

Reinvigorating property development in SA through the right legislation

 By [Kagiso Mahlangu](#)

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In recent times, the South African property market has experienced significant changes in property laws, aiming to address various concerns and challenges within the real estate sector.



Kagiso Mahlangu, partner: director and head of real estate and conveyancing at CMS South Africa. Source: Supplied

However, in addition to these changes, there is a pressing need to examine the legislation that would benefit the property development sector today and into the future. South Africa's socioeconomic challenges, such as housing needs, water, broadband connectivity, infrastructure, and electricity supply, necessitate a change in approach to how we build and the legislation supporting development.

When it comes to property development, there is a growing recognition that building specifications and regulations play a crucial role in meeting modern-day needs. With the increasing demand for affordable housing and sustainable infrastructure, it becomes critical to establish guidelines that promote efficiency, quality, and affordability in construction projects.

This not only addresses the pressing need for adequate housing but also contributes to the overall socioeconomic development of the country, while attempting to rectify historical injustices. The history of spatial planning to reinforce segregation can be seen in the lack of space in townships, which hampers proposed developments.



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Addressing challenges within real estate sector

Property law changes highlight South Africa's commitment to addressing challenges within the real estate sector and promoting fairness, transparency, and efficiency. While opinions on these changes may vary, they reflect the evolving nature of property ownership in the country. To navigate these changes successfully, stakeholders must stay informed and seek professional advice to ensure compliance and make well-informed decisions.

Sectional Titles Amendment Bill

The Sectional Titles Amendment Bill that is currently before parliament aims to establish regulations for developing schemes, including property and extensions. The bill's main goal is to fill gaps left by other laws pertaining to the management of sectional titles.

This bill will have a bigger impact on how complex managers, body corporates, and homeowners associations interact with section titles. It will also allow lessees of sectional title schemes to put questions to developers.

Expropriation Bill

The Expropriation Bill is set to undergo further amendments to incorporate additional safeguards and guidelines for compensation. The bill aims to provide for the expropriation of property for a public purpose or in the public interest.

It aims to strike a balance between addressing historical injustices and protecting property rights, ensuring a fair and equitable expropriation process. It further deals with the payment of compensation.

Housing Consumer Protection Bill

The Housing Consumer Protection Bill seeks to provide added protection to buyers of homes and new properties by ensuring they are covered in terms of having registered homebuilders and a home warranty fund.

The bill was tabled two years ago, but it has taken its time to pass through the various houses of parliament before it is signed into law. Despite these delays, the bill was designed to deepen and expand the protection of housing consumers while transforming the regulatory environment in the sector. It will further ensure the integrity of building and renovating contractors.

Property Practitioners Amendment (PPA) Bill

Another piece of legislation that further regulates and aims at professionalising the real estate industry is the Property Practitioners Amendment (PPA) Bill, which builds upon the existing Property Practitioners Act.

The PPA resolves a lot of the grey areas in previous legislation, proposing stricter compliance requirements, mandatory continuous professional development, and the establishment of a Property Practitioners' Ombud Service to handle consumer complaints. These measures aim to strengthen consumer protection and elevate industry standards.



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Navigating the changing landscape

Overall, these proposed property law changes reflect a concerted effort to create a more transparent, efficient, and fair environment for property owners, buyers, and tenants. Staying updated with these developments will enable individuals and organisations to navigate the changing landscape successfully and make informed decisions that align with their objectives and obligations.

Progressive thinking is only progressive if it's able to take into account the people who have been left in the margins when it comes to development. Leaving people on the margins and in lower-income suburbs out of the development of property will continue to reinforce the unjust and discriminatory legacy of past laws and regulations some of these bills aim to address.

Human-centred approach needed

Property and property development is a multi-layered issue and developers need to rethink many of the requirements that older developments never would have had. The infrastructure in South African developments currently falls short when it comes to issues such as load shedding.

New developments need to take a human-centred approach and ensure they work to the benefit of people. Despite basic requirements, such as water and power that are enshrined in the country's constitution, there are still millions of people who live without these basic needs.

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