

Changes in South African Community Schemes and what the investor should know.

Presentation by Marina Conostas
Director BBM Attorneys

BBM
LAW

WWW.BBMLAW.CO.ZA

A BRIEF OVERVIEW

SECTIONAL TITLE SCHEMES

Pre - 1971

Landlord owned buildings

Post 1971

3 Generations all modelled on the Strata Titles

Act 17 of 1961, New South Wales, Australia.

BBM
LAW

FIRST
GENERATION:

Sectional Titles Act
Enacted 30 June 1971
Effective 30 March 1973

SECOND
GENERATION:

Sectional Titles Act
Enacted 17 September 1986
Effective 1 June 1988

THIRD
GENERATION:

Sectional Titles Schemes Management Act
Enacted 11 June 2011
Effective 7 October 2016

Community Schemes Ombud Services Act
Enacted 11 June 2011
Effective 7 October 2016

BBM
LAW

HOMEOWNERS' ASSOCIATIONS

ies Act 71 of 2008

SHARE BLOCK SCHEMES

locks Control Act 59 of 1980

ies Act 71 of 2008

Definition of a community scheme in terms of the Community Schemes Ombud Service Act:

“Any scheme or arrangement in terms of which there is shared use of and responsibility for parts of land and buildings, including but not limited to a sectional title development scheme, a share block company, a home or property owners’ association, however constituted, established to administer a property development, a housing scheme for retired persons and a housing co-operative as contemplated in the South African Co-operatives Act, 2005.”

Sectional Title Investment Risks

01 No Regulator

Community Schemes Ombud Service (CSOS)

02 Body Corporate Financial Security

Separate Reserve Fund

03 Lack of Body Corporate Maintenance

10 year written Maintenance, Repair and Replacement Plan

04 Dysfunctional Trustees

**Appointment of Executive Managing Agent
Application for Administration**

05 Debilitating Arrear Levies

**Streamlined collection processes
Proactive Trustees
Better Support from the Courts**

Community Schemes Ombud Service (CSOS) Act and Regulations

CSOS mandate and aims :

- To house corporate governance documentation (rules, plans).
- To attend to alternative dispute resolution, providing a mediation and adjudication platform.
- To provide nationwide educational programmes and campaigns about CSOS functions.

What is a Community Scheme?

- Sectional Title Scheme
- Homeowners' Association
- Share block Building
- Retirement Village
- Gated Village with a Constitution
- Housing Co-operative

The functions of the Ombud Service

- To develop and provide a dispute resolution service;
- To train conciliators, adjudicators and other employees of the Service;
- To regulate, monitor and control the quality of scheme governance documentation; and
- To take custody of, preserve and provide access electronically or by other means to scheme governance documentation.

In performing its functions, the Service –

- must promote good governance of community schemes;
- must provide education, information, documentation and such services as may be required to raise awareness to owners, and other persons or entities who have rights and obligations in community schemes, as regards those rights and obligations;
- must monitor community scheme governance; and
- may generally, deal with any such matters as may be necessary to give effect to the objectives of this Act.

Multi-family Developments

Exceptionally popular overseas concept

- Two or more households renting under one roof.
- Tenants sharing walls, floors and utilities.
- Laws and regulations for multi-family housing varies from state to state.
- Separate entrances.

An important segment of the residential real estate market in the United States.

Huge growth due to crisis in housing.

Apartments
Condominiums
Townhouses



BBM
LAW

WWW.BBMLAW.CO.ZA

Multi-family and co-developments – a new scenario?

- High density support system.
- Neighbourhood revitalisation bringing professionals into big cities.
- Rentals are trendier with the youth.
- Shift from ownership to rentals.
- Changing properties from single homes to multi-family instead of building new apartments, best harnessing spatial frameworks.
- Consent Use, Rezoning and Township Developments.



Multi Family Homes

Rental Income

Generate higher rental income per investment opportunity.

Investment Property Financing

Lenders view them as low risk as they are less likely to face 100% vacancy.

Real Estate Appreciation

Investors benefit from natural appreciation. 8-12% on American models.

Rental Property Management

Higher rental income allows investors to hire a property manager and still enjoy positive cash flow.

Exit Strategy

Difficult to sell, dependant on location.

THANK YOU

BBM
LAW

WWW.BBMLAW.CO.ZA