

SECTIONAL TITLE - THE FASTEST GROWING FORM OF PROPERTY OWNERSHIP IN SOUTH AFRICA

An article by Syd Rabbitts, Chairman of STASWEST

A quick look at newspaper property advertisements shows that a large number of new developments are being offered for sale as Sectional Title schemes. It is not difficult to understand the reason for Sectional Title being so popular. This form of home ownership offers increased security, shared responsibility for maintenance, access to special facilities and the opportunity to live in better areas.

Prospective purchasers of Sectional Title property should ask the following questions before signing an Offer to Purchase:

1. Is the property in a good state of repair?
2. What is the financial status of the scheme? Inspect the latest audited financial statements and check for a healthy reserve maintenance fund.
3. Are there arrear rates or other outstanding accounts?
4. Do the rules allow for happy living or are they too restrictive for you? Are the rules registered at the Deeds office? Unregistered rules are not enforceable.
5. Is the insurance on your unit adequate?
6. What will your participation quota be and what will your share of the levy be?
7. Is there any form of litigation pending against the Body Corporate?
8. Is the scheme right for you i.e. is it mostly young people with children or mainly retired couples?

Having said that, there remains a general lack of knowledge about the workings of Sectional Title and the responsibilities that go with living in close proximity to your neighbours.

An example is the 'us and them' syndrome which is pervasive in Sectional Title communities. According to this, there exists a somewhat evil entity, vaguely referred to as the body corporate, which extracts money, makes ridiculous rules, and does nothing. At the same time, each owner wants to be king of his castle and do whatever he wants with the home which he has, after all, paid for. He is however quick to complain if the trustees have not performed their duties to his personal satisfaction.

What is not yet properly understood by owners is that **they** are the body Corporate and are in a position to hire and fire trustees, even to issue instructions to the trustees, and that ultimately they are responsible if things go wrong.

To be a Sectional Title owner requires that certain responsibilities be shouldered. One of them is to be prepared to assume the thankless task to serve as a trustee, but also, as an ordinary owner, to accept the fact that without

positive participation, knowing the rules, taking cognizance of and an interest in aspects such as the budget and insurance, and attending general meetings, a body corporate is not likely to function well if at all.

The management of schemes under the Sectional Titles Act, 1986 is an increasingly complex task, requiring detailed knowledge of the Act and its regulations and an overall understanding of the South African legal system, as well as an understanding of scheme management practices. The law applicable to scheme management is under constant review. A failure to know and apply the legal requirements for scheme management may involve serious consequences, particularly for trustees and managing agents.

It must be remembered that the ultimate responsibility for the efficient running of a scheme rests with the trustees, who are mostly volunteers with little or no training or experience in the administration or financial management of Sectional Title complexes. This opens the way for serious problems which can and do occur with unfortunate regularity, with an obvious affect on the value of the investment of owners in the scheme.

The Sectional Title Association of Somerset West (STASWEST) has over the past four years hosted many well attended seminars, at which well known speakers with authority and standing in the Sectional Title community, addressed many of the above problems. In 2008, the association intends to host further seminars and workshops for Trustees and owners covering important aspects of scheme administration and management, as well as providing assistance for prospective owners and trustees.

STASWEST is also active in:

- Representing members whenever collective action is necessary;
- Being pro-active in furthering specific interests of members;
- Rendering service without profit in such fields as: -
 - Providing information and advice on matters relating to the Sectional Title industry and share block schemes;
 - Exchange of information between members and related organizations;
 - Participating in local forums e.g. City of Cape Town. S.A.P.D., Safety and Security, tourism, etc.;
 - Maintaining a membership register and databank of applicable information;
 - Assisting and encouraging the establishment of other Sectional Title associations.

Sectional Title in South Africa is regulated and governed by the Sectional Title Act of 1986. This Act is under constant review and changes are regularly taking

place. These changes are being made by the Sectional Title Regulation Board, an organization on which the following bodies are represented: Registrar of Deeds, Surveyor General, Conveyancers, Architects, Banks and Land Affairs, as well as two persons with specialized knowledge of Sectional Title Development. Sectional Title owners, who are most affected by any changes which may be made, have no representation at all.

A national association is needed to protect the interests of Sectional Title owners. Such an association - the NATIONAL ASSOCIATION of SECTIONAL TITLE OWNERS (NASTO) - has already been constituted and registered as a non profit organization and is now starting to make its presence known. Mr Tertius Maree is the provisional custodian of NASTO. What is required is that owners form and join local Sectional Title associations to represent them. These associations can then support NASTO. (All STASWEST members are already members of NASTO.) To be effective, it is critical that all schemes in the Helderberg Basin belong to a registered Sectional Title association.

To join STASWEST contact Syd Rabbitts: 021 852 2334 / 083 441 9694 or Deborah Roberts: 021 851 4141 / 083 392 2232.

For those who have access to the internet, the following **websites** offer free advice and services:

- www.sto.co.za Paddock's interactive website
- www.ManagingAgent.co.za
- www.sectionalink.co.za
For a free subscription to:
[Paddocks Press](mailto:editor@paddocks.co.za), email editor@paddocks.co.za
[MCS COURIER](mailto:tertuis@section.co.za), email tertuis@section.co.za

RECOMMENDED PUBLICATIONS & BOOKS:

- **“Demistifying Sectional Title”** by Marina Constas. This book is user-friendly and informative. To order call: 012 - 321 9000 or Fax: 012-321 9020.
- **“Sectional Title Survival Manual”** by Graham Paddock. Useful reference book. To order call: 021- 674 7818 or Fax: 021-671 2596.
- **“Sectional Titles on Tap”, Volumes 1 and 2** by Tertius Maree. These books are excellent sources of reference. Volume 1 is also available in Afrikaans. To order call: 021-886 9521 or Fax: 021-886 9502.
- For a **free email copy of the Sectional Title Act, Prescribed Management & Conduct Rules**, compliments of Paddock's, contact Deborah on deborah.roberts@seeff.com.