

How to choose the right managing agent

Most people who have experienced Sectional Title living will agree that it is a good idea for the trustees to appoint a managing agent. “But most will also qualify that statement by saying they must take care to choose the right agent – and to monitor that agent’s activities very closely,” says Andrew Schaefer, MD of leading national property management company Trafalgar.

“There have been a number of cases in recent years of managing agents misappropriating body corporate funds, and there are those who feel that even though the trustees in those schemes can’t be blamed, the extent of the damage to owners would have been much less if the trustees had been less ‘trusting’ and more vigilant.”

Nevertheless, he says, Sectional Title (ST) ownership is a heavily legislated and regulated form of property ownership and most owners and trustees will admit that they really don’t know enough about the Sectional Titles Act and the prescribed management rules to successfully run an ST scheme on a day-to-day basis – even if they can manage the finances.

“And this is why most bodies corporate continue to direct their trustees to appoint a managing agent, as provided for in prescribed rule 46, which also details very clearly how the contract with such an agent must be structured and under what conditions it can be terminated.”

Unfortunately, Schaefer says, neither the Act nor the rules have much to say about how to choose the “right” agent in the first place, and without such guidelines it may be difficult for trustees to establish whether applicants are really knowledgeable, reliable or trustworthy.

Consequently, Trafalgar has drawn up the following checklist for trustees who are in the process of recruiting a new managing agent.

- Obtain recommendations and references. It makes no sense to let price be the main influence on your choice of agent when you are talking about the management of a complex worth millions of Rands. Rather approach the trustees of a few other schemes in your area and ask for recommendations. And if you have a particular agent in mind, be sure to obtain – and check - references from several other schemes that they manage or have managed. Remember, the property management industry is very competitive, and good agents and agencies will readily supply the information you need to assess their suitability.
- Check for EAAB and NAMA registration. Almost all managing agents collect levies and are thus legally bound to be registered with the Estate Agency Affairs Board and hold a current Fidelity Fund Certificate. This ensures that any money collected on behalf of the body corporate and deposited into their trust accounts is protected by the EAAB Fidelity Fund. And on top of this, your managing agent should be a member of the National Association of Managing Agents and be willing to agree in writing to abide by its code of conduct.
- Check on the expertise and services on offer. If you’re like most trustees, you will be looking for a managing agent that can provide more than a bookkeeping service, so you’ll need to check that your applicant really does have a thorough understanding of ST legislation and is, preferably, formally qualified in ST management. If you are dealing with an agency, you must establish that it can provide all the day-to-day administrative and operational assistance you require. Such services may include, for example, building and garden maintenance, building insurance, levy financing and debt collection.

- Insist on the proper insurances. Any managing agency or agent with a genuine concern for the welfare of its clients will have its own professional indemnity and fidelity insurance policies to protect them against financial losses due to employee mistakes or dishonesty.

Then once they have decided on a managing agent, Schaefer says, trustees should write into the contract that the agent must provide monthly management accounts so that the cash movement, variance from budget and current assets and liabilities can be scrutinised.

“More established companies should in fact be able to offer online reporting, as well as a website where owners can find contact details, vote on body corporate issues and book facilities.”

Then finally, he says, the trustees must make sure that no payments can be made on behalf of the body corporate without the approval of at least two of them.

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