Property Law - Admiralty Reserve

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1. The "Admiralty Reserve" or Government Reserve does not run continuously along the entire length of the KwaZulu-Natal coastline. Certain privately owned properties extend down to the High Water Mark of the Indian Ocean. An example of this is the farm Lot 31 No.1560, which has been extensively subdivided, and now forms part of the Durban suburb of Umhlanga Rocks. All the seaward subdivisions of this original farm extend to the High Water Mark.

2. In some instances, the Admiralty Reserve has been alienated by freehold title.
   1. In the case of Erf 12281 Durban, Deed of Grant No. 9792 dated 12 November 1920, gave Durban Corporation freehold title to the beach front reserve down to the Low Water Mark between Bell Street and the Umgeni River.
   2. Several Local Municipalities took transfer of the Admiralty Reserve down to the High Water Mark, e.g. Erf 223 Ramsgate.

3. The Sea Shore Act 21 of 1935 deemed tidal rivers and estuaries to be part of the sea. However, the legislation was not retroactive to land alienated by the State before the commencement of this Act, so there are instances where parts of the "sea" in its expanded definition had been previously alienated. Examples of these are:
   1. Certain riverside plots along the Umgeni River (vide Durban City Council v Minister of Agriculture & Another, 1982(2) SA 361(D)).
   2. Lot 1094 Port Edward, which includes most of the estuary of the Inhlanhlinhlu River (vide legal opinion from Advocate P J Olsen SC dated 17 December 1998).

4. Where the Admiralty Reserve does occur, it was usually recorded on the original diagram of the property that is separated from the sea by such Admiralty Reserve. However, the unambiguous wording of the Deed of Grant takes precedence over the diagram where there is conflict between the two.

5. Generally, the Admiralty Reserve only exists between a property and the beach if there is documented evidence (held in the Offices of the Surveyor-General or Registrar of Deeds) to show that it does.

6. Most parts of the Admiralty Reserve, where it exists in KwaZulu-Natal, are recorded as being strips of land 150 feet wide (that is, in metricated terms, 45.72 metres wide), determined from the position of the official High Water Mark. However, there are differing widths recorded to some parts, such as 120 feet wide (36.58m) and 200 feet wide (60.95m).

7. In some instances, the documentation of the affected property contains no width of the adjoining Admiralty Reserve whatsoever. Often this is then deduced to be 150 feet wide, although this cannot be assumed to be the rule.

8. One instance is also known (there may well be others) where the original survey defined the inner edge of the Admiralty Reserve using straight lines between beacons (ager limitatus). This rectilinear boundary was approximately 150 feet from the High Water Mark. (vide the farm Redhill No. 12238) Several other...
instances exist where the movable curvilinear boundary has been replaced through legal process by immovable rectilinear boundaries. (vide Erf 498 Ramsgate).

9. Section 30 of the Land Survey Act 8 of 1997, provides "Rules for Arbitrators" in deciding the correct positions of beacons and boundaries. These principles should be used as a guide in determining the existence, position and extent of an Admiralty Reserve. Sub-section 30(d) is particularly relevant to the position of the inner edge of the Admiralty Reserve. It must be remembered that the "doctrine of alluvion" is complicated by the actions of floods, storms and man.