

Can a sectional title scheme be cancelled?

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An owner of property may have multiple reasons to proceed with the destruction of an existing sectional title scheme. The owner may wish to build a new development in the place of an existing sectional title scheme, or they may wish to either subdivide, consolidate or notorially tie the land with additional properties purchased.



Image source: Jean Vaillancourt – [123RF.com](#)

A sectional title scheme can be cancelled either by way of a court order or one of the alternative methods provided for in Sectional Titles Act 95 of 1986 (Act) and the Sectional Title Schemes Management Act 8 of 2011 (STSMA). The Registrar of Deeds is required to attend to the amendments, endorsements and entries on the title deeds, registries and other relevant records kept by the office of the Registrar.

In terms of Section 48 of the Act, the building or buildings within a scheme are deemed to be destroyed upon their physical destruction or when the owners resolve not to rebuild the building or buildings by a unanimous resolution passed by a meeting of trustees and owners in terms of Section 17 of the STSMA. All holders of registered real rights and registered sectional mortgage bonds will be required to consent in writing thereto, or a court may deem it just and equitable to make an order to that effect.

Once the sectional title scheme has been destroyed, the Registrar of Deeds will be required to revert the land to the conventional land register. This can be done by reviving the old title deed of the developer or by issuing a certificate of registered title to the developer in the form prescribed by the Deeds Registries Act 47 of 1937 subject to all the servitudes, any other real rights and any conditions set out in and endorsed on the section 11(3)(b) certificate of the sectional scheme.

Upon the destruction the owners shall cease to be separate owners of sections but shall, subject to the provisions of sections 17(1) and 17(2) of the STSMA, remain co-owners of the land in undivided shares proportionate to the quotas of the respective sections previously owned by them. Once this resolution has been passed, the relevant deeds registry must be notified of the destruction of this scheme together with the necessary supporting documentation.

The Registrar shall advise the Surveyor-General and the local authority of any registration in accordance with Section 17 of the STSMA, which advice shall be accompanied by a copy of the sectional plan. The Surveyor-General shall then proceed with the cancellation of the relevant sectional plan.

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