

The difference between Sectional Title Schemes and Home Owners Associations

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Townhouse developments and complexes have grown considerably more popular in recent years as people increasingly opt for the improved safety and security, as well as the sense of community, that often comes with cluster living.

Martin Bester, the Managing Director of Intersect Sectional Title Services, who sits on the board of the Residential and Sectional Title Committee of SAPOA and is a member of the Sectional Title Regulations Board advises that there are predominantly two different types of cluster developments: sectional title schemes and homeowners associations, and these differ in the way the scheme is run and where the responsibility lies.

“In a home owners association you own the house and the erf it is built upon. Each unit has its own erf number and each owner is responsible for his/her own rates and taxes, insurance, maintenance, as well as water, sanitation and electricity.”

“Important to note,” says Bester, “is that a home owners association which, in the Western Cape is usually registered in terms of the Land Use Ordinance at the City of Cape Town, is usually established to look after the maintenance of the roads, security and communal areas within the complex and a levy is payable by all of the home owners for this upkeep.”

In a home owners association, each owner of an individual property is automatically a member of the home owners’ association and the home owners association will be responsible for establishing the rules of the development.

According to Bester, when it comes to sectional title property, you own a unit, which comprises the section [which could be a flat or townhouse], and the

exclusive use area(s) [which could include parking bays and or gardens, if any] as well as an undivided share in the common property.

“Sectional title therefore is a form of joint ownership in terms of which parts of buildings or complexes can be exclusively owned, in conjunction with shared ownership of other parts of the buildings and the land.”

“The owners in a sectional title development collectively form a body corporate, which, once established, is responsible for the day to day running of the scheme and the enforcement of the rules, as well to establish a fund to ensure that all bona fide costs are met and that the property is suitably maintained.”

How they are similar

Bester advises that home owners associations are similar to sectional title schemes in that each raise levies in order to offset the costs associated with administering and maintaining the common property.

“There is also [limited] control over individual behavior of the members in each, by way of approved rules.”

“Both schemes offer a form of communal living, which is attractive to certain people, based on the “lock up and go” and secure lifestyles some offer.”

How they differ

Bester further advises how the two forms of development are different.

“A Sectional title scheme involves ownership of common property in undivided shares, whereas a home owners association does not. In a home owners association, the common property, sometimes referred to as “private or common areas” is usually owned by the association.”

“Another fundamental difference is that the owner in a home owners association is responsible for the repairs and maintenance as well as the house owners insurance for his/her own property, whereas in a sectional title scheme the body corporate is responsible for the repairs and maintenance of the common property, which includes the external parts of the buildings, as well as the for insuring the buildings and fixtures contained in the scheme, and finances same by means of the levy

raised.”

“Sectional title can provide for ownership in different levels on one piece of land that forms part of the common property, whereas in a home owners association each separately owned building is on a separate erf. Also, in sectional title, it is usual to have some parts of the common property made subject to specific rights of exclusive use in favour of particular owners or groups of owners. This concept is not ordinarily part of a home owners association.”

“Additionally, the common property, sections and registered exclusive use areas in sectional title schemes are shown on one or more sectional plans, whereas the property in a home owners association is shown on a general plan or separate diagrams,” concludes Bester.

