The five essentials of sectional title insurance

Insurance is frequently the cause of disagreements and disputes in sectional title schemes, but it need not be if unit owners, trustees and their managing agents just keep a few basic principles in mind.

“The first of these,” says Andrew Schaefer, MD of leading national property management group Trafalgar, “is that the body corporate insurance (and the extent of that insurance) is a legal requirement in terms of the Sectional Titles Act. The trustees thus have to ensure that it is in place and there can be no debate among owners about whether it is needed or not.”

The second thing to note, he says, is that every owner in the complex, by default, pays part of the cost of this insurance. This cost (the premium) is typically included in the annual budget for the complex, and paid for out of the owners’ monthly levies. Indeed, the percentage of the premium to be paid by each owner should be calculated on the same basis as their monthly levies – usually the participation quota (PQ) applicable to each sectional title unit.

“The only exception to this would be where the replacement value of a specific unit has been increased at the request of the owner or the bank which holds the mortgage on the unit, in which case the additional premium will be recovered from the owner concerned.”

Thirdly, Schaefer says, all the homeowners in the sectional title scheme need to be clear about what exactly is covered under their joint insurance policy, and are quite entitled to a copy of the policy if they want one. It is also advisable for the trustees to utilise the services of a specialist sectional title insurer such as Trafalgar Financial Services, and to arrange a meeting of the owners and insurer to clarify the extent of cover.

“Generally, these policies cover the body corporate – that is, the owners as a collective – for the full replacement value of all or any of the residential sections in the complex and any common property that is destroyed or damaged as a result of fire, flood, earthquake, riots, burst pipes and vehicle collisions. All specialist sectional title insurers such as Trafalgar Financial Services will also cover the body corporate against third party public liability, trustee liability, employer’s liability, machinery breakdown, accidental damage, loss of money, the cost of additional security services that may be needed if any insured event occurs, the cost of alternative accommodation or loss of rent for owners whose homes in the complex are destroyed or unliveable for a certain period, demolition costs, inflation and escalation.

“In addition, we recommend formal professional valuations every three years to ensure that the complex is not under-insured, and offer free valuations for new policies.”

The fourth thing members of the body corporate and trustees need to know is what is not covered by the joint policy, and in this respect it is important to bear in mind that the purpose of insurance is to protect against loss due to a sudden and unforeseen event, not due to ordinary wear and tear or damages that occur over a period of time due to poor design or shoddy construction.

"In addition, it is important for owners to understand that the body corporate insurance is essentially 'bricks and mortar' insurance. It does not cover the contents of their homes or any of their personal belongings – even if these are lost or damaged due to one of the 'insured events' covered by the joint insurance. Owners and tenants need to take out their own, individual insurance policies to cover such items."

And lastly, he says, the trustees should make sure that everyone understands who will be responsible for paying any excesses in the event of a claim being made on the body corporate insurance.

"Recent amendments to the Sectional Titles Act - more specifically the insertion of Prescribed Management Rule 29(4) – make it clear that the section owner who lodges a claim is the one responsible for the excess payment relating to that claim, unless the body corporate passes a special resolution to the contrary. This can of course lead to disagreements where the damages to one section are caused by a problem in another unless, once again, the body corporate has a specialist sectional title insurer that offers specific products to nullify such arguments."

Issued by the Trafalgar Property Group
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