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THE DIFFERENCE BETWEEN A BODY CORPORATE AND A HOMEOWNERS ASSOCIATION

A body corporate and a homeowners association are not one and the same. It is possible that an Estate can have both a body corporate and a homeowners association. A person who is an owner of a sectional title unit will then be a member of the body corporate as well as the homeowners association.

A body corporate is created in terms the Sectional Titles Act as a legal entity and consists of all the owners of the units in a sectional title scheme. When a person owns a unit in the sectional title scheme, this person automatically becomes a member of the body corporate.

In a sectional title scheme, the body corporate is responsible for the maintenance of the common property, such as gardens, the outside of the units and communal swimming pools and each owner is responsible for the maintenance and upkeep of the inside of their unit. The body corporate is responsible to take out structural insurance on all the buildings in the sectional title scheme.

A homeowners association is usually created as either a common law association or in terms of the Companies Act where it can be administered as a non-profit company.

Each owner of an individual property in development where there is a HOA is automatically a member of the homeowners association. The responsibility to maintain the property lies with the owner and not the homeowners association.

Although owners in a Homeowners association are responsible to obtain their own property insurance, they are still liable to pay levies to the homeowners association for the maintenance and upkeep of the roads, fences, security, gardening, etc.