



NATIONAL ASSEMBLY

CONTRIBUTION BY ELMA DIENDA, MP, (PDM) ON THE PROPERTY PRACTITIONER'S BILL

26 JUNE 2024

Honourable Speaker
Honourable Members

1. The situation of Real Estate Agents in Namibia has reached concerning levels, with constant conflict taking place between Real Estate Agents, owners of rental property and the tenants. We have witnessed so many instances where Real Estate Agents refuse to pay the deposit back to the tenants when they move out or vacate the premises. This has caused a terrible working relationship between Real Estate Agents, owners of rental property and tenants. This has caused people not wanting to work with Real Estate Agents, undermining the entire industry.
2. Another important concern that I would like to address is the skills, competencies and qualifications needed for one to be a Property Practitioner. Currently, Property Practitioners in Namibia and most countries don't need formal qualifications or training to practice and this is what this Property Practitioners Bill fails to address. This bill only speaks about a once-off examination that potential candidates must take if they want to be practising Property Practitioners.

Honourable Speaker
Honourable Members

3. Furthermore, there are no formal qualification requirements for Property Practitioners in this Bill and this therefore undermines the profession of Estate Agents. Qualifications and skills training are always a good thing as one will know that the Property Practitioners have taken the time to study and pass examinations on the subject of selling property, relevant property laws, ethics, integrity, business laws and other relevant subjects, which we may find reassuring if we choose them to sell or administer the renting out of our properties. Because of the absence of the requirement to formalise and introduce formal qualifications for Property Practitioners in this Bill, the industry of Property Practitioners is not respected enough by the consumers, stakeholders and by the Practitioners themselves. We therefore need a complete overhaul of the practicing requirements of Property Practitioners.

Honourable Members

4. Part 7 on Page 41, Section 57 which focuses on the Mandatory display of the Fidelity Fund Certificate and Communication of Certificate status.

Subsection 1 (a) states that "Every holder of a fidelity fund certificate must prominently display the fidelity fund certificate in every place of business from where he, she or it conducts immovable property transactions, to enable consumers to easily inspect it".

Subsection 2 further states that "a person who contravenes subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment".

Now, my concern is the phrase "**PROMINENTLY DISPLAY**", which means putting up something where it is largely visible/noticeable. Now, as much as the display of the fidelity fund certificate is a good initiative and requirement, the reality is that many of the Real Estate Agents we currently have in Namibia have no physical office structure where they can display their fidelity certificates. Many of these Real Estate Agents are small start-ups and therefore cannot afford office spaces. They operate mobile, where they have no office space.

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People are working from Home these days
New technology. But Covid taught us
that we indeed don't need to sit in a
office anymore.

Therefore, in my own opinion, it is not a fair practice to fine them N\$20 000 or imprison them. Rather use the word, "**show**" or **present**", where they can present or show their fidelity certificates to their clients instead of displaying them.

Honourable Speaker
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5. Part 3, on page 13 speaks on the Governance and Administration of Authority, specifically, on the Composition of the Board. Section 11, subsection 1 (b), reads as follows; "two persons must be registered property practitioners and one of whom must be **practising as a property practitioner** and those persons must apply for appointment as members in the manner contemplated in subsection (2)".

I genuinely have a concern with a "**practising property practitioner**" being part of the Board as the duties of the Board will include, amongst others; regulating the affairs of all property practitioners. Now, how can a practising property practitioner be part of a Board that will also regulate him/her? Is it not a conflict of interest?

My concern is supported by Section 15, subsection 2 (b) which states that a member of the Board may not "use the position and privileges of, or confidential information obtained as, a member of the Board for personal gain or to improperly benefit another person". Now, the question is; how sure are we that the practising property practitioner of the Board is not going to use his/her position, privileges or confidential information for his or her benefit, seeing that he/she will still be actively practising in the property market?

Honourable Speaker
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All in all, the Property Practitioners Bill is good together with the idea of having a Property Practitioners Regulatory Authority. I would just urge the Honourable Minister to consider my concern and that of others as it will strengthen and empower the Bill.

I Thank You.