– Since 1987 –

HELDERBERG VILLAGE

HELDERBERG VILLAGE MASTER HOMEOWNERS ASSOCIATION NPC

Registration No. 1993/003665/08

BASIC UNDERSTANDING OF SECTIONAL TITLE OWNERSHIP IN HELDERBERG VILLAGE

What is "Sectional Title"?

A Sectional Title Development Scheme (usually referred to as a "SCHEME"), provides for separate ownership of a property, by individuals. These Schemes fall under the control of the Sectional Titles Act, No. 95 of 1986 (and its amendments), as well as the Sectional Title Schemes Management Act No. 8 of 2011 (the Act).

In addition, the Community Schemes Ombud Service (CSOS) was recently established to deal with disputes that may arise with regards to Sectional Title Schemes administration. All registered owners in such Schemes pay a monthly levy to this body.

The Body Corporate is the collective name given to all the owners of Units in a Scheme – or portion of a Scheme in the case of Helderberg Village. A Body Corporate comes into existence as soon as the developer of the Scheme transfers a Unit to a new owner; all registered owners of Units in a Scheme are members of a Body Corporate.

There are six erven that make up Helderberg Village and these are portioned into four Bodies Corporate, namely: Helderberg Village Body Corporate (Erf 20255 of 53.2589ha), Helderberg Village Triangle Body Corporate (Erf 11569 of 1.6264ha), Helderberg Village Bredell Body Corporate (Erf 20257 of 13.7896ha) and Helderberg Village Vredenburg Body Corporate (Erf nos. 13966, 13967 and 13968 of 15.5042ha). There are 776 dwelling units in the Village.

The administration of Helderberg Village is undertaken by the Helderberg Village Master Homeowners Association NPC, a non-profit Company. These operations are overseen by a Board of elected Directors, all of whom are owners in the Village. The Directors of the Company also act as Trustees of the four Bodies Corporate. The Members meet at least once a year at the AGM and in addition to electing Directors, collectively make decisions on matters either required by the Act, or raised by the Directors, for Members' consideration.

What part of the Sectional Title Scheme do I own?

When you purchase in Helderberg Village, you do not purchase an individual erf or plot, you purchase a section (or sections) in a particular Body Corporate. Your purchase includes a dwelling unit and in most cases, a garage and/or parking bay. These may be held under one section number or separate section numbers. In addition to your section(s), your purchase includes an undivided share of the common property of the Village. The number and square meterage of the relevant section(s) is reflected on each individual Title Deed.

Your Title Deed is issued by the Deeds Office in Cape Town at the time of transfer of ownership to you. The property description in the Title Deed details the name of the Scheme, as well as the Sectional Plan number upon which your section is described. The Sectional Plans are registered at the Deeds Office and copies of these Plans are held by Village Administration.

In a sectional title scheme, you own the inside of the property i.e. the space contained by the inner walls, ceilings and floors of the unit. You are entitled to paint or decorate or undertake internal alterations as desired, providing such alterations do not infringe on municipal by-laws, Village rules, or affect the integrity of the structure.

The outside of the building is owned by the Body Corporate, with ownership changing at the median line between the inner and outer brickwork. In the interest of aesthetics and maintaining property values, minor external changes must be approved in writing by the Directors. This includes all external changes, such as awnings and enclosures. However, any major structural changes must receive both Municipal and Village approval. In Helderberg Village, all alterations and improvements to sections are managed by the Building Compliance Officer (BCO). The BCO will ensure that any proposed building alterations are done within the boundaries of the section and comply with Village rules and standards. In some instances, the consent of affected neighbours is required.

What is the "Common Property" and who controls it?

As well as your section, your ownership in Helderberg Village includes an undivided share in the common property of the Scheme.

The common property is that part of the Scheme which does not form part of any section. Driveways, gardens, the golf course, swimming pools, roads, the Administration building, the Clubhouse, Kilberry Terrace and Heatherton House are good examples of common property.

The common property is controlled by the Body Corporate, or in the case of Helderberg Village, by the Company. There are no exceptions to this rule. In addition, all dwelling units (sections) in the Village include portions of the common property that are set aside for the Owner's exclusive use. These areas are called Exclusive Use Areas or EUA's.

It should be noted however, that even though the EUA's are for the exclusive use of the Owner, they still form part of the common property and are therefore controlled by the Company and subject to the rules of the Scheme.

EUA's include patios, bell-door areas, certain parking units and drying yards. Each EUA has a unique identification number and is shown on the floor plan of your unit. These floor plans are kept in the Administration office and are used daily by the BCO.

Villagers are entitled to develop their EUA's if they so wish, however, any development is subject to the Board's approval and always within the rules of the Village. These developments may include either partially or fully enclosing an EUA. When you develop an EUA, it attracts an EUA levy; if you leave it undeveloped, it does not. By developing an EUA, you also take on the responsibility for the maintenance thereof. Therefore, it is recommended that you take out additional insurance to cover the increased value of your dwelling unit.

If your developed EUA includes the removal of the dividing wall(s) between your dwelling unit and the EUA, then you have technically extended your section, as your dwelling unit's square meterage will have increased. This action requires you to register an extension of section (EoS) at the Deeds Office so that your Title Deed may be endorsed to reflect the new square meterage of the section. The registering of the EoS is facilitated by the Company and is subject to the rules of Helderberg Village.

Once completed and registered, the EUA is then considered to be part of your dwelling unit and is no longer an EUA. This will be reflected in your monthly levies by an increase in your dwelling unit levy and (if your EUA was previously developed) a commensurate reduction Company as it now forms part of your dwelling unit.

What is the monthly Levy and how is it calculated?

The costs incurred in running a Sectional Title Scheme have to be paid by the Bodies Corporate, or in Helderberg Village's case, by the Membership of the Homeowners Association (the Company). These costs include inter alia: municipal rates and services for the common property, insurance premiums, repairs and maintenance of the common property, security and staff salaries.

These costs are paid by each owner in the form of a monthly Levy, calculated in accordance with the square meterage of their section(s), the percentage x meterage of enclosed EUA's and the number of garages / carports they may own.

The monthly Levy in Helderberg Village is split into four parts: All owners pay a CSOS Levy and a dwelling unit levy; a garage / carport levy and an EUA Levy are payable only if applicable. The size of every dwelling unit, garage and EUA in the Village has been independently measured and recorded.

Dwelling unit and EUA levies are calculated using these recorded sizes and percentages, whereas garages and carports attract a flat levy, irrespective of size.

The amount levied per square meter is set by the Trustees (Directors) and is detailed in the Annual Budget and report presented to Members in January each year. An annual audit of the Company's books of account is undertaken by external auditors and the Annual Financial Statements, with the Auditors Report, are presented at the AGM for the approval of the Members.

In addition to the items mentioned above, the monthly Levy also entitles the owner of a unit to a prescribed amount of laundry and housekeeping services.

It is important to note that the building insurance premium paid by the Village (which is included in your Levy) covers the replacement of your standard dwelling unit type. Should you have upgraded your unit, or extended your section, then you are advised to take out additional insurance, so that you are able to replace like with like, should an insurance claim occur. The Administration Office will be happy to assist and advise you in this regard.

In addition to meeting the running costs noted above, the Company is obliged by legislation to maintain a Reserve Fund for future maintenance and unexpected expenses. This is where the 25% Capital Contribution Levy proves most vital to the financial security of the Village and eliminates the need for the Board to set higher levies in order to maintain the Reserve Fund.

What is the 25% Capital Contribution Levy and when is it payable?

The 25% Capital Contribution levy (CCL) contributes to the successful running of the Village in two ways: It is both a Levy stabilisation fund as well as a Reserve fund to finance Capital projects for the upgrading and maintenance of facilities in the Village.

Background to the CCL system

The financial model introducing the concept of low monthly levies and a deferred Capital Contribution Levy payable on disposal of the property was introduced in 1993.

This model has been consistently applied ever since and has proved highly successful in ensuring that our Village is one of the very few Sectional Title developments in the country that is financially secure and complies with the reserve requirements of the Sectional Titles Scheme Management Act.

The basis of calculating the amount of the CCL has not changed since inception. It is based on the premise that property values would escalate over the longer term and thus that both the Owner and the Home Owners Association (HOA) would be able to benefit from this escalation. It also ensures that there is an incentive to both the Owner and the HOA to maximise property values in the Village, as both parties would eventually benefit from this.

In addition, the formula is designed to take into account the length of ownership. The longer that the property was owned before disposal, the larger would be both the 25% to the HOA and the 75% to the Owner - Thereby compensating the HOA for the longer period of "subsidised" monthly levies. Conversely, in the event of little or no escalation in value, little or no CCL is payable or received. Simply put, the Villager retains 100% of their original purchase price and receives 75% of any enhancement at the time of change of ownership.

The basis for the calculation is also kept as simple as possible so that all can understand it and the figures are able to be easily verified, being the previous purchase price per the Title Deed and the selling price per the Sale Agreement. Every new Owner is made aware of the CCL formula when purchasing a dwelling in the Village and initials same in the Sale Agreement.

<u>Are improvements to the property taken into account when calculating the CCL?</u>

Villagers who improve their dwelling units do so for a variety of reasons. Chiefly, because it is more convenient and enjoyable for them for the years they are in residence, but also in the belief that this will increase the value of their property when it is eventually sold or when the property forms part of their Estate. It is important to note that the monthly levy per square meter is not increased as a result of the improvements.

It should be borne in mind that any change to the existing formula in order to include improvements to the property will create major legal and administrative problems for the Village. For instance: From what date will the change be effective? How will the HOA compensate the Sellers of the past 30 years, who paid their CCL based on the current formula? How would the HOA re-negotiate an agreement with the 776 existing owners? How would the HOA convince the existing owners that they must pay higher monthly levies now, so that their Estates can benefit in the future? In addition, how can the cost of improvements be established? Do "improvements" include not just building construction, but luxurious internal improvements and the acquisition or replacement of existing furniture fittings and appliances too?

Maintaining and verifying the details of improvements would require a whole new department – the cost of which will have to be recovered from the Members. This department would need to be staffed by accountants, engineers, architects and lawyers as litigation, disputes and arguments would likely be a daily occurrence. The ensuing CSOS referrals would likely be numerous and time-consuming.

It should be remembered that the decision to improve a dwelling unit is entirely that of the Owner. The Board and Management are of the opinion that it would be unfair to the other 775 owners to not only have to subsidise the lower CCL that that Owner would pay, but also have to contribute to the additional cost of managing a system recording the "improvement spend" on every dwelling unit.

Provided that the HOA ensures that the Village remains a safe and desirable location for retired persons to invest in and live, property values should continue to grow faster than the general market. Existing Villagers are benefitting from the CCL paid by previous Villagers and the system ensures that future villagers will continue being able to enjoy that benefit too.

<u>Exclusions from paying the CCL</u>

The CCL does <u>**NOT**</u> apply under the following circumstances:

- If the property is transferred to a surviving spouse / partner, who is a nominated occupant;
- If the property is transferred from one current co-owner to the other co-owner and there is no change to the nominated occupants;
- If the property, in terms of the Will, is transferred into a Trust or other Judicial Person and that body does not change the existing nominated occupant;

- If a property is transferred into a Trust or other Judicial Person with no change in the nominated occupier;
- If the property is bequeathed from one nominated occupant to the surviving original occupant;

In every other instance when there is a change of ownership of a dwelling unit, or at the nomination of new occupiers in the case of a Trust or a commercial entity, the CCL is payable to the HOA.

The CCL amounts to 25% of the enhancement in the value of the property since it last changed ownership:

When it's an estate transfer or the nomination of new occupants: **A market-related valuation** from the Helderberg Village Sales Office or a certified valuation from the Company's Auditors **OR** *if the unit is to be sold:* **The Selling Price**	X
LESS - The previous payment consideration, being: *If the unit was purchased:* **The purchase price paid** **OR** *In the case of estate transfers and the nomination of new occupants:* **The previous valuation amount**	V
ENHANCEMENT	X – V = Y
Therefore the 25% CCL amounts to the sum of	**Y x 25%**

In conclusion, the CCL is an un-biased and constructive way to finance the Village and thereby to safeguard the equity held here by each of our Members. A safe, attractive, well-maintained Village is a secure investment for all.