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SECTIONAL TITLE UPDATE

Important terminology in sectional titles

1. Sectional Title Plan = in relation to a scheme, means a plan approved by the Surveyor General;
 - Which is described as a sectional plan;
 - Which shows the building or buildings and the land comprised in the scheme, as divided into two or more sections and common property; and
 - Which complies with the requirements of section 5 of the STA relating to the manner of preparing Draft Sectional Plans
2. Sections = means a section as shown on sectional plan (note that owner owns a unit which consists of a section and an undivided share in the common property)
3. Common Property = in relation to scheme means;
 - the land included in the scheme
 - such parts of the building or buildings as are not included in a section; and
 - land referred to in section 26 of the STA relating to the purchase of land by a body corporate to extend the common property
4. Exclusive Use Areas = means a part or parts of the common property for the exclusive use by the owners of the one or more sections, as contemplated in section 27 of the STA
5. Participation quota (P.Q) of a section = a percentage arrived at by dividing the floor area of that particular section by the floor area of all the sections in the building/s comprised in the scheme. A section/owners participation quota determines; - the value of that owners vote, - his share in the common property, - liability for contributions and debts of the body corporate
6. Special resolution = resolution passed by the majority of not less than 75% of the value in votes and 75% of the number of votes of members of the body corporate, present in person/by proxy/other recognized representative at a general meeting of which at least 30 days written notice specifying the proposed resolution has been given OR a written resolution agreed to by at least 75% of all the members of the body corporate (in value and in number) personally/by proxy/other recognized representative.
7. Unanimous resolution = resolution passed by all the members present in person/by proxy/other recognized representative of which at least 30 days written notice specifying the proposed resolution has been given and at which meeting at least 80% of the members (in numbers and in value) are present or represented OR a written resolution agreed to by all the members personally/by proxy/other recognized representative.

How is sectional title ownership different from conventional ownership?

Sectional title caters for separate ownership of sections in a community where members automatically share ownership of the infrastructure. With normal freehold owned properties, owners own defined pieces of land where in sectional title the owner primarily owns a defined portion of the building.

Common areas that serve more than one section such as land, foyers, lifts, lift shafts, gardens parking bays, swimming pools, other amenities, foundations and roofs, as well as internal services and infrastructure like roads, pavements, streets, lights, water- sewerage- and electricity systems are classified as common property.

Therefore the infrastructure and services that would have been owned by local authority in a conventional township or by a home owners association in a gated village forms part of the scheme common property and is owned in undivided shares by the owners of sections.

Sectional title schemes are managed by the body corporate (all owners are automatically members of the body corporate) usually with the assistance of managing agents.

Owners pay levies, which at present cover rates and service charges as well as costs of building insurance, maintenance and repairs to common property as well as management expenses. Therefore owners never had a direct relationship with the local authority and the local authority viewed the scheme as one entity in regards to rates and payment thereof.

This particular distinguishing characteristic is about to disappear as a result of the provisions of the Municipal Property Rates Act.

Sectional title and Rates Clearance Certificates effective 1 July 2008

The Municipal Property Rates Act No. 6 of 2004 (MPRA) came into effect on 2 July 2005. This Act regulates the power of municipalities to value and rate immovable property within its boundaries and that revaluation should happen every four years. The valuation must be based on market value i.e the most probable value the property would have achieved if sold in the open market by a willing seller to a willing buyer on the date of the valuation.

Previously sectional title was rated as a whole and the body corporate or managing agent would determine each individual owner's contribution based on his P.Q. and include same in the monthly levy statement billed to each individual owner.

The MPRA now requires that each individual unit be separately valued and rated.

Common property generally does not have its own value and the value of the common property is reflected in the value of the unit, which has an undivided share in the common property apportioned to the section in accordance with the participation quota of that section.

The rate for residential properties is half a cent in the rand.

Note that from 1 July 2008 onwards sellers of sectional title units will be required to obtain levy clearance (from the Body Corporate/Managing Agent) as well as rates clearance (from the council) in respect of their unit

Therefore, effective from 1 July 2008, trustees should no longer need to include rates in the monthly levy statements, but in the event that trustees fail to reduce the levies owners entitled to exercise 25% of the total participation quotas can request the trustees to call a special general meeting. If the trustees fail to call the meeting within 14 days of the request, the owners themselves can call it and at the meeting the owners can pass a resolution to instruct the trustees to reduce the levies and repay the amounts over paid by them.

Arrear levies and collections thereof

Apart from the punitive sanction open to sectional title schemes by disallowing owners who are in arrears with their levy contributions to vote on ordinary resolutions at meetings (which must be substantiated by written warning sent to the defaulting owner), there are two routes open to sectional title schemes who needs to pursue sectional title owners who fail to pay their levies.

The first route would be to action the defaulting owner immediately by pursuing the arrears as a collection matter through the Courts by issuing and serving of summons, obtaining judgements, executing on the judgement. This procedure can be expensive, slow, technical and frustrating where the defaulting party defends the action purely to stall the outcome, usually at the expense of the scheme as a whole.

A quicker alternative in that event is to prove that a dispute exists (which would be the case where the defaulting party enters and appearance to defend after having served a summons on him) and then to place dispute for arbitration in terms of Management Rule 71. A competent sectional title arbitrator can in

Although one debtor during 2007 raised a defence that arrear levy matters can not be taken to arbitration as the Sectional Title Act clearly states that you must go to Court to recover levies, which argument was upheld by our High Court the matter was taken on appeal to the Bloemfontein Appeal Court where on 27th of November 2007 the Appeal Court ruled that Body Corporates can take arrear levy disputes to arbitration.

Powers regarding sections and common property

Because the nature of ownership in a sectional title is different from conventional ownership in that parties live in closer proximity to each other in a far more communal sense than owners in a township there are more restrictions placed on the absolute rights enjoyed by owners.

One can ask, can an owner in a sectional title complex:

- alter/redecorate/equip his apartment to his own tastes?
- drive nails into walls?
- repair, repaint, retile and repanel his section at his discretion?
- remove inner doors and walls
- cook whatever smelly meals he likes and have parties on his balcony until late
- may he keep cats, rodents, dogs, canaries or crocodiles as pets and if so how many?
- may he exercise his profession as a dentist?
- may he invite a hippy colony to move into his apartment?

Restrictions regarding the use and enjoyment of a section

There are the following restrictions placed on the use and enjoyment by an owner of his section in a scheme

1. In terms of our common law, he may not infringe upon the rights of the other owners in the scheme in the use and enjoyment of his section. By way of example he cannot let water overflow in his section, or he cannot remodel to the extent that he endangers the structural soundness of the building or he cannot indulge in activities prejudicial to his neighbours like excessive smoke, noise or smell. The normal legal remedies available are interdicts and/or claims for damages.
2. Servitudes and other restrictive conditions endorsed on or files with the sectional plan further limits the powers of an owner of a section. Think of limited real rights like usufruct, habitation or use over a section reserved when the unit is transferred.
3. Restrictions are also contained in the STA (which cannot be excluded in the rules of the scheme)
 - 3.1 sectional title owner shall allow reasonable access on written notice (except in emergency) to his section for the purpose of inspecting/maintaining common/communal electrical and plumbing installations
 - 3.2 Owner shall carry out all work ordered by a competent local/public authority and pay all charges payable in respect of the section
 - 3.3 Owner shall maintain his section in a good state of repair, as every unit is part of an interdependent complex and disrepair will affect the solidity and security of the whole complex which is really just an extension of the rule to not unreasonably prejudice your neighbour.
 - 3.4 Owners shall not use his section /permit it to be used (by visitors or tenants) in such a manner /purpose which will cause a nuisance to any occupant of any other section
 - 3.5 Owner shall not use his section/permit it to be used for purposes other than that shown expressly/ by implication on or by a registered sectional plan. From a sectional plan one can determine whether a section in a building is intended for residential, commercial or professional purposes. A sectional plan will further indicate whether other areas are to be used for parking, garages, and storeroom or servants quarters. Where further certainty is required it is contended that same should be addressed in the model rules of the scheme.

Where intended use of a section is expressly or by implication indicated on a registered sectional plan, their use for a different purpose is not permissible except with the written consent of all the owners or a formal amendment of the sectional plan. An owner who feels aggrieved by a refusal can proceed to Court for help where the court will make an appropriate order. In Cute-Jakoby case reported in 2007 the Court granted an application for the conversion of the use of a garage into a laundry, rest-room and ironing board room, and that the co-owner who refused had no rational or reasonable grounds to do so.

4. Ownership is further curtailed in section 28 of STA by implied servitudes as set out in the STA, being a reciprocal servitude (in or under the land or in the building) for subjacent and lateral support and reciprocal servitude for the passage or provision of services such as water and sewerage through pipes, drainage, gas, electricity, garbage, air, pipes, cables or ducts. Therefore where an owner undertake renovations inside his section, he should be careful not to deprive neighbouring sections of necessary support or to infringe upon a servitude. This right must be exercised by the Body Corporate.
5. Rules of a scheme can further curtail an owners use of a section:
 - 5.1 Management rules 68 in annexure 8 to the STA states that an owner
 - 5.1.1 shall not use his section / allow it to be used for purposes injurious to the reputation of the building,
 - 5.1.2 nor shall he contravene (or permit contravention) if any law, by-law, ordinances or regulations,
 - 5.1.3 nor shall he make alterations which are likely to impair the stability of the building or the use and enjoyment of other sections, the common property or exclusive use areas,
 - 5.1.4 nor shall he do anything likely to prejudice the harmonious appearance of the building
 - 5.2 Conduct rules in annexure 9 to the STA states that an owner
 - 5.2.1 shall not without the written consent of a trustee keep any animal, reptile or bird in his section
 - 5.2.2 shall maintain a receptacle for refuse in an hygienic and dry condition
 - 5.2.3 shall not place or do anything on his balcony, stoep or patio which in the discretion of the trustee is aesthetically displeasing or undesirable
 - 5.2.4 shall not place any sign, notice, billboard or advertisement on part of his residential section
 - 5.2.5 shall not store any inflammable material in his section or permit any dangerous act therein
 - 5.2.6 is obliged to eradicate pests in his section

Keep in mind that unlike with management rules where there is not absolute freedom to change the rules, with conduct rules the Body Corporate often go through the procedure of amending the rules to better embody the feelings of that community, especially with matters such as the number of and types of pets allowed. It is important to note that only once the amended/substitution/repeal of the rule has been filed with the Registrar of deeds will the amendment come into effect.

Restrictions regarding the use and enjoyment of common property

There are the following restrictions placed on the use and enjoyment by an owner of the common property in a scheme

1. An owner may not infringe upon the rights of the other owners in the scheme in the use and enjoyment of the common property. Therefore he may not barricade or prevent access to stairs, lifts, patios or corridors. He may not erect a washing line or demarcate a car port or place a dog kennel nor may he redecorate any part of the common property, nor may he use exterior walls for advertising purposes.

2. Servitudes and other restrictive conditions endorsed on or filed with the sectional plan further limits the powers of an owner of the common property.
3. The management and conduct rules of the scheme contains further restrictions to the use of common property by sectional owners:
 - 3.1 shall not use any part of the common property / allow it to be used for purposes injurious to the reputation of the building
 - 3.2 nor shall he contravene (or permit contravention) of any law, by-law, ordinances or regulations
 - 3.3 shall not without the written consent of a trustee keep any animal, reptile or bird on the common property
 - 3.4 shall only retain a receptacle for refuse on such part of the common property as may be authorised by trustees in writing
 - 3.5 shall not leave or park any vehicle standing on the common property (or permit or allow it to be parked or standing on the common property) without the written consent of the trustees.
 - 3.6 shall not mark, paint, drive nails or screws into or otherwise damage or alter any part of the common property without the written consent of the trustees
 - 3.7 shall not install any locking device, safety gate, burglar bars or other safety device or any screen or other device to prevent the entry of animal or insects without the trustees having first approved in writing the nature and design of the device and the manner of installation
 - 3.8 shall not place or do anything on any part of the common property, which in the discretion of the trustees is aesthetically displeasing or undesirable
 - 3.9 shall not place any sign or notice, billboard or advertisement of any kind on the common property
 - 3.10 shall not deposit or throw any rubbish, including dirt, cigarette butts or food scraps on the common property
 - 3.11 shall not erect any washing lines, nor hang any washing or laundry on the common property
 - 3.12 shall not store inflammable material or perform any dangerous acts on the common property which will increase the rate of premiums

Improvements to the common property

Unlike maintenance of the common property, which is a specific duty imposed on the Body Corporate to the STA (to maintain in a good state repair the common property) improvements of the common property go beyond the maintenance.

Apart from the installation of service meters which requires a majority vote by owners, improvements needs to be classified as luxurious or non luxurious to determine whether unanimous or special resolutions is required.

This goes for the installation of generators as well. Sectional title scheme owners are now more than ever before requiring generators in their schemes where mainly security and essential services of a scheme is affected by load shedding.

The following guidelines are provided for Body Corporate who are faced with the request alternative energy in the form of a generator.

1. There are no legislative prohibitions against the installation and operation of generators in sections or on the common property, but because of the rise in enquiries in this regard the legislator will need to consider whether it is necessary to frame regulations
2. Therefore at present members need to consider:
 - 2.1 their management and conduct rules and
 - 2.2 whether it will be necessary to raise a special levy
 - 2.3 whether it will be moveable (no improvement of common property and ito sec 38(c) of the STA) all Body Corporates have the power to acquire movable property for

- use/protection/enjoyment of the common property or immovable (which constitutes an improvement on the common property)
- 2.4 whether it is luxurious (not necessary for the normal use and enjoyment of the common property and therefore a “nice to have” but not “need to have”) or non-luxurious . Luxurious requires a unanimous resolution and non luxurious requires informed non action or by special resolution. If trustees are not certain whether Management Rule 33(1) or Management Rule 33(2) applies they should convene a general meeting, submit their findings and ask owners to jointly give them directions by majority vote in terms of section 39(1) of STA
 - 2.5 whether it’s noise will cause a disturbance to anyone
 - 2.6 whether it’s fumes will cause pollution
 - 2.7 insurance risk of the scheme and the generator itself should be suitably addressed with the insurer of the scheme
3. What if a unit owner wishes to install his own private generator. (no one should ever install a diesel/petrol operated generator inside a unit and only on the outside on common property where the arrangement should be of a temporary nature, subject to conditions or the body corporate could consider leasing a small area on the common property for these purposes subject to conditions)

Body Corporate and the powers of trustees

The STA deals extensively with the Body Corporate and the trustees:

- Section 36 deals with the Establishment of the Body Corporate
- Section 37 with the functions of the Body Corporate
- Section 38 with the powers of the Body Corporate
- Section 39 with the trustees who perform the functions and power of the Body Corporate
- Section 40 with the fiduciary position of the trustees
- Management Rule 5 with the qualification of the trustees (majority have to be owners or spouses of the owners)
- Management Rule 25-29 deals with the functions, powers and duties of trustees

In general terms a Body Corporate must establish a fund for the repair, up-keep, control, management and administration of the common property, insurance premiums as well as open bank accounts, determine and collect owners' contributions to the fund. (With the advent of the Local Government: Municipal Systems Act individual owners are now responsible for the rates and taxes pertaining to their individual units.)

To this end the Body Corporate can; purchase, sell, mortgage, hire, let, units; employ; acquire moveable property for use and enjoyment and protection of the common property; borrow money and secure repayment of loans; invest; enter into agreements with local authorities and enforce rules.

Trustees are the executive body of the body corporate appointed by the owners with the delegated powers to make day to day decisions on behalf of all the owners. They are given wide powers to control and administer the common property and thus they do not need to refer back to the owners every time a decision needs to be made. They can therefore raise special levies, enter into short term rental agreements (with other owners in the scheme – if to a non-owner for 10 years or longer a unanimous resolution is required), appoint employees and commence the process for non-luxurious improvements to the common property.

Note that the STA imposes limitations on the discretion of trustees to prevent trustees from acting outside of their powers and as set out in the budget approval of the previous general meeting. Owners can by a majority vote at annual general meetings give particular direction or place restrictions on trustees, like setting a maximum amount which trustees may spend without consulting reference to the other owners.

Trustees are elected from the owners in a scheme and they may employ managing agents to carry out some of their functions. At present neither trustees nor managing agents are required by law to have any particular skill set or to be certified competent in any particular field. Keep in mind that trustees are not compelled to appoint managing agents unless the majority of the owners or bondholders over 25% of the units instruct them to do so. If trustees do not appoint managing agents they will personally have to perform all the tasks which the managing agent usually carry out (-issuing and collection of levy statements to pay Body Corporate accounts – preparation for AGM where every owner has to get the agenda and minutes of previous meetings, -scheme's audited financial statements, -insurance schedules, -trustees report which has to be sent to the owners prior to the AGM)

Should owners be unhappy with the actions taken by a trustee, notice can be given of an intended resolution to have the trustee removed from office at a general meeting of owners, at which meeting a trustee can be removed by a majority vote.

In order for a resolution to be taken at a meeting of trustees Management Rule 15 states that there must be present 50% of the number of trustees but not less than 2. If the number of trustees falls below the number necessary for a quorum the remaining trustees can continue to act only for the purpose of appointing additional trustees. If at a meeting a quorum is not present the meeting will stand adjourned to the next business day at the same time and the trustees then present who shall not be less than 2 shall form a quorum. (Note that no proxy's are possible for trustee meetings, only for owner meetings).

Insurance

One of the main duties of the trustees of the Body Corporate as set out in Sections 37(f) (g) (h) (i) and Management Rule 29 is to adequately insure the scheme to the full replacement value thereof. In the event that damage is caused to insured's property the Insurance Policy document will constitute the basis for a claim and it is vital to study the particular provisions of the applicable insurance policy.

Often in sectional title schemes damage is caused to the common property like fences, gates, gate motors by visitors or owners or to security structures, or paving gets stained by workmen.

Subject to the particular provisions of the Insurance Policy in place, it is vital that the correct steps are put in place to ensure that the matter gets dealt with properly:

1. Record details of the incident as well as of the parties, vehicles, date, time, contact details, witnesses etc as one would do at a normal accident scene.
2. Report the incident within 48 hours to the local SAPS as it is likely that the insurance policy document will require same for purposes of lodging a claim
3. Obtain a quote for repairs
4. Demand payment from the party who was responsible for the damage
5. Should the demand period expire submit a claim to the Insurer of the BC
6. The BC's insurer should receive the claim within a pre-determined period. It might be necessary for the insurer to appoint an assessor to inspect the damage

ABC can simply submit a claim to their Insurer, but claims ratio will affect future premium negotiations and the excess structure.

Management and Conduct rule and amendment/substitution/addition/repeal of rules

For a detailed list of the model management and conduct rules relating to a scheme, please refer to Annexure 8 and 9 of the Sectional Title Act.

Note that a developer can when he registers the scheme replace/substitute and amend certain of the model management rules and all of the model conduct rules for other rules. It is also possible for the body corporate to do this by the passing of an appropriate resolution

A notice to the effect that rules have been amended together with the amended rules must be filed with the Registrar of Deeds and the amended rule will come into operation on the day of filing of the amendment.

Note that in terms of Management Rule 32(1) trustees shall ensure that any amendment of the rules is submitted forthwith to the Registrar for filing as required by section 35(5) (c) of the STA.

In terms of a 2005 amendment to Annexure 8 of the STA the following should be included in the Agenda: "a confirmation by the auditor or accounting officer that any amendment, substitution, addition or repeal of the rules (as contemplated in section 35(5) of the STA have been submitted to the Registrar of Deeds for filing as contemplated in section 35 (5) (c) of the STA"

Considering how often Body Corporates fail to file amendment of their rules with the result that the old rules still remain effective, it is not surprising that the STA requires the auditor of accounting officer to confirm this. The Auditor will require the Minute book of the BC for the past year, in order to establish if there have been any changes to the Conduct rules and will further require proof from the Registrar of Deeds that such changes have been filed in the Deeds Office.

Exclusive use areas

Exclusive Use Areas (EUA's) are part of the common property, the use of which has been allocated to individual owners within the Sectional Title Development.

An EUA may be a garden, parking bay, carport garage, storeroom or balcony.

There are three types of EUA's found in sectional title schemes and two further methods employed to address exclusive use areas and often more than one type can be found in a Scheme. These different types of EUA's are created, managed, controlled and used differently. It must be understood that EUA are created under processes defined by the Act. Walls, fences, height above the ground, restricted access do not result in the creation of EUA's.

Owners and Trustees wanting to establish the types of EUA (if any) within their schemes will have to check the following documents first:

- the approved Sectional Title Plan at the Surveyor General's office
- the Rules applicable to the Sectional Title Development at the office of the Registrar of Deeds

1. 1971 ACT EUA

Under the 1971 Sectional Title Act, most EUA were granted/created by means of the Schedule 1 Rules in use at the time under that Act, hereinafter referred to as Old Rules EUA's, and if the Rules were formally registered, the EUA created by them shall probably still apply.

- these EUA's are not recognized as Real Rights
- May not be bought or sold and exchanges require amendments of the Rules
- Improvements require Body Corporate consent
- The body Corporate repairs and maintains them. Not subject to the "Solidatus"
- Holder of rights must contribute to the levy fund to defray costs of rates, taxes, insurance and maintenance under section 37(1)(b). This extra contribution must not be confused with a normal levy. It is not calculated according to the participation quota (PQ) as EUA's do not have PQ. The calculation is based on actual costs incurred for the EUA.
- Sec 60(3) of the 1986 Act allows holders of rights to convert to registered rights at the holder's expense

2. 1986 ACT EUA

The 1986 Act (although continuing to recognize "Old Rules EUA's) removed the facility to create EUA's by rules and introduced a means of registering them by means of complicated and expensive process not favoured by many developers. These EUA's are registered real rights that can be traded between members of the body corporate. The type EUA's are referred to as Registered EUA's. Registered EUA's are shown (delineated) on the Sectional Title Plan and are held by Certificates of Real Rights and are considered to be first class EUA's.

- Are recognized as Real Rights.
- Can be bought or sold amount and between unit owners
- Can be bonded
- Improvements authorized by the trustees, and may not be unreasonably refused
- Holder of EUA repairs and maintains. Subject to "Solidatus"

- Holder must contribute to the levy fund to defray the costs of rates, taxes, insurance and maintenance under Section 37(1)(b) but please note "Solidatus" ruling. This extra contribution must not be confused with a normal levy. It is not calculated according to the participation quota (PQ) as EUA's do not have PQ. The calculation is based on actual costs incurred for the EUA.
- Expensive and time consuming to create and register in the names of the owners. Land surveyor and attorney required. If the STP has already been registered the land surveyor needs to re-survey the land to prepare an amendment to the sectional title plan, which amended plan needs to be submitted to the Surveyor General for approval. Once approved the amended plan has be submitted to the Registrar of Deeds after which the section owners have to pay to have the EUA ceded to them

If the developer did not create the EUA when the scheme was opened, the body corporate can by unanimous resolution of its members instruct a Land Surveyor/Architect to commence the process of registering EUA's.

3. 1997 SECT TITLE AMENDMENT ACT

In October 1997 Sectional Title Amendment Act by the inclusion of section 27(A) re-introduced a facility to create EUA's by means of Rules, referred to in this summary as the Current Rules EUA's. Since then Developers and Bodies Corporate have had the benefit of using either or both types.

- EUA's created in terms of the Rules ito section 27(A) of the 1986 STA
- Are not recognized as Real Rights
- May not be bought and sold. Exchange requires an amendment of the rules
- Cannot be bonded
- Unless allowed in the Rule, improvements require Body Corporate consent.
- Unless specified in the Rule, the Body Corporate repairs and maintains.
- Unless specified in the Rule, the holder is not obliged to contribute to the levy fund (NOT subject to "Solidatus") (Owners cannot be asked to make additional contributions to the levy fund unless the rule creating the EUA's specifically allows it. This appears to be an oversight on the part of the legislator who omitted to amend Sec 37(1)(b) and should be kept in mind when the attorney of the body corporate drafts the rules.)
- Relatively inexpensive and easy to create. No land surveyor needed and attorney expenses limited to drafting and filing the rule.

A unanimous resolution needs to be passed by the body corporate to amend or add to the Rules. To create EUA's under section 27(a) requires little more than a sketch plan/lay-out plan (to scale) and an amendment of the Rules.

- The sketch plan/at-out plan must clearly indicate the locality of the distinctively number EUA as well as the purposes for which the EUA are to be used & include a schedule indicating to which member each such part is allocated
- The body corporate must get a specialized conveyancer to draft the rule and include a convertibility option.

4. Other methods applied in practice to deal with EUA's

4.1 Leases

If the Body Corporate cannot get the appropriate resolution to create EUA's, the bays may be leased to members. Provided that the lease agreement is for a period of less than 10 years (Sec 17(1) relating to dealings with the common property read in conjunction with the definitions in section 1 of the Sectional Titles Act), an ordinary resolution of the members will usually be sufficient.

Any agreement to rent bays must contain a clause that the lease will terminate when the lessee ceases to be a member of the body corporate, thus releasing the bay for the reallocation. A prudent Body Corporate will employ a specialized property attorney to draft a suitable lease document.

4.2 Registering a Unit ifo owner, which will be used as a garage

Usually one finds in certain Sectional Title Deeds that the buyer takes transfer not only of a Unit for residential accommodation, but also of another unit (usually relatively small in floor size) which is transferred simultaneously indivisibly with the residential unit.

It happens sometimes that when the plans are drawn, that the Surveyor and Architect agree to reflect the closed garages on the sectional plans as Units and to transfer ownership thereof in the same way as ownership of residential units gets passed, which is by means of the Deed of Transfer.

- By doing this the parties usually ensure that the future purchasers will not pay the extra amount (as would be the case when EUA's are ceded in terms of a Notarial Deed of Cession of EUA) as instead the garage ownership will be transferred under and by way of the same deed that gets used to transfer the actual ownership
- However the holding costs of such an EUA can be more expensive than a "registered EUA" as a registered EUA is part of the common property, but a "unit EUA" enlarges the participation quota of the owner and therefore increases his long term liability in terms of levy contributions.