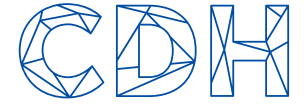


Real Estate Law

ALERT | 5 November 2024



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SOUTH AFRICA

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Exemption granted on mandatory disclosure forms for commercial properties

The Property Practitioners' Regulatory Authority (PPRA) earlier this year granted the South African Property Owners Association (SAPOA) and its members an exemption from the requirement to include a mandatory disclosure form in commercial property sale and lease agreements. This exemption applies to section 67(1) of the Property Practitioners Act 22 of 2019, read with Regulation 36, and allows for lease agreements containing the standard provisions that a landlord will provide their tenant with a lease premises in a specific state as agreed between the parties and that the tenant will be given a period of time, usually 7 or 14 days, within which they must point out any snags in the premises.

Furthermore, sale agreements that provide for a due diligence to be carried out by the purchaser will also be exempted from the provisions of section 67 read together with Regulation 36.

This exemption is effective from 14 March 2024 until 31 December 2026, with SAPOA stating that it will seek to further extend this exemption for its members if necessary in 2026, ensuring ongoing compliance ease for the commercial property sector.

John Webber and Kirsty de Sousa

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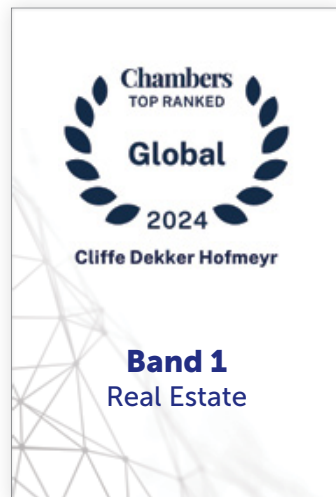
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**REAL ESTATE LAW
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Industry update: SAPOA has submitted exemption applications for asset managers and developers from certain provisions of the Property Practitioners Act



The South African Property Owners Association (SAPOA) formally submitted two exemption applications to the Property Practitioners' Regulatory Authority (PPRA) under the Property Practitioners Act 22 of 2019 (PPA), addressing industry concerns over regulatory applicability.

Exemption application for asset managers

Industry uncertainty as to whether asset managers, who manage properties primarily as investments rather than physically, fall under the "property practitioner" definition in the PPA, led to the application for exemption.

SAPOA has requested confirmation that asset managers fall outside the PPA's ambit. If the PPRA determines otherwise, SAPOA has applied for a secondary exemption consideration from the Fidelity Fund Certificate requirement for asset managers. The outcome of this application should give clarification to commercial asset managers and further delineate the scope of applicability of the PPA to their profession.

Exemption application and outcome: Property developers

SAPOA also recently applied for an exemption from the PPRA to relieve property developers from the requirements in sections 47 and 48 of the PPA, which mandate that property developers must apply for and maintain a valid Fidelity Fund Certificate.

The PPRA's ruling on this exemption application clarified that property developers who do not market or sell their own properties are exempt from these requirements, provided that they engage registered property practitioners for such activities. This means that these developers are not considered "property practitioners" under the Act and thus do not need to register with the PPRA or obtain Fidelity Fund Certificates.

However, the PPRA denied the exemption application for developers who handle in-house marketing and sales of their properties, arguing that an exemption would be unfair to other industry players and compromise consumer protection goals set by the PPA.

This should provide clarity for property developers going forward.

John Webber and Kirsty de Sousa

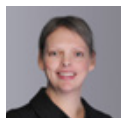


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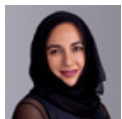
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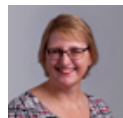
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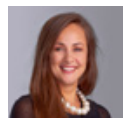
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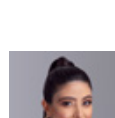
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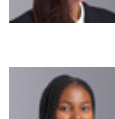
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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