SALGA

South African Local Government Association

SALGA COMMENTS ON DRAFT REGULATION AND NOTICE IN TERMS OF SECTION 19 & 20 OF THE LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT

Background

The Local Government Municipal Property Rates Act No. 6 of 2004 ("the Act") was promulgated in 2004 with the express objective to regulate the power of a municipality to value and rate immovable properties (land and buildings) located within the boundaries of municipalities. In terms of the Act, specifically section 19(1) (b) and section 20 thereof, the Minister responsible for local government may with the concurrence of the Minister of Finance, prescribe the rates ratios between residential and non-residential properties and further determine the upper limit on the percentage by which rates (the Cent amount in the Rand) may increase annually. Acting within this discretion, the Minister of Provincial and Local Government on 19 December 2007 published a draft Regulation in the Government Gazette for public comment.

SALGA appreciates the intention of the regulations but never the less, in response to the Minister's invitation to comments thereon; we make a composite submission as outlined herein.

2. The contents and the timing of the Regulation

There are currently few municipalities who have implemented the new Act and the impact of the set ratios cannot be fully calculated. It is our view that practical challenges pertaining to the implementation of the Municipal Property Rates Act be dealt with first before the promulgation of the regulation.

Municipalities who must still implement the MPRA need flexibility to deal with the effects of consolidation of different valuation rolls into one roll, the shifts in valuations between different categories of properties, valuing and rating on the market value vs. land value only and the effect of the requirements of the MPRA without even taking the draft regulations into account.

The shifts in the rates burden between categories of properties must be managed to ensure a successful implementation of the MPRA in that rates accounts remain reasonably affordable and ratepayers continue paying their rates to secure the financial stability of Local Government.

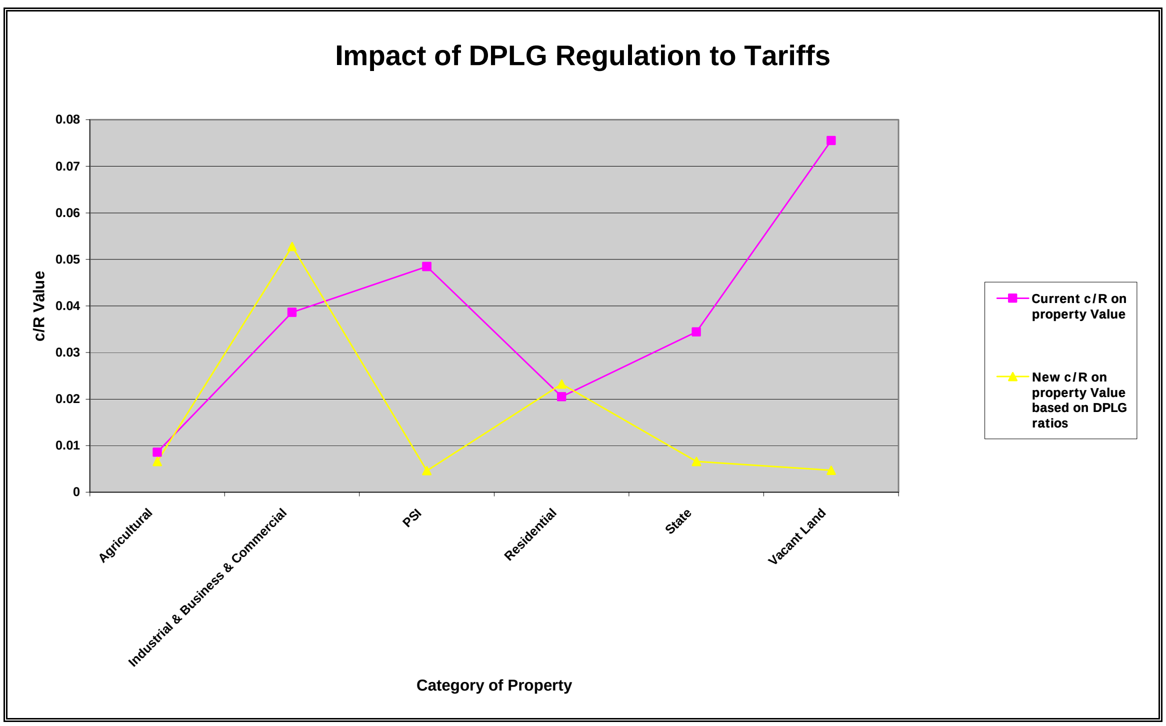
The draft regulations should be postponed until all municipalities have implemented the MPRA, failing which, the financial stability of those municipalities may be compromised.

3. Specific Comments to the Draft Regulation

- **Right to differentiate**

In terms of section 8 (1) subject to section 19 of Municipal Property Rates Act, a municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable properties. The act also provides for the Minister to prescribe the ratios between residential and other types of property. The regulations as proposed remove this right by fixing the ratio and not making allowances for flexibility. The levying of rates on property should also be measured against the requirements of a good tax system which requires that there must be an ability to pay. It is therefore recommended that the regulations provide for a band of ratios to allow for certain flexibility in determining the rate randages applicable to each category of property.

The impact of the DPLG regulations on the tariff c/R on property value for one of our member municipality property owners, based on a 0% increase on rates revenue as well as 0% increase in property value is depicted in the following graph.



The impact for different member municipalities is an 8% increase for residential and business tariffs to meet the reductions granted to state owned and PSI properties. It is also submitted that the costs of providing rates funded services to similar properties are similar, irrespective of who the owner is.

- **Public Service Infrastructure (PSI)**

In terms of section 17 of Municipal Property Rates Act, a municipality may not levy a rate on the first 30% of the market value of the public service infrastructure. The imposition of a further limit on the amount of rates charged on Public Service Infrastructure seems to take no account of the fact that Section 11(1) (b) already provides for statutory discount on the value of public service infrastructure. This will effectively result in an even lower rate on such infrastructure to residential property.

Certain categories of PSI are causing additional expenditure to their municipalities which must be funded from the rates account. An example is the Koeberg Nuclear Plant where the emergency services of the member municipality must update and fund the emergency planning and capacity to deal with a nuclear incident.

In terms of fairness and equity treatment, it is submitted that PSI that cause additional expenditure for municipalities should not receive any rebates or the impermissible valuation rebate of 30%.

- **State Owned Property**

In terms of the draft regulation rates ratios to be applied to PSI is 1:0.25. By arbitrarily reducing the rates income of a Metro municipality (for an example) from state owned properties and PSI by some R250 million leaves only two choices, either increasing rates for all ratepayers (including residential ratepayers just above the indigent threshold) by nearly 8% (in addition to the annual CPIX driven increase) or scaling down service delivery even further to effect a cost saving of some R250 million.

It is further argued that Government should not be in a position to give themselves a huge decrease in their rates accounts at the expense of predominantly residential ratepayers who are already severely hampered by cost increases in excess of their envisaged salary and pension increases. The rates burden of R250 million would in effect be redistributed from entities with the demonstrated ability to pay to those whose ability to pay is already under pressure.

The current definition for state owned property is too broad. The draft regulation refers to ownership whilst the category of property refers to the use and or zoning **rather** than ownership. It is therefore important that the actual “**use**” be used to determine the applicable tariffs.

- **Section 2 (2)**

In terms of the draft regulation rates ratios to be applied to any property determined by a municipality which is not associated with any of the categories of property listed in the first column of the table in the draft regulation, the applicable ratio is 1:0.25. This section in the regulations defeats the objectives of the Act which allows for multiple categories of property. By limiting the list through the table the rest of properties will all fall within the 1:0.25 ratio and shift of incidence fall within residential property.

It is recommended that this provision be capped at 1:3 of residential. The arguments here for example are that if the tariff message to owners of vacant property is to stimulate development, council will inherently have a higher ratio than what is envisaged. With the current suggested ratio this is not possible. Most owners of vacant land are holding on them to grow future wealth and with the present demand for land, this speculation should not be rewarded with subsidized tariffs.

- **Impact of proposed ratio on categories of properties**

The contribution that each category makes to the total rates income will shift in relation to the ratios applied. In order to remain constant with the revenue that is required, the burden of each category that makes a lesser contribution in terms of the ratios will have to be borne by another category of property. In case of the proposed ratios, the burden of property tax is shifted from the other categories onto the residential category.

The impact of the proposed ratios for one of the municipalities is depicted in the table below. It is clear from the table (**Table1**) that by reducing the state ratio to 1:0.25 it increases residential property and looking at the different use on the State Owned Property as highlighted in the table in **ANNEXURE A** it is clear that the ratio is unfair to residential owners of property. This unfairness will directly impact on their ability to pay on the fairness principle of taxation.

It would be better to determine a ratio band for each category and allow the municipalities to decide within that band on how to create equity and fairness in the application of the tariff. This would provide far greater flexibility in determining equity in rates payable.

Table 1

Proposed Ratio Impact analysis				Required ratios to maintain Status Quo	Ratios Proposed by DPLG	Impact of DPLG Ratios
Category of Property	Number Properties	Old Property Value	New Property Value			
Agricultural	854	465,412,300	1,567,103,000	**1 : .459**	**1 : .250**	-28.14%
Industrial & Business & Commercial	12,642	28,641,631,700	72,204,553,000	**1 : 2.764**	**1 : 2.0**	3.47%
PSI	1,167	47,761,900	5,079,986,000	**1 : .117**	**1 : .250**	67.18%
Residential	394,638	59,736,941,820	228,347,124,000	**1 : 1.0**	**1 : 1.0**	30.15%
State	31,966	12,134,039,086	25,632,042,000	**1 : 2.940**	**1 : .250**	-721.43%
Vacant Land	52,529	3,218,490,543	19,560,304,000	**1 : 2.354**	**1 : .250**	-557.57%
Total	**493,796**	**104,244,277,349**	**352,391,112,000**			

The table above clearly indicates the impact for the average residential owner of property in the municipal area. Residential owners of property will face an additional 30.15% increase in their rates as a result of the regulations. Municipalities with a higher proportion of state and PSI property value vs. total property value could face even higher increases.

- **Impact on Municipal Budget**

Municipal Property Rates is one of two major sources of revenue. If the proposed draft ratios are applied to the various categories as well as limit in inflationary increases, the net effect would be that the rates income of municipalities will be drastically reduced.

- **Limit on percentage by which rates on properties may by increased**

In terms of the regulation, the percentage by which rates on property or a rate on a specific category of property may be increased annually is set at the consumer price index (excluding interest rate on mortgage bonds).

The implementation of this part of the regulations is impossible due to the implementation of the new valuation rolls as well as the increase in required revenue. It would not be possible to implement the percentage as envisaged due to the high increases and variances in property value across the various categories of property since the last valuation roll and the change in the categories of property previously used by municipalities.

It is recommended that the percentage increase on the budget be restricted to the overall increase in rates revenue only, and not be applicable to individual properties or specific categories of properties.

Many municipalities are faced with increased demands for services and for improved levels of services. The effects of these, the assistance granted to indigent residents and the above CPIX increases experienced in the resources needed to provide services could necessitate applications to the Minister to exceed the CPIX parameters.

Conclusion

In conclusion, the following submissions are made:

- The draft regulation does not meet the "ability to pay" principle of taxation and the rebates are not subjected to the annual public participation process as prescribed by the MFMA.
- The implementation of ratios needs further investigation to establish the impact on residential owners of property.
- That more feasible ratios be published, with an opportunity for municipalities to gradually phase-in such ratios.
- Should the Minister continue with the publication of ratios, these should be set as a range indicating the maximum and minimum ratios.
- That percentage increase is restricted to overall increase in rates revenue only, and not be applicable to individual properties or specific categories of property.
- Should the Minister continue with the publication of the ratios, these should not be applicable for the 2008/9 financial year as municipalities are already busy preparing their budgets and the regulations may cause far reaching amendments to business plans and service delivery.

ANNEXURE A

Description	National			Provincial			Total Number Properties	Total Old Property Value	Total New Property Value
	Number Properties	Old Property Value	New Property Value	Number Properties	Old Property Value	New Property Value			
Agricultural				7	2,188,100	5,150,000	7	2,188,100	5,150,000
AGRICULTURAL RESIDENTIAL	1	1,094,900	29,730,000				1	1,094,900	29,730,000
Amusement (Theatrical etc)	2	76,957,200	88,422,000	1	1,138,800	1,560,000	3	78,096,000	89,982,000
Banks	2	-	146,000				2	-	146,000
Barracks				1	7,695,200	3,360,000	1	7,695,200	3,360,000
Bus/Taxi Rank	1	264,400	1,060,000				1	264,400	1,060,000
Cemeteries & Burial Grounds	1	202,800	1,550,000	3	786,400	5,190,000	4	989,200	6,740,000
Church	35	4,386,200	25,153,000	59	14,815,400	95,084,000	94	19,201,600	120,237,000
College	18	500,987,800	892,960,000	2	12,720,300	17,100,000	20	513,708,100	910,060,000
Compounds	1	450,200	740,000				1	450,200	740,000
Durban Corporation (Rates in Rent)	1	2,000	38,000	1	9,500	110,000	2	11,500	148,000
Dwelling Houses	3486	185,764,200	646,901,000	12074	544,200,200	1,492,761,000	15560	729,964,400	2,139,662,000
Flats	184	102,358,047	210,526,000	1050	92,836,939	367,961,000	1234	195,194,986	578,487,000
Garages (Service Stations)	20	21,159,300	57,290,000	2	380,100	1,517,000	22	21,539,400	58,807,000
Government	79	448,430,700	806,822,000	7	6,169,100	12,190,000	86	454,599,800	819,012,000
Hall	9	17,282,100	44,796,000	8	4,066,100	9,260,000	17	21,348,200	54,056,000
Homes (Nursing etc)	2	5,595,800	21,430,000	3	14,102,300	24,090,000	5	19,698,100	45,520,000
Hospitals	18	465,506,700	1,061,980,000	15	445,801,700	1,139,079,000	33	911,308,400	2,201,059,000
Hostels	3	44,878,100	83,180,000	2	1,018,800	1,780,000	5	45,896,900	84,960,000
Licenced Hotels	1	20,654,100	67,700,000	1	5,401,500	9,550,000	2	26,055,600	77,250,000
Municipal (Public Buildings)	22	77,917,200	165,770,000	38	54,334,700	41,109,000	60	132,251,900	206,879,000
Non-Residential & Residential				4	42,217,700	65,117,000	4	42,217,700	65,117,000
Nurses Quarters	1	4,980,200	15,450,000				1	4,980,200	15,450,000
Offices	127	540,461,100	2,278,928,000	41	134,375,000	209,720,000	168	674,836,100	2,488,648,000
Parsonage	1	9,500	63,000	3	183,100	464,000	4	192,600	527,000
Police	3	4,667,500	5,620,000				3	4,667,500	5,620,000
Post Office	16	26,868,300	57,090,000				16	26,868,300	57,090,000
Private Schools	422	1,494,271,200	3,839,406,000	241	386,015,100	1,331,170,000	663	1,880,286,300	5,170,576,000
Recreation	15	21,533,200	57,920,000	22	8,689,200	71,077,000	37	30,222,400	128,997,000
Republic Defence Department	6	47,192,500	293,780,000				6	47,192,500	293,780,000
Right - of - Way	116	-	-				116	-	-
Roads	1	-	270,000				1	-	270,000
S A Railway & Harbours	85	3,455,500	55,404,000				85	3,455,500	55,404,000
Schools	12	41,476,700	71,609,000	3	4,599,600	1,241,000	15	46,076,300	72,850,000
Shops	51	76,179,900	225,931,000	43	13,434,800	60,392,000	94	89,614,700	286,323,000
Stations	86	80,842,900	635,766,000	1	1,376,900	4,190,000	87	82,219,800	639,956,000
Substations	10	2,990,800	10,132,000	14	740,300	446,000	24	3,731,100	10,578,000
Telephone Exchanges	12	14,561,300	54,263,000	1	527,900	1,990,000	13	15,089,200	56,253,000
Temple	1	650,100	7,560,000				1	650,100	7,560,000
Trade & Industries	163	969,069,100	1,772,652,000	14	28,146,000	75,285,000	177	997,215,100	1,847,937,000
Vacant Land	5075	330,459,300	3,070,379,000	6961	160,903,200	1,189,649,000	12036	491,362,500	4,260,028,000
Grand Total	**10089**	**5,633,560,847**	**16,658,417,000**	**20622**	**1,988,873,939**	**6,237,592,000**	**30711**	**7,622,434,786**	**22,896,009,000**