

Sectional Title sellers need additional certificates

In terms of the Occupational Health & Safety Act, all home owners are supposed to have a valid Electrical Certificate of Compliance (ECOC) - and must certainly be able to produce one when selling their property, or the transfer to a new owner will not be able to be registered.

More recently, it has also become compulsory for home owners to hold compliance certificates for any electric fence or gas installations on their properties, while in the Western Cape, a by-law requires a water installation certificate to be provided to the local authority when selling a property, before the owner can obtain the municipal clearance certificate required for transfer.

However, says Berry Everitt of Chas Everitt, while all of these certificate requirements apply to Sectional Title (ST) properties as well as freehold properties, the ST home owner is actually only responsible for compliance within his or her section.

"The body corporate, represented by the trustees, is responsible for ensuring the compliance of any relevant installations on the common property, such as security lighting, gate motors, electric fences and any external taps, water pipes and irrigation systems, and for obtaining the necessary compliance certificates.

"So in practice, ST owners who want to sell their properties need to obtain copies of the body corporate's ECOC and other certificates and submit them to the transfer attorneys along with the originals of the certificates that pertain to their own units.

"And this is not always as easy as it sounds. Certificates can get lost, and sometimes they are not replaced when necessary, or not obtained at all. The other owners who are not selling and don't currently need copies of valid common property certificates may also argue against the cost of obtaining new ones."

But the situation is likely to improve, he says, as more and more schemes begin to implement Regulation 22 of the Sectional Titles Schemes Management Act, which came into effect a year ago. This regulation provides for every ST scheme to have a written 10-year maintenance plan for all major items or systems on the common property - including those that will require new or updated compliance certificates when they are repaired or replaced.

"What is more, Regulation 2 of the Act provides for the body corporate, made up of all the owners, to establish a reserve fund to finance the maintenance plan - so there should be no more disputes about who should pay for which repairs or which certificates.

"Nevertheless, it is probably going to take a while for all the reserve funds and maintenance plans to be put in place, and until then, ST owners who plan to sell would be well advised to start gathering up all the compliance certificates they need as soon as possible."

Meanwhile, says Everitt, those ST owners who begrudge the cost of a new compliance certificate for a common property installation should consider what could happen if someone were to be electrocuted, for example, or there was a fire caused by an electrical short, and the insurance rejected any claim for damages because the system was not certified safe.

"In addition, all home owners should refrain from DIY when it comes to electrical work. If you need extra plug points or additional lights, rather hire a qualified electrician. And don't forget to get the whole system re-certified once the alterations have been made."

Chas Everitt Press Release