



Guide to Sectional Title Schemes

WHAT IS A SECTIONAL TITLE SCHEME?

A sectional title scheme is a means by which a person can become a part owner of a building or premises by purchasing a unit in the scheme. When you purchase a unit in a sectional title scheme you become the owner of your section (a part of the scheme as shown on the sectional plan) and the owner of an undivided share in the common property of the scheme. When you purchase a unit you will receive a title deed upon registration of the transfer at the Deeds Office. An owner may transfer such a unit in a manner similar to that of a conventional property.

COMMON PROPERTY AND EXCLUSIVE USE AREAS – What are they?

Common Property:

Common property is made up of all the land and parts of the buildings that are owned and used by all owners and which do not form part of an owner's section. Examples include: the grounds, driveways, roads, recreation facilities, swimming pool, corridors, entrances and the exterior of the buildings.

Exclusive Use Areas:

Certain parts of the common property can be allocated to specific owners for their exclusive use. A parking bay allocated to a specific unit owner could be an example of an exclusive use area. Exclusive use areas can be created in different ways. It is important to distinguish between whether a real right has been created or not. If a real right of exclusive use has been created, the owner will receive a title deed evidencing his exclusive use right and may register a mortgage bond or personal servitude over this right. If an owner is allocated an exclusive use area through the rules of the body corporate, a personal right to the area is created but no title deed is issued and no mortgage bond or personal servitude may be registered over this right.

CAN I PURCHASE THE EXCLUSIVE USE OF A PARKING BAY OR GARAGE IN A SCHEME IF I DO NOT OWN A SECTION?

No, only a unit owner may be the holder of a right to exclusive use of an area in the scheme. If a unit owner sells a section, that owner may only retain exclusive use rights if the owner owns another unit in the scheme.

REAL RIGHT OF EXTENSION - What is this?

When a developer registers a scheme he is entitled to reserve the right to extend the scheme by adding additional sections or buildings at a later stage. This is referred to as a "right to extend" and sketch plans for the extension must be submitted when the scheme is first opened and registered. If this is not done, the body corporate holds the right to extend the scheme. As a purchaser, you should always be made aware of any right of extension that may exist in the scheme. If you are not made aware of this you have the right to withdraw from the purchase contract.

BODY CORPORATE AND TRUSTEES – Who are they and what is their role?

The body corporate is made up of all the owners of units in the scheme. It is responsible for the administration and management of the scheme. An Annual General Meeting (AGM) of all the owners should be held and trustees are elected from the body corporate to be responsible for the day-to-day running of the scheme. They represent the owners and sometimes appoint a managing agent to assist them in running the scheme.

LEVIES – What are they and who decides on the amount of the levy?

One of the main functions of the trustees is to determine the amount of the monthly levy for each unit. The levy usually comprises the following:

- Provision for repair costs to any electrical installation on the common property e.g. entrance gate motor, electric fencing;
- Insurance on the buildings in the scheme;
- Managing agent fees (if applicable);
- Annual audit fees;
- General maintenance costs e.g. common property areas such as garden and communal swimming pool; and
- Security costs.



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AMOUNT OF THE LEVY and PARTICIPATION QUOTA

The trustees calculate the running costs of the scheme taking into account the Reserve and Administrative funds and this amount is then divided into 12 monthly instalments. The participation quota is calculated in terms of the floor area of each owner's section in relation to the total floor area of the other sections in the scheme. The levy amount allocated to each section will depend on its participation quota.

RESERVE FUND AND ADMINISTRATIVE FUND – What are they?

A minimum amount prescribed by law is required to be kept in a reserve fund by the body corporate. This is used to cover the costs of future maintenance and repair costs to the common property.

A second fund, being the administration fund, must also be kept by the body corporate which is to be utilised for day-to-day maintenance and insurance of the scheme.

SPECIAL LEVIES – What are they?

A special levy may be raised by the body corporate at a general meeting. This levy may be required to be paid in a lump sum or in instalments, in addition to the normal levies payable by the owners. Since October 2016 bodies corporate are required to maintain a reserve fund. The need for a special levy should now only arise in exceptional circumstances.

Should a special levy be in existence, or there is a possibility of one being raised in the near future, this should be dealt with in the deed of sale indicating exactly how this should be apportioned between the seller and purchaser.

MANAGEMENT RULES

The Sectional Titles Schemes Management Act rules sets out how the scheme will be managed i.e. how the trustees must be elected; what is expected of the trustees and rules regarding voting procedures at general meetings. These are the management rules and may be amended by the body corporate to a limited extent. Copies of these rules are available from the trustees, managing agent or the Community Schemes Ombud Service.

CONDUCT RULES

These are the rules which regulate the conduct of the owners in the scheme, for example, pets, window coverings and restrictions on noise levels. The conduct rules may be amended as required from time to time by a 75% majority of the body corporate.

ALTERATIONS TO A UNIT – CAN I EXTEND, CONSOLIDATE OR SUBDIVIDE?

Before any building alterations may be made the approval of the body corporate and the local authority must be obtained. Sectional plans must be drawn, approved and an application to the Deeds Office to register the extension/subdivision/consolidation must be made. If there is a bondholder a consent from the bondholder must be obtained for the building alteration.

AS AN OWNER OF A SECTION WHAT ARE YOUR RESPONSIBILITIES?

- Payment of your monthly levies.
- Maintain your section and exclusive use areas in a good state of repair and keep them in a neat and clean condition.
- You should not create a nuisance or permit your section or exclusive use area to be used in any manner that may be unlawful or interfere with the use and enjoyment of the common property or sections of other members of the body corporate.
- You may use and enjoy the common property in a manner that does not unreasonably infringe on the use and enjoyment of the other owners.
- You should notify the body corporate of any change of ownership of your section.
- You should utilise the section for the purpose intended i.e. residential or business.
- You should abide by the management and conduct rules of the scheme.



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SHAREBLOCK AND SECTIONAL SCHEME – What is the difference?

Purchasing the right to occupy a portion of a building in a share block scheme involves purchasing shares in the share block company that owns the building. The shares cannot be mortgaged and registration of the shares is done by way of transferring the shares into the purchaser's name. Purchasing a unit in a scheme gives you title to the property which is registered in the Deeds Office and, as with conventional property transactions, a mortgage bond may be registered over the unit.

Should you require further information or assistance in this regard, please contact one of our conveyancers.

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