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Department:
Cooperative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL



SOME ISSUES/PROBLEMS WITH WRITING CONDITIONS OF APPROVAL

PLANNING LAW FORUM

CEDARA

17 FEBRUARY 2017

Kevin Suzor



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Who's to blame



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ER **B·B**



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PDA Section 26(6) vs Section 60(1)(c)

- **Section 26(6) used to correct an error in the wording**
- **Section 60(1)(c) alter suspend or delete a condition of approval for the subdivision or consolidation of land.**
- **Solution:-**
 - **Ask applicant to submit proposed condition of establishment**
 - **Send conditions to applicant before they officially go out**

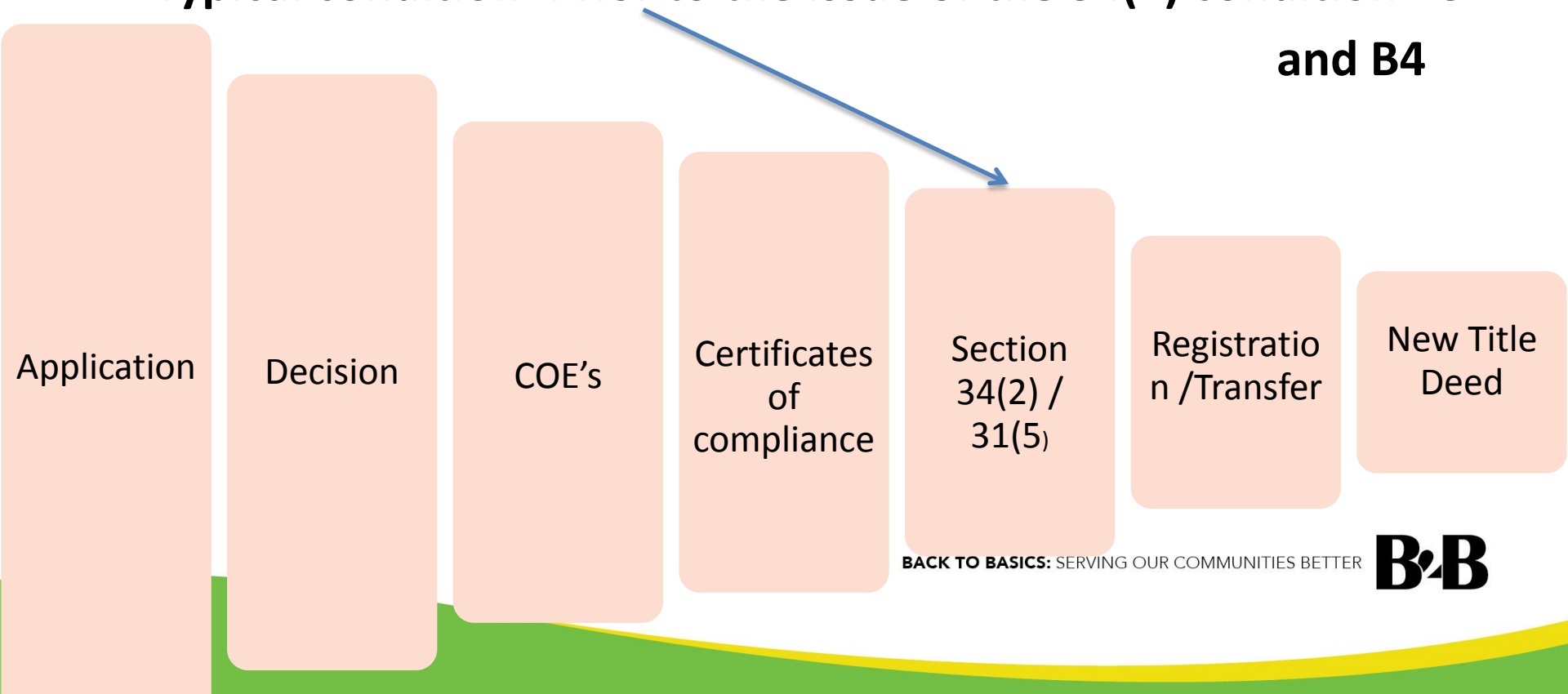


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Conditions of approval

- Some common errors in drafting conditions
- Remember the sequence of events
- Typical condition- Prior to the issue of the 34(2) condition B3 and B4



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Road Closures

- **Municipalities still using the PDA**
 - **Will use section 211 and 212 of the Local Authorities Ordinance (25 of 1974)**
 - **If the road closure results in an amendment to a GP municipalities must apply to COGTA for consent to Section 37(2) of the Land Survey Act**
 - **LUM with support from Legal will have this Section delegated to Municipalities**



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Road Closures

- **Municipalities using SPLUMA By-Laws**
 - **Section 211 and 212 of the Local Authorities Ordinance (25 of 1974) has to be complied with, irrespective of whether or not a municipality has a planning by-law**
 - **If the road closure results in an amendment to a GP municipalities must apply to COGTA for consent to Section 37(2) of the Land Survey Act**
 - **LUM with support from Legal will have this Section delegated to Municipalities**



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DEVELOPMENT FACILITATION ACT

- **Some key dates for KZN**
 - **18 June 2010 Constitutional Court declared Chapters 4&5 unconstitutional **Suspended for 2 years****
 - **17 June 2012 all unfinished business had to be completed **but decisions could be appealed or reviewed****
 - **No extension of time can be granted after the 17 June 2012 – 1 July 2015**



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DEVELOPMENT FACILITATION ACT

- **Is your DFA alive or not**
 - It was always thought that the gazetting of the DFA tribunals decision became effective when it appeared in the gazette (Clock started)
- **Regulation 23(1) when an applicant “has been notified” has 5 months to lodge for approval with the SG.....lapse**
- **Regulation 23(10) within 2 months after the GP’s were approved by the SG the applicant must lodge GP with DO, Local Gov. body and Registrar of Deeds.....lapse**



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DEVELOPMENT FACILITATION ACT

- **Is your DFA alive or not**
 - **Section 43(2) of SPLUMA “A conditional approval of an application lapses if the conditions are not complied with within**
 - **(a) a period of 5 years from the date of such approval**
- **If my DFA is gazetted but I have not submitted the GP’s to the SG within the specified 5 months- has it lapsed??**
- **If my DFA is gazetted and I have submitted the GP’s to the SG within the specified 5 months- but not to the Registrar of Deeds within 2 months- has it lapsed??**
- **If my DFA is gazetted and has lapsed because of one of the above does the rezoning lapse as well??**



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 - **17 June 2012 all unfinished business had to be completed **but decisions could be appealed or reviewed****
 - **No extension of time can be granted after the 17 June 2012 – 1 July 2015**
 - **Section 60(2)(a) brings alive dormant DFA applications**



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