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MEETINGS - QUORUM AND VOTING



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This article takes a look at the quorum requirements and voting procedures at annual general meetings ("AGMs") and special general meetings ("SGMs"), as provided for by the Sectional Titles Schemes Management Act 8 of 2011 ("the STSMA") and Prescribed Management Rules ("PMRs").

Quorum and representation

Before any items of business at an AGM or SGM can be dealt with by the members of the body corporate or their representatives, a quorum of members must be present, either personally, or represented by proxy. A member may be represented by a proxy, in terms of section 6(5) of the STSMA, provided that a person may not hold proxies for more than 2 members.

PMR 19 provides that the quorum for an AGM or SGM, where a special resolution will be tabled, is determined in accordance with the number of primary sections within the scheme.

In a scheme with less than 4 primary sections or members, the prescribed quorum requirement is attendance in person or by proxy, of members who are entitled to vote, and hold two thirds of the total value of the votes of all members in the scheme. Whereas, in a scheme of more than 4 primary sections or members, the prescribed quorum requirement is attendance in person or by proxy, of

members who are entitled to vote, and hold one third of the total value of the votes of all members in the scheme.

At least 2 persons must be present at the meeting, unless all the sections in the scheme are registered in the name of one person. Furthermore, the value of votes of the developer, and of any sections registered in the name of the body corporate, must not be taken into account when determining the quorum at a meeting.

Should a quorum not be present within 30 minutes from the time indicated on the notice calling the meeting, the meeting stands adjourned to the same day of the following week, at the same venue, and at the same time. Should a quorum not be present at the adjourned meeting within 30 minutes from the time indicated as above, the members present in person or represented by proxy, will constitute a quorum and the business of the meeting will proceed.

Should a unanimous resolution be tabled for approval at a meeting, there is a raised quorum requirement of 80%, calculated in both number and value, of the votes of all members of the body corporate.

Voting

In terms of section 6(6) of the STSMA, when votes are calculated in value (according to participation quota ("PQ")), each member's vote is calculated either as the total PQ of all sections (primary and utility) owned by the member, or in accordance with a rule made in terms of section 10(2) of the STSMA, setting a determination other than PQ. When votes are calculated in number, each member has one vote, in terms of section 6(7) of the STSMA.

PMR 20 sets out the procedure and requirements for valid voting to take place at duly convened and quorate AGM and SGM. A motion put forward for a vote at a meeting, no longer requires to be seconded before being taken to a vote. Ordinary resolutions must be adopted by the majority of the votes,

calculated in PQ, of the members present at the meeting and voting.

A member is not entitled to vote on ordinary resolutions if they fail or refuse to pay the body corporate any amount due after a court or adjudicator has given a judgment or order for payment of that amount; or if they persist in the breach of any of the conduct rules of the body corporate after a court or an adjudicator has ordered that they refrain from breaching the conduct rules. This disqualification does not apply to special or unanimous resolutions.

The outcome of each vote, including the number of votes for and against the resolution, must be announced by the chairperson and recorded in the minutes of the meeting.

Should a special resolution be passed at an AGM or SGM by 75%, calculated in number and PQ, of a quorum representing less than 50% of the total PQ of all members in the scheme, the body corporate must not take any action to implement the special resolution for a period of 1 week following the meeting where the special resolution was passed, unless the trustees resolve that there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage to the scheme. Members holding at least 25% of the total votes, calculated according to PQ, of all members in the scheme, may within 7 days from the passing of the special resolution, by written and signed request delivered to the body corporate, require that the body corporate hold a SGM to reconsider the special resolution. At which time, the trustees must not implement the special resolution, unless it is again passed by special resolution, or a quorum is not present within 30 minutes of the time set for the second SGM.

As can be seen from this article, there are quite a few substantial changes to the quorum requirements and voting procedures at an AGM or SGM under the STSMA and PMR's. 

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Thank you for the opportunity to recognise the previous year and to formally proclaim NAMA's focus to start 2017.

One of the privileges in preparing for this end of the year message was that it gave me an opportunity to reflect on how NAMA settled during the last year, how it advanced and to ask the questions on what NAMA accomplished in this process.

With the new CSOS Act being proclaimed on the 7th of October 2016, the housing sector became the talk of the town. Media started publishing on the subject that affected so many people! The need to modify and adapt is now reality. You should remain motivated to be innovative managing agents to better our customers' expectations. NAMA have the responsibility to educate and prepare the communities in which we operate.

It remains to be seen how the managing agent (our members) will respond to the obligations that is placed on them with the new Act. Please ensure that you comply to the best of your ability.

Our industry has a very competitive pricing environment that is motivated by various factors. For the past years many managing agents have given discounts and other marketing incentives to maintain market share. What is critically important is that our members remain professional in their business. The unfortunate situation is that the media will rather focus on the deficient managing agents than on the numerous successful and professional agents.

NAMA is planning to host the biggest Indaba ever from the 4th to the 6th of September 2017 at the Emperor's Palace. With the theme being "A New Dawn" you can only imagine the excitement and innovative ideas that the team are busy with. Please ensure that you participate in the momentous event that became the Flagship of the Community Living industry in South Africa.

I will also be stepping down as the National Chairman of NAMA at the Indaba to ensure that new frontiers are explored. NAMA need to keep on evolving and be the collective of many leaders in our industry. This was and still

is one of the best experiences in my life and I cannot keep it to myself.

NAMA belongs to its members and this statement place a huge responsibility on all of us to become involved and make a difference. Please be counted.

NAMA is a success story that would not be possible without the valuable contributions of our members, dedicated directors (past and present), and employees who have shared our incredible journey thus far. We look forward to continuing to serve and engage with them as well as other stakeholders in the future. We appreciate the ongoing support received from our members and pledge to continue in our efforts to exceed expectations.

As we look back upon the past year, we would like to acknowledge those who have helped us shape our profession. Thank you for a great year, and we wish you all the best as we embark on 2017.

Yours Truly
 Koos Croukamp
 National Chairman
 National Association of Managing Agents

NAMA EVENTS

REGISTER NOW!

Gauteng West Region

18 February 2017 - Sectional Title Seminar @ Bloemfontein.
 Topic : The New STSMA & CSOS Acts

27 February 2017 - Sectional Title Seminar @ Potchefstroom.
 Topic : The New STSMA & CSOS Acts

4 February 2017 - Sectional Title Seminar @ Johannesburg.
 Topic : The New STSMA & CSOS Acts

24 February 2017 - Breakfast Seminar @ Johannesburg
 Topics : AGM Voting / Voting cards / Reserve Fund & 10 year plan

Email namawest@nama.org.za for more information

Eastern Cape and Border Regions

19 January 2017 - ST Seminar @ Summerstrand Hotel, Port Elizabeth

Topic : The New STSMA & CSOS Acts

Presenter : Dave James

Email namanorth@nama.org.za for more information

Gauteng North Region

1 February 2017 - AGM / 120 Breakfast Seminar

18 February 2017 - Sectional Title Training Seminar
 Topic : The New STSMA & CSOS Acts

Email namanorth@nama.org.za for more information

Western Cape Region

10 February 2017 - AGM/120 Breakfast Seminar @ Bon Amis at Bloemendal

Email namawc@nama.org.za for more information



MANAGING AGENT INFORMATION

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