



1. What is sectional title?

A title system in which 'sections' of buildings are created for separate ownership. A 'sectional plan' is registered and available at the Surveyor-General's Office for each sectional title development. All the parts of the land and the buildings that are not labelled as sections (or parts of sections) on the sectional plan are 'common property'. The common property is owned jointly by all the people who own sections. The sectional plan for a scheme may also show 'exclusive use areas'. These are defined parts of the common property set aside for 'exclusive use' by particular owners, for example a garden area or parking bay. The entire development is referred to as a sectional title 'scheme'.

2. As a sectional title buyer, what will I own?

You will own your unit as well as shares in the common property. The boundaries of each section are the centre lines of the walls, floors and ceilings that surround it. In the case of Villa E'trucia the section includes open balconies and patios. In addition, you may also have 'exclusive use rights' to one or more parts of the common property.

3. What is common property?

The common property in a scheme is those parts of the land and buildings that are not contained within any section according to the registered sectional plan. For example, the common property usually includes all the land, the foundations, roofs, passages, parking bays, lifts, garden areas, swimming pool and any other facilities.

4. What is a participation quota?

A participation quota is the 'share' in the common property allocated to each section. The sectional plan includes a 'Participation Quota Schedule' that allocates a particular share to each section. The share is calculated based on the floor area of your unit as a percentage of the total floor area within the whole complex. The participation quota allocated to a section is used to calculate an owner's share of the scheme's common expenses.

5. Does a unit owner have the same rights as an ordinary house owner?

No. Sectional title ownership involves communal living. To regulate the shared living environment in a sectional title scheme there are provisions in the law and the scheme's 'rules' that place restrictions on your lifestyle. Other differences are:

You have to pay a share of scheme expenses and are responsible for a share of scheme debts – if you fail to make these payments you will face legal debt recovery proceedings.

In using your section and the common property you have to take into account the rights of other owners and occupiers of sections – i.e. you have to use your property reasonably and must not interfere with the rights of others to use their property.

You have to repair and maintain your sections and keep your exclusive use areas neat and tidy. The body corporate has to maintain all the common property.

6. What is the body corporate of a sectional title scheme?

A scheme's 'body corporate' is an association of all the unit owners. It represents owners, administers the scheme and manages the common property.

7. Who controls the body corporate?

All owners of units are members of the body corporate. They elect a board of trustees to conduct

day-to-day business. Often the trustees employ a managing agent to assist them. The trustees must manage the scheme in accordance with any instruction given or restriction imposed by owners at a general meeting.

8. Who approves the scheme's annual budget?

The owners of units in the scheme approve the budget at the body corporate's annual general meeting. The trustees propose a budget for the next financial year and the owners approve this, with or without changes – so the owners make the final decision on the scheme budget.

9. What are levies?

The 'levy' is the contribution, paid in monthly instalments, that each section owner pays to the body corporate to meet the scheme's common expenses. An owner entitled to exclusive use rights must also pay any costs attributable to the upkeep and repair of that area. Liability for levies arises when the trustees take a decision 'levying' the contributions on owners.

10. How do I pay municipal rates on my sectional property?

The municipality bills each owner directly for rates based on the market value of that unit. The body corporate pays the municipality for water, electricity and refuse removal services. Any amounts the body corporate has to pay the municipality it recovers from owners as part of the levies.

11. Can I let or sell my sectional property as I wish?

Generally, you can. But you must check the rules of the scheme to make sure that there is no restriction on letting or selling. You will not be able to transfer your property to a buyer until you have paid all amounts due to the body corporate.

12. Can I extend my property or do renovations and alterations as I wish?

No. This is a very complicated question and the simple answer is that you should not do anything - whether it be inside or outside your unit - without consulting the trustees, who will then advise you on any legal and/or aesthetic requirements. Even if you see that a neighbour has done something, this may have been done illegally and you may be instructed to remove/reverse the alteration. This also applies to burglar-proofing, awnings, gazebos and air-conditioning units, amongst others.

13. What does the body corporate insurance cover?

The body corporate must insure the building(s) and common facilities to their full replacement value. It also insures any movable items owned by the body corporate. The body corporate may also take out other types of insurance. Owners should insure their own furniture, appliances, fittings and personal effects. The insurance does not cover illegal alterations and extensions. Please advise the managing agent if you have made any improvements to your unit such as wooden flooring or kitchen upgrades so that you are adequately insured. An excess may be payable on claims.

14. Must the scheme have reserves for future expenses?

In practice, no. The owners in a scheme are obliged to include in their approved budget what they consider to be a reasonable provision for future maintenance and repairs. In the case of Villa E'trucia we prefer to budget carefully and build healthy reserves for larger projects so that it is unlikely that there will be the need to call for a special levy.

15. Who is liable for levies?

The person who is the registered owner of the unit on the day the trustees levy a contribution on owners is responsible to pay that levy to the body corporate. A contract to buy a unit may include a clause that transfers the liability for levies from the seller to a buyer from a particular date, e.g. the date of occupation.

16. How long does a particular levy last, and can I be asked for extra money?

Ordinary levies are based on a budget approved for a twelve month financial year, so you can expect them to be revised each year. But if the body corporate encounters a necessary and unbudgeted expense, the trustees can declare a 'special levy' and all owners will be liable for their shares of the additional amount.

17. What does my levy include?

Owners pay general levies calculated on the approved budget for the current financial year, normally in monthly instalments. The budget covers scheme expenses such as:

- municipal service charges for water, sewerage and refuse removal
- cleaning, maintenance and repair of the common property, including lighting, intercom, security, swimming pool, fire alarms and extinguishers, refuse management, gardening services and equipment
- insurance premiums and valuation fees
- managing agent, accountant, auditor fees
- contributions to reserve funds for future maintenance, repairs and replacement costs.

18. Will the managing agent or caretaker do minor repairs in my section?

Not usually. These persons are employed by the body corporate to assist the trustees in the administration of the scheme generally and to care for the common property, not to deal with private repairs inside sections.

19. What should I do if the body corporate does not repair and maintain the common property?

You should discuss the matter with the trustees and the managing agent. If this does not get results, you should join other owners in demanding that the trustees arrange proper maintenance.

20. What are the managing agent's duties?

Managing agents assist the trustees to run the scheme. They perform day-to-day management tasks, taking primary responsibility for administrative and record keeping requirements and assisting in the physical management of the scheme. The managing agent provides the trustees with regular financial and other management information and assists them to make decisions. They usually provide a full accounting and levy collection service, deal with the payment of body corporate debts and assist in managing maintenance and repair projects.

21. What can owners do if they don't like the way trustees are running the scheme?

They can stand for election as trustees and play a more direct role in management. Owners who together hold twenty-five percent of the value of votes in the scheme can demand a special meeting to remove one or more of the current trustees and elect others.

22. Does each owner take a turn being a trustee?

No. You have a right to make yourself available to act as a trustee, but you do not have to do so. And even if you do make yourself available, others must vote for you before you can be elected as a trustee. Trustees are not normally paid for their services. Often they appoint a managing agent to assist them.

23. What are the duties of the trustees?

- To manage and maintain the common property and body corporate's assets.
- To ensure that owners and other occupiers of sections comply with the Act and the scheme's rules.
- To ensure that arrear levies are promptly recovered.
- To manage the scheme generally.
- To call and hold regular annual general meetings and call and hold additional general

- meetings when necessary.
- To ensure that proper notices are given for all meetings.
 - To keep secretarial and financial records and allow these to be inspected on reasonable notice.
 - To act honestly and in good faith for the benefit of all owners and not in their own interests.
 - To make sure that the scheme buildings and assets are adequately insured to replacement value.
 - To raise special levies when necessary unbudgeted expenses are incurred.
 - To supervise the activities of the managing agent, if one is employed, and any other body corporate employee or agent.

24. How do trustees make decisions?

By majority vote. If there is a deadlock in the trustee voting, the chairperson has a 'casting' vote.

25. What do you need to have and do to be a good trustee?

- A responsible attitude to the affairs of the body corporate.
- The ability to run the scheme sensibly, but at the same time to remember that you are dealing with people's homes, their domestic lives and the welfare of their families.
- To set a good example to others, for example in obeying all rules, without becoming self-important.
- Leadership and communication skills.
- A working knowledge of the management provisions in the Sectional Titles Act and the scheme's rules.
- An ability to participate in trustee and body corporate meetings, striking a balance between efficiency and social interaction.
- To be efficient in dealing with owner issues and supervising the managing agent.
- The ability to understand the scheme's financial affairs.

26. What are the difficulties trustees can face?

- They may need to make unpopular decisions. Especially when you need to collect money from owners or control their behaviour, you can encounter negative reactions.
- Applying scheme restrictions firmly and equally to owners; some may be your friends while others may be very different to you.
- Dealing with owners who insist on contacting you personally every time they have a complaint. Your agreeing to be a trustee does not give owners the right to interrupt your life every time they have something to say.
- Finding yourself out of your depth. Scheme management can become financially and legally complex, so trustees must sometimes rely on professional advisers to make sure that they are on the right track.
- Dealing with difficult owners, at meetings and in one-on-one confrontations.
- Finding time to prepare for and attend meetings. If a trustee does not read the paperwork or cannot attend meetings regularly they are not able to participate properly in scheme management.

27. What are the duties of the owner?

- To alert the trustees timeously to any problems within the complex that may need their attention. The trustees cannot be expected to know, for example, if a single roof tile has shifted out of place, and while periodic inspections are performed, they do also depend on the residents to bring problems to their attention.
- To abide by the rules of the complex and treat the staff with respect. In addition they must make sure that their guests do the same.

- To take pride in their community by keeping common property clean, by using the facilities with care, and by being considerate of their neighbours at all times
- To communicate with the trustees in a courteous and respectful manner. The trustees give a lot of their personal time freely to the complex and it is unreasonable to assume that they are neglecting something when they are simply unaware of it.
- If the owner has tenants the same points apply and the tenant must alert the owner (or the trustees directly) if there is a problem.
- Owners are entitled to attend trustee meetings as observers and to speak on the issues on the agenda. If an owner wishes to attend a meeting he/she should ask the trustees to be notified of the next meeting. Meetings sometimes need to be rescheduled at the last minute and so it is not practical for the trustees to send out a notice to all owners of each and every meeting. Generally the Villa E'trucia trustees meet in the evening on the second Wednesday of every month.
- Further, owners are encouraged to attend AGMs but must remember that the primary purpose of the AGM is to sign off on the financial year past and approve the budget for the year ahead. To that end, the owner undertakes to understand the documentation that is sent to them ahead of the meeting and to raise any questions they may have prior to the meeting - these questions may then be added as an agenda item if they cannot be answered directly.

28. What can trustees and owners do to protect their rights and understand their duties?
 In a sectional title scheme, whether you are a trustee or an owner, you need knowledge to perform your duties and protect your interests.