

Privacy laws in public interest

Sayed Iqbal Mohamed

SECTION 14 of the South African Constitution of 1996 states that everyone has the right to privacy, which includes the right not to have their person or home searched; their property searched; their possessions seized; or the privacy of their communications infringed.

A landlord who owns a dwelling but rents it out allows the tenant temporary use and enjoyment of the property but, in so doing has to recognise the right to privacy.

The leasing of the dwelling prevents the owner to inspect or visit his/her property without prior arrangements with the tenant. A visit must be for a genuine purpose like inspecting the dwelling to carry out repairs.

A landlord must maintain the dwelling; therefore the law grants him or her reasonable rights to enter the dwelling in order to inspect it. But such inspection must be carried out at a time that suits the tenant.

However the tenant must not be "difficult" or unreasonable in agreeing to a time that suits both parties.

Section 4, chapter 3 of the Rental Housing Act 50 of 1999, under general provisions that deal with relations between tenants and landlords state:

- A party has the right, during the lease period, to privacy and the landlord may only exercise his or her right of inspection in a reasonable manner after reasonable notice to the tenant;
- The tenant's rights as against the landlord include the right not to have, his or her person or home searched; his or her property searched; his or her possessions seized, except in terms of law of general application and having first obtained an order of court; or the privacy of his or her communications infringed.

Similarly, in a sectional title scheme, between an owner of a unit and the body corporate, written permission is required to inspect and to carry out repairs.