

Sectional Title owners can oppose Airbnb letting

Until recently, there were two schools of thought about whether it is permissible to let sectional title units via Airbnb in terms of the Sectional Title Schemes Management Act (STSM Act), but their differences appear to have been resolved for now by the Ombud for community housing schemes.

"Some people argued that Airbnb letting amounted to running a business, which you are not allowed to do in residential sectional title (ST) schemes," says Andrew Schaefer, MD of national property management company Trafalgar, "while others said Airbnb letting was actually no different to regular letting - or to having a friend come and stay in your spare room for a while - as the purpose of use would still be residential.

"However, there is no doubt that Airbnb letting does pose a potential security risk, especially where many owners in a complex are not living there themselves, but just letting out their units and giving keys, remotes and security codes to one set of visitors after another."

In addition, he says, various companies that provide insurance to ST schemes were starting to express misgivings about Airbnb letting, especially in complexes where this was widespread.

"They reported that Airbnb letting was regarded by SASRIA as being a commercial activity similar to running an ordinary B&B or an hotel, and that this would mean they would have to apply a commercial rate of insurance to any scheme where there was even one Airbnb unit.

"A 'real time' example given by one broker was where an insurance premium for a building rated residential was R3000, it would change to R14 000 if the building was rated commercial. In such instances, the body corporate might be able to apply annually for an exemption, but would have to keep a register of all the Airbnb units or rooms in the complex."

One suggestion for ST schemes that wished to avoid the Airbnb problem, says Schaefer, was to add a Conduct Rule forbidding short-term or holiday letting of any kind, but legal opinion appeared to be divided on that too - not to mention the fact that ST owners who are letting their units via Airbnb are hardly likely to vote in favour of a rule that stops them from doing so.

"Consequently, Trafalgar decided to seek guidance from the Ombud, and the answer is that ST schemes may indeed make a rule that no short-term letting (of less than a month, for example) is allowed. However, the trustees will need to ensure that the rule is properly approved by owners in the scheme and registered with the Ombud.

"In addition, the Ombud says the rule should provide for trustees not to be unreasonable in its application."

Sectional title owners and trustees who would like to know more about making new conduct rules and registering them should contact Trafalgar at info-AT-traffic.co-DOT-za.

Trafalgar Press Release