



QUICK, EASY, CASH

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## **Demystifying the property transfer processes**

Transferring ownership of a property can often be a complicated and misunderstood process. That's because it often involved a number of different parties all performing different parts of the process. If you're selling your property then it's important to understand the steps and process to transfer your property so that you can monitor the progress. The average time to transfer ownership of a property is about 3 months but could be longer or shorted depending on the unique circumstances.

This document will try and demystify that process for you and will draw attention to the differences between using an estate agent or selling directly, or selling cash or selling with bank finance.

### **Step 1: Market the property**

So you're looking to sell your house and the traditional approach would be to either contact an estate agent to sell the house for you or to try and sell it yourself. There are benefits to both and it's up to the seller to decide which option to take. Selling privately obviously has the benefit of saving costs and avoiding agents commission, but you miss out on the experience and skills of an estate agent in the process. Check out the article titled "*Estate agents vs. MarkBuysHouses*" on my blog about the differences between selling through an estate agent or selling through MarkBuysHouses.co.za. In summary, when you reach out to an estate agent they will probably ask you to sign an agreement with them. This could take the form of a sole or open mandate agreement. A sole mandate is a contract which restricts the seller to exclusivity with that estate agent (i.e. that agent is now the only estate agent who can sell your property for a certain period of time).

Once you have an estate agent on board they will probably organise someone to come and take photos of your property and then start advertising it on the various property websites. The process of setting up agreements with the agent, taking photos and loading them onto the websites normally takes 2-3 weeks.

Once the property has been marketed, you'll probably end up having a few people coming for viewings or a few show days where potential buyers can come and view the property.

Before lockdown, the average time on market (i.e. the time it takes from when the property is marketed to when it receives an offer) of properties in Johannesburg was 101 days (roughly 15 weeks or 3 and a half months).

Selling through MarkBuysHouses.co.za allows you to avoid all of the hassle (people walking through the house and show days) as well as the 15 weeks to find a buyer.



## Step 2: Sign the offer to purchase

Once you find a buyer for your property (either through the traditional or MarkBuysHouses.co.za method) the seller and buyer will need to agree to the terms of the sale. These are detailed in a document called the Offer to Purchase which is a contract between the two parties and it sets out the price, terms and details of the sale. There's nothing really standard about an Offer to Purchase but it should contain an expiry date which allows the seller some time to either accept or reject the offer. The normal is to allow a week before the Offer to purchase expires.

## Step 3: Complete any suspensive conditions

The Offer to Purchase normally sets out a number of conditions before the property sale can actually take place. These conditions are referred to as *suspensive conditions* which really means that the offer is not valid until those conditions are met. Some standard suspensive conditions that are included into offer to purchases include things like the Payment of a deposit, the buyer qualifying for finance, the buyer needing to sell their house or even the need for an inspection on the property. Let us unpack those a little further:

### Payment of a Deposit

Most Offers to Purchases require the buyer to pay a deposit. The deposit is an amount of money of money that the buyer declares that they will pay in cash upfront to commit them to the purchase of the property. The deposit can be used to show the seller that the buyer is serious about the purchase of the property but it can also be a set to Zero. The Offer to Purchase normally states that the deposit will be paid to a transferring attorney within 7 days of acceptance of the offer to purchase. If the buyer doesn't pay the deposit in time, the Offer to Purchase actually becomes null and void (unenforceable). This is why it is considered to be a suspensive condition meaning that the whole agreement isn't valid until the deposit is received. More about the transferring attorney later.

### Bond finance

Given that the purchase price of a property is normally fairly large the buyer might not have nor want to commit all of the money so the buyer might require a bond from a bank. If the buyer requires a bond the Offer to Purchase would include a suspensive condition which allows the buyer time to acquire bond financing from a financial institution. Once the Offers to Purchase has been signed it normally allows the buyer 21 days to approach a financial institution in order to get approval.

This suspensive condition could delay or void the transfer of the property in question.

### Inspections

Often buying a house is the biggest financial decision that the buyer will make. To give the buyer a sense of comfort about the purchase, the buyer might include a suspensive clause which allows them to get an independent party to inspect the property and make sure that the buyer is fully aware of what they are buying. The inspections clause in the Offer to Purchase allows the buyer 2-4 weeks to do the inspection. If the buyer is comfortable with the outcome of the inspection then the suspensive condition could be met and the purchase can then go forth.

This suspensive condition could delay or void the transfer of the property in question.

### Selling the buyers house

When someone is buying a house they might be moving from another house which they, more often than not, would need to sell that house in order to have the funds to buy their new house. To allow the buyer to sell their property the Offer to Purchase might include a suspensive condition which allows the buyer to sell their house before the new purchase is effective. The condition normally allows for 3-6 weeks for the buyer to find a seller of their existing property.

This suspensive condition could delay or void the transfer of the property in question.

### Step 4: Transfer attorney

With the transfer of property being a legal process and the offer to purchase being a legal contract there is a need to have someone/a team with legal expertise to help guide the process. That's where the Conveyancing Attorneys steps in to help. There could be three different Conveyancing Attorneys involved in the buying/selling of a property.

#### Transferring Attorneys

The Transferring Attorneys are the ones that handle all the paperwork to actually transfer the property from the seller to the buyer. They are appointed by the seller but are paid by the buyer.

The Transferring Attorneys are the ones that make sure that all of the documentation required for the transfer to go through is in order, all of the funding is in place and that the deeds office has everything that they need in order to actually complete the transfer.

#### Registering Attorneys

If the buyer is going to be buying the property with a home loan then a set of attorneys will be appointed by the bank in order to register the bond onto the property.

#### Cancellation Attorneys

If the seller has a bond on the property that is being sold the bond on that property needs to be cancelled. This is where the Cancellation Attorneys come in. They cancel the sellers existing home loan. They represent the bank cancelling the seller's home loan.

Once the buyer and the seller agree to the offer to purchase and sign it they give the signed offer to purchase to the Transferring Attorneys. The Transfer Attorneys would then coordinate the entire transfer process. Normally the first thing that they do is ask the buyer to pay the agreed deposit amount. This is paid into the Transferring Attorney's trust account which they use to keep all the funds required to make the transfer. Once that is paid, the Transferring Attorney will monitor progress against the other remaining suspensive conditions.

Once all the suspensive conditions, detailed in the offer to purchase, have been met the Transferring Attorneys will then start the process of gathering all of the required clearances and documents that are required. For a property to be transferred, the rates & taxes as well as the levies need to be up to date. This means that the Attorneys will then start by getting the settlement figures from the municipality (rates & taxes) and from the body corporate (levies). The Seller then needs to pay any outstanding rates, taxes and levies as well as pay them in advance for the next few months so that they continue to be paid up until the registration of transfer.

Once the rates, taxes and levies are paid up then the municipality and body corporate will issue clearance certificates saying that everything has been paid up. The time from the initial request for settlement figures to the issuing of a clearance certificate could be anything from 3-5 weeks.

If the buyer is paying for the property with funds other than finance then this would normally be when the transferring attorney asks for the balance of the funds to be paid over into the attorney's trust account.

While this is on the go, the transferring attorneys will start generating all the required documents to affect the transfer and will start working with the bond registration and cancellation attorneys.

### Step 5: Cancellation of seller's bond

In step 4, I mentioned that a cancellation attorney might be required if the seller has a home loan on their property. The Transferring Attorneys will engage with the cancellations attorneys to start the processes of cancelling any bond that is registered on the property. The cancellation attorneys would need to make sure that the settlement figures have been issued, that the process of cancelling the bond goes through. This generally requires that the seller visit the cancellation attorneys to sign the required documents to cancel the bond. This has been known to take 3-5 weeks.

### Step 6: Sign the documents

All of the documents that the transferring attorneys generated back in step 4 now need to be signed. Both the seller and the buyer will need to sign them (not necessarily together). This sometimes takes 2 weeks.

### Step 7: Buyer pays transfer costs

As mentioned earlier, although the seller appoints the transferring attorneys the buyer needs to pay for the attorney fees and the costs of the transfer. These costs include both any transfer duties that would be payable, the costs of the transfer and any incidentals. Before things can move ahead the buyer would need to pay these fees first.

### Step 8: Lodging with the deeds office

Once all the suspensive conditions have been met, funds have been settled, any financing guarantees have been issued, the clearance certificates have been issued and the documents have been signed the process of starting the registration of transfer will begin. The Transferring Attorney will then put everything together so that it can be lodged with the deeds office. The deeds office is the organisation that actually does the transfer.

### Step 9: Deeds office processes

If all the documents are in order, the process of registering the transfer of the property takes between 2-4 weeks.

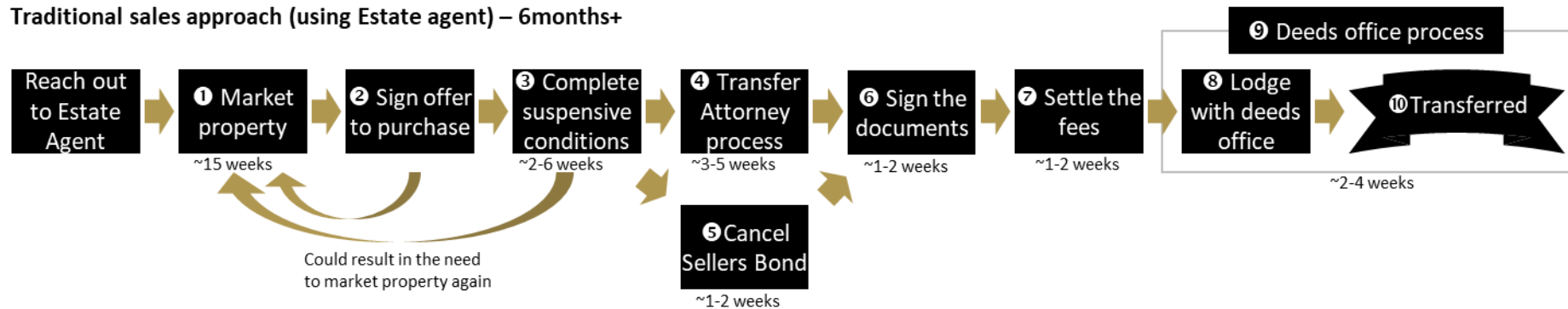
### Step 10: Registration of transfer

After the documents have been lodged with the deeds office they take a few days to prepare the documents. Once everything is ready the documents are "put po prep" which normally means that registration or transfer is 3-5 days away (this is much longer given the lockdown).

To help understand the high level process and the differences between the traditional root and the "cash" root which MarkBuysHouses.co.za is able to help with check the below graphic.

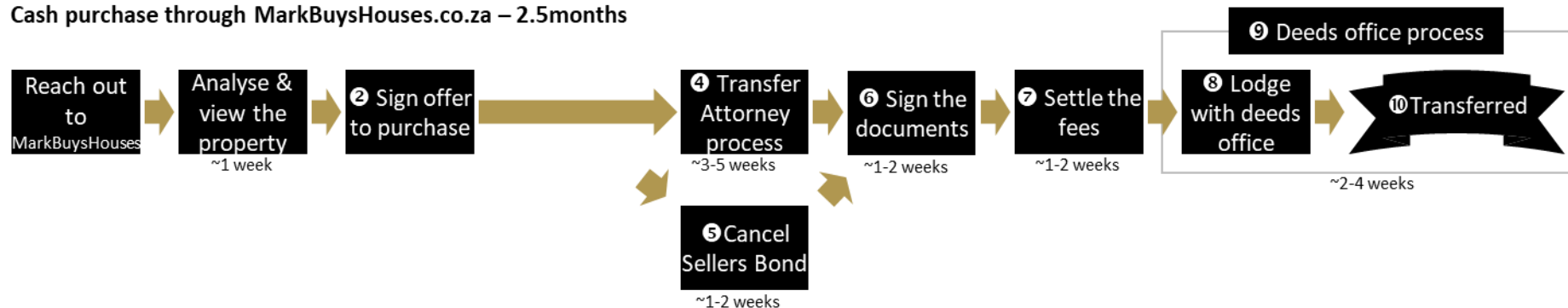
High level steps when selling your house:

**Traditional sales approach (using Estate agent) – 6months+**



The alternative approach if you go through the cash sales model you can avoid the extensive and intrusive marketing step as well as avoid the suspensive conditions which could result in you having to start the whole process again anyways.

**Cash purchase through MarkBuysHouses.co.za – 2.5months**



Naturally this could all be a lot to take in. Also, you're never really sure who to turn to when you have any questions. Having said all of that, if you would like to discuss anything more or if you'd like to unpack your options in more detail then please feel free to contact me on 083 692 6576 or send me a mail on [mark@markbuyshouses.co.za](mailto:mark@markbuyshouses.co.za).

Regards,

Mark Berrington