

Sectional title owners must work as a team

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LEGISLATION dealing with land, housing and property rights has undergone substantial change in South Africa. Recent changes were made to the Sectional Titles Act, so it is important for bodies corporate as well individual owners and their tenants to know how the changes affect them. It is not only required by law, but is common sense to have management and house rules for the effective functioning of a block or sectional title scheme.

On the one extreme certain owners do not pay levies, overcrowd and disregard rules. There are groups who have literally taken over buildings or individual units claiming that the Constitution of South Africa supersedes the Sectional Titles Act. At the other extreme, desperate diligent owners have formulated rules which include those that violate people's basic rights.

The Sectional Titles Act comes under the control of Land Affairs, although it appears further changes may eventually result in National Housing dealing with rules. This may lead to Provincial Rental Housing Tribunals dealing with enforcement, violations and other related matters to ensure the success of a body corporate.

SUBJECT: Overcrowding, absentee landlords and bodies corporate.

A body corporate is further burdened when certain owners allow overcrowding of their units or flats. Sectional Titles and Share Block schemes require owners in a block to be team players. When one owner disregards fundamental rules, the entire building can "shut down", causing financial loss to other owners. Errant or defaulting owners who ignore their obligation to pay levies on time and in full, contribute to the deterioration of dwellings.

Together with their tenants, who do not understand, are uninformed or just not bothered about how a sectional titles scheme operates, honest and dutiful individual owners and the body corporate of a particular scheme are ruined.

Rights and Obligations: An owner lets his unit to eight tenants, all foreigners desperately in need of accommodation. Their rental is paid by an organisation that helps refugees. The dwelling is a bachelor flat and the rent is pegged above market rentals. Even though the owner does not occupy the unit, he is responsible for monthly levy payments. The levies collected from all the owners are used for payment of service charges, including water consumption, maintenance and rates.

The owner of the bachelor flat, however, does not pay his share of the levy. The water consumption increased because of overcrowding. The body corporate is faced with an absentee landlord who is not bothered about the consequences of his action. Several such delinquent owners were responsible for buildings in the inner city falling into disrepair.

Remedy: The owner can lodge a complaint in terms of the Rental Housing Act, 50 of 1999, if his or her tenant breached the lease by allowing more people to occupy the unit.

The owner could cancel the lease via certain procedures and start an eviction process.

In the case of the owner allowing overcrowding, bodies corporate need to lobby for city bylaws to deal with overcrowding. The National Department of Land Affairs and Housing must be presented with practical solutions.