HOMEOWNERS BEWARE!

Residential property hijacking is the new reality

In South Africa, an unsettling trend has emerged in cities across the country: the hijacking of residential properties. Where once we only feared vehicle hijacking, we now have to fear that these criminals will take over our homes - our safe havens.

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Property hijacking is no longer limited to industrial buildings and abandoned properties in city centres, it has evolved as criminal syndicates are moving to greener pastures. Criminals are increasingly targeting lived-in homes, bringing the problem closer to you and me. The escalation of these invasions can in part be attributed to the limitations of the Prevention of Illegal Eviction from and Unlawful Occupation of Land (PIE) Act 19 of 1998, which has not been amended to counteract the tactics of sophisticated syndicates.

The shift from vacant, run-down urban buildings to occupied residential areas marks a significant change in the behaviour of criminal syndicates. Reports indicate a notable increase in such incidents, alarming both homeowners and urban planners. It all begins almost innocently, often when life disrupts the daily routines of homeowners due to a holiday, overseas business trip or death in the family when the owners are out of town for the funeral. These gaps in vigilance are the opportunities that criminal syndicates

seek. They bide their time, studying the comings and goings of homeowners, noting when the house is left empty and all is quiet. While the house owners are away, the house could be burgled, with neighbours and the private security providers potentially unaware of any suspicious activity. Days might pass before the homeowners discover that strangers have moved into their home. Soon, the once-familiar home starts to host new and unfamiliar faces. By the time the owners, distant and helpless, learn that their house has uninvited guests who do not intend to leave, they are forced into a complicated battle from a distance (Cloete, Naik and Smillie, 2022).

These syndicates' methods are sophisticated, ruthless and effective. They identify properties left vacant but can even drive out any tenants or owners who attempt to resist them as they force entry into an occupied property. Once the legal owners or tenants have been driven out, the syndicates will rent the space to new tenants (Steyn, 2022). The next step will be to forge property ownership documents with alarming authenticity and lure unsuspecting tenants into renting these hijacked homes. This intricate scheme is facilitated by corrupt insiders within key government offices, ensuring that even legitimate owners face a near-impossible task of reclaiming their property (Glensburg Town Planners, 2024).

For the homeowners, the discovery that strangers hijacked their home, marks only the start of their ordeal. When they return from their trip, they expect the wheels of justice to provide a swift solution but are met with an overwhelming sense of apathy. Assistance from the local police is not a given, constrained by procedural and resource limitations (Cloete, Naik and Smillie, 2022). Once the property is occupied by strangers, the burden of proof and legal action are shifted to the legal property owner. Dominic Steyn, an attorney at Cowan-Harper-Madikizela Attorneys, noted that for many property owners dealing with the issue of property hijacking, the process can be lengthy and exhausting. Homeowners must depend on the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE) Act 19 of 1998 to remove unlawful occupants (Pillay, 2024). Unfortunately, this legislation does not provide for swift action. The process of removing illegal occupiers from your property can continue for years, resulting in the legal property owners incurring exorbitant legal bills, while they remain liable for rates and taxes and utility bills consumed during the unlawful occupation (Steyn, 2022). In that time, the property could see an influx of unauthorised residents. These syndicates operate with structured precision, one person assumes control of the property and initiates the process of renting it out to others. This sophisticated form of racketeering however starts with looting the house of its valuables before transitioning to full occupancy (Cloete, Naik and Smillie, 2022).

The reason behind this trend

In South Africa, the phenomenon of illegal property invasion is increasingly prevalent, driven by factors such as poverty and unemployment. However, the most significant reason lies in the inability of the State and the SAPS to address the issue effectively (Dimmer, 2022). According to section 205(3) of the Constitution of the Republic of South Africa, 1996, the South African Police Service is mandated to prevent, combat and investigate crime; maintain public order and protect the country's inhabitants and their property. One major issue that is exacerbating the situation is the police's response (or lack thereof) and the fact that the police have been directed to avoid making arrests for non-serious (Schedule B) offences to minimise civil claims for wrongful arrest. This implies that homeowners cannot rely on the police for intervention in trespassing incidents without a court order. The SAPS may only act if an order outlines their specific duties and indemnifies them from future damage claims (Steyn, 2022). Even though the SAPS has a role to play in evictions, that role is limited to its mandate (SAPS, 2022). This directive's constitutionality is debated, but it remains in effect, leaving property owners to navigate the process largely on their own. In some cases, SAPS members may refuse assistance due to fear of retaliation from syndicates or outright collusion with them (Steyn, 2022).

Property owners must act swiftly and seek urgent court intervention to prevent that syndicates place tenants in their homes. This often requires bypassing the SAPS and employing a court-appointed sheriff and private security to remove syndicate members before they establish a foothold. There are however concerns that syndicates can be one step ahead of the legal property owner when they are informed about pending legal action by corrupt police contacts. This means that they can appear in court to oppose eviction efforts or to place tenants in the property to invoke the PIE Act's protections (Steyn, 2022). Complexities arise regarding whether the individuals are mere trespassers or "unlawful occupiers" in terms of the PIE Act which requires courts to consider the rights of vulnerable groups such as the elderly, children, disabled people and female-headed households before granting an eviction order, ensuring that alternative accommodation options are explored (Dimmer, 2022).

This protective measure, while humanitarian in intention, ironically offers some level of security to unlawful occupiers. Organised crime groups behind these unlawful property occupations are exploiting these legal provisions to their advantage. After they have forcibly taken over properties, they will use the premises for criminal activities including renting them out to generate income. Their focus is not on maintaining the property but on extracting as much value as possible before inevitable eviction. Once removed, property owners frequently face severe losses as syndicates strip the property of valuable items such as copper piping, electrical fixtures, geysers and even structural elements such as doors and wiring, leaving behind significant damage (Dimmer, 2022).

Exploiting lengthy court system

Syndicates exploit the lengthy eviction process and often benefit from the overwhelmed and congested court system. The legal process for evicting unlawful occupiers can extend over more than ten months, or even years if contested. More than two years ago, a lawyer noted that property owners face legal costs that can exceed R800 000, amounts that are rarely recovered. Syndicates, well-versed in the procedural intricacies, leverage these delays to prolong their occupation (Steyn, 2022). Mr Steyn argues that the PIE Act has not been amended to keep up with syndicates and their tactics (Pillay, 2024).

Hotspot areas where this crime is prevalent

The troubling trend of property hijacking crosses economic boundaries, impacting both affluent homeowners in secured estates and those in less privileged areas. Syndicates target unmonitored, vacant

properties, sometimes even claiming empty lots by erecting temporary dwellings (Cloete, Naik, and Smillie, 2022), but as noted earlier, occupied homes are not out of their reach. The most vulnerable properties are those owned by homeowners who stay in another province or country, estates of deceased persons and homes belonging to at-risk owners (Glensburg Town Planners, 2024). Counsellor Grandi Theunissen, a former Tshwane MMC for Community Safety, agreed that these syndicates primarily focus on properties of whom the legal owners reside abroad or outside the province where the targeted property is located. He further explained that these criminals physically hijack homes and assert ownership through their connections, leaving the legal owners without recourse. "I am currently aware of several cases where this has occurred, and the hijackers have legal documents from the deeds office," he stated (Pillay, 2024). Clearly no property is immune to these illegal activities, regardless of existing security measures.

In Gauteng the scale of property hijackings has grown. Initially concentrated in the bustling CBDs of Pretoria and Johannesburg, these operations have expanded into prestigious suburbs such as Sandton (Dimmer, 2022) and the elite neighbourhood of Waterkloof Ridge in Pretoria (Pillay, 2024), a shift that has raised significant alarm. Mr Theunissen noted that the City of Tshwane has even marked homes with "property inhabitable" signs, signalling that hijackers have seized control. These syndicates typically forge property documents, complicating efforts for rightful owners to reclaim their homes (Pillay, 2024).

The situation in Pretoria reached a critical point in June 2022 when a wave of residential apartment block takeovers led to nine urgent court cases within that month alone (Steyn, 2022). Similarly, Buffalo City Metro in the Eastern Cape, an area not known for such crimes, has experienced an increase in property hijackings typically associated with larger cities such as Johannesburg. Samkelo Ngwenya, Buffalo City Metro's spokesperson, disclosed that at least 53 cases involving fraudulent property transfers were being contested in the Bhisho High Court. These cases often involved insiders within the Metro's housing department, suspected of assisting in the illegal handover of properties. The accused, using knowledge of deceased homeowners, falsely claimed the properties and transferred title deeds through dubious channels. Mr Ngwenya confirmed that these transfers affected various communities, including Zwelitsha, Ilitha, Duncan Village and several units in Mdantsane. While investigations were continuing, he highlighted the lack of proactive criminal charges by the Metro, despite complainants having reported cases to the police. The high court has been called upon to invalidate these transfers and amend the title deeds in line with the Deeds Registries Act 47 of 1937. The scale of these efforts emphasises the challenges faced: fragmented legal battles versus streamlined court applications to ensure rightful ownership (Fengu, 2022).

In Cape Town, similar turmoil unfolded when Communicare, a social housing company, sought an eviction order from the Western Cape High Court (Cape Town) to remove occupants who had been staying illegally in the Albatros rental complex in Thornton for more than a year. The company's properties, including those in Thornton, Brooklyn, Rondebosch, Bothasig, Wynberg, Diep River, Bishop Lavis and Ruyterwacht, were frequently targeted between 2017 and 2019. Incidents escalated into violence, with unarmed security officers forced at gunpoint to relinquish keys while others were assaulted on site. Despite attempts to enter mediation, Communicare faced persistent challenges, resulting in multiple court applications to remove squatters (Damons, 2020).

While legitimate tenants refuted allegations of orchestrated hijacking, pointing instead to safety concerns due to long-standing vacancies, Communicare insisted that unauthorised occupiers had disrupted the leasing process. The tenants described community-driven attempts to fill these units for security and housing needs - one tenant said that he and others were willing to formalise agreements with the company. One tenant said: "At no stage did we ever hijack the place, nor were we in any position to hijack the place. There was no security at the time ... The flat next to us was vacant for about two years. We became worried because the vagrants started coming in. They started taking water. They came in and slept here." They apparently complained to Communicare, but to no avail. "As a result, the families here decided that we are going to occupy these places because we don't know what to do anymore. There are people in need of housing, the tenant noted and added that the families occupying the spaces are "willing to pay and get into a lease agreement with Communicare even though they aren't legitimate". He says they attempted to negotiate with the company. The tenant denied that residents illegally collect "rent". "We know that we don't own the property. We are fundraising and collecting money ... towards our legal fees," he asserted (Damons, 2020).

The incidents were reported to the police, leading to charges of burglary and trespassing against the illegal occupants. In March 2019, the High Court issued an interdict preventing those involved from occupying more units unlawfully or encouraging others to do so, as stated by the company. By August 2019, 11 units at the 81-unit Albatros rental complex had been taken over by illegal occupiers while maintenance was done in preparation of new tenants, according to Megan Lennert of Communicare. She noted that the same group was responsible for seizing three apartments at the Dennehof Complex in Thornton only two days later, as well as occupying properties in Ruyterwacht. The group also made unauthorised connections to water and electricity services and failed to pay rent. Initially, about 50 people were seen moving between three or four properties, attempting to claim units under repair or listed for lease. Efforts by Communicare to negotiate with the occupiers proved unsuccessful, prompting the company to seek a High Court order in September 2019 for their removal from the Albatros complex. The court issued an eviction order on 30 October 2020, instructing the occupiers to vacate the property by 14 December 2020. The company's statement indicated that "legitimate tenants are being pressured to support the hijackers and to boycott payment of their rentals and services" (Damons, 2020).

Policing

At the time when Mr Theunissen was still the MMC for Community Safety at the City of Tshwane, his department identified potential suspects operating within Pretoria and engaged in multiple discussions with the SAPS and the Directorate for Priority Crime Investigation (DPCI) (Pillay, 2024). There is some good news on the cards and that is that the Unlawful Entering of Premises Bill will, once

enacted, empower the SAPS to act against people unlawfully entering private property, allowing for arrests and removal of illegal occupiers (Dimmer, 2022).

While the SAPS plays a role during evictions, its involvement is limited to its mandate. If a situation escalates to public violence, the Provincial Head of Operational Response Services must be contacted to deploy the Public Order Police Unit, which is trained to handle such incidents and disperse unruly crowds. Accurate records must be kept by police officials responsible for arrests and the circumstances leading to public violence. Each offence must be investigated based on its specific criteria and conditions (SAPS, 2022).

Only a sheriff or those authorised by the court can execute an eviction order - the sheriff must be present throughout the process, including during court-ordered demolitions or structure removals. If there is credible evidence that the sheriff or his or her team may face threats of harm or property damage, the SAPS can be called to provide protection and maintain order. **Although SAPS members do not partake in the eviction process itself, they must ensure the safety of the sheriff and his or her team. Obstructing or interfering with the sheriff or his or her team constitutes an offence.** If the sheriff or his or team exceeds their authority, commit assault or act unlawfully in SAPS members' presence, the SAPS must intervene, instruct them to cease their operations and initiate an investigation (SAPS, 2022).

Prevention is better than cure

Taking preventive measures is essential to safeguard property, including implementing robust access control systems. In affluent areas, homeowners often have the means to invest in comprehensive security technology, which should be fully used (Cloete, Naik and Smillie, 2022). These should include perimeter fences or walls, security alarms and surveillance cameras, preferably those that can be monitored through smart devices. Many of these smart applications also have alarm-triggering functions when movement is detected, enabling prompt intervention by security personnel or police if an intruder attempts illegal entry (Dimmer, 2022).

Homeowners are also advised to ask trusted neighbours or other trusted individuals to regularly check in on their properties and set up lighting to create the impression that the property is occupied. Another tip would be to inform the local Community Police Forum when you will be leaving your property vacant for an extended period. **Building strong community relations is vital to ensuring that, in the absence of some residents, there is a shared vigilance involving community watches and private security** (Cloete, Naik and Smillie, 2022).

Another suggestion is for homeowners to consider employing a trusted/verified house sitter to maintain occupancy. It is also important to be mindful of the house sitter's safety, as they could become targets for those seeking unlawful entry. **Criminal syndicates often use "watchers" to scope out properties and assess the vulnerability of their occupants.** Pets, particularly dogs, may also be targeted to prevent them from raising alarms by making noise, poisoning being a common tactic to neutralise them (Dimmer, 2022).

Property owners are urged to take swift action if they suspect an illegal occupation attempt and must provide proof that all reasonable efforts have been made to involve authorities, including filing an urgent court application in terms of the PIE Act. This approach increases the chances of reclaiming the property quickly and minimising damage (Dimmer, 2022).

Glensburg Town Planners and Property Consultants recommend that property owners regularly review their property records to ensure accuracy and promptly report any discrepancies to the relevant authorities. Many municipalities offer online platforms for easy access and verification of property records. They also stress the importance of safeguarding original property documents, such as title deeds and transfer records, in secure locations such as a fireproof safe or secure storage facility. Digital copies should be backed up to a cloud service or a secure external drive. For rental properties, employing a reputable property management company can offer professional oversight and help to mitigate unauthorised access, as these companies are supposed to conduct thorough tenant screenings to minimise the risk of renting to those with criminal backgrounds (Glensburg Town Planners, 2024).

This underground economy of property hijacking highlights a chilling reality: organised crime adapts quickly, exploiting the cracks in societal systems and outdated legislation. For the homeowners left in its wake, the journey to reclaiming their legally acquired property is fraught with frustration, financial drain and an endless wait.

Editor's note

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