



Nama News

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Sectional Title Property Community



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Walking the tightrope of insurance

Article by
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WHILST often being blissfully unaware of it, Trustees assume a significant cloak of responsibility once elected to office.

In fact, none more so in my opinion, than when it comes to *insurance* in terms of the Sectional Titles Act - especially since the 2005 amendment to Management Rule 29 exhorting the Trustees to "take steps" to insure the buildings to their "full" replacement value, with the implied threat of "or else!" contained in the amended provision penned by the legislator.

But, the Trustees (and the owners) are hardly let off even so lightly – hence the tightrope or, as our Afrikaans readers would so neatly put it, the "tweestryd."

Replacement value

On the one hand the Body Corporate must ensure that the *buildings* are insured to their full replacement value, obviously taking into account the specification of finishes, materials used in the original design, an allowance for site clearance and demolition (in the event of out-and-out catastrophe such as destruction by fire and the like) and pure building related considerations.

The members of the Body

Corporate also have to bear in mind budgetary constraints relating to paying premiums. So, whilst they must be realistic in pinpointing a replacement value, they are highly unlikely to over inflate the value.

On the other hand, the financial institutions that hold a substantial interest in the buildings, being the mortgagees of the unit holders and thus the members of the Body Corporate, require that the required insured value be based on "*market value*".

This is due to the fact that their lending criteria and level of bond granted are based on market value and not replacement value.

Inexact science

At best, market value is an inexact science. It includes *ALL* aspects of the property, the land, the view, the position, etc.

The point is that more often than not market value far exceeds replacement value. This being the case, the mortgagor (the unit owner) will have to pay the difference in premium between what the Body Corporate insures his unit for (replacement cost) and what his mortgagee requires, being market value.

This presents a quandary to most Bodies Corporate and, most importantly, to their constituent members, since without the additional insurance values required by their mortgagees they simply wouldn't qualify for bond



Either way the unit owner gets bitten.

finance. It must also be borne in mind that whilst building costs are steadily rising, inflation being what it is, the market value of most properties are shooting up – the two values appear to bear no correlation whatsoever.

Do we have an answer? Yes, the banks have always adopted an open door policy pertaining to insurance and are more than willing to consider the merits of each

case. Essentially all they are seeking to confirm is that the current insurance is sufficient to cover the FULL replacement costs and that all aspects relating to their security have been fulfilled.

Should you or your body corporate require further information in this regard kindly e-mail Karen at Karen@thomsonwilks.co.za or Justin at Justin@voyprop.co.za.

NAMA web portal!

AFTER the usual amount of teething problems ("blue-teeth") the NAMA web portal is now active and powering around cyber space like a greyhound on steroids.

The education and information facilities have proved to be a huge hit with sectional title owners and property professionals alike.

The dedicated search engine allows users to quickly pinpoint their required information effortlessly, saving time and frustration. The various banks supporting this portal have begun utilizing these facilities within their own environments as well as making

them available to their clients.

The translation of the monthly newsletters and introductory booklet into English, Afrikaans, Sesotho and Xhosa has also been received with great appreciation by the sectional title community.

Managing agents throughout the country have welcomed the digital repository facilities and are eagerly storing their various body records accordingly.

New information facilities under development include maintenance and insurance. Watch this space for further updates !!!

Understand the 'fine print'

PICTURE the scene, the body corporate owners have approved the insurance values at their annual general meeting.

The trustees and/or the managing agent have researched the market thoroughly and have negotiated the best possible rates and terms for the insurance policy.

All premiums have been fully paid. However, when the body corporate submits a claim the insurance company repudiates it.

Small print syndrome

Does this scenario sound familiar? If the answer is yes, then in all probability your body corporate has fallen foul of the "small print" syndrome. The "small print" syndrome is when one party to a contract does not thoroughly review the entire contents of the contract and/or does not fully understand all the clauses as well as the various responsibilities each of the parties have. Either way this syndrome often leads to frustration, arguments and worst of all financial loss. Consider the following exam-

Article by
**JUSTIN
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ple. Most bodies corporate in terms of the Sectional Titles Act and Rules ensure that their improvements are covered for fire damage.

Most, if not all, insurance policies include various provisions and requirements which stipulate that the property and the fire equipment must comply with various norms, standards and maintenance regimes.

Thus, if the body corporate fire hydrants and/or equipment is not inspected and maintained in accordance with the insurance policies requirements, any claim resulting from fire damage will in all probability be repudiated.

This, despite all the good corporate governance which was instituted by the Act, trustees and managing agent in the negotiation, approval and payment of the insurance policiv.

"Education is when you read the fine print.

Experience is what you get if you don't."

- Pete Seeger

The question of blame now enters the scene. Whose responsibility is it to ensure that the requirements of the insurance policy are fully understood and implemented?

Shifting the blame

The unit owners will blame the trustees, the trustees will blame the managing agent, who will in turn respond that they were only implementing the decisions of the trustees - and hence the arguments begin.

In fact the blame lies with all three parties. The owners at the annual general meeting should ensure that they understand the requirements of the insurance policy.

The trustees should ensure that not only do they understand the requirements of the insurance policy, but also that these requirements are adhered to. The managing agent should advise the body corporate, at the annual general meeting, that the implementation of the insurance policy is either included or excluded from their management mandate.

SMILEYS

LAWYERS

Q: How can you tell when a lawyer is lying?

A: His lips are moving.

Q: What's the difference between a dead dog in the road and a dead lawyer in the road?

A: There are skid marks in front of the dog.

Q: Why won't sharks attack lawyers?

A: Professional courtesy.

REFRESHINGLY SILLY

Two antennas meet on a roof, fall in love and get married. The ceremony wasn't much, but the reception was excellent.

Two hydrogen atoms walk into a bar.

One says, "I've lost my electron."

The other says, "Are you sure?"

The first replies, "Yes, I'm positive..."

A jumper cable walks into a bar. The bartender says, "I'll serve you, but don't start anything."

Block for Managing Agents

FAQ's

By Elmo Stuart

GEYSER INSURANCE

Q: How and to what extent are geysers insured under the Body Corporate's Insurance Policy?

A: Geysers insurance can take various forms and one has to refer to the Insurance Policy of your specific Body Corporate to ascertain if the geysers are included or excluded and whether any excess payments are applicable.

Bodies Corporate often claim excess payment on geyser insurance claims from a relevant member. This is wrong, unless so agreed and consented to by the members of a Body Corporate.

Excess payments on geyser claims should come from Body Corporate funds, as insurance is a budgeted item to which the member contributes through his levy payments.

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