

How servitude impacts property values

 By [Adrian Goslett](#)

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What is a servitude and how can it impact the value of a property? According to property legislation, a servitude is a registered right that someone has over the immovable property owned by another person. The servitude affords the holder the right to do something with the property, even if it may infringe upon the rights of the person who owns it.



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If a servitude is held on a property, the owner of the property will be unable to exercise their entitlement to the property in the full capacity. The servitude implies that the property does not just serve the owner, but also another property or person. Because of this, the owner's rights are somewhat diminished. An example of a servitude would be someone having the right to travel over a portion of another person's property to get to their property. While not commonplace in metropolitan areas, servitudes are common in rural areas with farms and smallholdings.

Cause minimal inconvenience

In principle, the holder of the servitude has priority. Essentially this means that the owner of the property may exercise all their usual rights of ownership, provided it does not impede the rights of the servitude holder. The owner cannot exercise any rights that are contrary to the servitude, or grant another servitude which infringes the existing one. While the holder of the servitude has the right to perform all acts necessary to utilise the servitude, they must do so in a manner that causes minimal inconvenience to the owner of the property. It is also vital that the burden on the property is not increased beyond the express or implied terms of the servitude.

While it may not be an issue for some, many buyers are turned off by the fact that a servitude is held on a property. As a result, servitude can reduce the demand for a property which in turn can have a negative impact on its perceived value in the market.

Praedial and personal servitudes

Servitudes are divided into two main categories, praedial and personal. How a servitude is classified depends on whether it benefits successive owners in their personal capacity or if it favours the land itself. Praedial servitudes are vested in the successive owners of a piece of land, known as a dominant tenement. The piece of land derives a benefit from another piece of land on which the servitude is held. If the land is sold, the servitude will be passed over to the new owner of the

land. If the owner of the property on which the servitude is held decides to sell, they are not required to get permission from the servitude holder, however, the new owner of the property will be required to honour the servitude agreement.

A personal servitude differs in that it is in favour of one specific person and not successive owners. Once the specified individual passes away or moves on – the servitude falls away. A personal servitude cannot exist past the holder's lifespan or be transferred to someone else.

Buyers who would like to find out whether there is a servitude registered over a property can do so by examining the title deed. Otherwise, they will be able to request that information from the estate agent who is marketing the property.

ABOUT ADRIAN GOSLETT

Adrian Goslett is CEO and regional director of RE/MAX Southern Africa. He joined RE/MAX Southern Africa in 2005 as a franchise development consultant, supporting various regions and offices. Throughout his career at RE/MAX he has held various positions. In 2010, after successfully leading 160 offices and over 1500 agents in six countries through the worst years real estate has ever seen in South Africa in 30 years, Goslett was appointed as CEO of RE/MAX Southern Africa.

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