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ORDINARY MANAGING AGENTS VERSUS EXECUTIVE MANAGING AGENTS



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The Department of Human Settlements, in October 2015, published the proposed new Prescribed Management Rules to the Sectional Titles Schemes Management Act, which substantially replaces the Sectional Titles Act.

In the proposed Prescribed Management Rules, the concept of an Executive Managing Agent is introduced and defined as a Managing Agent appointed to carry out all of the functions and powers of the Trustees, in terms of the New Management Rule 28.

New Management Rule 28, states that, an Executive Managing Agent is appointed by Special Resolution of the Owners in the Scheme, or by Owners entitled to 25% of the total quotas of all Sections applying to the Community Scheme Ombud for the appointment of an Executive Managing Agent.

An Executive Managing Agent is subject to all of the duties and obligations of a Trustee under the Sectional Titles Schemes Management Act and the Rules of the Scheme.

An Executive Managing Agent is also obliged to Manage the Scheme with the required professional level of skill and care and is liable for any loss suffered by the Body Corporate as a result of not applying such skill and care.

An Executive Managing Agent also has a fiduciary obligation to every owner in the Scheme.

In addition, an Executive Managing Agent must arrange for the inspection of the Common Property at least every 6 months and must report, at least, every 4 months, to every owner, on the administration of the Scheme.


The reports must include details of proposed repairs and maintenance of the Common Property and Assets of the Body Corporate, as well as a balance of the Administrative and Reserve Funds of the Body Corporate and a reconciliation statement for each fund.

The Reports must also include a brief description of the date and nature of all of the decisions made by the Executive Managing Agent.

The Management Agreement appointing the Executive Managing Agent, must comply with the requirements for such an agreement, in the Managing Agent Code of Conduct in the Regulations, which code of conduct is yet to be released by the Department.

An Executive Managing Agent agreement may not endure for a period longer than 2 years and may be cancelled, without liability or penalty, despite any provision in the Agreement to the contrary, by the Body Corporate, on 2 months' notice. However, such cancellation must first be approved by a special resolution, passed at a general meeting of Owners in the scheme.

The proposed Prescribed Management Rules also provide for the Appointment of an Ordinary Managing Agent to perform specified financial, secretarial, administrative or other management services, under the supervision of the Trustees.

We await the Department's advices, as to whether, what of which has been stated above, will remain intact or as to whether substantial changes have been made in regards to the legal functioning of an Executive Managing Agent. 

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NAMA EVENTS

Gauteng North Region

30 July 2016 – Basic Sectional Title Training Seminar, CSIR Convention Centre, Pretoria
Topics : Various Sectional Title topics, Town Planning & Building Plan Matters, The obligations of the future caretakers
Presenters : Dave James (NAMA KZN Regional Director), Abrie Snyman (Multiprof Group), Louis Jordaan (Labapro cc)
Email namanorth@nama.org.za for more information

KwaZulu-Natal Region

16 July 2016 – Basic Sectional Title Training Seminar, Maritzburg Golf Club, New England Road, Pietermaritzburg
Presenter : Barbara Shingler
17 August 2016 – Sectional Title Seminar, The Palace Hotel, Durban
Topic : What Sectional Title plans show you or rather, what they don't!
Presenter : Dave James (NAMA KZN Regional Director)
Email namakzn@nama.org.za for more information

Western Cape Region

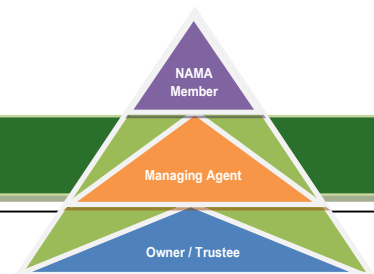
27 August 2016 – Trustee Training Seminar, Belmont Square, Rondebosch.
Topic : How to run the perfect AGM
Email namawc@nama.org.za for more information

Gauteng West Region

22 July 2016 – Community Scheme Seminar, The Roots, Potchefstroom
Topics : New Legislation – Levy collection, Reserve Fund & Maintenance Plan(s), Insurance Requirements
Presenters : Cilna Steyn (SSLR Inc.), Barend Engelbrecht (Curasure), Sakkie Stoltz (BestSure Financial Services)
Email namawest@nama.org.za for more information

Free State Region

13 August 2016 – Community Scheme Seminar, Sewe Damme Aftree Oord, Bloemfontein
Topics : New Legislation – Exclusive Use Areas, Dispute Settlement Procedure CSOS, Reserve Fund and Maintenance Plan, CSOS Levies and Meetings, Insurance Requirements, Managing Agents
Presenters : Tertius Maree (Tertius Maree and Associates), Corlia le Roux (Phatshoane Henney Attorneys), Sakkie Stoltz (BestSure Financial Services).
Email namawest@nama.org.za for more information



MANAGING AGENT INFORMATION

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Publisher : NAMA - Lizbé Venter (namanews@nama.org.za)

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