

Discrimination against tenants with babies is against the law

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Some people still live in the past when certain laws allowed discrimination. They are unable to sever the link. House rules, management and conduct rules discriminate against and violate the rights of owners and tenants of sectional title and share block schemes. Model Rules are annexed to the Regulations of the Sectional Titles Act of 1986; annexure 8 contains management rules and annexure 9 deals with conduct rules.

These rules come into effect as soon as the first owner buys a unit and takes ownership that brings a body corporate into existence. A body corporate can change these rules; the management rules require a unanimous resolution and the conduct rules can be altered by a special resolution. A body corporate has powers to do all things necessary to enforce rules and therefore has wide residual powers.

The discrimination against a couple having a child appears to be one of the worst phobias to captivate rule-makers of sectional title and share block schemes. Any approach to address the anxiety of a couple or a family with management, results in a confrontation. There is a genuine fear that the scheme

will fail if one changes the (autocratic) rules. An example was that of a couple who were expecting a baby and were asked to move out of the unit.

The shareholder (owner) of the unit has no objection and is appalled by the body corporate's decision. Attempts were unsuccessful to engage the body corporate to discuss the threat of an illegal eviction or to secure their management rules and articles of association. Perhaps, a constitutional court challenge may solve the problem.

All South Africans must respect and observe the provisions of the Constitution that requires everyone to follow the rule of law. The Constitution affirms democratic values of human dignity, equality and freedom (section 7). Owners, tenants and bodies corporate (share block included) have to honour the provisions of the Constitution, that among other things, relate to human dignity, equality and freedom (s7), equality (s9), the right to freedom of movement and residence (s21), property (s25) and housing (s26). In this way, the couple expecting their new born can have security of tenure and peace of mind.

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