

The Garage Door That Had the Complex Up in Arms

“Good fences make good neighbours.” (Robert Frost)

When you buy into a community scheme (such as a security estate, complex or apartment block) you automatically become a member of its management body: either a Homeowners Association (“HOA”) if your property is full-title or freehold, or a Body Corporate if your property is part of a sectional title development.

You are then automatically bound by the rules and regulations formulated by your management body, so make sure you understand them fully. They are there to promote everyone’s safety, quality of living and property values, and you have no choice but to abide by them. Of course, as a member, you also have a say in the formulation and amendment of the rules. But once they’re in place you must comply with them.

However, as the outcome of a recent High Court dispute confirms, you are entitled to insist that they be applied consistently and reasonably.

“Remove that garage door, it’s not approved!”

The case saw a homeowner in Randburg take the estate’s HOA to court over their objections to his shiny garage door:

- The HOA’s Main Objectives being to “...to carry on, to promote, advance, and to protect communal interests, safety and welfare of the Members of the Association, including, but not limited to, by maintaining the open spaces, controlling the aesthetic appearance of land, including landscaping, buildings and improvements”, its rules and regulations (specifically one of its Architectural Rules) required homeowners to get approval before installing garage doors with any finish other than timber.
- Imagine the shock, then, when this homeowner went ahead and installed a garage door with a “mirror exterior finish” without asking for permission. The HOA rejected his subsequent application for approval and required him to remove the door.

Johannesburg

Unit 7, Visiomed Office Park, 269 Beyers Naude Dr, Northcliff 2195.

Tel: 011 431 3739

Email: admin@duplooyinc.co.za

Hermanus

3B Village Lane, Hemel & Aarde Village, Sandbaai, 7200

Tel: 028 316 3707

Email: info@dpincct.co.za

- The homeowner refused, and the dispute was referred to a CSOS (Community Services Ombud Service) arbitrator, who upheld the HOA's removal order. But the homeowner, clearly enamoured by his flashy door, wouldn't take no for an answer.
- On appeal, the High Court reversed the CSOS decision because, as evidenced by photographs, the HOA had previously allowed other garage doors with mirrors or glass in their construction. The HOA had raised nothing to contradict that apparent inconsistency, which, according to the Court, "should have led [the arbitrator] to the conclusion that the Homeowners Association acted inconsistently, and thus unreasonably, by ordering removal of the garage door."

The upshot?

The homeowner gets to keep his mirrored garage door, and HOAs and Bodies Corporate learn a sharp lesson – **apply your rules and regulations fairly, reasonably and consistently.**

Remember that we are here to assist if you are unsure of anything!