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SECTIONAL TITLE & PROPERTY MANAGEMENT

PROPERTYMATTERS

Trustees Article 118

Managing property properly

What the sectional title law says about valuations 06/11/2018

Here is what the Sectional Title Schemes Management Act (STSM) No. 8 of 2011 says about insurance and - more specifically - what a sectional title valuation ideally should entail (underlined):
(A summary is available at the bottom of this blog)
Rule No. 23:

(1) The insurance policies of the body corporate in terms of sections 3(1)(h) and (i) of the Act
(a) must provide cover against(i) risks referred to in regulation 3;
(ii) risks that members resolve must be covered by insurance; and
(iii) risks that holders of registered first mortgage bonds over not less than 25 per cent in number of the primary sections by written notice to the body corporate may require to be covered by insurance;
(b) must specify a replacement value for each unit and exclusive use area, excluding the member's interest in the land included in the scheme; provided that any member may at any time by written notice to the body corporate require that the replacement value specified for that member's unit or exclusive use area be increased;

(c) must restrict the application of any "average" clause to individual units and exclusive use areas, so that no such clause applies to the buildings as a whole;

(d) must include a clause in terms of which the policy is valid and enforceable by any holder of a registered mortgage bond over a section or exclusive use area against the insurer notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured, unless and until the insurer terminates the insurance on at least 30 days' notice to the bondholder; and
(e) may include provision for "excess" amounts.

(2) A member is responsible —
(a) for payment of any additional premium payable on account of an increase in the replacement value referred to in sub-rule (1)(b);

(b) for any excess amount that relates to damage to any part of the buildings that member is obliged to repair and maintain in terms of the Act or these rules, and must furnish the body corporate with written proof from the insurer of payment of that amount within seven days of written request.

(3) A body corporate must obtain a replacement valuation of all buildings and improvements that it must insure at least every three years and present such replacement valuation to the annual general meeting.

(4) A body corporate must prepare for each annual general meeting schedules showing estimates of —

(a) the replacement value of the buildings and all improvements to the common property; and
(b) the replacement value of each unit, excluding the member's interest in the land included in the scheme, the total of such values of all units being equal to the value referred to in sub-rule 4(a).

(5) On written request by any registered bondholder and the furnishing of satisfactory proof, the body corporate must record the cession to that bondholder of that member's interest in any of the proceeds of the insurance policies of the body corporate.

(6) A body corporate must take out public liability insurance to cover the risk of any liability it may incur to pay compensation in respect of—
(a) any bodily injury to or death or illness of a person on or in connection with the common property; and
(b) any damage to or loss of property that is sustained as a result of an occurrence or happening in connection with the common property, for an amount determined by members in general meeting, but not less than 10 million rand or any such higher amount as may be prescribed by the Minister in any one claim and in total for any one period of insurance.

(7) A body corporate must take out insurance for an amount determined by members in general meeting to cover the risk of loss of funds belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by a trustee, managing agent, employee or other agent of the body corporate.

(8) A body corporate, authorised by a special resolution of members, may insure any additional insurable interest the body corporate has —
(a) in the land and buildings included in the scheme; and
(b) relating to the performance of its functions, for an amount determined in that resolution.

Summary:
1. The insurance policies of the body must specify a replacement value for each unit and exclusive use area
2. Body corporate members are responsible to pay any additional premium payable as a result of higher replacement value
3. Bodies corporate must obtain a replacement valuation of all buildings and improvements every 3 years.
4. The replacement value of the buildings, all improvements to the common property as well as the replacement value of each unit must be presented at each AGM.

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