of all the relevant facts**, such as the actual water consumption, which give rise to its claim against the consumer **and not only when the municipality read the meter and the invoice was issued.** The municipality could have taken an actual reading of the meter at any time. The municipality has a duty to carry out such readings and invoice consumers at its convenience but at reasonable intervals.
- Where no records of regular actual readings are available to ascertain how much of a bill for several years has prescribed, the industry standard should be applied: average the consumption out over the months between the two readings and then use that average to calculate the consumer's liability for the remaining period.

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Refer your transfers to me and have your transfer registered on time, every time.

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