



NAMA

NEWSLETTER

July 2024

THE BASICS OF EXCLUSIVE USE AREAS IN SECTIONAL TITLE SCHEMES - Q&A

by Jennifer Paddock

Exclusive use is one of the most misunderstood legal concepts relating to sectional title schemes. Yet most schemes have registered or rule-based exclusive use areas ('EUAs'). Examples of areas of common property that are often made subject to exclusive use rights include balconies, patios, garden areas, storerooms, garages and parking bays. But in practice, any area of common property may be made subject to exclusive use rights.

In this article, I answer a number of questions that I hope will shed light on this complex area of the law. But before I begin, let's set out the types of property that exist in sectional title schemes to give context to my answers below.

Types of property in sectional title schemes explained

In sectional title schemes there are two primary types of property: sections and common property.

A section is owned individually by the registered owner of that section as recorded at the relevant Deeds Registry. The owner of a section owns everything within the boundaries of that section as shown on the scheme's sectional plan, which is the crucial document used in determining the legal nature of any area in a sectional title scheme.

A section in a residential scheme is usually an apartment or townhouse. In a commercial scheme, it is usually an office. In a retail scheme, it could be a shop or restaurant. But garages, storerooms and other areas may also be registered as sections, it really depends on how the areas are designated on the scheme's sectional plan.

Now, all parts of the scheme that are not included within the boundaries of the sections, as shown on the sectional plan, form part of the common property. The common property includes areas shared by section owners and occupiers, such as gardens, swimming pools, hallways, lifts, stairwells, driveways, perimeter fencing and other communal amenities.

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HOW CAN SMALL IMPROVEMENTS BE AUTHORIZED IN SECTIONAL TITLE SCHEMES

What does the legislation prescribe in this regard?

In circumstances where the changes to common property are more minor it may be appropriate for the trustees to grant their approval. The Prescribed Conduct Rules ("PCRs") provide for some of these minor changes to common property.

Damage to common property

PCR 4 deals with damage to common property, and states that:

"(1) The owner or occupier of a section must not, without the trustees' written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.

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The 7th NAMA National Conference will be hosted in KwaZulu-Natal. The event is aimed at assembling industry role-players to engage on key topics of relevance to everyone in the business of Community Scheme Management. The conference provides a forum for learning, networking, and relationship building. Please join us as we will be highlighting the essential aspects contributing to a more professional, efficient, and successful business that generates enhanced value for its clients.

The two days of the conference will be packed with:

- 21 speakers with their extensive knowledge and experience in the community schemes industry
- keynote speaker; motivational speaker; panel discussion
- Exhibitors
- Cocktail event
- Gala dinner and awards ceremony
- Opportunity to network and meet with your industry peers

With the professional guidance of Zama Khumalo as the MC, the conference will be the highlight of 2024. Do not miss out on the year's most unforgettable experience - register now as seats are limited.

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Email your booking to vanida@nama.org.za. Visit the NAMA Conference website at www.namaconference.co.za and stay updated on the latest conference news.

Regards
NAMA Team

UPCOMING EVENTS

NAMA KZN Sectional Title Training



NAMA KZN
Sectional Title Training Seminar

 SATURDAY, 24 AUGUST 2024  Mendola Luxury Event Venue, Hilton

 **Presenter | Adv. Barbara Shingler** NAMA Honourary Member

 **Members : R900 (VAT Incl) | Non Members : R1500 (VAT Incl)**

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NAMA Gauteng South Training



NAMA Gauteng South
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 31 AUGUST 2024  Cedarwoods of sandton

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NAMA Free State Training



NAMA Free State
Breakfast Seminar

 14 SEPTEMBER 2024  Bains Lodge, Bloemfontein

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