



NATIONAL ASSOCIATION
OF MANAGING AGENTS
SHAPING OUR PROFESSION

NAMA Newsletter |

February 2021

Spoliation of Electricity Supply OR Water Supply OR Biometric Access

Article by Chris Rooseboom
Rooseboom Attorneys



The Mandament van Spolie [spoliation order] is a remedy in South African law, based upon the fundamental principle that a person should not be permitted to take the law into their own hands to seize property in possession of others without the consent of the person in possession. Spoliation, therefore, provides a remedy requiring the status *quo* preceding the disposition of property to be restored, by returning the property as a preliminary to any inquiry or investigation into the merits of the dispute as to which of the parties is entitled to possession. As a result, a court hearing a spoliation application does not require proof of a claimant's existing right to property, as opposed to the possession of it, in order to grant the relief of a spoliation order. Spoliation order is thus no more than a precursor to any action over the merits of the dispute. Spoliation refers to the unlawful deprivation of a party's right of possession of movable ...

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Difference between HOA, Sectional Title and Life Rights – what must a managing agent know?

Article by Zerlinda van der Merwe
TVDM Consultants

In the January 2021 newsletter, we took a look at homeowners' associations, in the form of Common Law Associations, governed by its constitution, and non-profit companies registered in accordance with the Companies Act and administered in

terms of its memorandum of incorporation. Due to the fact that each association is administered and managed by a different governance document, it is obvious that when it comes to participation, representation, liability and responsibility, the contents of these regulations must be reviewed and adhered to. In my opinion, the biggest difference between this type of community scheme and sectional title and retirement developments, is that as an owner of an erf within an association, your responsibility extends to the entire boundary of the erf and the buildings erected on it, as well as your share of the common areas of the scheme, whereas in sectional title schemes, your responsibility and liability extends to the median line of your section, your exclusive use area and your pro rata share of the common property within the scheme, and in a retirement development, it can be even further limited.

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The Do's and Don'ts to the Processing of Personal Information in terms of the POPI Act

Article by Vill'Jaun Hulbert
Du Plessis & Eksteen Attorneys



Introduction

The protection of Personal Information Act, 4 of 2013 (“POPI Act”) was enacted to promote and protect individual’s right to privacy, including the protection against unlawful collection, retention, dissemination and use of personal information.

Applicability of the POPI Act on community schemes:

Community schemes often process data such as persons full names, identity numbers, company registration numbers, ages, addresses, contact details, etc. by collecting, creating, utilizing, storing, sharing, retaining and or destroying such personal information after it has been either entered into a written record or a computerized or digital record. Community schemes, therefore, meet the criteria of applicability of the POPI Act and must therefore comply with the Act.

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[Nedbank has solutions for the property sector in low-interest cycle](#)

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South Africa’s current low-interest rate climate could have a positive effect on the property sector.

The economy saw business and consumer confidence hit historic lows, but with lockdown levels easing and the South African Reserve Bank (SARB) cutting interest rates by 300 basis points (bps) since the start of the year, there is now a spark of optimism ...

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Traditionally, the development of risk management plans is tailored to address assessed and quantified risks. There is however always the "the unknown factor". Enter the COVID-19 pandemic. Of course, we have faced localised pandemics before, but never one on such a globally synchronous scale, thanks to global travel and trade. It propelled the entire world into uncharted territory as mass economic and travel lockdowns ...



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Funding initiatives that aim to ease the financial strain on our Community Scheme clients.

Amid challenging and uncertain financial times, there is a great need for businesses to deliver value. Times have been tough for many in South Africa, even before COVID-19 hit the country hard. Most people's finances have been negatively impacted ...

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[Can a Body Corporate recover legal fees when collecting arrear levies?](#)

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When an owner fails to comply with their legal obligation to pay levies, the trustees of that Body Corporate are required to take legal action for collecting the outstanding levies. This legal process can be costly and time-consuming - which then places a financial burden on other owners of the same Body Corporate who are compliant ...



[Electrical compliance requirements for Sectional Title Schemes?](#)

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Property owners are required by law to ensure that the property is legally fit for sale, and before the transfer can take place, the transfer attorney must be in possession of the relevant Certificate of Compliance (COCs). In the case of the sectional title schemes, however, although the individual units are bought and sold the common property is often overlooked and falls under the radar in terms of electrical compliance certification ...



How are Bodies Corporate meant to collect ...

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Noting I could go on all day, but will try be short 😊

The legal system has been broken for a long time (in truth) with backlogs, lost files and just poor administration being the order of the day.

COVID-19 has obviously amplified the worst in most things, the legal system being no exception.

Jurisdictions differ in the way the amplification may have been felt but I do think your large metros (given more schemes reside in them) have and will be hardest hit.



The Legalities behind Disconnection of Utilities

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Many trustees and managing agents take the action of disconnecting services when scheme members do not pay their levies. Using disconnection as a means to force payment for non-payment of the levy is a very contentious issue ...



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When property owners don't pay their levies, it places undue pressure on the community scheme ...

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