

# Does the fixture or fitting form part of the property sold?



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Disputes often arise between sellers and purchasers as to what is regarded as fixtures and fittings forming part of the property sold.

Think of awnings, chandeliers, security doors, fitted mirrors and similar examples. In our law, in the absence of express agreement, three factors will determine whether a fixture or fitting has acceded to the property in such a way as to form part thereof. These are:

1. the nature and the purpose of the thing affixed to the property;
2. the manner in which it is attached; and
3. the intention of the owner at the time of attaching it to the property.

These are general guidelines crystallized from case law and are not necessarily simple to apply in practice. Our advice is to address this issue in the agreement of sale and to draft a comprehensive list of what is included in the sale of the property. This could save both parties a lot of time and frustration.

**For assistance** with your deed of sale, contact your local STBB conveyancer before putting pen to paper.

Cape Town 021 406 9100 | Claremont 021 673 4700 | Fish Hoek 021 784 1580 | Table View 021 521 4000 |  
Tyger Valley 021 943 3800 | Somerset Mall 021 850 6400 | Illovo 011 219 6200 | Bedfordview 011 453 0577 |  
Centurion 012 001 1546 | Stellenbosch 021 001 1170 | Menlyn 012 348 1682

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