

MUST-READ



The implications of cancelling a property sale agreement

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A retirement estate which offers a prime location and resort-style amenities

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## At Rosebank's pulse

● The Bolton is at the centre of Rosebank's rapidly growing residential offering in Johannesburg. Nestled in what some would call the perfect location, the developers - Feenstra Group and Emira Property Fund - are giving investors and professionals alike an opportunity to invest in an area that has seen a 6% year-on-year capital appreciation on sectional title offerings

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HOMEFRONT  
BusinessDay

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LEGAL MATTERS

# Implications of cancelling a property sale agreement

*Lethabo Mashishi, senior associate at Adams & Adams, examines the implications of cancelling a property sale agreement and the circumstances under which such an agreement can be cancelled*

WORDS: LETHABO MASHISHI :: PHOTOS: UNSPLASH AND VECTEEZY

Once an offer to purchase has been signed by the buyer and accepted by the seller, it becomes a legally binding agreement. It may happen that, once the agreement has been concluded, one or both of the parties decide that they no longer wish to proceed with the transaction.

The seller may, for instance, decide that he no longer wants to sell the property, or the buyer may decide that he no longer wants to buy the property.

Are there any implications for such a decision? The short answer is “yes”: the provisions of the agreement and the circumstances under which the agreement

was cancelled can have financial implications for either or both parties.

The noncontinuation of an agreement, however, does not always bring about financial implications.

For instance, an agreement which contains a suspensive condition and which is not fulfilled will have the effect that the agreement lapses and the parties’ legal position is restored as if the agreement had never been entered into.

Examples of suspensive conditions are the requirement that the buyer should secure mortgage finance from a bank for a certain amount or that the buyer should sell his existing property.

Suspensive conditions

should be fulfilled within a specified period, failing which the agreement lapses.

As alluded to previously, there can be instances where there are financial implications for either or both of the parties involved when an agreement is cancelled, even if the parties agree amicably not to proceed with the transaction.

Legal fees and estate agent commission come to mind. Once the agreement has been signed, a conveyancing attorney is appointed to attend to the registration of the property into the buyer’s name. Similarly, if the buyer is purchasing the property through bank finance, the bank will appoint an

attorney to attend to the registration of a mortgage bond over the property, which will serve as the bank’s security for financing the transaction.

Both attorneys would be entitled to claim what is known as “wasted costs” for the work that they have done since receiving instructions up to the point of being informed of the cancellation. The recommended tariff issued by the Legal Practice Council provides for the percentage of wasted costs which should be charged, calculated on the normal fees, depending on the stage at which the transaction was cancelled.

Where an estate agent was the effective cause of a



transaction, commission can be claimed, irrespective of whether the transaction was successfully completed.

Sellers and buyers should take care of the provisions of an agreement in this regard.

It is not uncommon for agreements to provide that commission may be recovered from the party who was the cause of the cancellation.

If an agreement required

the seller to fix certain defects on the property prior to registration and the buyer subsequently elects to renege on the agreement, then the seller will be entitled to recover the expenses incurred for the repairs from the buyer.

Of concern to a purchaser should be the possibility of forfeiting a deposit paid when the terms of the agreement are not being

complied with. The default provisions of the agreement should be carefully considered in this regard.

In as much as it is possible to cancel an agreement of sale without attracting any financial implications, it is important for parties to understand that there may be instances where the cancellation of the agreement may leave one out of pocket.

It is equally important for parties to read the terms and conditions of their sale agreement in order to understand under which circumstances they would be allowed to cancel the agreement without dire consequences.

It would be prudent to consult with a property law expert to obtain proper legal advice before signing a sale agreement.

# FOCUS ON: NOBLE RESORTS RETIREMENT DESTINATIONS



Enjoy a luxury lifestyle in your golden years at one of Noble Resorts' retirement estates where prime location and sophisticated resort-style amenities are par for the course

WORDS AND PHOTOS: SUPPLIED



## GET IN TOUCH

Sales@nobleresorts.co.za  
010 612 6060  
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A combination of spectacular locations, timeless architecture and premium health and wellness care see independent property development company Noble Resorts spearheading a new approach to retirement.

Highlights include beautifully designed homes situated in some of SA's most pristine and sought-after locations, five star around-the-clock hotel service and top-of-the-range amenities and facilities.

### FOCUS ON WELLNESS

According to the Global Wellness Summit's annual trends report titled The Future of Wellness 2022, senior citizens are the healthiest and most active they have ever been. They don't want to be defined by their age or be socially segregated because of it.

In response to this global trend, Noble Resorts has pioneered health and wellness and entertainment spaces at their estates to encourage an engaged and active lifestyle.

"Residents have access to a fully equipped gym, indoor and outdoor pools, as well as guided exercise classes such as Qigong, Pilates and yoga," says Noble Resorts CEO and developer Harry Pretorius.

"Our luxury spas offer hydro and heat therapies, and a selection of skin care and body treatments. Residents can also make use of dedicated nutritionists and restaurant chefs for individualised dietary plans and healthy food choices."

### AT YOUR SERVICE

Noble Resort residents are discerning homeowners who have lived and travelled well. They are retired or nearing retirement and have either enjoyed lucrative and busy careers or continue to work later in their lives.

While enjoying independent living, they may have security or health concerns and want peace of mind should their health needs change.

Most importantly, they want somewhere to continue a life of lock-up and-go convenience with excellent amenities on their doorstep and access

to the finer things in life.

Noble Resorts meets all these needs. Its unique WELL programmes encourage continued learning through a variety of master classes, which include current affairs, cookery, wine tasting, visits to art galleries, guided hikes and sporting events.

Noble Resorts also has comprehensive on-site medical facilities to ensure as little disruption as possible should residents require assistance. These include a state-of-the-art memory care unit, assisted living units and an on-site clinic managed by Medwell SA.

Other facilities include a café, library lounge, cocktail bar, wine room, small event venues, the Harbour Bay yacht club (at their new Harbour Bay estate), 24-hour security, high speed Wi-Fi, pet sitting and pet care services, and a dog park.

### RESORT LIFESTYLE

To further ensure comfort and security as residents age, Noble Resorts appointed as operations director, hotelier Roy Davies, who has extensive experience running luxury hotels and resorts, including managing the Vineyard Hotel in Newlands, Cape Town.

"Just as an all-inclusive holiday resort emanates a sense of luxury and relaxation, so our estates aim to provide personal comfort and easy access to amenities ensuring a lifestyle where everything can be enjoyed effortlessly, from the beautiful environment to the nutrition and wellness facilities, and any of the numerous activities," says Davies.

### PART OF THE FAMILY

While it is an exciting time, one's later years can also be daunting. The main challenge is dealing with the emotional aspects of downscaling.

At Noble Resorts, residents are supported by relevant staff throughout the "move-in" process. This means by the time the residents spend their first night in their new homes, they feel

reassured and part of the Noble Resorts family.

Residents have direct access to the client relations director who guides them through their move-in process. The care director and care manager also meet them beforehand with residents each undergoing a health assessment to determine any concerns from the get-go.

Led by Davies, the hospitality team are then on hand to meet their everyday needs.

### HOME EXCHANGE

Noble Resorts' home-transferring and home-exchange programmes allow owners to experience the company's other distinctive resorts in various locations while still enjoying the same luxury and world-class amenities they would in their own homes.

These options offer flexibility on a short, medium or long-term basis and allow members to explore new surroundings.

"There is something special for every lifestyle choice," says Pretorius. "Far from segregating people in their later years, Noble Resorts celebrates graceful, engaged retirement living by making healthy choices available on-site. This is truly retirement redefined for the discerning homeowner."

### LOOKING AHEAD

Pretorius' vision for all their developments – Allesverloren in Riebeeck Valley, Harbour Bay in Simonstown and Robberg Bay in Plettenberg Bay – is to be the market leaders in multigenerational residential estates.

"Later life living should be celebrated, and at Noble Resorts we do just that, offering residents peace of mind, convenience and luxury," he says.

Noble Resorts' Allesverloren is now selling Phase 1, Harbour Bay is under construction and Robberg Bay is launching later this year.

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**Georgia: 083 644 4323**



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*Modern apartments located on the doorstep of Waterfall Estates. Features include free internet access and Lifestyle Hub.*



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### Carlswald Luxury Apartments

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**from R7,300pm - R14,700pm**

*Large secure apartments in Midrand with two clubhouses and pools with a gym. Free internet access and weekly activities.*



**Thandazani: 066 587 2046**



Units are centred around a central park area

### The Parks, Riversands

1-, 2-, 3-bed Apartments (33m<sup>2</sup> - 74m<sup>2</sup>)

**from R6,000pm - R10,300pm**

*Located in Riversands, adjacent to Steyn City - near Fourways. Features include free internet access and Lifestyle Hub.*



**Joy: 066 471 9818**



# FOCUS ON: THE BOLTON

ADVERTORIAL



## At Rosebank's pulse

*The Bolton is at the centre of Rosebank's rapidly growing residential offering in Johannesburg. Nestled in what some would call the perfect location, the developers – Feenstra Group and Emira Property Fund – are giving investors and professionals alike an opportunity to invest in an area that has seen a 6% year-on-year capital appreciation on sectional title offerings*

WORDS AND PHOTOS: SUPPLIED

The epitome of the 15-minute neighbourhood trend that is taking SA by storm, The Bolton is at the centre of it all. Residents can enjoy a wealth of advantages when it comes to accessibility with its proximity to office parks, transport, shopping malls, fitness centres and a bustling nightlife.

As you step out of the residence, the professional and personal offerings are many and varied.

Prominent global companies, law firms and media agencies are already part of this growing landscape. Art lovers can also appreciate the culture of the popular Keyes Art Mile and the heritage of the contemporary Goodman Gallery. For fitness fanatics, Virgin Active, Viva Gym and Bodytec are all within a 700m radius, while wellness centres – Life Day Spa and Orient Spa – are less than 300m away.

Rosebank Mall, The Zone and The Firs provide shopping convenience less than 200m away and restaurants such as Saigon Suzy and Marble Restaurant

are close by for spontaneous nights out, planned networking or even catch-ups with friends.

The Bolton in Rosebank is daring to be bold and leading the way in the residential property investment game.

Already a fully developed property with a 99% rental occupancy rate, the development is pivoting and providing investors with the opportunity to get their share of the success it has seen over the years.

With the launch of sectional titles this month, ambitious professionals and investors can enjoy an abundance of convenience on their doorstep.

The development includes 282 units of which there are studios, 1 bedroom-, 2 bedroom- and penthouse units starting at R750,000, ticking all the right boxes as the perfect investment opportunity at an affordable price point. Current rental incomes range from R6,000 to R13,000 giving you peace of mind on a sound return on investment. Ownership has also never looked more tempting with no transfer



duty fees and a deposit of only R5,000 needed to initiate the process.

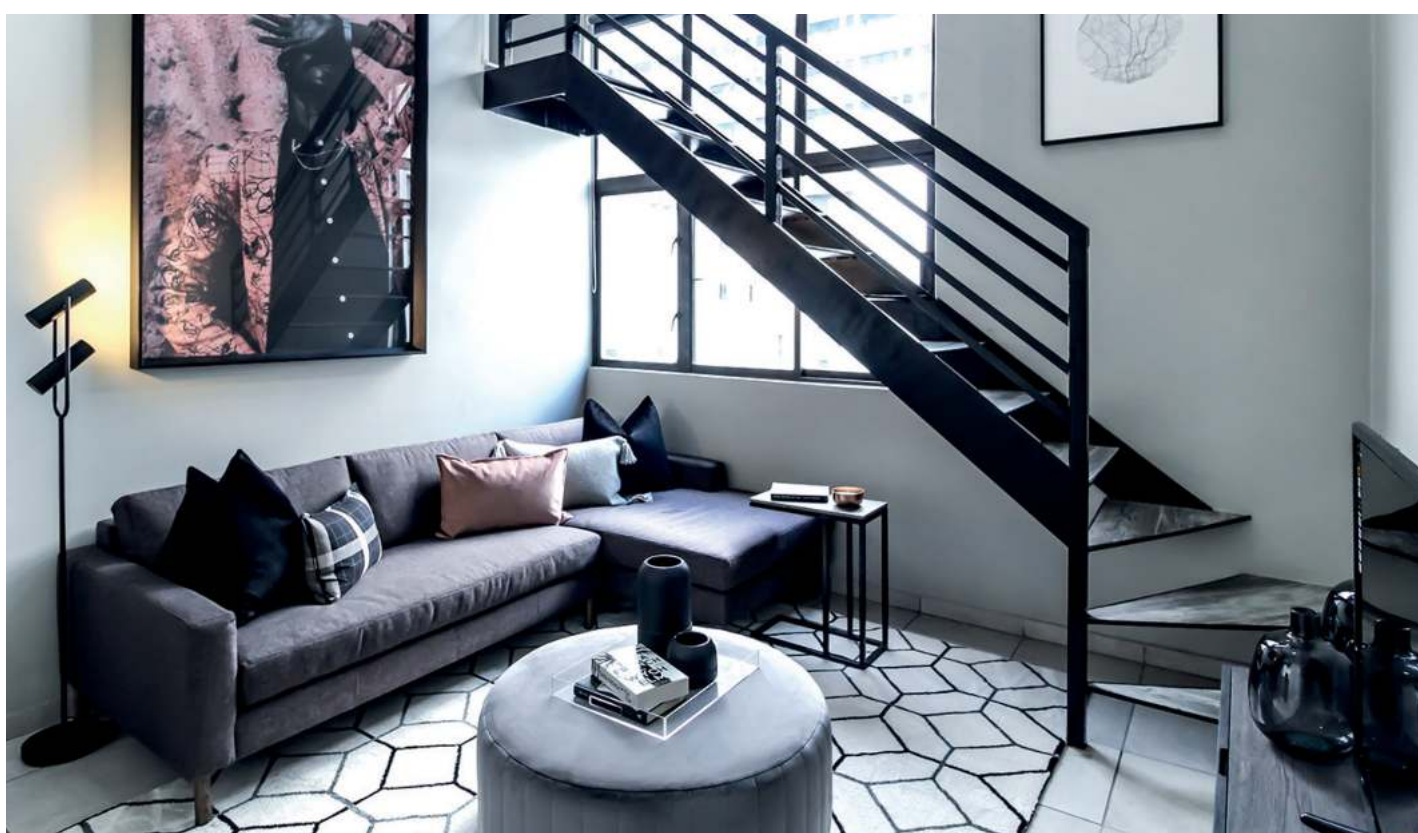
To help you balance the stresses of everyday life, the amenities in the development include a laundry area, a garden and pool, a braai area, 18-seater cinema room and storage facilities.

The stringent security protocols include biometric access, a 24-hour security presence, CCTV and a concierge service. As a result of the growing need to work from home, residents have access to work pods, meeting rooms and a boardroom within the development itself, and each building is equipped with a full backup generator for uninterrupted work sessions.

The move-in ready apartments are ideal for professionals and investors looking for a lock-up-and-go solution.

Many talk about having a balanced work-life dynamic, and The Bolton offers this in spades.

There is something for everyone and the growth in this vibrant part of Johannesburg is sure to keep you smiling all the way to the bank.



### GET IN TOUCH

The Bolton  
Call 087 537 0778 for more information.  
[thebolton.co.za](http://thebolton.co.za)

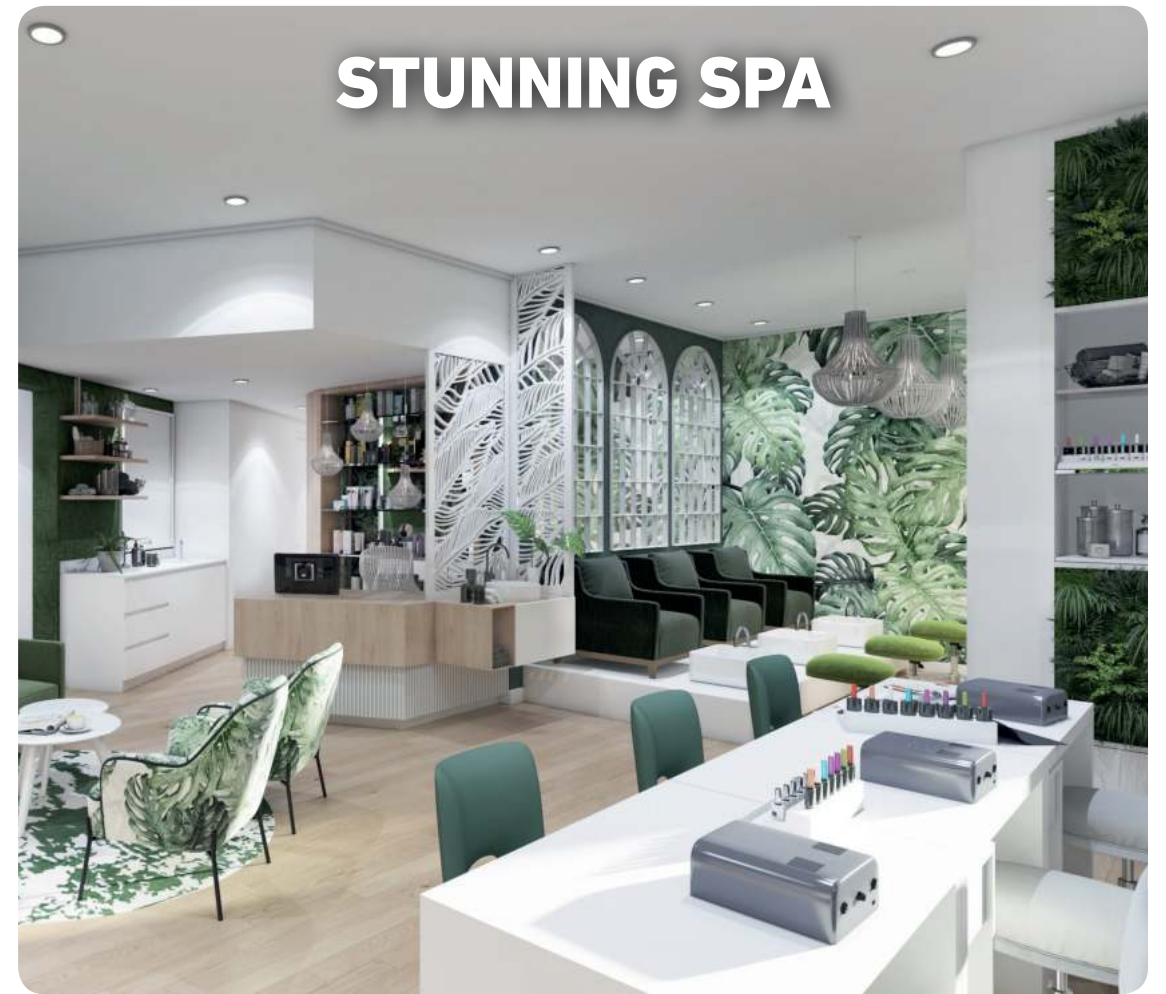
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