

NAMA NEWS

DECEMBER 2019



NATIONAL ASSOCIATION
OF MANAGING AGENTS
SHAPING OUR PROFESSION

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The Airbnb Debate in a Nutshell
Crucial Decisions from our
Courts in the last 12 months

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DEAR NAMA MEMBER

As we reflect on 2019, it has again become apparent that being part of a collective ensures that our industry is represented on several platforms which include but is not limited to, The Department of Human Settlements, Property Sector Charter Council, Rebosa, SAPOA and the regulators being the EAAB and CSOS.

Not only did we engage with our stakeholders on a regular basis, but our activities for 2019 included the hosting of the NAMA National Conference and award ceremony, where we had the opportunity to acknowledge our members and thanked them for their support through many years.

NAMA, at its Annual General Meeting, was mandated to secure a process where we could evaluate our value add to our members and the industry as a whole and subsequently a National Survey was conducted.

Our members again re-affirmed the importance of belonging to an industry body, with the results further indicating that our objectives remain a priority

LETTER FROM THE CHAIRPERSON (CONTINUED)

for our collective membership. Several initiatives are planned for 2020, which will secure membership growth and consumer awareness. These initiatives will undoubtedly also result in support for NAMA members.

The NAMA Board held three board meetings which included a strategic planning session. Discussions, planning and decisions were robust, yet the outcomes achieved always focused on our members and the industry.

To secure our common goals, changes will be implemented in the new year. This is both exciting and necessary for NAMA and its members to continually expand upon the gains we have already collectively achieved.

Our collective objectives are only possible with the support of our members. Thank you to the NAMA staff, one of our most valuable assets,

who without hesitation ensured the successful operational activities of NAMA during 2019.

To our members we wish to thank you for your support, and we are confident that with our continual engagement, with the membership and stakeholders, we will only go from strength to strength.

I wish you and your families a joyous, peaceful and restful festive season and all the best for the new year: 2020!

Chantel van Heerden
NAMA National Chairperson

LETTER FROM THE COO

Dear NAMA Member

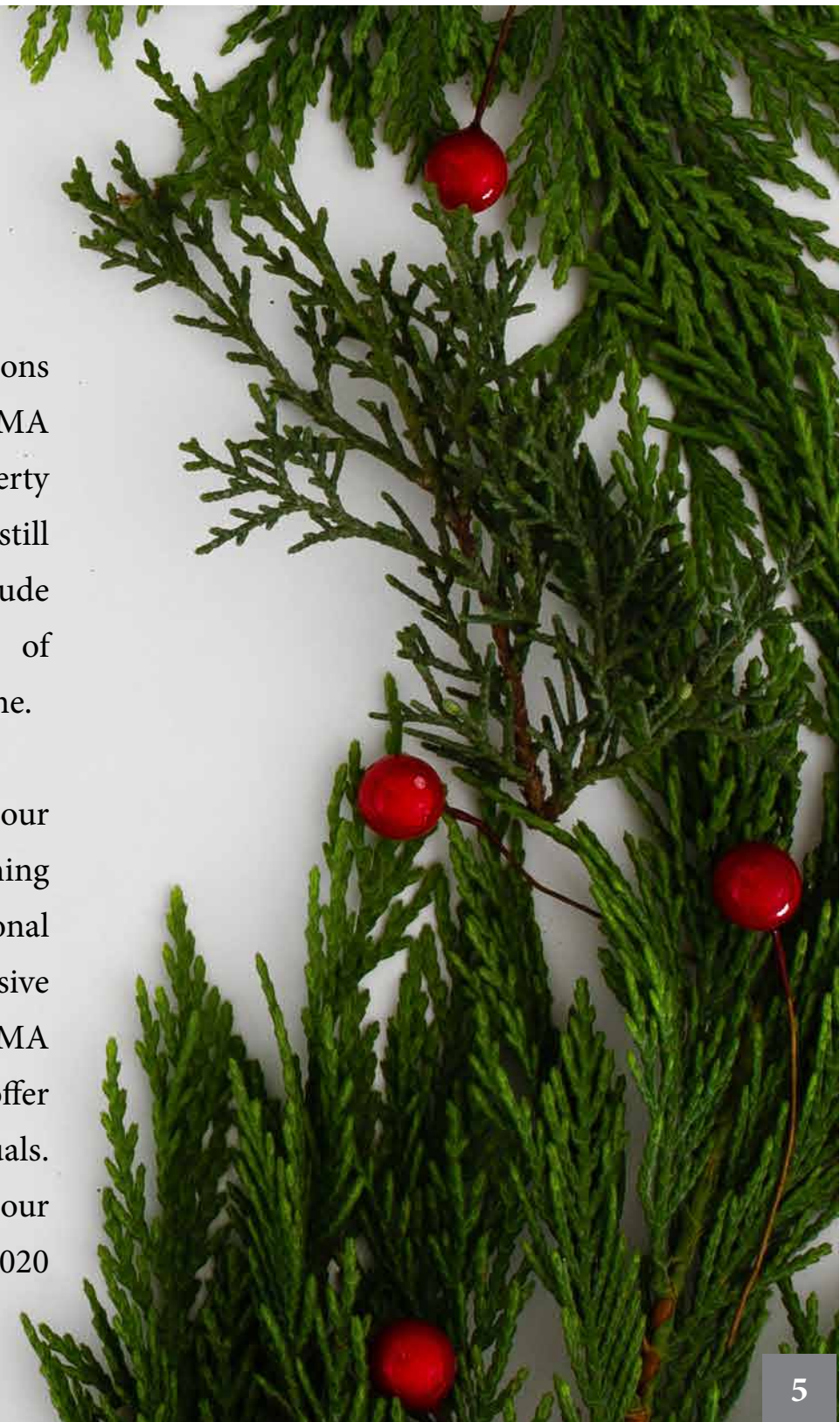
As we enter the festive season, it is important for us to reflect on the year that has passed. Never before has the property industry been so active, and have we faced many challenges.

Regulatory changes and court actions have inundated our daily operations, which will inevitably influence our perspectives.

It has brought uncertainty, questions and concerns that will have to be addressed going forward. It is certain that NAMA will have to engage its members on these matters and it may even be necessary to lobby for support by means of more legal intervention and

assistance to clarify our profession and operations within the property sector. The main focus of NAMA remains to train and professionalise the property management industry, and for this purpose we still actively engage on several platforms. These include our partnership with Enterprises University of Pretoria and our own ongoing training programme.

2020 will launch many new initiatives, such as our online training platform, also linked to establishing a new membership category being, Educational Membership. This platform will provide exclusive training benefits and incentives to current NAMA members and their clients, and will also offer membership to Community Schemes and Individuals. Since our Indaba held in 2017, we advocated our slogan, A NEW DAWN, and our initiatives for 2020



LETTER FROM THE COO (CONTINUED)

will confirm that NAMA is moving forward to advance and professionalise the property management industry. Registering as a Professional Body during 2020, will secure the initiative that NAMA members who have completed training requirements, have agreed to the NAMA revised Code of Conduct and have ensured compliance with all Regulatory requirements.

Registering as a Professional Body will also include re-branding of NAMA, to ensure that we meet both national and international standards when accepting members and engaging with stakeholders. This process will undoubtedly advance the opportunities for all our members going forward.

During 2019, we conducted a national survey amongst our members, and our members re-affirmed that NAMA's platforms and membership to NAMA remains an essential aspect to the property management industry. We will endeavour to continue to meet these expectations in 2020. The 2019 National Conference hosted

in Port Elizabeth was a huge success and we value the positive feedback by the attendees. Personal interaction, networking and engagement will remain high on our agenda. We look forward to hosting you at the 2021 National Conference in the Western Cape.

The success of NAMA can only be achieved with the ongoing support that we receive from you, our valued members. We thank you and look forward to engaging with you in 2020 and remain confident that our planning and value-add to our members will secure your confidence going forward.

NAMA wishes all our members a blessed festive season and prosperous new year.

Coenie Groenewald
NAMA National COO

Body Corporates LOANS

Written by Chantelle Gladwin-Wood (Partner), Lisa Schmidt (Associate) and Ayanda David Katjita (Candidate attorney)

INTRODUCTION

Many owners living in sectional title schemes fail to pay their levies on time or at all.

Management contracts (which are contracts that deal with the obligations and duties of the managing agent as prescribed by the **Sectional Titles Act 95 of 1986** (“the STA”) and the **Sectional Titles Schemes Management Act 8 of 2011** (“the STSMA”)) often contain provision that mandate the managing agents to be actively involved in the collecting of arrears. The process of collecting levies from defaulting owners is lengthy and often results in a cash flow shortage to the Body Corporate

(“the BC”) and renders the BC unable to settle its monthly obligations (i.e. its municipal accounts) and pay its creditors.

In an effort to assist struggling BCs, managing agents often loan money to BCs to meet their monthly obligations and pay their creditors. *This article will consider the following questions:*

What provisions of the **National Credit Act 34 of 2005** (“the Credit Act”/“the NCA”) and the **Sectional Titles Schemes Management Act 8 of 2011** (“the STSMA”) regulate such loans /a BC borrowing money;

- who may loan a struggling BC money; and
- what are the formalities, if any, that need to be met in order for a loan advanced to a BC, to be valid and collectable?

NATIONAL CREDIT ACT 34 OF 2005

The credit industry is governed by the Credit Act. A requirement of the Credit Act is that a person must register as a credit provider with the **National Credit Regulator** (“NCR”) if the total principal debt arising from the credit agreement exceeds the threshold prescribed by the Minister of Trade and Industry from time to time, which limit is currently set as **R0 (nil)**. As a result, if the amount owed under a credit agreement by the

consumer to a credit provider exceeds the threshold, that credit provider must register as a credit provider with the NCR, irrespective of whether the credit provider provides credit in the ordinary course (in a series of transactions) or if it is a once-off transaction.

WHAT INSTRUMENTS ARE GOVERNED BY THE NCA?

- Personal loans
- Home loans
- Business loans depending on threshold values applicable to the consumer, i.e. juristic persons
- Overdrafts
- Credit cards
- Asset-based finance
- Instalment sale agreements
- Lease agreements

[CLICK TO READ FULL ARTICLE](#)

THE AIRBNB DEBATE IN A NUTSHELL

The right of ownership in a townhouse unit or a freehold cluster development is a fiercely protected right in our law, bestowed upon the holder of the title. These rights include possession, control, exclusion, enjoyment and disposition and are commonly referred to as real rights which, in terms of the personalist theory, are rights which are absolute and enforceable against the world. In this light we must examine how a real right talks to the right to lease out the property.

As an owner, am I permitted to lease out my property to whomever I wish for however long? In the usual course, yes, you would be. If you reside in a Community Scheme however, the answer is different. Our great interest in the lease agreements entered into between owners and their tenants has arisen due to the increasing number of short- term lets which we are now seeing in



many schemes. In my experience, it all started with the World Cup Soccer event in South Africa, which saw a huge demand for overseas tourists being accommodated across the width and breadth of the country for short periods of time in apartment blocks and townhouse complexes. The colossal Airbnb wave has, more recently, brought this thorny issue straight into the spotlight.

CLICK TO READ ARTICLE

CRUCIAL DECISIONS

FROM OUR COURTS IN THE LAST 12 MONTHS

2019 has seen a wider array of decisions from the Courts on different issues which have cropped up in Community Schemes around the country.

Below we will concisely summarize four of the important cases:

- Traffic Fines: **Mount Edgecombe Homeowners Association**
- Limitation of Electricity: **Meadow Grove Body Corporate**
- CSOS Appeal Process: **Linton Park Body Corporate**
- Clearance Certificates: **Marsh Rose Body Corporate**

Traffic Fines - Mount Edgecombe Homeowners Association

In the Mount Edgecombe Country Club Estate v Singh case, the Pietermaritzburg High Court was asked by an owner to set aside traffic fines imposed by the HOA on him, for speeding by his daughter.

The Court found in favour of the owner stating that fines could only be imposed by the relevant government bodies in terms of the National Road Traffic Act.

The Estate together with the Association of Residential Communities (ARC), as a friend of the Court, found themselves appealing the decision before the Supreme Court of Appeal (SCA) in Bloemfontein.

The SCA ruled on **28 March 2019** that the roads of the Estate in question were private roads and not public roads and that even if they were public roads, a breach of the rules, was a contractual breach, the enforcement of which would not usurp public power, and ruled in favour of the Estate that the fines could be imposed.



CLICK TO READ ARTICLE

USING OUR EXPERTISE TO HELP YOU NAVIGATE POTENTIAL HURDLES IN THE ECONOMY



Jonathan Ridley
Nedbank Head of Business
Banking Investments and
Corporate Saver

As a money expert Nedbank is mindful of economic challenges facing business in South Africa as they compel entrepreneurs to look for innovative ways to manage cashflow effectively and optimise savings for their businesses.

Finding solutions to weather these economic headwinds is crucial, particularly with Finance Minister Tito Mboweni expected to present a gloomy outlook on the economy during his medium-term budget towards the end of October. Some economists have predicted that ratings agency Moody's will downgrade South Africa's outlook from stable to negative. This would have serious consequences for the economy.

In pursuit of its brand promise to enable clients to see money differently, Nedbank believes that a better understanding of how recession and downgrades affect businesses and cashflow is key to mitigating the negative impact of a challenging economy in your business and planning how best to overcome these adversities.

Nedbank believes that a better understanding of how recession and downgrades affect businesses and cashflow is key...

A downgrade by a ratings agency means that the cost of borrowing may become more expensive, making it harder for businesses to remain viable. In challenging economic times business owners have little choice but to manage cashflow and liquidity requirements better to remain sustainable.

"One way to manage cashflow is through more effective debtor and creditor management, which allows businesses to receive funds quickly and extend creditor payment terms where appropriate," says Jonathan Ridley, Nedbank National Head of Business Investment Products and Corporate Saver Retail and Business Banking.

But it is not only about managing payments and receipts. What is also important is that businesses optimise the liquidity associated with those payments and receipts by reducing the interest paid when borrowing funds and increasing the interest earned from excess funds in their accounts. This can be achieved only by understanding the flow of money through their accounts as well as the prevailing market conditions, in both an increasing and decreasing interest rate environment. By combining these two practices, businesses will be able to make the most appropriate investment and borrowing decisions on a sustainable basis.

'Business owners must tap into the latest technology and information available to become more efficient and ride out any economic storm,' says Ridley.

For more information please email
business@nedbank.co.za

see money differently

NEDBANK

Sectional Title Solutions

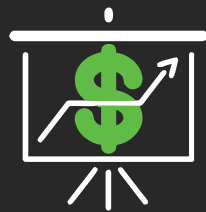
Specialises in providing value-add solutions to Sectional Title Bodies Corporate and Homeowners Associations across South Africa.

Our success is based on over 100 years of combined experience within Community Scheme property sectors.

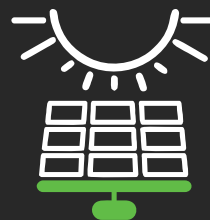
Our tailor-made solution-based approach, combined with our emphasis on a symbiotic working relationship is what adds real value to our clients.

Guided by this “win, win, win” philosophy, STS has partnered with several industry leaders, as well as smaller niche specialist service providers to deliver beneficial, sustainable solutions to our clients, regardless of their size or unique requirements.

Our value-added solutions include:



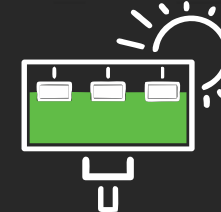
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funding solutions



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solutions



State of the art
Fibre-To-The-Home
solutions



Revenue generating
outdoor media and
advertising solutions



Legal and Levy
Advisory
Services



SECTIONAL
TITLE
SOLUTIONS

Urbanise Community is a web system and have a mobile app.

The system has some a powerful marketing and communication tools for property managers, committee/trustee members, property owners and tenants, a maintenance ticketing, SMS, Lobby screen and a digital noticeboard system.



COMMUNITY APP FEATURES. A BETTER WAY TO WORK TOGETHER.



Building Web Sites

CMS-enabled web site with Overview page, Gallery, Business Directory and What's On page



Members-only Section

Different access levels for committees, owners, tenants, strata and building managers which can be customised for each property



Real-time Financials

Graphical reports showing Cash at Bank, Annual Budget, P&L, Balance Sheet, GL, AP Ledger and Levy Collections



Online Approvals

Committees can approve invoices online based on approval rules and can see all supporting files such as invoices and work orders



Levy Statements

Owners can view their statements in real-time, including invoices and receipts and pay online via a credit card gateway*



Service Requests

Owners and tenants can lodge maintenance or service requests with their manager & track the progress of these requests



Document Library

View important community and apartment documents securely in the cloud and set viewing permissions for different users



Communication Tools

Managers can send out Community Notices, Events, SMS and post comments on the Wall or the building's Lobby screen



Your Look. Your Feel.

Create your own branding, colour schemes, headers and footers to suit your community or business



Serious Security

Hosted on AWS, Urbanise Community combines world-class hosting and application security including user-security and access controls

Bringing your estate the wonders of Fibre!

When we bring you Fibre, we don't just bring the world fastest Internet delivery technology, we bring you everything that comes along with that technology!

VOX HOME PRODUCTS & SERVICES



Fibre to the Home



Voice over IP



Video on Demand




WiFi



Home Security CCTV

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at sales@vox.co.za





A single solution that takes care of both the body corporate's insurance and maintenance needs

Insurance to cover property damage and other risks is essential, but what about appropriate, quality assured and cost-effective maintenance of the sectional title properties?

Body corporates, together with their managing agents, have a duty to plan and fund the necessary maintenance and repair work required for the appropriate upkeep of sectional title. Seemingly inconsequential issues like old geysers and clogged gutters can turn serious if left unchecked. We at Constantia Insurance Group believe the most frequent sectional title claims are for losses resulting from burst geysers and the consequential losses therefrom.

Consequential losses from burst geysers that have not been appropriately maintained can have a substantial impact on insurance losses. Body corporates need to ensure that there is a clear and effective maintenance plan in place, as any inaction could result in partially or wholly void insurance coverage.

Constantia's Residential Sectional Title product not only provides comprehensive insurance cover but also includes the following features and benefits:

- Constantia's one-stop shop for maintenance and repair services provides access to suitable accredited contractors and cost-effective services via a digital platform.

For more information contact us using any of the options below:

Telephone: 011 686 4200 | **Email:** rst@constantiagroup.co.za

Web: www.constantiagroup.co.za

- Provides the body corporate with an insurance guarantee certificate for all work done via the digital platform, in terms of the Maintenance, Repair and Replacement Warranty section of the policy.
- An opportunity for qualifying body corporates to have access to advance maintenance and repair services, where they have insufficient funds in their Maintenance Reserve Fund to commence work on a key element of their 10-Year Maintenance, Repair and Replacement plan.

Finding the right, cost-effective service providers and ensuring that maintenance repairs are carried out on time, goes a long way to saving the body corporate money in the long run and protecting or even increasing property values.

Hello summer

The rainy season is here and with it, the increased risk of storms. Heavy rainfall for many parts of South Africa means that it is crucial for body corporates to ensure that gutter and roof maintenance has been done. Ill-maintained gutters may cause storm water to overflow into rafters and residences, causing untold damage.

We believe the following advice would benefit body corporates:

- Ensure that you seek the advice of a trusted intermediary when selecting a sectional title insurance policy.
- Proper and effective maintenance is key in lowering future costs for both body corporates and property owners, and any preventative actions taken are always seen favourably by insurers.

Constantia Insurance Company Limited is an Authorised Financial Services Provider. FSP No. 31111.

1763/4/Stratitute/10.19



The festive season is upon us. For many it is a time to slow down, spend time with friends and family and enjoy a much needed break.

Estate managers can use the opportunity to send a Season's Greetings newsletter that connects in a friendly way with residents, reminding them of rules but also giving them useful information that they will appreciate.

Rules

It is important to remind residents of scheme rules, especially relating to noise, access control and use of facilities like play areas, pools or a clubhouse.

Contact Numbers

Importantly, provide residents with a list of contact numbers, including:

- Estate manager (incl. after hours and public holidays)
- Managing Agents (incl. account queries)
- Security
- Service Providers (approved electricians, plumbers, etc)
- Emergency Services (incl. Police, Fire and Medical)



Self Service

By giving residents access to the information and a self service platform Estate Managers can make the most of this time to relax and get a much needed break before the new year starts.

[READ MORE](#)



Top Staycation Ideas:

- Move Nights
- Go for a picnic
- Go for a hike
- Catch up on reading
- Go Shopping
- Go to a local museum
- Visit the botanical gardens

Our gift to you:




Make it easy for your residents to get all the information they will need this festive season.

Register a Resident Portal for each of your complexes and you get up to 60 days free.

Please contact us for more information:

www.residentportal.co.za
info@residentportal.co.za

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distributed to an average of
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Contact Lizbé at lizbe@nama.org.za for more information



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