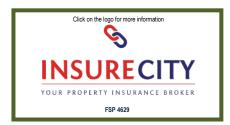


NAMA NEWS SHAPING OUR PROFESSION

DECEMBER 2015







Article by IZAK DU PISANIE **EY Stuart Attorneys**

In terms of the definition of a special resolution as is contained in Section 1 of the Sectional Titles Act, Act 95 of 1986 (as amended) (hereinafter referred to as the "Act"), a special resolution can be obtained in one of two ways namely, either when at least 75% of all the members of the Body Corporate reckoned in number and value agreed thereto in writing or when passed at a general meeting of owners by at least three fourths of the votes reckoned in value and . number of the members of the Body Corporate present or represented at the meeting.

I have received the following questions in respect of . a special resolution for consideration:

- 1. What matters require a special resolution?
- What is the quorum requirements to take a + special resolution at a special general meeting (SGM) of owners?
- How is the notice of the aforesaid SGM delivered?
- What happens if a quorum is not present at the aforesaid SGM?



If the SGM is adjourned, is notice of such → adjournment required?

Various provisions in the Act and the prescribed management rules (PMR), Annexure 8 under the 🔻 Regulations to the Act, deal with matters requiring a special resolution which include the following:

- In terms of Section 24(3), an owner can extend the boundaries or floor area of his section if he is authorized to do so by way of special resolution of the members of the Body Corporate;
- In terms of the Section 29(1), owners may by special resolution direct the Body Corporate to At least 30 days' notice in which the proposed special land comprised in the Scheme;
- special resolution make rules by which a different the matter. value is attached to the vote of a sectional owner or his ability to contribute to the administrative The notice must be delivered by hand or despatched fund:
- amended or repealed by a special resolution of of such notice. the Body Corporate;
- resolution:
- as Trustees;
- of PMR 29;



- In terms of PMR 33(2)(b), proposals in respect of non-luxurious improvements to the common property may be approved with or without amendments by way of special resolution;
- In terms of PMR 47(iii), a Managing Agent shall cease to hold office if his contract is revoked by special resolution of the Body Corporate;
- In terms of PMR 54(1), the members of the Body Corporate can by special resolution determine that a general meeting can be held at a place outside the magisterial district where the Scheme

execute or accept on their behalf a servitude or resolution is specified is necessary to convene the restrictive condition burdening or benefiting the SGM, except in circumstances the Trustees consider it necessary to convene the SGM with less than 30 In terms of the Section 32(4), owners may by days' notice due to the urgency or specific nature of

by pre-paid registered post to the address of a In terms of Section 35(2)(b), the conduct rules of member's unit or to such other address as the a Scheme may only be substituted, added to, member may have indicated in writing for the purpose

The quorum requirements stipulated in PMR 57(2) In terms of Section 36(6)(e), the Body Corporate finds application which states that a Scheme with ten is capable of suing the Developer on any claim in units or less, a quorum is constituted if owners who respect of the Scheme if authorized by a special are entitled to vote and holding at least 50% of the votes are present in person or by proxy or by a In terms of PMR 10(1), the owners may by representative recognised by law. If the Scheme has special resolution authorise payment to Trustees more than ten but less than fifty units or fifty or more who are owners in respect of their services to act units, owners entitled to 35% or 20% of the total votes respectively, must be present or represented.

In terms of PMR 29(3), the owners may by In terms of PMR 58, if a quorum is not present within special resolution direct the Trustees to insure half an hour after the time appointed for a general against such other risks as they may determine, meeting, the SGM will stand (automatically) over and above the compulsory insurance that adjourned to the same day in the next week at the must be obtained by the Body Corporate in terms same place and time. If at the adjourned meeting a quorum is not present within half an hour after the

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carry out the business of the meeting.

the votes reckoned in value and number of persons of the special resolution. present_or represented at a general meeting and In the event that the SGM is automatically adjourned since PMR 58 finds application in this instance, a in terms of PMR 58, no notice of the adjourned special resolution can be passed at an adjourned meeting is required since the aforesaid rule specify SGM.

The definition of a special resolution only requires that vote and being mindful of the value of their votes, at be added to the agenda of the adjourned meeting. the vote must be carried with at least three fourths of least three of the members will have to vote in favour

when the meeting will be continued.

appointed time, the owners present in person or by As an example, if only two or three members are Although the rules do not expressly provide for proxy and entitled to vote, but not being less than 2 present at the adjourned SGM and entitled to vote, all members to be formally notified of the adjournment, persons, shall form a quorum and can proceed to present will have to vote in favour of the special nothing prevents the Trustees from acting accordingly resolution. If four members are present and entitled to and in line with PMR 58. New items may however not









Please take note the NAMA offices will close on 18 December 2015 and re-open on 4 January 2016

NAMA EVENTS



NAMA National AGM

05/02/2016 - Glendower Golf Club

Contact : coenie@nama.org.za for more information

Gauteng North Region

10/02/2016 - Regional AGM and 120 Breakfast Seminar 17/03/2016 - Charity Golf Day, Silver Lakes Golf Estate, Pretoria Contact : namanorth@nama.org.za for more information

Kwa-Zulu Natal Region

12/02/2016 - Regional AGM and 120 Breakfast Seminar Contact: namakzn@nama.org.za for more information

Gauteng East Region

05/02/2016 - Regional AGM and 120 Breakfast Seminar Contact : namaeast@nama.org.za for more information

Gauteng West Region

17/02/2016 - Regional AGM & 120 Breakfast Seminar Contact : namawest@nama.org.za for more information

Western Cape Region

11/02/2016 - Regional AGM and 120 Breakfast Seminar Contact : namawc@nama.org.za for more information

Eastern Cape and Border Regions

25/02/2016 - ST Training Seminar, Newton Park Library, PE Contact : namanorth@nama.org.za for more information

MANAGING AGENT INFORMATION

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Publisher: NAMA - Lizbé Venter (namanews@nama.org.za) Contributor to this issue : Izak du Pisanie (izak@eyslaw.co.za)

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