

Running a business from a sectional title home can be problematic

The sluggish economy and declining employment have prompted an increasing number of people to start their own businesses.



© William Perugini – [123RF.com](https://www.123RF.com)

“And of course most of these small or micro-business owners can’t afford to rent an office, shop or manufacturing space, so their enterprises are almost by definition home-based,” says Andrew Schaefer, MD of national property management company Trafalgar.

“In addition, an increasing number of those who are in employment have been enabled by technology to work from home and are choosing to do so most of the time now rather than commute to an office every day.”

However, he says, establishing a home-based business or full-time home office in a sectional title (ST) scheme can be problematic, and owners must be sure to do things the right way or they could find their fledging enterprises grounded for good.

Intended for residential use

“It is clear from the Sectional Titles Act that a flat or townhouse is intended for residential use, and generally cannot be used as an office or place of business – unless the owners of every other unit in the ST scheme agree in writing to a change of use. This means that owners who have not secured this consent can be told by the trustees of the scheme to immediately close their home-based businesses or face legal action.

“On the other hand, times and lifestyles have changed so much since the Act was introduced that we as managing agents always encourage owners and trustees to consider change-of-use applications very carefully rather than just rejecting them out of hand. Running a home-based business may be the only way for a fellow-owner to earn a living and keep up his levy payments, for example, so agreeing to him doing so may be in their own interests.”

Schaefer says that, as in many other ST matters, there is likely to be a high degree of subjectivity involved in consideration of a “change of use” application, but that there are three main factors that the members of the body corporate can use to guide their decision to grant or withhold permission.

“The first of these is noise, and on that basis, an accounting or computing business is a whole different proposition to a vehicle repair or woodworking business, for example.”

Possible inconvenience

The next thing for the other owners to think about, he says, is the possible inconvenience or “nuisance” the business may cause, particularly in regard to security and parking. “So if the business is a delivery company, for example, or a service enterprise like a cleaning or catering or recruitment company that would involve staff or customers coming and going all day, consent might not be a good idea. Having said that, though, a teaching or coaching business that only attracts one customer at a time or a professional business with only one or two regular employees might not cause the other owners in the scheme any inconvenience at all.”

Schaefer says the third factor to consider, with particular regard to advertising and signage, is the provision in the prescribed management rules for ST schemes that prevents owners or residents from doing anything that might harm the ‘reputation’ of their scheme.

“Owners generally don’t want their ST scheme to lose its residential character and end up looking like an office park or a mini-factory complex with many signboards advertising the various businesses that it houses - and quite rightly so, as that would most likely have a negative effect on the value of all homes in the scheme.

“Consequently, even if they do approve the change of use and establishment of a home-based business, they may want to veto the placement of any advertising material or signage for that business anywhere on the common property.”