



NATIONAL ASSOCIATION
OF MANAGING AGENTS
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JUNE 2017 | NEWSLETTER/BULLETIN

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OLD LEGAL ACTION, CURRENT AGM!

CAN AN OWNER IN ARREARS VOTE?

Article by Alan Levy, Alan Levy Attorneys, Notaries and Conveyancers

Mr Arrears owes R80 000.00 in contributions to the Body Corporate. His arrears were handed over to attorneys in 2015 prior to the new Sectional Titles Schemes Management Act (STSMA) commencing on 7 October 2016.

The Body Corporate attorneys in 2015 issued summons out of the Magistrates Court. Mr Arrears defended the matter. A dispute was declared in terms of old Prescribed Management Rule 71 and the matter was referred by the Deeds Office to arbitration. The arbitration was not concluded and Mr Arrears has now further referred the matter to the Ombud in terms of

the Community Schemes Ombud Service Act (CSOSA).

The Annual General Meeting (AGM) of the Scheme is being held next month and Mr Arrears is demanding that he has the right to vote. The Body Corporate insists that he has no right to vote as legal action was taken against him before the STSMA began and therefore the Sectional Titles Act applies and the discontinued Prescribed Management Rules stating that an owner cannot vote if contributions have not been paid.

Regarding arrear levies the STSMA states in new Prescribed Management Rule 20(2)(a) that except for special and unanimous resolutions,

a member is not entitled to vote at general meetings if a member fails or refuses to pay the Body Corporate any amount due by that member after a court or adjudicator has given a judgment or order for payment of that amount.

Regarding arrear levies the Sectional Titles Act in former Prescribed Management Rule 64 (a) stated that except in cases where a special resolution or unanimous resolution is required under the Sectional Titles Act, an owner shall NOT be entitled to vote at any general meeting if any contributions payable by him in respect of his section and his undivided share in the common property have not been duly paid.

In this scenario and based upon the two pieces of legislation cited, since there is no award of an adjudicator or court against the owner in terms of the new Prescribed

Management Rule, the owner will be entitled to vote at the AGM.

Lastly, what happens to the summons and arbitration proceeded with against Mr Arrears before the STSMA began which Mr Arrears has now referred to the Ombud? The answer is contained in S42 of the CSOSA. In summary, the Ombud takes over the hearing of the matter unless the Ombud rejects the application on the grounds that the dispute should be dealt with in a court of law or other tribunal, in this case the arbitration.

This article has been written by Alan Levy of Alan Levy Attorneys, Notaries and Conveyancers in Johannesburg who specialise in collection of levies and Community Scheme Law. They can be contacted on enquiries@alattorneys.co.za and 011 326 8050.



WHAT WE DO

BC Bridging Solutions (Pty) Ltd ("BCBS") is focused on providing value added solutions to the Sectional Title industry. Our success has been based on over 50 years combined experience within the Sectional Title industry, partnering with market leading service providers and offering significant value propositions to our clients nationwide.

FUNDING SOLUTIONS

BCBS specialises in facilitating loan funding to Sectional Title Bodies Corporate, offering various lending solutions to Bodies Corporate that have underlying levy debtor problems, or require funding for municipal arrears, maintenance and / or capital projects, but whose unit owners cannot immediately raise the necessary upfront cash.

Funding extended by BCBS, utilising our lending model, assists:

Bodies Corporate to maintain their obligations required by the Sectional Titles Act;
The Body Corporates financial position, preventing unit owners who pay their levies from subsidising their non paying co-owners; and
Bodies Corporate in offering their non-paying owners debt rehabilitation opportunities so as to protect their home ownership and to avoid expensive legal costs.

BCBS offers tailor made financial solutions that are geared to meet its clients individual needs, at competitive rates. The BCBS funding model is founded on the principle of creating financial stability and sustainability for the Body Corporate, whilst protecting the rights of paying unit owners in this environment.

KEY FEATURES OF ARREAR LEVY DEBT FUNDING:

No repayment obligations on the paying unit owners in the Body Corporate (repayment only occurs when the Body Corporate collects its arrear levy debts);
The Body Corporate and paying unit owners will not be required to service interest or capital repayments during the legal collection process.

The Body Corporate is able to operate effectively on a fully funded basis, as if all unit owners were in fact paying their levies;

All interest costs incurred are added to the arrear levy debtor accounts, therefore the paying unit owners are not prejudiced by the costs of the arrear levy funding;
and

The Body Corporate and its Managing Agent retain control of the legal collection process.

Our financial solutions are also geared to recognise, and NOT to interfere with / or replace any of the appointed Managing Agents functions. Our goal is to provide financial assistance to the Body Corporate which will unlock the Body Corporate

Managing Agent to assist the financial sustainability of their clients, ensure cash flow requirements are met and the payment of essential services occurs.

We facilitate funding for the following:

- Arrear levy debtors;
- Municipal and creditor arrears;
- Maintenance and capital projects;
- Legal fees;
- Monthly levy shortfalls; and
- Financial reserves required in terms of Sectional Title legislation.

Please contact us for a free, no obligation assessment and funding proposal.

CONTACT DETAILS

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ARC ANNUAL CONFERENCE, EXPO & GOLF DAY 2017

DELEGATE INVITATION

Val de Vie and Pearl Valley in
Paarl, Western Cape

2, 3 & 4 AUGUST 2017



All HOA management staff as well as Directors/
Trustees of residential estates in South Africa are
urged to attend.

[CLICK HERE FOR MORE INFO](#)



EAAB ANNOUNCES NEW COMMUNICATION PORTAL

TO ADDRESS OUTSTANDING ISSUES AND QUERIES

The EAAB is gratified to announce that the innovative mechanism to facilitate the interaction of estate agents with the EAAB is now operational. Estate agents and estate agency enterprises must henceforth use the online query management system for the submission to the EAAB of all queries, questions and complaints relating to the issue of fidelity fund certificates, audit compliance, education compliance, legal matters and general enquiries.



Such queries, questions, and complaints must be forwarded to the EAAB by using the “MyEAAB” online portal accessible through the EAAB website at www.eaab.org.za

Each logged query will immediately receive an automated acknowledgement indicating a tracking reference number while the matter in question will forthwith be forwarded to the relevant EAAB line department for further attention and response.

It is anticipated that use of the online query management system will both eliminate duplication of effort and significantly improve current EAAB processes in dealing with, and resolving, such matters.

ESTATE AGENCY AFFAIRS BOARD
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SCHEDULE OF FEES 2017/18
PRIVYSEAL (PTY) LTD CONSUMER PROTECTION INITIATIVE
EAFINDU SECURITY APP FOR ESTATE AGENTS
PUBLICATIONS ▶
'ONE LEARNER - ONE ESTATE AGENCY' YOUTH EMPOWERMENT BRIGADE ▶
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PROPERTY SECTOR CHARTER COUNCIL
EQUALITY PLEDGE
ONLINE SURVEYS ▶
ONLINE LEGAL COMPLAINT
AUDIT COMPLIANCE
FINANCIAL INTELLIGENCE CENTRE

The Estate Agency Affairs Board (EAAB) was established in 1976 in terms of the Estate Agency Affairs Act 112 of 1976 ("the Act"), with the mandate to regulate and control certain activities of estate agents in the public interest.

The EAAB regulates the estate agency profession through ensuring that all persons carrying out the activities of an estate agent as a service to the public are registered with the EAAB. A Fidelity Fund Certificate, which is to be renewed each year is issued as evidence of such registration and confirmation that such person is legally entitled to carry out the activities of an estate agent.

The Estate Agency Affairs Board (EAAB), which has been reporting to the Minister of Trade and industry since 1976, was transferred to the Department of Human Settlements on 17 May 2012 by Proclamation of the President of the Republic of South Africa.

NAMA COMMENT ON DRAFT PROPERTY PRACTITIONER'S BILL

CHAPTER 1:

DEFINITIONS, APPLICATION OF ACT, ESTABLISHMENT AND OBJECTIVES OF AUTHORITY

There are fundamental differences between a Managing Agent and a “property practitioner” who for remuneration manages a property on behalf of another.

[CLICK HERE FOR FULL ARTICLE](#)



NAMA FINANCIAL YEAR END - JUNE 2017

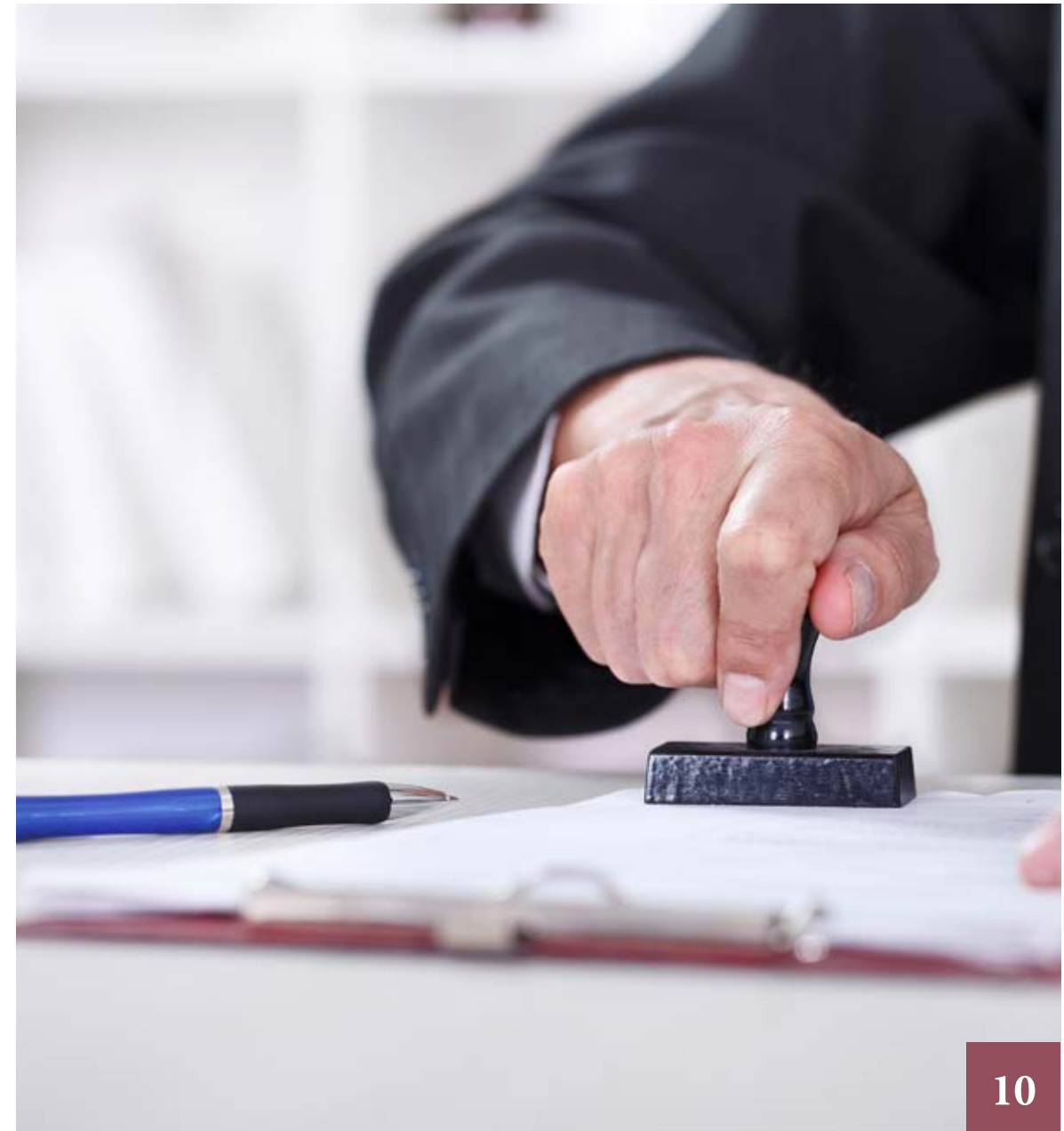
Dear NAMA member,

We are yet again approaching our financial year end, which is end June 2017.

NAMA wishes to thank all its members for the commitment during the year by ensuring that payment of membership fees was done without delay.

We would like to take this opportunity to request that any outstanding membership fees are made by no later than 20 June 2017.

Please feel free to contact Candice at accounts@nama.org.za or 012-567-7597 should you wish to obtain a copy of your latest membership account statement.



NAMA EVENTS

KZN REGION

21 JULY 2017

120 Breakfast Seminar

Email Vanida at namakzn@nama.org.za for more information.

INDABA

Early bird registrations extended to 15 June 2017. Click to view NAMA event details!

Click to view NAMA Event details

The banner features a cityscape on the left and a resort on the right, with a central green geometric design. It includes the event title, dates, location, and logos for various sponsors.

A NEW DAWN

JOIN US FOR THE
2017 NAMA KING PRICE INDABA
4-6 SEPTEMBER 2017 EMPERORS PALACE

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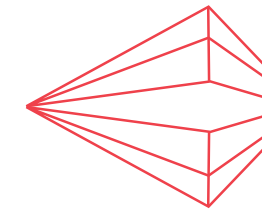
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THAT Touch
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