

Sectional Title Conversion

If you have finished building on Highlands Wilderness but are not yet paying rates to the Bela Bela municipality then the following issues will be of interest to you and may require action on your part.

1. What is a real right?

The original developer of Highlands Wilderness opened a sectional title register, allocated stands and sold certificates of Real Right which were subsequently registered at the deeds office. In our context the Real Right is also referred to as a “real right of extension” or a “development right”.

It appears that two units were immediately registered in the sectional title register whereas real right certificates were issued for all other 98 properties.

A Real Right in connection with a sectional title scheme such as Highlands Wilderness is of a very different nature compared to freehold property (“erf”) but sellers and estate agents do not always take the trouble to explain this.

The title holder of a Real Right certificate has the right to build on Highlands Wilderness subject to the conditions stipulated in that certificate and subject also to the Sectional Titles Act, the sectional title register for Highlands, our own rules and regulations and various other laws. A Real Right does not represent ownership of land but like other titles in immovable property can be transferred and mortgaged (Section 25(4) of the Act).

2. What are the responsibilities of someone with a Real Right?

The Act extends the definition of “developer” to include also the holder of a Real Right. Therefore, anyone who builds a house on Highlands has effectively taken the place of the original developer and is thus responsible for the various formalities that go with building a house.

The requirements for the occupation certificate and the sectional title registration are described in Highland’s Building Regulations under the heading “6. Wind up”.

3. How does one get a Certificate of Occupancy?

On completion of the building one needs to contact the Bela Bela Municipality so that an inspector can visit the house and issue a Certificate of Occupancy. The contact number of the municipality currently is 014736 8000

The inspector is likely to ask for an electrical certificate, gas installation certificate, foundation inspection and further engineer’s certificates depending on the construction of the house. The builder should be able to assist with these certificates, but it is important to note that some of these certificates need to be issued in the early stages of the building operations, and that these formalities should therefore be attended to as soon as possible.

We are uncertain of the procedure where certificates of occupancy have been outstanding for a long time, and the above-mentioned prerequisites are not available.

4. How does one convert a Real Right to a Sectional Title deed?

One needs to approach the designated land surveyor (landmeter) to draft a sectional plan of extension (wysigings deelplan van uitbreiding van skema). This plan includes a drawing of the building(s) and a listing of the floor areas for all sections registered to date plus the new ones.

The surveyor normally works hand in hand with a lawyer. The whole process of surveying and registering a property will take about half a year.

The conveyance attorney will register a Certificate of Registered Sectional Title at the Pretoria Deeds Office, endorsed by a mortgage bond where applicable. The owner then has joint ownership of the farmland ("common property") and separate ownership of his or her building ("section"). This replaces the Real Right which lapses on registration of the Sectional Title deed.

Each section will be given a number which is (normally) different to the stand number. Owners are requested to submit a copy of the Sectional Title certificate to the trustees for record keeping.

5. How does one pay rates to the Bela Bela Municipality?

It appears that the deeds office notifies the Bela Bela Municipality of the registration, but this does not always happen. Rates are presumably due from the date of registration at the deeds office, and an account will often be opened automatically.

The municipality will not necessarily have the owner's contact details, and it is therefore the owner's responsibility to get in touch with the municipality to inquire about the outstanding balance and pay the backdated rates. The property is known to the municipality as the section number plus "SS Highlands Wilderness", e.g. "4 SS HIGHLANDS WILDERNESS". Punitive interest is charged if one fails to pay outstanding rates for whatever reason. The tax rates depend on the value of one's property.

6. Does one really have to worry about this?

Owners are urged to attend to the above-mentioned formalities as soon as possible if any are still outstanding. I realise that the extra expense may be un-budgeted and that most of us have to tighten our belts.

However, the Bela Bela Municipality might in the future insist that Certificates of Occupancy be issued for all completed houses and even ask for backdated rate payments.

Furthermore, without a Sectional Title deed one could find oneself in an unfavourable position when property is sold. A prospective buyer would obtain a title deed only for the development right which represents only a fraction of the value of the completed house.



It is highly unlikely that a bank would grant a purchaser a bond over the value of the house unless a Sectional Title deed can be produced. In addition, a prospective buyer would sooner or later have to obtain the above-mentioned documents. These factors would undoubtedly have a negative impact on the selling price of the valuable investment.

7. What should be done next?

Owners who have not yet converted from Real Right to Sectional Title should contact the designated surveyors and attorneys. However, such conversions are normally done for a group of title holders to save some cost.
