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PART 4: THE IMPACT OF UNAPPROVED BUILDING PLANS ON THE SALE OF A PROPERTY

It is becoming more and more common for purchasers to request that approved building plans be delivered by the seller before registration of the property into their names. This is the last part in the 4 part series pertaining to building plans.

Scenario 4

The seller and purchaser sign a sale agreement without any stipulation that building plans must be delivered, but with a suspensive condition of bond approval. When the purchaser receives bond approval it is a requirement of the bank (and bond) that approved building plans must be delivered to the bank before registration of the property.

The purchaser then only received conditional bond approval. As there is no contractual obligation on the seller in terms of the sale agreement to provide building plans, the fact that the bank requires building plans does not place any obligation on the seller, as he is not a part of the agreement between the bank and the purchaser.
The seller then has the option to accept the bank's condition to provide building plans, and he then will be liable to provide same, or he can reject the condition, and then there will be no fulfilment of the suspensive condition and the sale agreement will lapse.

The purchaser can also decide to take responsibility for the updating of the building plans, and the transaction will then be able to proceed after approval of the updated plans.

The banks will require the building plans before registration of the transaction, and this will cause a delay in the transaction, as registration will only be able to proceed once the building plans have been finally approved by the municipality. The option of a retention is not available in this scenario, as the bank will not consent to the registration before building plans are delivered.