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OWNERSHIP OF AGRICULTURAL HOLDINGS

“Agricultural land”, as defined in Act 70 of 1919 includes land which forms part of any area subdivided in terms of the Agricultural Holdings (Transvaal) Registration Act, 1919 (hereafter “The Act”). In terms of the Act, an “Agricultural Holding” is land of which the use is determined and which is not smaller than 1 morgen (8565 square meters). In most cases, the title deed contains conditions that the holding may not be subdivided or transferred to two or more persons without the consent of the Board (which is now represented by the Municipal Council).

Section 5(2) of the Agricultural Holdings Act however imposes further restrictions on agricultural holding owners and states that an agricultural holding may not be transferred to more than one person, if such owner's portion will be smaller than 1 morgen (8565 square meters) on division thereof.

By way of an example, if an Agricultural Holding is 4,0680-ha and the holding is transferred to 3 transferees, the transfer would be permissible in that 4,0680-ha divided by 3 is 1,3560-ha and each co-portion would not be smaller than 8565 square meters. The transfer may thus proceed without any additional consent having to be obtained.

If the Agricultural holding is however transferred to 4 purchasers (as per our example above) or subdivided consent from the Premier, represented by the Municipal Council in which the land is situated has to be obtained. Obtaining the consent will cause a delay in the transfer of between 3 and 4 months.

It is therefore important for agricultural landowners, when attempting to subdivide or transfer an agricultural holding to consult a conveyancing attorney.