

Official Publication of the Property Practitioners Regulatory Authority

PROPA

May | June 2023
Issue 01

EMBRACING CHANGE !

Inclusion of more real estate stakeholders to be regulated by the new Property Practitioners Act

360° Overview
of The Property
Practitioners Act

The PPRA Launches
The Property Sector
Research Centre

Managing Agents
Register Today!

What to know about
the condition of a
property before
signing an agreement

CONNECT WITH US

Social Media Platforms



Property Practitioners Regulatory Authority



Property Practitioners Regulatory Authority



@the_ppra



@the_ppra



PPRA TV



**PROPERTY PRACTITIONERS
REGULATORY AUTHORITY**

Block A & B, 63 Wierda Road East, Wierda Valley, Sandton

Tel: 087 285 3222 | www.theppra.org.za

CONTENTS

04



MESSAGE FROM THE ACTING CHIEF EXECUTIVE OFFICER (ACEO)	02
360° OVERVIEW OF THE PROPERTY PRACTITIONERS ACT	04
11 IMPORTANT THINGS EVERY NEW HOMEOWNER SHOULD KNOW	06
SELLERS AND LANDLORDS TAKE NOTE, NEW PROPERTY ACT REQUIRES DISCLOSURE OF DEFECTS	08
THE PPRA LAUNCHES THE PROPERTY SECTOR RESEARCH CENTRE	10
NEW PROPERTY SCAM TARGETING THESE AREAS IN SOUTH AFRICA	12
BIG SHIFT FOR PROPERTY IN SOUTH AFRICA – THESE ARE THE KEY TRENDS ...	14
MANAGING AGENTS REGISTER TODAY!	18
PROPERTY VALUATIONS: INSPECTION AND OBJECTION TO NEW RATES	20
IS IT TIME TO RETHINK CASH DEPOSITS IN THE MULTIFAMILY MARKET?	24
HOW THE FIC ACT HELPS PROTECT PROPERTY PRACTITIONERS AGAINST FINANCIAL CRIME	26
UNDESIRABLE PRACTICES – ARRANGEMENTS TO PAY “ACCREDITATION” FEES	26
CONTRACTUAL CAPACITY	27
WHAT TO KNOW ABOUT THE CONDITION OF A PROPERTY BEFORE SIGNING AN AGREEMENT	28
RULES FOR INSTALLING SOLAR IN COMPLEXES AND ESTATES IN SOUTH AFRICA	30
REALITY CHECK FOR SOUTH AFRICA’S PROPERTY MARKET – THE IMPACT OF CIVIL UNREST, WORK-FROM-HOME AND LOAD SHEDDING	34

10



18



28



DISCLAIMER

The Property Practitioners Regulatory Authority (“PPRA”) accepts no liability whatsoever for the content of PROPA or for the consequences of any actions that might be instituted by readers on the basis of articles and/or information appearing in PROPA. While PROPA is published in good faith by the PPRA and every possible effort is made to ensure the validity, accuracy and reliability of the information provided, no warranty of whatsoever nature attaches to the content of PROPA. The PPRA therefore cannot, and does not, accept responsibility or liability for the accuracy, content, completeness, validity, legality or reliability of information contained in PROPA. Readers having specific questions about matters contained in PROPA are requested to first contact the PPRA or their legal representatives to obtain the necessary advice.

PUBLISHER

Property Practitioners Regulatory Authority – [PPRA]

PROJECT MANAGER / DESIGN, CONTENT & LAYOUT

Lindani Thsabalala – [PPRA Marketing, Publications Manager (acting)]
Patrick Allen – [PPRA Graphic Designer]

PPRA

63 Wierda Road East
Wierda Valley
Sandton, Johannesburg

Tel: 087 285 3222

www.theppra.org.za



Message from the Acting Chief Executive Officer (ACEO)

Borrowing from the wisdom of one of the renowned management thought leaders and prolific author, Peter Drucker, he argued "Change is the norm; unless an organization sees that its tasks to lead change, that organization will not survive"

I am writing this message at a time when the new Property Practitioners Regulatory Authority (PPRA) is turning a new leaf.

I was appointed as the acting CEO of the PPRA on the 1st of February 2023, exactly a year later from the new Property Practitioners Act, 22 of 2019 became effective on the 1st of February 2022. The (PPA), 22 of 2019 and its regulations repealed and replaced the erstwhile Estate Agency Affairs Act, 112 of 1976.

The enactment of the PPA ushered in a new statutory entity called the Property Practitioners Regulatory Authority (PPRA) thereby replacing the old Estate Agency Affairs Board (EAAB) established under the old Estate Agency Affairs Act, 112 of 1976 (EAAA).

The enactment of the PPA, 22 of 2019 and the promulgation of its regulations was inevitable, given the significant changes in the property sector since 1976 to date, which were not catered for in the old EAAA, 112 of 1976. These developments mean that the PPRA must embrace change and define new processes to cater for the increased regulatory scope to stay relevant.

This is because the PPA not only increased the PPRA's legislative mandate. Section 1 of the PPA also introduces new property subsectors such as developers, home owners associations (HOAs) and bond originators that were not regulated under the repealed Estate Agency Affairs Act, 112 of 1976.

The increased regulatory scope necessitated change in the organisational structure, establishment of new departments, defining of new roles and redesigning business processes. Some of these organisational redesign processes have been completed while others are still being processed with.

Some processes are easier to adapt from the old to the new; whilst others are wholly new, and the latter requires more time and resource investment.

The PPRA has clearly defined transitional arrangements and scoped activities into a comprehensive project plan against which the achievement of milestones are tracked and monitored. Responsibilities have been assigned to various departmental heads and regular meetings are held to monitor of progress.

There are no transitional timelines that have been expressly defined in the new PPA, 22 of 2019, however, it is envisaged that a period of a year and a half (18 months) would be sufficient to implement all the changes, particularly as they relate to the following focus areas:

TRANSFORMATION

Transformation is the cornerstone of the new PPA, so much so, that a whole chapter, Chapter 4 is dedicated to clearly defining empowerment and transformation programmes that the PPRA is obliged to embark on.

The PPRA was tasked to establish the new Property Sector Transformation Fund within six (6) months of its establishment from the 1st of February 2022. This milestone has been achieved and indeed a (PSTF) has been duly established.

The respective PTSF Manager has been appointed to implement and monitor the empowerment and transformation programmes as clearly enumerated in Chapter 4 of the PPA, 22 of 2019. Regular reporting on the progress made on the implementation of the empowerment and transformation programmes will be provided to all stakeholders in the not so distant future.

UNDESIRABLE PRACTICES IN THE PROPERTY SECTOR

The PPRA recently received several complaints relating to certain estates requiring property practitioners to pay the so called "accreditation" fees in order to trade in within those properties. It is of great concern that some property practitioners participate in these arrangements despite those being outlawed in terms of Section 63 of the PPA, 22 of 2019.

It is on this basis that the PPRA issued an industry notice advising property practitioners to desist from being party to these arrangements and more importantly, report those that participate in these activities in order to enable the PPRA to prosecute practitioners that break the law. All complaints in this respect must be forwarded to: up@theppra.org.za

Complainants must ensure that they provide supporting evidence on all allegations.

EDUCATION AND TRAINING CHANGES

The new PPA, 22 of 2019 and its regulations requires the PPRA to consult with the industry in good faith in order to develop the following:

- Qualification standards for property practitioners;
- Course material linked to the above qualification standards;
- Professional Designation Examination (PDE) – Levels 4 and 5; and
- Practical Training Course (PTC).

To date, several PPRA-Industry engagements have taken place since April 2022, with the last engagement held in November 2022. Significant progress has been made in terms of the industry and PPRA agreeing on the education and training requirements for property practitioners under the auspices of the new PPA and its regulations.

A critical consensus reached between the industry and PPRA is that the revamped NQF 4 will be the baseline entry qualification requirement for aspirant property practitioners with no existing qualifications. New entrants with qualifications equivalent or higher than the revamped NQF 4 level will continue to qualify for an exemption from NQF 4 if they meet the set exemption matrices.

PPRA-industry engagements are planned for the near future in order to finalise all the outstanding property practitioners' education and training requirements under the new Regulations (I.e., Regulation 33.2.1).

ENTERPRISE RESOURCE PLANNING (ERP) AND THE ENTIRE IT INFRASTRUCTURE

One of the thorny issues that the PPRA has been faced with is an inadequate ERP system. The entire IT infrastructure requires urgent attention and resolution.

The increased regulatory mandate emanating from Section 1 of the PPA whereby new subsectors have been added to the definition of property practitioner, means that there will be an increase in the volume of transactions that the PPRA's IT system and ailing infrastructure would have to handle.

Steps are afoot to procure a new and adequate ERP system given the PPRA's increased scope and regulatory jurisdiction. Technical specifications taking into account the needs of all PPRA's organisational needs are being drafted with a view that whatever ERP system the the PPRA will ultimately procure will not only be suitable for its current needs but it will also allow scalability of activities as the needs of the Authority change.

Given the technical nature of the services to be procured, a careful consideration is being made to ensure that all supply chain management processes are being complied with.

All these measures are undertaken to ensure that a suitable ERP service provider with technical competence and capacity to deliver the required ERP system timeously to avoid budget overruns is appointed.

Without an efficient and effective IT system, many processes will remain manual and this will negatively impact staff morale and pose a challenge on productivity. The future world of work requires automation of business processes especially and should the criticality of optimising the PPRA's processes can not be over emphasised in our quest to meeting Property Practitioners ideals.

I recognise that change in an organisation leads to many positive aspects which ultimately lead to the organisation retaining a competitive edge. Change enables the organisation to remain relevant in its business area. Change is positive as it also encourages innovation, aids the development of skills, development of staff which subsequently leads to better business processes and opportunities derived from this transformation will inevitably improve staff morale and stakeholder confidence.

All the above developments point to PPRA as an organisation that is going through organisational redesign and alignment to ensure that its processes are geared towards achieving the predefined legislative mandate as set out in Section 6 of the new PPA. PPRA will need the buy in of all its stakeholders as it continues to redefine its processes and align them to the requirements of the new PPA and its regulations.

In conclusion, I fully subscribe to what John C Maxwell postulated with regards to change when he argued "change is inevitable, but growth is optional". I sincerely hope that PPRA's stakeholders see the bigger picture as all the changes are unfolding and the organisation is turning a new leaf.

THATO RAMAILI

Acting Chief Executive Officer (ACEO). 

360° OVERVIEW OF THE PROPERTY PRACTITIONERS ACT

THE NEW LEGISLATION (PPA) HAS 11 CHAPTERS AS COMPARED TO THE OLD LEGISLATION WHICH HAD FEWER CHAPTERS. THE PPA ENCOMPASSES MORE DETAILED CHAPTERS AND INTRODUCTION OF NEW SECTIONS I.E., TRANSFORMATION (CHAPTER 4).

STRUCTURAL OVERVIEW OF THE NEW LEGISLATION IS AS FOLLOWS: (11 CHAPTERS AS SET OUT BY THE ACT)



INTERESTING FACTS AND CHANGES OF THE NEW PROPERTY PRACTITIONERS ACT (PPA)

OBJECTS OF THE LEGISLATION

- provide for the regulation of property practitioners.
- provide for the establishment of the Authority.
- provide for the powers, functions, and governance of the Authority.
- provide for the protection and promotion of the interests of consumers.
- provide for a dispute resolution mechanism in the property market.
- provide for the education, training, and development of property practitioners and candidate property practitioners.
- provide for a framework for the licensing of property practitioners.
- provide for a just and equitable legal framework for the marketing, managing, financing, letting, renting, sale, and purchase of property.
- promote meaningful participation of historically disadvantaged individuals and small, micro, and medium enterprises in the property market.
- provide for the transformation of the property market and the establishment of the Property Sector Transformation Fund.

APPLICATION OF THE ACT

The Property Practitioners Act applies to the marketing, promotion, managing, sale, letting, financing and purchase of immovable property, and to any rights, obligations, interests, duties, or powers associated with or relevant to such property.

WHAT IS THE PURPOSE OF THE NEW LEGISLATION?

- To align the new legislation to constitutional imperatives;
- Change deep-seated disparities in respect of participation and representation within the property market;
- To transform the property market by ensuring that it is reflective of the South African demographics; and
- To embark on a drive to professionalize the real estate sector.

FULL CITATION OF THE ACT: PROPERTY PRACTITIONERS ACT, 2019. Act No. 22 of 2019.

Property Practitioners Regulations, 2022 issued on the 22 January 2022.

CHAPTER 1:

Definitions, application, objects, exemptions, and establishment of the Authority.

CHAPTER 2:

Establishment of Board of Authority, composition, disqualification, powers, conflict of interest, termination, meetings, committees, and dissolution of Board.

CHAPTER 3:

Appointment of CEO and staff of the Authority.

CHAPTER 4:

Property Sector Transformation.

CHAPTER 5:

Compliance and enforcement, powers of inspectors, compliance notices, mediation, adjudication.

CHAPTER 6:

Funds of authority and financial year and deposits.

CHAPTER 7:

Property Practitioners Fidelity Fund, control and management of the fund, investment of monies in fund, payments from fund, grants, indemnity insurance, fees payable by property practitioners, primary purpose of the fund, claims, co-operation by claimant, actions against Authority, IRO Fund, application of insurance monies, transfer of rights and remedies to authority, fund exempt from insurance laws and prescribed payments from funds.

CHAPTER 8:

- Application for Fidelity Fund Certificate (FFC).
- Prohibition on rendering services without FFC.
- Mandatory time periods for issuing FFC's.
- Disqualification, amendment of FFC.
- Withdrawal or lapse of FFC.
- Mandatory display of FFC.
- Trust account, duty of property practitioners to keep accounting records.
- Property practitioners not entitled to remuneration in certain circumstances.
- Mandatory indemnity insurance.
- Limitation on relationships with other property market service providers.
- Insolvency or liquidation of property practitioner.

CHAPTER 9:

- Property Practitioners Code of Conduct.
- Sanctionable conduct.
- Undesirable practices.
- Control and supervision of certain property practitioners.
- Franchising.
- Advertising and marketing.
- Prohibition of payment of fees or commission prior to transfer of property.
- Prohibition on conduct to influence issue of certificates.

CHAPTER 10:

- Mandatory disclosure form; and
- Consumer education and information.

CHAPTER 11:

- Regulations;
- Penalties;
- Delegation of powers by Minister;
- Legal proceedings against authority;
- Use of name of authority;
- Transitional provisions;
- Repeal and amendment of legislation; and
- Short title and commencement.

IMPORTANT DEFINITIONS AND CHANGES!

- The legislation redefines the definition of a property practitioner to restrict illegal operators.
- The legislation expands the definition of property practitioner to include other role-players, e.g., bond originators, bridging finance companies, etc.; refer to the page of definitions of the Act (Chapter 1, Section 1 a-g).
- Interns are to be known as "candidates".

APPLICATION FOR A FIDELITY FUND CERTIFICATE

- Property practitioner must every three years apply to the Authority for an FFC accompanied by payable fees.
- Property practitioner referred to in paragraph (d) "Attorney" must apply for a Registration Certificate accompanied by payable fees.
- Property practitioner may not use or display a lapsed FFC.

MANDATORY TIME PERIODS OF ISSUING A FIDELITY FUND CERTIFICATE

- Application for an FFC must be issued within 30 days (unless there are justifiable reasons). *The application must be compliant in nature to be issued.*
- If the applicant is requested to furnish further details, the 30 days commences afresh.
- If the Authority has failed to comply with the 30 days, the application is deemed approved and upon request by the applicant, the Authority must issue the FFC within 10 days.


PROHIBITION ON RENDERING SERVICES WITHOUT A FIDELITY FUND CERTIFICATE

No person may act as a property practitioner without a valid Fidelity Fund Certificate (FFC) issued by the Authority.

NON-ENTITLEMENT TO COMMISSION/REMUNERATION

- A property practitioner who is not in possession of a valid FFC is not entitled to commission/remuneration.
- A conveyancer may not pay any remuneration unless the property practitioner has been issued with a valid FFC.
- Non-compliance constitutes an offence.

MANDATORY DISCLOSURE FORM AND CONSUMER EDUCATION

- A property practitioner may not accept a mandate unless the seller has fully completed and signed the mandatory disclosure form.
- A property practitioner must furnish the mandatory disclosure form to the prospective purchaser.
- Authority must from time-to-time conduct consumer awareness education on rights and responsibilities of consumers in respect of property ownership and development. 



11 Important things every new homeowner should know

For most people, becoming a home owner is the ultimate dream but it's also one of the largest financial investments they will ever make – and there's a lot that they don't tell you before you sign on the dotted line.

There is no landlord to call to sort out problems and foot the bills - you're suddenly solely responsible for maintaining, and sometimes improving, your biggest asset," says Stephan Thomas, Secure Estate Specialist for Lew Geffen Sotheby's International Realty in Cape Town's Southern Suburbs.

"And as rewarding as being a homeowner can be, make no mistake, your home will have a more than a few surprises in store for you over the years, and the right time to learn how to deal with them is not when you're in the middle of a crisis and knee deep in water.

"It can also prove very costly, especially if you're not in the know, so my best advice is always for new owners to get to know their homes as quickly as possible so that issues can easily be dealt with whilst still manageable."

Thomas offers the following essential tips and tricks to avoid and solve problems, save money and improve your home and investment:

1. CHANGE THE LOCKS MAKE SPARE KEYS

It may seem unnecessary, but there's no way of knowing whether there are copies of the house key floating around, and who might have them. Over time, most people will give out keys to baby sitters, contractors, domestic staff and friends and very often they are not returned. And to err on the side of caution, change the locks before you move your belongings inside.

2. TAKE YOUR TIME WITH RENOVATION PROJECTS

If possible, first live in the house for a few months before starting to make changes to get a better idea of what already works and it is you really need and want to change. That way, you'll be able to better prioritize renovation projects. And if there are multiple things to do, it's often best to take it one project at a time as opposed to carrying out a massive renovation all at once. This way, over time, you'll get a proper feel for the place and how it 'lives' and you will be far less likely to make costly mistakes.

3. FOCUS ON IMPROVEMENTS THAT WILL GIVE YOU THE MOST BANG FOR YOUR BUCK

Not all upgrades are equal and if you are renovating to increase the value of your investment rather than to merely satisfy personal needs, then you need to choose those that will offer the best return in the long run. Projects that typically yield a good return include an updated kitchen, a neutral paint job, an outdoor deck and a bathroom remodel.

4. KNOW WHERE THE PROPERTY LINES ARE

Every homeowner should know where their property line begins and ends. If you don't have a copy of your building plans or they don't clearly depict the boundary, your local municipality will be able to give you a plot plan that clearly shows where your property line is located. It's important to have this information in the event disputes with a neighbour regarding walls, fencing, trees and other issues that could get contentious.

5. LOCATE YOUR MAIN WATER SHUT-OFF VALVE

The time to locate this valve is not after your geyser has burst and you're standing knee-deep in water. Every home is different, but in South Africa, the main water valve is usually near the perimeter of the house, at ground level, near your water meter.

6. SHUT OFF THE WATER BEFORE GOING ON HOLIDAY

Every insurance broker can tell you stories about homeowners going away only to return to a soaked house and costly water damage. It may seem unlikely but it does happen – more often than you think.

7. MAINTAIN AN EMERGENCY FUND FOR UNEXPECTED PROBLEMS

You should be prepared to deal with unexpected problems when

they arise. These can be expensive many repairs also cannot be delayed as you can't do without a geyser or working plumbing or live with a leaking roof.

8. MAKE SURE YOU ARE PROPERLY INSURED

It's important that homeowners understand that they need to be adequately insured for the replacement value of the building, not just the market value, plus all the contents and they must specify items that are valuable. No-one wants to dwell on unpleasant events that may never happen but the fact is that they can – and often do - occur and being well-prepared for any eventuality is not only sensible; it affords you peace of mind, allowing you to get on with life with one less thing to worry about.

9. DON'T IGNORE YOUR GUTTERS

A clogged gutter can cause damage to your roof and, eventually, leaks inside the walls. Make sure you check them regularly, especially during the rainy season.

10. GALVANIZED PIPES OFTEN GET PLUGGED

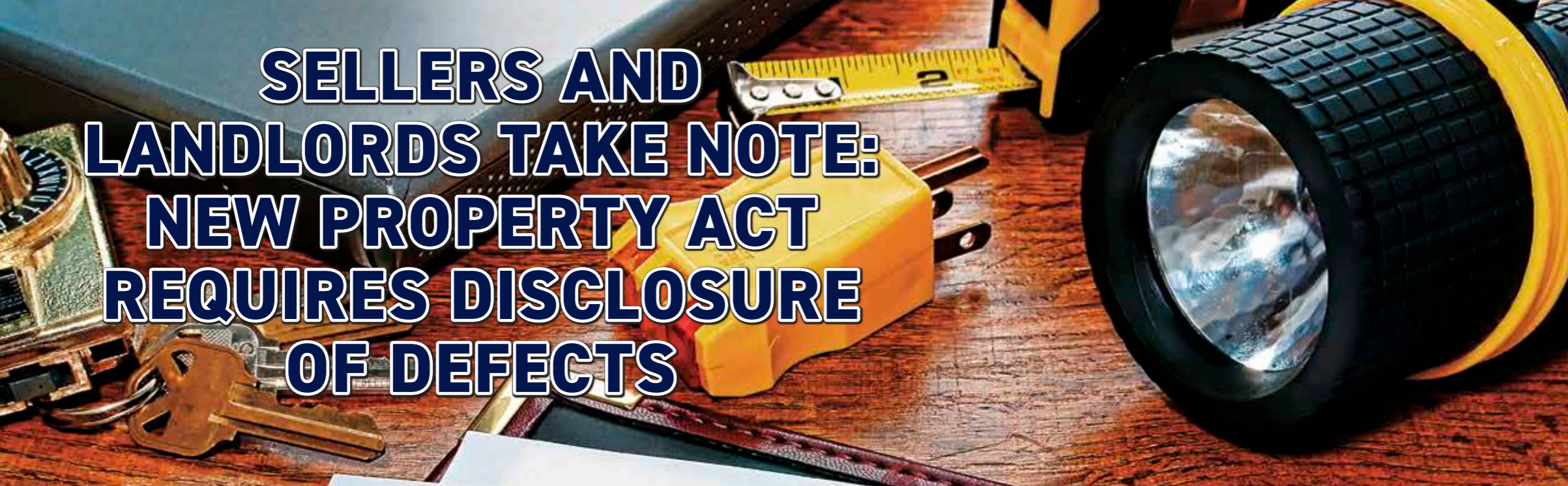
If you have galvanized steel pipes in your home and low water flow at the taps, chances are the pipes are to blame. Galvanized pipe is prone to mineral build up, which eventually chokes off the water flow.

11. HANDY HACK FOR CLOGGED DRAINS

A wet-dry vacuum slurps blockages out of plugged drains so well that even plumbers use this trick sometimes. If you need to increase suction, seal around the nozzle with a wet rag.

"Maintaining a home may seem daunting, but forearmed with a little knowledge, it's not very difficult at all to stay on top of things, especially if you know your limits and take the time to hire credible contractors for any large modifications or necessary repairs," says Thomas. 🏠

SELLERS AND LANDLORDS TAKE NOTE: NEW PROPERTY ACT REQUIRES DISCLOSURE OF DEFECTS




which usually relate to structural issues and are more difficult to spot. The property practitioner must undertake a thorough inspection and the seller must point out all defects, regardless of whether they are patent or latent.

Patent defects are usually easily identifiable. These would include aspects such as cracks in the walls, sagging gutters, cracked or broken windows, damaged light switches, cracks around the swimming pool, deteriorated woodwork, damaged cupboards, cracking paint work, cracked tiles and damage to carpets, laminate or wooden flooring.

Latent defects include structural issues such as unsteady walls, leaking roofs, faulty geysers and swimming pool pumps, rising damp and so on. These are more difficult to spot, hence our recommendation that the buyer gets an inspection done, says Pretorius.

It is important to choose a reputable home inspector with the relevant expertise to inspect and discover defects in the property. The cost of the inspection is for the buyer's account, but this is money well-spent, he says further.

An inspection can ensure that there are no surprises before payments are made. Buyers should be mindful that once the contract is signed it becomes more difficult to act, and can be costly if legal action is required. It will also put the buyer in a position to request repairs or negotiate reparations as part of the conditions of sale. 

Source: SA Property Insider

HOME INSPECTION REPORT

RESIDENTIAL REAL ESTATE PROPERTY CONDITION REPORT

This report is furnished for the use of the client only. It is not intended to be relied upon for any purpose by any party not named on the report and Inspection Agreement. This inspection was conducted in accordance with and under the terms of a Home Inspection Agreement. The agreement was agreed upon before the preparation of this report. A copy of the agreement is attached to this report.

For your convenience, the following information has been provided:

- **Major Concern:** denotes a problem that has been identified at this age or location.
- **Safety:** denotes a problem that could pose a safety hazard.

DEFECT

The new Property Practitioner's Act 22 of 2019 is an important piece of legislation in the property sector according to the Seeff Property Group.

With the publication of the regulations in mid-December 2020, the Act and all of its provisions have taken full effect on the 1st of February 2021.

The Act brings a number of changes to the industry including updating the title of estate agents from "estate agent" to "property practitioner".

The Act also provides more protection for consumers including the need to disclose defects in both sales and rentals. Although it has been in practice for some time, it is now a legal requirement. The document must be signed by all parties and annexed to the respective sale or lease agreement.

According to Tiaan Pretorius, manager for Seeff Centurion, sellers should not try to cover or conceal defects because this can land a seller in hot water since they could be sued by the purchaser. However, should a seller fail to disclose a fault that they were unaware of, they would obviously not have been able to declare it, hence it is unlikely to pose a problem for the seller.

Seeff, however, strongly recommends that prospective buyers get a home inspection done to safeguard against any problems down the line.

There are generally two types of defects, namely patent defects which are those that are visible to the naked eye, and latent defects



THE PPRA LAUNCHES THE PROPERTY SECTOR RESEARCH CENTRE

The Property Practitioners Regulatory Authority (PPRA) in partnership with The National Research Foundation (NRF) hosted the first Property Sector Research Conference on 01 March 2023 to launch the Property Sector Research Centre (PSRC).

To achieve a well-regulated and equally represented property sector, the research conference was an important step in understanding the current state of property through objective dialogue which considered social, political, economic and legislative impact as the first point of analysis.

Representatives from the property sector, academia, consumers, the private sector, government and state-owned entities discussed the state of affairs of the property sector, and the mandate of the PSRC, which ultimately seeks to drive economic growth, knowledge and transformation within the property sector.

As part of its industry engagement approach, the NRF aims to enhance its collaboration capacity with industry, government and academia to address various socio-economic challenges, including human settlement-related issues.

"The Property Sector Research Centre is mandated to conduct an objective analysis of the sector through the research conference and other initiatives, in order to apply solutions that are fit for purpose which will grow the economy of this country in a just and equitable manner. This is truly an exciting day for the sector," said Ms Thato Ramaili, Acting Chief Executive Officer of the PPRA.



The PPRA and NRF will conclude a Memorandum of Understanding (MoU) to collaborate in research and research support activities within the property and human settlements-related areas to advance national imperatives. The MoU will enable the NRF to support and advance strategic partnerships between the PPRA and research performing institutions to establish innovative industry-academia programmes that will explore opportunities in addressing property sector-related challenges.

"The PPRA was acknowledged and congratulated on the establishment of the PSRC. The NRF is pleased to form part of this strategic development and looks forward to supporting the

centre, working closely with key stakeholders," says Dr Aldo Stroebel, Executive Director Strategic Partnerships at the NRF.

The partnership further responds to the Property Practitioners Act 22 of 2019 which states in terms of Section 22(1) that a research centre is to be established.

The provision of the Act further mandates the Property Practitioners Regulatory Authority to conduct market research in partnership with the National Research Foundation and Institutions of higher learning. [📄](#)

New property scam targeting these areas in South Africa



The Western Cape Department of Human Settlements has urged residents to be aware of online housing scams that request them to pay for government housing assistance.

The department said that it had recently learnt of a Whatsapp message that had been circulating – claiming to assist residents in receiving a house within two weeks. As part of the scam, residents are requested to pay R2,300 for the approval letter and title deed to receive the opportunity.

IT SAID THE FOLLOWING AREAS HAD BEEN TARGETED:

- Khayelitsha;
- Stellenbosch;
- Montana Paarl; and
- Mitchells Plain

"Residents should be aware that no payment is required to be placed on the housing demand database (waiting list), to apply for a housing subsidy, or any related government housing service," said the department.

The scam targets vulnerable residents who are in need of assistance and are willing to pay to be 'bumped up the waiting list'.

To further mask that it is a scam, many perpetrators have some knowledge of how government housing works and go as far as to create fraudulent approval letters and correspondence that can appear lawful and authentic.

"While some residents are also aware of how the system works, the mere suggestion of being bumped up on the waiting list prompts them to find the means to pay a requested fee to fast-track the process," said Muneeraa Allie, the department's acting director of communication.

This scam forms part of many online housing scams for which there has been a resurgence. According to the department, several Facebook accounts are making similar claims to assist residents in


receiving government housing opportunities – in some instances, impersonating a government official.

With large sums of money being transferred for real estate and many payments now taking place online, cybercrimes specifically targeting prospective homeowners have emerged.

Jackie Smith, the head of Ooba Properties subsidiary Buyers Trust, said that they are seeing scammers posting advertisements online for a property for sale or rent.

"These scammers have no actual relation to the property in question, and after an unsuspecting buyer or tenant hands over the cash, they vanish into thin air," said Smith.

SMITH OFFERED THE FOLLOWING SUGGESTIONS TO HELP CUSTOMERS SAFEGUARD THEIR DEPOSITS WHEN DOING BUSINESS ONLINE:

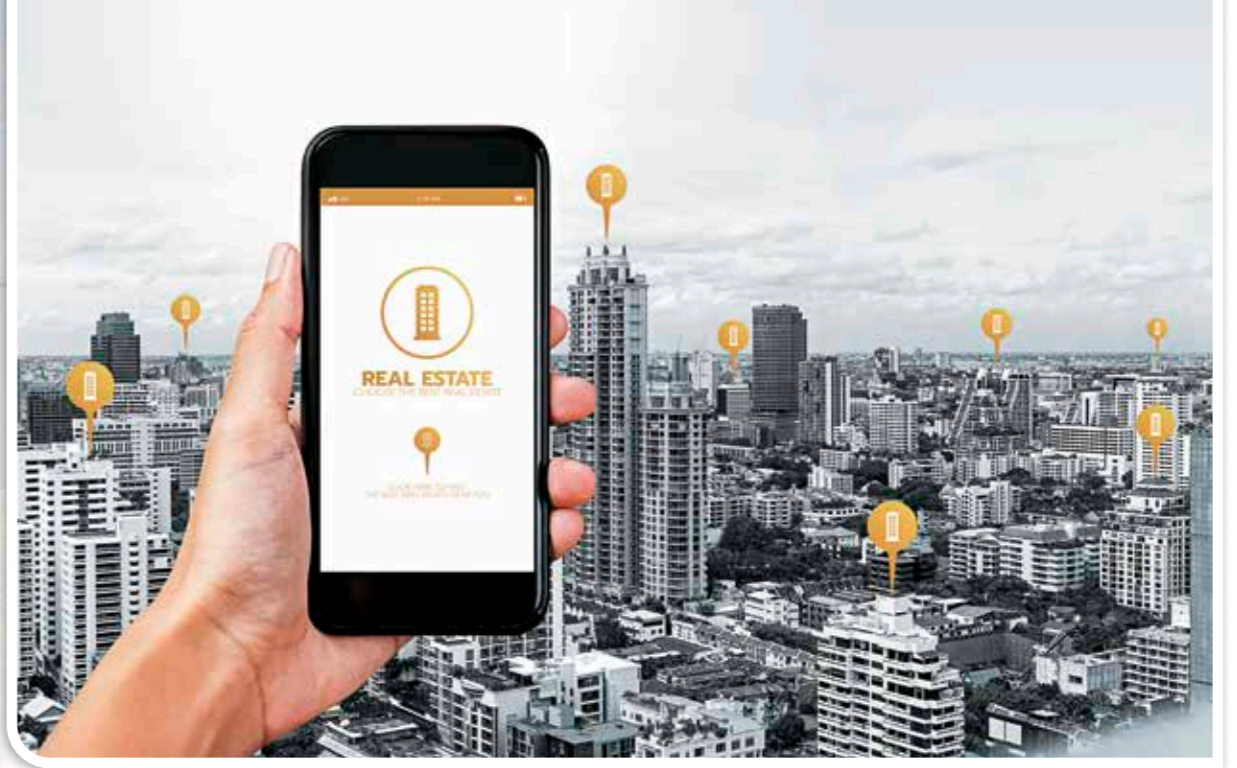
- Be cautious when you click any links or attachments in emails you receive, and avoid doing so if they seem off.
- Before making a deposit, confirm any banking information from the questioned bank.
- Before making any deposits, make sure to check with your agent. Since using email could allow a criminal to prolong the interception, this confirmation should be done in person or over the phone.
- Make careful to select strong passwords that are difficult for an attacker to guess and to keep your devices updated with anti-malware software.
- Connect to known and reliable private WiFi networks only.
- Consider using an alternative to the traditional depositing of cash into a trust account, to secure your purchase. 

Source: Business Tech



Big shift for property in South Africa - these are the key trends ...

The real estate industry has resiliently adapted, and there are several key shifts and trends to watch out for in 2023 after a tumultuous few years of economic challenges and major disruption, says Yael Geffen, the CEO of Lew Geffen Sotheby's International Realty.



BOND ORIGINATORS WILL PLAY A BIGGER ROLE IN MORTGAGE APPLICATIONS

Rising interest rates may push more first-time home buyers to the side. As a result, third-party bond companies like Ooba will use more people to source the best financing option.

Having access to multiple lenders, an originator can provide the homebuyer with the best deal, which would include negotiating an attractive interest rate, thereby potentially saving the homebuyer thousands of rand of interest over the term of the bond.

MILLENNIALS WILL DOMINATE THE BUYERS' MARKET

Millennials are the largest consumer group in South Africa and likely homebuyers in the future, said Geffen. Whilst it's true that first-time buyers are once again being priced out of the housing market due to factors such as rising interest rates.

INCREASED DEMAND FOR OVERSEAS PROPERTY

Globally, we are seeing increased demand for property in different countries, especially in locations like Malta, Cyprus and Mauritius, which are viewed as more favourable by investors due to the quality of life they provide, affordable property investment opportunities and, of course, favourable tax regimes.

For South Africans looking to establish their Plan B, the added incentive is that these countries also offer permanent residency.

THE LUXURY MARKET WILL RETAIN ITS BUOYANCY

Growing substantial wealth through owning property will remain a trend for those who can. Real estate has shown remarkable resilience over the years, defying the odds and major disruptions to become the world's biggest store of wealth, said Geffen.

"By the end of 2020, the global value of real estate had reached a record high of USD326.5 trillion, making it more valuable than all global equities and debt securities combined – and almost four times greater than global GDP."

RENOVATIONS REIGNED IN

Deterred supply chains may halt cosmetic upgrades to houses across the country under the requirements.

THE SOLAR AND OFF-GRID MARKETS WILL BOOM

As unpopular as the 'trend' may be, South Africa's growing energy crisis and ubiquitous load shedding aren't going to disappear anytime soon, and consumers and businesses are being forced to become savvier and more self-reliant by investing in solar, wind or gas, said Geffen.

SEMIGRATION WILL PREVAIL, AND COASTAL AREAS WILL CONTINUE TO BOOM

A major wave of semigration to the coast will continue in 2023, with many areas experiencing stock shortages and also record sales.

And, with the now-established work-from-home and safer living trends still being major driving forces in property-buying decisions, it's unlikely that the steady migration towards lifestyle destinations will abate any time soon.

She added that although the spotlight is on the coast, there is some inland migration to Johannesburg as well.

HOLIDAY HOMES WILL REMAIN IN TREND

Holiday homes will not only be for relaxing but also as calculated investments that can have high returns.

According to the CEO, in popular destinations like Plett, her agents are reporting that more people are currently buying holiday homes than are selling.

They have also noted a new trend – second homes being purchased to use for holidays initially but with plans to move into them permanently at some point in future, said Geffen. 🏠

The real estate industry has resiliently adapted, and there are several key shifts and trends to watch out for in 2023 after a tumultuous few years of economic challenges and major disruption, says Yael Geffen, the CEO of Lew Geffen Sotheby's International Realty.

The outlook for 2023 cannot be described as rosy, but it's certainly not all doom and gloom, said Geffen. The CEO is cautiously optimistic for the year; however, he remains concerned about consumers' belt tightening against unnecessary spending.

Possibly one of the most significant shifts in the property sector is the likelihood of more interest rate hikes.

"Following a record low of 3.75% in May of 2020, the interest rate has been steadily rising, with the South African Reserve Bank (SARB) raising its benchmark repo rate by another 75 bps to 7% at its November 2022 meeting – the 7th consecutive rate hike since policy normalization started in November 2021."

"As the governor of the reserve bank, Lesetja Kganyago, recently said, the widely-held belief is that not curbing inflation will be more harmful than hiking the interest rate in the long term, so I think we can certainly expect more increases this year."

"And, with the goal being for inflation to be stabilised by Q4 in 2024 at 4.5%, we're probably in for the long haul, which is a bit concerning for the market as higher interest rates mostly impact the sector that has been underpinning the market – property in the R1.m to R2.4m price band," said the CEO.

Hiked interest rates also push up the costs associated with paying off monthly bond payments, making cash-strapped new homebuyers a bit more inclined to think twice before making big decisions.

Geffen listed the following other trends that are very likely to alter the property market in South Africa:

VIRTUAL PROPERTY SHOPPING WILL REMAIN

Buyers have started searching online for properties, and this is not going to change anytime soon. "Expect to continue seeing very comprehensive listings complete with drone footage and 3D tours as well as the continuance of virtual property tours."

MORE AI TECHNOLOGY IN THE INDUSTRY

Algorithms can now go through millions of documents in seconds, accessing property values, debt levels, home renovations, and even some of a homeowner's personal information. AI can even help you find the homes that are most likely to sell in the next 12 months, said Geffen.

Some of the biggest names in the business, such as Compass and Zillow are already utilising AI to help find buyers the perfect mortgage and the perfect home, added the CEO.

Managing Agents Register Today!



Managing Agents are now defined as Property Practitioners in terms of Section 1 of the Property Practitioners Act 22 of 2019 and they are required to register with the Property Practitioners Regulatory Authority (PPRA).


This is an important step towards compliance with the Act, and we encourage all Managing Agents to take advantage of this opportunity by registering with us.

By registering, you will have access to a Fidelity Fund Certificate, which is required under the Property Practitioners Act.

Our team is ready to assist you throughout the registration process and provide you with all the necessary information and support. We will guide you every step of the way so that you can become a fully compliant Property Practitioner.

Please note that the registration process for business property practitioners (firms) has already begun. Principals and directors will be notified of their firm registration by email, in order for them to register as the principal or director of the firm using the firm reference number assigned.

To register your business property practitioner (firm), please send an email to: managingagents@theppra.org.za

Don't miss this opportunity to become a compliant Property Practitioner and benefit from the advantages that come with it. 

Source: Vukani Mbatha - FFC Renewals Department



Property valuations: Inspection and objection to new rates



The municipal valuator will consider the objection and either make an adjustment to the valuation roll, alternatively, dismiss the objection. If the municipal valuator adjusts the value by more than 10% the objection will automatically be submitted to the Valuation Appeal Board for a compulsory review.

The municipal valuator will advise one in writing as to what the valuator's decision is. The objector is entitled to request written reasons for the valuator's decision within 30 days of the decision. The valuator has 30 days to provide written reasons. One then has 21 days thereafter to appeal the valuator's decision should one be unhappy with that decision.

Appeals must be lodged in the prescribed manner with the Municipal Manager who is obliged to refer the appeal to the

Chairperson of the Appeals Board within 14 days after receiving the Appeal.

The Chairman of the Appeals Board will convene a meeting of the Appeals Board within 60 days after the Appeal has been forwarded to the Chairperson. The Chairman of the Appeals Board will inform all parties concerned of the date and venue where the appeal hearing will take place. The Appeals Board decision will be published.

If you have any queries in regard to the process of objecting to the valuation and/or require assistance with appealing a decision of the municipal valuator you are welcome to contact us and we will assist you with the process. 📞

Source: bizcommunity.com

As the old adage says everything goes up except one's salary. This no doubt applies to one's property valuation. The question that arises is what can you do if you wish to object to the valuation ascribed by the Municipality to your property.

Section 229 of the Constitution of the Republic of South Africa, 1996, empowers a Municipality to impose rates on properties and surcharges on fees for services provided by or on behalf of the Municipality.

Section 2 of the Local Government: Municipal Property Rates Act No. 6 of 2004 (the Rates Act) empowers a local Municipality to levy a rate on properties in its area.

The Municipality however does not have an unfettered discretion as to the value it ascribes to a property. In terms of Section 45(1) of the Rates Act "Properties must be valued in accordance with generally recognised valuation practices, methods and standards ...".

Municipalities publish a municipal roll every four years. The most recent City of Johannesburg roll was published on 15 February 2023.

The published roll is open for public inspection online at <https://objections.joburg.org.za> or you can inspect the roll at a City of Johannesburg walk-in centre.

We recommend that one should inspect the roll as one has a limited period of time i.e. until 31 March 2023, to object to the roll should one wish to do so. It is important that one objects prior to the closure of the official objection period, 31 March 2023. Section 78 of the Rates Act provides for a procedure should you fail to object within the time periods specified in terms of which one can lodge a query to the valuation directorate in terms of which you request them to re-visit your property valuation. It is however advisable that you object within the prescribed period, namely prior to 31 March 2023.

The objection must include your reasons for the objection together with any evidence in support thereof. On the lodgement of your objection, you will receive a confirmation letter containing an objection number.



Is it time to rethink cash deposits in the multifamily market?

Despite being riddled with risk, the multifamily property market has accepted cash deposits as part of property management just as tenants have accepted paying them as part of renting an apartment.

CASH DEPOSITS – A FALSE SENSE OF SECURITY

When a tenant rents an apartment, the tenant pays a cash deposit as a form of protection for the property in case they fail to pay rent or cause excess damage. Cash deposits are a financial instrument designed to make apartment leasing less exposed to economic losses caused by the tenant – in essence, they act as a risk mitigation tool for the property.

Many properties rely on unsophisticated methods for determining the deposit amount – whether it's equivalent to first month's rent, set by how much tenants are willing to pay or based on average move-out costs (or a combination of these), the deposit is arguably a random amount!

While cash deposits are supposed to protect against rent loss and damage, in many cases, the outstanding balance exceeds the deposit amount, which leads to bad debt. This means that cash deposits often do not adequately cover the risk they were intended to protect against. So, why is the industry still relying on cash deposits to "mitigate risk"?

Even if we view cash deposits as a risk mitigation tool and utilize more sophisticated methods for setting their amount, would

deposits be effective in protecting against property losses? Spoiler Alert: the answer is NO!

THE INDUSTRY SEES CASH DEPOSITS AS A BARRIER TO LEASING

Since there is no standard formula for deciding what to charge for a cash deposit, deposits poorly anticipate outstanding balances at move-out and therefore cannot adequately protect against this risk:

- If a cash deposit is too high, it will become a barrier to leasing, which will result in lower occupancy levels.
- If a cash deposit is too low, it leaves properties exposed and unprotected, which will result in higher bad debt.
- Attaching monetary leasing incentives to cash deposits i.e., 'one-month rent free', will result in an additional large cost item for the property, multiplying the problem of cash deposits' inadequacy to protect against property losses.

Tenant screening is a vital step in the leasing process and one that goes some way to reducing the likelihood of bad debt, but there is a limit to how strict screening criteria can be i.e., reducing the chance of leasing.

THE INDUSTRY DOES NOT SEE BAD DEBT AS AN OPPORTUNITY

In today's multifamily property market, the issue of bad debt is not always 'top of mind'. Uncomfortably high occupancies create a natural tide of financial optimism. One could argue that "occupancy at any cost" is the underlying methodology for many property managers, denying a bad debt problem. Or as often mentioned in their audited reports, "the (bad debt) percentages remain well within the risk tolerance levels".

Consider what this means: believing that you do not have a bad debt problem does not mean you do not have bad debt – it simply means that bad debt is at a level that your organisation finds acceptable. This may not necessarily mean that there is a problem, but in many cases, bad debt is an opportunity.

Using a simple example, a mid-priced 300-unit multifamily property, at 92.5% occupancy, has R20 million per annual revenue. An "acceptable" level of bad debt is typically in the 2% range, or about R400 000 per year for this property. Using a market-acceptable capitalization rate of 10%, the R400 000 bad debt problem (opportunity income?) translates to R4 million in lost asset value (opportunity gain?!). That may be an "acceptable" level of bad debt, but it is still a significant amount of money that should be – but isn't – realized. It is a cheque that a property manager could be writing to investors each month. Yet, time and again, property managers leave the opportunity untapped because it "isn't a big enough problem."

OPERATIONAL INEFFICIENCY: ADMINISTRATIVE BURDENS

Cash deposits come with a large operational cost that creates administrative burdens for everyone. Between determining the cash deposit, complying with deposit regulations, storing deposits, ensuring timely refunds, attempting to recover property damage and unpaid debts owed by tenants, accounting, and tenant relations management (most often refund disputes!), these time consuming and contentious tasks can quickly overwhelm property teams.

With deposits in place, the leasing workflow slows down significantly while administrative costs have the potential to reach uncomfortably high numbers.

RETHINK: DEPOSITS – A CRUDE RISK MITIGATION TOOL

Property managers collect a large random upfront payment from the tenant, with the expectation of either returning the full deposit after move-out or a reduced amount when things go wrong. But when they go wrong (more often than not), they frequently leave the property manager with expenses greater than the deposit.

THE RETHINK ENTAILS SEEING CASH DEPOSITS FOR WHAT THEY REALLY ARE: A CRUDE FORM OF INSURANCE!

Here's why:

In South Africa, 3 out of 5 tenants live from pay cheque to pay cheque' meaning they are unable to save for a cash deposit.

These tenants' only option is their parent's savings group or a 'mashonisa' (money lender).

For example, on a cash deposit of R6,000, an unsecured, short-term loan, at an annual interest rate of 20% per annum over 12 months, would require a monthly repayment of approximately R 730. Not only does the loan impact the tenant's future affordability (i.e., approximately R 6,730 per month), but the total cost of the loan is also considerably more than the deposit amount – in this example, R 2,760 per annum or R 230 per month in additional interests and fees.

For the 2 out of 5 tenants that can save' for a deposit of R 6,000, for example, a tenant would need to save R 500 per month, 12 months prior to signing on the dotted line. This impacts the tenant's current affordability and slows down leasing.

Research data by LeaseSurance, a new B2B InsurTech product, also indicates that, on average, between 50% and 80% of cash deposits are not refunded. Going back to the R 6,000 cash deposit example, if 70% is not refunded, the 'cost of the deposit' for the tenant over a 12-month average stay period, amounts to R 350 per month.

Whether the tenant has saved for a deposit or he/she is forced to take out a loan, combined with the 'cost of the deposit', it works out substantially more expensive for the tenant than LeaseSurance's monthly cost, and considering that with lease insurance, property owners are provided with more cover than the cash deposits.

RETHINK: THE SMARTER LOSS PROTECTION

The best and only efficient way to reduce bad debt, is to insure as many leases as possible. Instead of asking prospects to scrape together a month's deposit upfront to secure the apartment, the property can instead insure the lease, which greatly increases coverage and in turn lowers bad debt. The property can recoup the insurance cost from the tenant by offering a deposit waiver product for which the resident pays a modest monthly fee.

This arrangement achieves the powerful win-win of affordability for the tenant and greatly improved coverage for the property owner. Lease insurance is the only way to accelerate leasing and reduce monetary leasing incentives while lowering bad debt.

LOWERING BAD DEBT DOES NOT HAVE TO COME AT THE EXPENSE OF ATTRACTING NEW TENANTS

The potential applications of data analytics and predictive AI risk modelling, for example, enables properties to solve the financial and administrative problems associated with deposits by providing significantly smarter loss protection and better risk mitigation through more refined financial instruments like lease insurance.

And when the vast majority of a portfolio's leases are insured in this way, that bad debt opportunity is converted into profits that fall straight to the investors bottom line and grows the portfolio's asset value. 📈

How the FIC act helps protect property practitioners against financial crime

The property sector has been identified as being vulnerable to money laundering, terrorist financing and proliferation financing as criminals easily integrate illicit funds into the economy through property transactions.

Immovable property offers criminals a stable, high-value and secure asset and can enable them to derive an income while still camouflaging the origin of the illicit money used for payment or rental of properties.

Property practitioners should therefore manage and mitigate the risk of being abused for money laundering, terrorist financing and proliferation financing by criminals through property transactions. The Financial Intelligence Centre (FIC) have conducted a sector risk assessment on the property practitioners' sector, which results were published in March 2022, and are available for free on the FIC's website.

Listed as an accountable institution in the Financial Intelligence Centre Act (FIC Act), property practitioners are required to fulfil certain compliance obligations. These obligations are aimed at assisting the property sector and South Africa in the fight against financial crime. With the repeal of the Estate Agency Affairs Act being replaced by the Property Practitioner Act, the definition of property practitioner was expanded. The broader category of persons who are now property practitioners, do not automatically become accountable institutions unless the person performs an activity which is equivalent to that of an "estate agent" as envisioned in the now repealed Estate Agency Affairs Act. Refer to PCC 56 for further information in this regard.

An accountable institution's obligations include registering with and reporting to the FIC, applying a risk-based approach to conducting customer due diligence, developing, and implementing a risk management and compliance programme (RMCP), scrutinising client information to identify sanctioned persons and politically exposed persons, record-keeping, providing training to employees on the FIC Act and their RMCP, as well as ensuring that an effective compliance function is in place.

REGISTRATION AND REPORTING

Property practitioners must register with the FIC before they can begin submitting reports to the FIC. Registration, is free, and must be done through the FIC's online registration and reporting system called goAML.

In terms of the FIC Act, there are three main reporting streams for all accountable institutions:

Suspicious or unusual transaction reports (STRs) – Filed when there is a suspicion of money laundering or a breach of a targeted

financial sanctions. An STR should be submitted as soon as possible without delay to the FIC, but no later than 15 days of becoming aware of such activity or transaction.

Cash threshold reports (CTRs) – Filed when cash is either received or paid in excess of the prescribed limit of R 49 999.99. Cash refers to paper money, coins and travelers' cheques. CTRs are reportable within three days of the transaction.

Terrorist property reports (TPRs) – Reportable when the institution has in its possession or control property that is associated with a sanctioned person as listed on a targeted financial sanctions list. TPRs are reportable within five days of becoming aware.

The FIC guidance notes 4B, 5C and 6A provide guidance on the reporting obligations. The FIC uses these reports to conduct analysis and develop financial intelligence, which is shared with law enforcement, investigative authorities and other competent authorities.

APPLYING A RISK-BASED APPROACH

Applying a risk-based approach requires property practitioners to understand their exposure to money laundering, terrorist financing and proliferation financing risks and to implement proportionate controls to mitigate the risks. The property practitioners must identify, analyse, manage, mitigate and monitor the risks. When assessing risk different factors should be considered relating to the client, beneficial owners, persons who act on behalf of client, and parties to the transaction. Refer to Guidance Note 7 read together with PCC 53 for an explanation of how to develop a risk-based approach and document a RMCP.

RISK MANAGEMENT AND COMPLIANCE PROGRAMME

A property practitioner's RMCP documents the institution's view on how it will meet its compliance obligations, including its understanding of ML/TF/PF risks they face and their associated risk-based approach. Section 42 of the FIC Act, read together with PCC 53 and FIC Guidance Note 7 provides detail on what all controls must be documented in the RMCP. Importantly, the property practitioner's RMCP must be kept up to date and approved by the person exercising the highest authority within the institution.

CUSTOMER DUE DILIGENCE

A property practitioner needs to determine who its client is. "Client" in relation to an accountable institution is defined in the FIC Act as "a person who has entered into a business relationship or a single transaction with an accountable institution". Customer due diligence (CDD) ensures that an accountable institution has knowledge of who their clients are and the business they conduct. This is done by obtaining information from the client and verifying it according to the risk the client poses from a ML/TF/PF perspective. The higher the risk the client poses, a greater level of information and verification would be required. The requirement to obtain information on the source of income and wealth of the client also applies. For a detailed explanation of CDD, refer to FIC Guidance Note 7.

SCRUTINISING CLIENT INFORMATION

Property practitioners must scrutinise client information to ensure that they do not do business with a sanctioned person (designated persons on targeted financial sanctions). No person may provide financial or other services to a sanctioned person. See PCC 44 for more information.

Property practitioners must also scrutinise client information to determine whether or not the client is a domestic prominent influential person or foreign prominent influential person, PCC 51 provides guidance in this regard.

RECORD-KEEPING


Property practitioners must keep records of client information, transactional information and regulatory reports filed with the FIC. These records must be kept for at least five years from the date on which the business relationship was terminated or five years from the date that a single transaction was concluded, or a report submitted to the FIC.

COMPLIANCE FUNCTION

To assist management in discharging their obligations in terms of the FIC Act, they must appoint a compliance officer who has sufficient competency and seniority to ensure effectiveness.

TRAINING OF EMPLOYEES

Ongoing training on the FIC Act as well as the property practitioner's RMCP must be provided to the institutions employees at regular intervals as specified in the RMCP.

For more information and guidance refer to the FIC website (www.fic.gov.za), for various guidance notes and public compliance communications. Alternatively, contact the FIC's compliance contact centre on +27 12 641 6000 or log an online compliance query on the FIC website. 





Undesirable Practices - Arrangements to pay "accreditation" fees

*Property Practitioners Regulations, 2022
(Government Gazette No. 45735: 14 January 2022)*

The Property Practitioners Regulatory Authority (PPRA) received several complaints from property practitioners alleging that they are required to pay "accreditation" fees to trade in certain estates.

Following the enactment of the Property Practitioners Act, 22 of 2019, and the promulgation of its regulations early in 2022, these arrangements were declared illegal and thus prohibited. It is evident based on the number of complaints received from property practitioners that, these illegal practices are continuing despite them being outlawed under the new Property Practitioners Act, 22 of 2019 and its regulations.

Section 63(1) of the Property Practitioners Act, 22 of 2019 read with Regulation 35.1 provide that, the Minister of Human Settlements declared the following business practices undesirable and therefore prohibited: -

35.1.1.2 "any arrangement in terms of which any party or person that directly or indirectly controls or manages any residential property development, including any Body Corporate or Homeowners' Association (the managing organisation) -

35.1.1.3 receives money or any other reward in exchange for a benefit, advantage or other form of preferential treatment in respect of the marketing of properties in such property development -

35.1.1.6 effectively provides an advantage to any one property practitioner or group of property practitioners over and above any other property practitioners, in providing services in relation to properties in such property development; or

35.1.1.7 effectively excludes or disadvantages any property practitioner or group of property practitioners from being able to provide services in relation to properties in such property development".

Property practitioners are reminded that, one of the PPRA's strategic focus is transformation and inclusivity in the property sector and views these illegal practices as regressive and anti-transformative. To this end, PPRA hereby implores property practitioners to conduct their business within the ambit of the PPA, 22 of 2019 and its regulations.

To assist the PPRA to enforce compliance with the PPA, 22 of 2019, property practitioners are encouraged to report transgressors to the PPRA for investigation and prosecution.

Property practitioners should complete the attached prescribed form to lodge a complaint and furnish supporting evidence of the illegal practices and email same to: up@theppra.org.za

Source: Adams and Adams



CONTRACTUAL CAPACITY IN PROPERTY TRANSACTIONS

THE CONTRACTUAL CAPACITY OF NATURAL PERSONS IN PROPERTY SALE AGREEMENTS

- Unmarried: Full capacity.
- Married in community of property: Limited capacity ito sec 15(2) of the Matrimonial Property Act 88 of 1984, written consent is required / both husband and wife are to be a party to the agreement.
- Married out of community of property: Full capacity.
- Married according to customary law: Full capacity if an ANC has been entered into and limited capacity if one was not entered into.

THE CONTRACTUAL CAPACITY OF NATURAL PERSONS IN PROPERTY SALE AGREEMENTS

- Married according to Muslim Rites: Limited capacity if marriage was solemnised by a registered Imam with no ANC entered into. Full capacity if ANC was entered into and marriage solemnised by an Imam. Also, full capacity if there is no ANC and the marriage was not solemnised by a registered Imam.
- Married according to Hindu Rites: Full capacity.
- Minors: Under seven years - No capacity, parents / legal guardian to sign on behalf of minor. Seven to eighteen years - Restricted capacity, requires parents / legal guardian's assistance. In both instances, and when alienating or mortgaging a property a consent from either the Master of the High Court or the High

Court depending on the value of the property, will be required. Below R250K for master's consent and above R250K for High Court approval.

THE CONTRACTUAL CAPACITY OF JURISTIC PERSONS

COMPANY

Resolution by the directors of the company is required prior to signature of the contract of sale.

CLOSE CORPORATION

A resolution by the members of the CC is required prior to signature of the contract of sale.

TRUST

A resolution by trustees is required prior to signature of the contract of sale.

REFERENCES:

- The Matrimonial Property Act 88 of 1984
- The Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998)
- The Companies Act 71 of 2008 aims: to provide for the incorporation, registration, organisation, and management of companies
- South African Contract Law - Law Guide

Source: Property Practitioners Act No 22 of 2019

What to know about the condition of a property before signing an agreement



Concluding an agreement for the sale or lease of immovable property can be an overwhelming experience, and one can easily overlook some of the most important clauses in the agreement.

The condition of the property often becomes a contentious issue after registration of the property or conclusion of a lease, when the purchaser or lessee finally takes occupation of the property and realises that there are defects that were never identified or disclosed.

The law has over the years developed a mechanism to prevent the occurrence of such incidents and to provide guidelines on how such incidents should be dealt with.

THIS ARTICLE WILL FOCUS ON THE FOLLOWING ASPECTS:

- The common law principle of *voetstoots* and its legal implications;
- The Mandatory Disclosure Form and its legal implications, as introduced by the Property Practitioners Act No. 22 of 2019 ("the Act") which came into operation on 1 February 2022; and
- The core differences between the common law principle of *voetstoots* and the Mandatory Disclosure Form.

The *voetstoots* principle is usually contained as a standard clause in property sale agreements. The *voetstoots* clause will stipulate that the purchaser buys the property from the seller as it stands, thereby indemnifying the seller against claims for damages in respect of any defects on the property, whether patent or latent.

Patent defects are defects that are, or should reasonably be, easily identifiable upon inspection of the property (for example cracked walls, broken windows or damaged ceilings). The purchaser is expected to acquaint himself with the general condition of the property to identify patent defects before entering into a property sale agreement.

Latent defects are hidden and not discoverable through a reasonable inspection. An expert is required to identify them (for example rising damp, a faulty pool pump or geyser, rusted internal pipes or leaking roofs). Although the seller is indemnified against claims in respect of defects, he cannot rely on the *voetstoots* clause if he was aware of a latent defect and deliberately concealed or failed to disclose it with the intention to defraud the purchaser.

THE PURCHASER WHO WANTS TO CHALLENGE THE SELLER'S RIGHT TO RELY ON THE VOETSTOOTS CLAUSE SHOULD ALLEGE AND PROVE THAT THE SELLER:

- was aware of the latent defects (or its extent) when the contract was concluded;
- deliberately concealed the defect;
- bore a duty to disclose the defect; and
- failed to disclose the defect with the intention to defraud.

Section 67 of the Act brought several changes which, amongst others, seek to transform and professionalise the property sector and to further ensure that members of the public are protected when they participate in property sale or lease transactions. This section aims to minimise disputes due to the condition of the property.

A PROPERTY PRACTITIONER (SUCH AS AN ESTATE AGENT) MUST FACILITATE THE COMPLETION OF THE MANDATORY DISCLOSURE FORM. THE ACT STIPULATES THAT A PROPERTY PRACTITIONER IS REQUIRED TO:


- not accept a mandate, unless the seller or lessor of the property has provided him or her with a fully completed and signed Mandatory Disclosure Form in the prescribed form; and
- provide a copy of the completed Mandatory Disclosure Form to a prospective purchaser or lessee who intends to make an offer for the purchase or enter into a lease agreement for the property.

The Act further stipulates that a completed Mandatory Disclosure Form, signed by all parties must be attached to any agreement for the sale or lease of a property and forms an integral part of such an agreement. However, if such a Mandatory Disclosure Form was not completed, signed, or attached, the agreement will not be null and void. It will only be interpreted as if no defects or deficiencies of the property were disclosed to the purchaser. The Act emphasises that nothing prevents the purchaser from undertaking a property inspection to confirm the state of the property before finalising the transaction. Regulation 36 to the Act provides a format that the Mandatory Disclosure Form must follow to ensure a uniform practice of detailed disclosure of information relating to the property.

The Act emphasises the compliance aspect of Section 67 by using the compelling word "must" and therefore highlighting the obligatory compliance requirements that the property practitioner is compelled to adhere to. The main purpose of this provision is to ensure consumer protection for all parties to the transaction and further avoiding unnecessary legal disputes due to non-disclosure of defects.

Further, the provisions of Section 67 are only applicable to property practitioners and does not extend to private sales. Although private sellers or lessors do not need to adhere to this requirement, as they are not regulated by the provisions of the Act based on the definition of a property practitioner in the Act, they are strongly advised to follow a similar approach, by disclosing all known defects to potential purchasers or lessees.

Certain consequences will flow from non-completion of Section 67 by a property practitioner who may be held liable by an affected consumer. In addition, the Property Practitioners Regulatory Authority may act against a property practitioner or impose an appropriate sanction, should a property practitioner fail to comply with the provisions of Section 67. If a property practitioner is found guilty of contravening the Act, a committee of inquiry may impose a fine of R15 000.

Section 67 does not repeal the common law principle of *voetstoots*. A purchaser still has a duty to inspect a property and identify the patent defects. This provision was implemented to enhance the principle of *voetstoots* by compelling the property practitioner to assist a seller and a purchaser in meeting their obligations imposed by the *voetstoots* principle and to minimise the legal disputes that may arise therefrom. 

RULES FOR INSTALLING SOLAR PANELS IN COMPLEXES AND ESTATES IN SOUTH AFRICA

Unlike stand-alone homeowners, those who live in residential estates or complexes in South Africa have several rules that need to be considered when looking to install solar.



According to Rozewood, a property management agency surveyed by consumer finance group JustMoney, the regulation and installation of renewable alternative power supplies typically fall under the purview of homeowners associations and sectional title body corporates.

The agency said that body corporates are managed under the Sectional Titles Schemes Management Act, which is very specific about the manner in which common property can be managed – and approval is vital in this process.

PUBLIC INSTALLATIONS

Every solar request in such developments requires a special general meeting for public installations, with 33% of owners or their proxies present.

At least 75% of those in attendance must vote in favour of the resolution – which can include the installation of solar on the common property, such as shared rooves or carports.

Rules regarding conduct in the sectional title can be amended. However, the community schemes ombud service must approve them.

PRIVATE INSTALLATIONS

For private installations, the body corporate should ensure there is a framework to make it easier to install solar. The agency said that solar should be treated with a sense of urgency and not as a discretionary requirement for units.

“If the body corporate is of sufficient size, it can approach suppliers that install solar solutions for the complex as a whole. There are options to fund such installations, with rebates on the rates for owners – although this isn’t feasible for smaller complexes due to economies of scale.”

HOMEOWNERS ASSOCIATIONS

If you are part of a homeowners’ association, it’s important to understand the conduct and architectural guidelines outlined in the memorandum of incorporation. Failure to include provisions for electricity may prompt the association to update its rules.

There is no need for government permission to install solar panels.

“In July 2022, President Cyril Ramaphosa outlined government plans to abolish a 100MW licensing cap on private-sector renewable energy projects,” noted the agency.

OPTIONS FOR COMPLEXES

James Honiball, chairman and director of Eagle’s Landing Estate Homeowners’ Association, told JustMoney that there are several options for energy conservation that complexes can consider.

- Renting solar panels for common areas, rather than purchasing them outright, can reduce upfront costs and the risk associated with owning and maintaining panels.
- Sharing systems or costs with neighbouring properties or developments can dilute costs.
- Installing batteries to help store excess energy generated by solar panels and making them available for use during periods of high energy demand or when the panels are not generating electricity.
- Encouraging residents to upgrade their appliances to more energy-efficient models, such as Energy Star-rated appliances. This will reduce the complex’s overall energy consumption.
- Installing smart meters that can provide real-time information on energy consumption and help residents understand the need to reduce their energy usage.

CONCERNS

With a sharp uptick in solar demand, The Consumer Goods and Services Ombud (CGSO) has pointed to a number of unregulated dealers.

JustMoney said the ombud had received over 200 complaints within a year pointing to issues over no compliance certificates, goods not being delivered and extended installation times.

In addition, almost half of these suppliers refuse to cooperate with the office when it conducts investigations, said the group.

Shafeeka Anthony, the marketing manager of JustMoney, provided the following tips when it comes to sourcing solar for a complex:

- First, determine your energy requirements
- Select a reputable company with experienced and skilled staff, good reviews, and references
- Obtain three quotes that include information on the system size, price, brand, model, and estimated energy production
- Agree on an installation schedule and make sure to get warranties for both the panels and the installation work
- Explore financing options offered by banks and solar suppliers, such as rent-to-own or outright equipment purchase
- Consider insuring your solar system. 🏠

**Reality check for
South Africa's
property market
- the impact
of civil unrest,
work-from-home
and load shedding**

Despite a series of tumultuous years, property is still a good investment in South Africa, with expected returns of between 10% and 15% for 2023, says Broll Property Group.





Roger Long, the head of valuations at Broll Property Group, said that property is a long-term investment and the sector will bounce back from some troubled times – however, he warned that the market still has a hard climb to reach pre-pandemic levels.

At the same time, the market has to contend with significant shifts in South Africa itself – including added stresses on landlords because of load shedding, sweeping changes to how people and companies work, and growing concerns around civil unrest, necessitating a change in where businesses invest their resources.

Broll said the property sector faces another interest rate hike this week, and it remains a tough environment to operate in. However, opportunities for investors and landlords are still present in the market – especially in the commercial real estate sector.

Sean Berowsky, the head of capital markets at Broll Property Group, said following the national lockdowns of 2020/21, the commercial market – made up of commercial/office, industrial, retail and logistic space – was in a state of semi-paralysis.

A year on from the pandemic, some spaces are still struggling, but others are making a strong comeback.

SECTOR PERFORMANCE

According to Berowsky, there are still worries around the office sector, which has been affected by a shift to remote and hybrid working – a trend which picked up quickly during Covid.

Although office occupancy has not fully recovered to pre-pandemic levels, there have been some changes in certain areas, he said. One significant change is that high-quality office spaces were the first to be rented, albeit at lower prices than before the pandemic.

Cape Town has seen a significant amount of space being taken up by call centres, and rentals have already reached pre-pandemic levels. Johannesburg and Tshwane have not had the same success, however.

“The absorption of office space will take some time to resolve. It is not always possible to transform every office building into a residential (or other) space. That said, these options will be investigated, and if there is a case for them, they will be taken up,” Berowsky said.

There will probably not be any major speculative development for a while, he said. There may, however, be some development in particular nodes.

The retail market is currently where most developments will land up, particularly when it comes to pricing, said Broll.

Convenience and lower-LSM centres have been holding their values well, with investor appetite still intact and positive rental growth.

The logistics space has also performed significantly better than others, it said.

Berowsky said there is still demand for logistics space, although it is now beginning to slow as many available deals have already been placed.

He added that there has also been an uptick in fit-for-purpose industrial space.

VALUATIONS

Long said that from a valuations perspective, the office market has been hit hardest, especially since employees are not fully back in the office or working in a hybrid system.

“In the retail sector, we are witnessing relatively flat rentals,

although rental reversions in the more popular regional centres are showing signs of increasing.”

“Activity is picking up in the industrial sector, and there is a flattening in demand for logistics buildings. What we are also noticing is greater demand for alternative investments, including data centres, hospitals and student accommodation,” said Long.

He said that rising municipal rates and high-interest rates are dampening actors.

LANDLORDS

Rising rates and taxes have made it increasingly more expensive to be a landlord, especially with the need for alternative power supplies and increased security measures.

Surine Griffin, the head of property management at Broll Property, said that the commercial property space has experienced a notable shift over the past three years.

She said that the energy crisis has compelled property owners to ensure uninterrupted service to their tenants and the public.

The pandemic has essentially been replaced by the energy crisis, said Griffin.

“In addition, the threat of civil unrest has seen increased investment in security measures for properties, especially malls, distribution centres and logistics premises.”

“Malls had to become safer for people who prefer visiting shopping centres as opposed to buying goods online.”

“Greater security measures such as roller shutters and reinforced fencing have been implemented; stricter service level agreements have been put into place with security companies; and many clients have made sure their premises can be fully locked down in the event of an emergency,” added Griffin. 🏠



PROPERTY PRACTITIONERS
REGULATORY AUTHORITY



**Ensure that you use licensed
Property Practitioners for
any property transaction**

www.theppra.org.za