

What to be aware of when selling or buying sectional title property

Published by www.ihfm.co.za in their weekly newsletter

When a sectional title unit is being sold, the situation sometimes arises where it is discovered too late that the scheme's body corporate has not been run properly, that they have not held AGM's regularly or the financials are showing signs of discrepancy or debt, said Michael Bauer, general manager of property management company IHFM.

The Sectional Title Act does not specify that owners have a fiduciary responsibility in the sectional title scheme in which they live, but Bauer says that owners should take an interest in their scheme, they should ask about the financials and if meetings are not held, they should question why.

“If you have shares in a company and have invested a certain amount of money and there is a loss, you would ask what happened. The same principle applies if you live in a sectional title scheme, the owners must take some responsibility for the management of that scheme,” he said.

Be certain when you want to sell your unit that all the necessary documents from the body corporate (which will be needed by the bank to approve a bond or home loan for the buyer) have been given to the estate agent as soon as he starts marketing the unit so that unnecessary delays in the sales process can be avoided. Banks will assess the financial status of the sectional title scheme before they will grant a bond and if the seller waits too long to request these, the bond approval process would be delayed.

When the banks look at the financials of the body corporate, they will check what is owed by the scheme, whether loans have been taken to cover accounts where there have been shortfalls in levies paid and whether the scheme is being managed properly and is solvent. However, over and above the banks basic due diligence, the buyer needs to do his due diligence to ensure he knows what he is buying into.

In cases of sales in execution, the municipality will be paid first if there are outstanding amounts on the rates and water accounts (which there usually are); the bank will be paid second and the body corporate third. If there is not enough left in the proceeds of the sale to cover the outstanding levies, the buyer of this unit will have to settle the outstanding levies. This is something that is sometimes not taken into account when buying into a scheme at an auction.

Shrewd buyers of properties at auctions will often ask bodies corporate to produce their levy and interest resolution. They must produce this as well as a resolution passed by the trustees on the interest charged on overdue levies. Without proof of these resolutions the overdue levy account can be reversed and this, then, would be to the detriment of the scheme because funds in most cases must be written off.

This is where it is imperative that the body corporate does everything “by the book”, said Bauer.

In normal situations the sale of a sectional title unit can go through without a hitch but there are things that are sometimes forgotten, said Bauer.

“We have seen cases where the conduct rules of the scheme have not been given to the buyer nor has he requested these before signing the offer to purchase. There are schemes that have strict rules regarding pets or the number of occupants in a unit and if these rules have not been read beforehand it can cause problems. Rules can be changed, but it does take some effort to get other occupants to vote in the change’s favour.”

“Buying a property is a long-term investment and all the preliminary investigations into that property must be done before a commitment is made, check everything in the scheme that you are buying into is sound and that the conduct rules are acceptable to you before signing on the dotted line,” said Bauer.