

Common property infringements in sectional title schemes

Sectional title property owners and tenants often do not know the regulations regarding uses of sections and common property.

It is up to the body corporate to ensure that any infringements are dealt with timeously, says Michael Bauer, general manager of property management company IHFM.

Regulation 30 (a) and (b), states clearly that the common property, sections and exclusive use areas should be used in such a way that does not interfere with others within the scheme, which is also mentioned in the STSMA in Section 13 (1)(d) and (e).

This might seem obvious, says Bauer, but there have been instances where parking bays, for example, have been taken up by additional vehicles, boats, or trailers, even though they are not rented by the person using them.

Another example is where a storeroom (or garage) has been converted into a living unit or a garage is being used to store dangerous goods.

30 (c) and (f) deals with the law or by-laws and the use of areas, and occupants must adhere to the stipulated provisions and use of their particular unit as marked in the sectional plan.

If they are in a residential unit then no business may be run from that unit, however small the business may be, says Bauer. It is only if a unit is expressly zoned as commercial and licensed as a commercial unit that a business may be run from there.

Owners or occupants may not make alterations to a section or exclusive use area that might impair the stability of the building or interfere with others' use of sections, the common property or exclusive use area (Regulation 30 (d)).

The next point may, too, seem obvious, says Bauer, but 30 (e) states that no occupant may do anything to a section or exclusive use area that might negatively affect the value or use of another section or exclusive use area.

Owners and tenants may not (as per 30 (g)) build any structure on an exclusive area that might be seen as an addition to their floor area unless they have the permission from the body corporate and adhere to the requirements of both the STSMA and STA.

For example, a balcony may be enclosed with prior written approval by the trustees if it remains a balcony. If the balcony is enclosed and the previously external walls are demolished they create habitable space and therefore extend their section, which requires a special resolution from the body corporate to do so.

Sectional title living is beneficial to all in that there are many shared expenses and amenities for those within the scheme, but it is the owners and occupants' responsibility to sustain the harmony by adhering to rules and regulations so that the body corporate does not have to act against them in some way or another, says Bauer.

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