



FRACTIONAL OWNERSHIP

Fractional Ownership based on the ownership of undivided shares in a property as opposed to shares in a company or member's interest in a CC (which may be in contravention of the Share Blocks Act) can be bonded in the Deeds Office, as the share in the property is a registered real right for which a separate Deed of Transfer can be created for each fractional owner in the property as opposed to one Deed of Transfer containing the percentage share of each owner of the property in the Deed. In essence, it is a normal standard transfer, but the purchaser is always more the one person or entity. Should there be only one Title Deed, you can register only one Bond, but should there be numerous Deeds, each one can be bonded separately. The trick is to sell the concept to the Banks as they are not willing at this stage to bond them separately as they feel that it is difficult to sell a share in a property in execution. This problem should hopefully be overcome by the Management of the use of the property by a Property Association in terms of a use agreement as explained below.

The owners govern the use of the property in terms of a separate use agreement which is agreed upon when the Deed of Sale is concluded and which operates in kind of the same way as a Home Owner's Association regarding the maintenance of the common areas in cluster Developments. The management is however more involved, as the whole property and not only portions thereof are managed. The use agreement establishes a Property Association to fulfill this management role, and the owners pay levies towards the maintenance of the property to the Association. The use agreements of course stipulates the periods in which the owner's can occupy the property and it is suggested that two weeks are kept aside for maintenance.

Every owner can deal with his share as he pleases, and when he sells his share, the share is transferred into the name of the next purchaser, which transfer is again registered in the Deeds Office. The next owner will become a member of the Property Association and will be required to sign the use agreement.

 <i>Going Beyond</i> The DVH group is a national group of attorney practices with offices situated in the Western Cape, Gauteng, and Kwa Zulu Natal. www.dvh.law.za or scan the QR to contact us.	
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