



# - newsflash -

## EVEN MORE ON ELECTRIC FENCE CERTIFICATION-GOOD NEWS FOR SECTIONAL TITLE!

In our Newsflash dated 9<sup>th</sup> July 2013 and the more detailed commentary referred to in that Newsflash we advised that on our understanding of the law, when one sells **sectional title property**, the matter of certification of electric fences situate on the common property of the sectional title complex cannot be ignored and must be dealt with.

In a recent exchange of communication with Mr Pieter Laubscher the current Deputy Director for Electrical Engineering in the Directorate of Electrical and Mechanical Engineering of the Department of Labour, it was confirmed in writing by him that the official position of the Department of Labour is that it does **not** view the regulations as necessitating certification of any electrical fence situate on common property if the seller is selling an ordinary section (unit) in the sectional title complex.

As the Department of Labour is the department which officially regulates the regulations we are happy to now amend our advice to read as follows:

- 1) **The matter of who will be responsible for electrical fence certification must be addressed in every contract of sale of immovable property if there is an electric fence on the property unless the Property is part of a sectional title or group housing scheme as per our items 4 and 5 below.**
- 2) **The matter of who will be liable for the costs of the electrical fence certification is in all instances negotiable between the buyer and the seller.**
- 3) **Property practitioners should inform the parties that the issue is a negotiable one. It would be unethical to allow either of the parties to believe that they have an obligation to bear the costs associated with certification which obligation is cast in stone.**
- 4) **The electrical fence regulations do not apply to sales of sectional title units if the electrical fence system is situate on common property (it virtually always is) and can therefore be ignored.**
- 5) **The electrical fence regulations do not apply to sales in group housing complexes and can therefore be ignored unless an individual within the complex has chosen to install a separate fence system on his property.**

This we believe now brings finality to the debate over electrical fence certification. We have retained the original correspondence between us and the Department of Labour to serve as a record of the Department's decision.

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