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PURCHASE OF
SECTIONAL PROPERTIES:
Getting the basics down



THE LAW

The Sectional Properties Act (the Act) provides a legal framework for the effective management and ownership of multi-unit developments, ensuring clarity, transparency, and orderly governance within such properties. It provides a legal framework for the subdivision of buildings into individual units known as sectional properties. The Act is particularly relevant in the context of multi-unit developments such as apartment buildings or gated communities where individual ownership of units within a larger property is desired.

The Act further allows for the subdivision of buildings into sections, each of which may be owned separately. It additionally allows individuals to own specific units within a building while also owning a share of common areas such as corridors, staircases, elevators, and recreational facilities with each owner holding title to their individual unit and a share of the common areas as defined in the sectional plan. It further defines the rights and responsibilities of individual owners in relation to their units and the common areas which includes obligations to contribute to the maintenance and repair of common facilities, adherence to rules and bylaws established by the body corporate, and the right to use and enjoy common amenities.

In addition, the Act outlines provisions for the management and governance of sectional properties which may include the establishment of a body corporate or homeowners' association responsible for managing the common areas, collecting levies for maintenance and repairs, and making decisions on behalf of the owners regarding the upkeep of the property.

Sale of Units

Once developer prepares a sectional plan, which is approved by the land registrar, a certificate of title or lease is issued for each unit. Sale documents including reservation forms, letters of offer, and sale agreements are then availed to interested buyers for their consideration of the terms thereof and hopefully their eventual purchase.

It has become common practice for buyers to acquire off-plan units. This has its own advantages and disadvantages. The Developer obtains funding to complete the units and the purchaser gets to, mostly, acquire a unit at a lower price than they ordinarily would a similar complete unit. On the other hand, the unit may take longer than expected to be completed sometimes due to avoidable circumstances by the Developer.

Is there then a way a potential purchaser can protect themselves from the worst when purchasing off-plan? Indeed, they can. This will require due diligence on their part, or their advocates on the following areas;

The due diligence check list:

It is considered best practice to commence detailed due diligence before the purchase contract is signed. The alternative is to carefully lay out in the contract for sale the items of due diligence that the buyer must undertake and the time this will take. This also serves to compel the seller to deliver required documents on an expeditious basis.

- **Zoning and land use regulations:** Assessing compliance with local zoning and land use regulations is essential to avoid penalties, restrictions, or demolition orders resulting from zoning violations.
- **Environmental compliance:** Checking for environmental issues associated with the property, such as contamination or hazardous waste, is essential to prevent costly cleanup requirements and potential legal liabilities.
- **Contract and lease reviews:** Scrutinizing existing contracts and leases ensures that there are no undisclosed agreements that may impact the investor's plans for the property.
- **Building and construction permits:** Verifying building permits and approvals ensures that the property was developed in compliance with applicable building codes and regulations.
- **Easements and rights-of-way:** Identifying any easements granted on the property is vital, as they may affect the property's use and development.
- **Tax and financial liabilities:** Conducting a financial review helps uncover any outstanding property taxes, utility bills, or other financial liabilities associated with the property.
- **Litigation and legal disputes:** Thoroughly researching legal records helps identify ongoing or past litigation involving the property or its previous owners, mitigating potential legal risks and liabilities.
- **Local authorities' laws and regulations:** Compliance with all applicable local laws and regulations related to real estate transactions is essential for a successful investment.

DISCLAIMER

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