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# REAL ESTATE ALERT

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## RATES: TO PAY OR NOT TO PAY

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# RATES: TO PAY OR NOT TO PAY

Rates are a property tax imposed on all rateable property in a municipality and are not linked to the provision of services.

## Should there be a fair relationship between the services provided by a municipality and rates levied thereby?

This question was considered by the Supreme Court of Appeal (SCA) in the case of *Blair Atholl Homeowners Association v The City of Tshwane Metropolitan Municipality* (20634/2014) [2015] ZASCA 195 (1 December 2015).

The SCA rejected the argument that rates payers in the Blair Atholl Estate, which installed and maintained its own services (usually supplied by the City of Tshwane Metropolitan Municipality), should be exempt from, or allowed a rebate or reduction of rates levied on their properties.

In this regard, it is important to note that rates are a property tax. They are imposed on all rateable property in a municipality and are not linked to the provision of services. Rates are levied on the value of property to cover the running costs of a municipality and to achieve its objects as set out in s152(1) of the Constitution. Section 229(1)(a) of the Constitution

distinguishes between rates and surcharges, surcharges being imposed for the provision of services by a municipality.

The appellants based their argument on the supposition that there must be a fair relationship between the services supplied by a municipality to its rates payers and the rates those rates payers are liable to pay. On the above explanation of rates and surcharges, the SCA dismissed the appellants' application.

As long as a municipality's rates policy is in line with the Constitution and the Local Government: Municipal Property Rates Act, No 6 of 2004, that municipality is entitled to levy rates on properties within its area, whether or not it supplies services to those properties, or whether or not the residents of those properties enjoy communal services provided by the municipality, such as libraries or public open spaces for example.

*Emily West and Muhammad Gattoo*

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