

# Paddocks

## PRESS

### SECTION 15B(3) OF ACT 95 OF 1986 – REGISTRARS OF DEEDS AND CONVEYANCERS MUST ENSURE THAT PURCHASERS OF SECTIONAL TITLE UNITS DO NOT BUY INTO DEBTS TO THE LOCAL AUTHORITY

#### WHAT IS PADDOCKS PRESS?

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By Prof. Graham Paddock



Working as a managing agent at Annette Laing Property Consultants, Mike (C.E.A, M.I.E.A. STSM (UCT)) deals with a number of 'less affluent' schemes with a high incidence of levy arrears and bodies corporate that owe the Municipality hundreds of thousands of rands for municipal services.

to escape their liability for the body corporate's debts and that new owners should be legally obliged to pay historic debt for services consumed before they bought into the scheme.

But Mike goes further. He has looked carefully at the Sectional Titles Act and come to the conclusion that transfers of units when the body corporate still owes money to the local authority are also illegal, i.e. in terms of the Sectional Titles Act, Registrars of Deeds and conveyancers have a legal ... to page 4

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**Mike Power** points out that the Sectional Titles Act requires in addition to a rates clearance certificate for the unit, that a rates clearance for the land and buildings in the scheme must be lodged when any separately-rated unit is transferred.

In a number of instances, unit sellers have not informed purchasers of the body corporate debt, sometimes as high as R240 000. Mike believes that it is immoral that sellers should be able

### FIDELITY COVER

"Bodies Corporate lose Millions", "Funds Missing", etc. I'm sure you have all seen or heard of similar newspaper headlines at some stage about some or other body corporate losing money due to some dishonest act or mismanagement of some kind or another. Let it not be your body corporate - times are tough and body corporate funds can be a

temptation for some people who have access! We have seen this before and we will see it again.

Let's firstly understand what Fidelity Cover is all about!

If one looks up the meaning of the word "fidelity", the dictionary will refer to words like

"faithfulness" and "loyalty". Fidelity insurance usually refers to insurance against losses arising from the theft or dishonesty by one's employees. Perhaps it should be called "Infidelity Insurance"!

The words "fidelity cover", "fidelity insurance" and "fidelity guarantee" for our purposes, all mean the same



By Mike Addison

## F I D E L I T Y   C O V E R ... c o n t i n u e d

thing. It refers to cover that either the body corporate and/or the managing agent can purchase to cover owners against dishonest trustees, managing agents or their staff.

### Where does this fit in?

Prescribed management rule 29.(2).(b) is very clear and reads as follows:

**"...the trustees shall take all reasonable steps**

**(b) to procure to the extent, if any, as determined by the members of the body corporate in a general meeting, a fidelity guarantee in terms of which shall be refunded any loss of moneys belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by any insured person being any person in the service of the body corporate and all trustees and persons acting in the capacity of managing agents of the body corporate; and"**

More simply put, 1) trustees must see to it that the matter of fidelity cover, how much, if any, needs to be determined and agreed upon at a general meeting 2) If agreed that such is needed, the trustees need to make sure that this decision is adhered to and we would further suggest that this be reviewed regularly, say every year or 2 or if there is a change in management. After all, trustees, managing agents and owners change from time to time and so do the risks and needs.

So how do we (trustees and managing agents) deal with this?

This depends on our situation in respect

of the body corporate's banking arrangements, investment of surplus funds and whether or not the managing agent is operating a trust account for body corporate funds. Whether or not the body corporate is self managed or not will also be a factor.

Let us take a look at a few scenarios and see where your body corporate best fits in:

### Scenario 1:

**Body corporate is self managed and trustees control the funds of the body corporate:**

Under this scenario, we think it would be prudent for owners to decide that the maximum amount usually sitting in the current account plus the maximum expected investment amount in surplus funds should be sufficient. Say a complex of 30 owners, each paying R1,000 per month levy would probably have R50,000 peak balance per month plus say R200,000 building up aimed for surplus to re-paint buildings every 5 years or so. Here it may be decided that R250,000 fidelity cover would be required. As the trustees themselves only control the funds, the body corporate can simply ask the body corporate's insurance broker to increase fidelity cover limit on the body corporate's existing insurance policy. This policy usually covers the body corporate (the insured) against dishonesty/theft/fraud of employees (body corporate staff such as estate manager) and the trustees.

### Scenario 2:

**The body corporate maintains its own bank account, employs a managing agent, but ONLY the trustees sign on the bank account / control the bank account and surplus funds:**

The same as scenario 1 applies - remember, the body corporate's policy excludes the managing agent so here, as long as the managing agent IS NOT given signing powers, the insurance of the body corporate (as arranged per scenario 1) should suffice assuming dishonesty can only occur with regard to funds in this bank account.

### Scenario 3:

**The body corporate maintains it's own bank account but delegates signing authority to the managing agent whole or in part:**

Once this happens, I feel that the body corporate can no longer rely on its own policy to respond. If the managing agent steals money, this event is specifically excluded. The only way to deal with this (i.e. meet needs of fidelity cover requirement) is to a) ask the managing agent to also purchase a fidelity guarantee from an insurer for a specific sum or b) for the body corporate to do so as suggested in rule 29(2)(b). This can easily be done if the managing agent has been underwritten by an insurer and holds his/her own policy. The body corporate's insurance broker needs to carefully advise the body corporate and managing agent taking the rule into account, under these circumstances.

## F I D E L I T Y   C O V E R ... c o n t i n u e d

### Scenario 4:

**The body corporate's funds operate and flow via the managing agent's trust account in terms of the Estate Agents Affairs Act. This includes any surplus funds. This is usually termed 'composite trust account' or, less complimentary, 'bucket account':**

Under this scenario, it may be assumed that the Estate Agents Affairs Board will cover the body corporate against theft or dishonesty of the estate agent in terms of the fidelity fund certificate/guarantee the estate agent/managing agent is obliged to purchase annually from the board. However, trustees need to make sure a) that the funds are in fact operating in trust (otherwise there is no cover) and b) that the managing agent has renewed their subscription annually. The body corporate / managing agent can still decide to purchase a fidelity guarantee from an insurer as additional security especially if there are any concerns / questions over whether a fidelity fund certificate exists has been issued or whether claims will be met.

### Scenario 5:

**The body corporate's funds operates and flows via the managing agent's trust account in terms of the Estate Agents Affairs Act, however, the body corporate is allocated a separate account or "sub account":**

This is often preferable as it has the advantage of being covered by the EAAB fidelity fund as well as being held separately so that the money is not "mixed up" with funds of other bodies corporate. Trustees are thus able to "check" on their funds if provided with state-

ments of account from the managing agent. Surplus funds should be treated similarly.

From a compliance with rule 29(2)(b) point of view, the EAAB takes care of the cover required to cover against the managing agent's dishonesty, as is the case under Scenario 4 above. Again, the more prudent body corporate and managing agent may still decide to purchase some fidelity cover from a reputable insurer, depending on need.

### Scenario 6:

**The levy collections and day to day running of the body corporate funding operates via the managing agent's trust account/s per Scenario 4 or Scenario 5 however, surplus funds are held in the name of the body corporate i.e. outside the trust account:**

Here, According to the Estate Agents Affairs Board (EAAB), the EAAB fidelity fund certificate does not cover the surplus funds held outside of a trust account. Again, it depends on who controls these surplus funds. If the managing agent does, then the body corporate may need to purchase a fidelity guarantee to cover against the managing agent's dishonesty.

Trustees cannot possibly be expected always be up to date and to be fully aware of these technicalities. This highlights once again the need to be sure that one is a) in the capable hands of a reputable, properly insured, qualified managing agent b) an insurance advisor/broker who can at least directly advise the self managed trustees.

What should we do as a managing agent / trustee?

Simple - read rule 29(2)(b) carefully and then ask your insurance broker to match your need - and provide you with written advice in this regard!

As a trustee, check with your managing agent how compliant they are in this regard.

Place "Consideration and Determination of Fidelity Guarantee/Cover Need" on the next AGM agenda per rule 29(2)(b) if never done or last done years ago.

Addsure offers workshops nationally on sectional title insurance and related issues from time to time. Keep an eye on [www.addsure.blogspot.com](http://www.addsure.blogspot.com) for a workshop near you!

## Advanced Scheme Management Course

Registrations for the next UCT (Law@Work) Advanced Scheme Management Course close on the 25th of September 2009.

Course topics include:

Financial and maintenance obligations in mixed schemes; Individual and en-masse extension of sections; Extension of schemes and fractionalising scheme extension rights; Sectional title meeting law and procedures; Creating exclusive use rights and appropriate conditions; Providing for and enforcing financial sections

Contact Kate on 021 674 7818 or [kate@paddocks.co.za](mailto:kate@paddocks.co.za).

## SECTION 15B(3) OF THE ACT ... continued

from page 4... obligation to ensure that they do not occur. He points to section 15B(3) which provides that transfers of units may not be registered without a certificate from the local authority confirming that all amounts due in respect of the land and buildings in the scheme are paid up to date.

When Mike came to this conclusion, he first approached officials at the City of Cape Town's Directorate: Finance well over a year ago. E-mail correspondence from April to August 2008 shows Mike persisting with his query and the City officials referring the matter to their internal legal advisers and then to their

attorneys. Mike says that in the end the City officials told him that they had obtained a legal opinion, but would not tell him what was in it.

In February 2009 Mike sent a letter to the Law Society of the Cape of Good Hope. They also agreed to look into the matter and told Mike that it would be discussed at meetings on 10th and 29th March 2009. He heard nothing more. When he asked for more information, he was told: "The Property Law Committee has taken the matter up with the responsible persons at the City of Cape Town and discussions are ongoing. We will let you know of the decision as soon as these discussions are completed". Mike has not heard from the Cape Law Society since.

So Mike brought the issue to my attention. I looked at section 15B(3) of the Act with new eyes and came to the conclusion that Mike's interpretation of this provision is correct.

In essence, section 15B(3) of the Sectional Titles Act, 95 of 1986, specifically prohibits Registrars of Deeds from registering transfers of units where:

(a) the body corporate is deemed to be established, and

(b) provision is made by law for the separate rating of units

unless there is produced to the Registrar:

(i) a conveyancer's certificate confirming that all moneys due to the body corporate by the transferor in respect of the said unit have been paid or secured to the body corporate's satisfaction; and

(ii) a clearance certificate from the local authority that all rates and

### THE TEXT OF s15B(3)

*(highlighted to emphasise the wording that applies in the circumstances Mike describes, i.e. where the body corporate is established and provision is made for separate rating of units.)*

**(3) The registrar shall not register a transfer of a unit or of an undivided share therein, unless there is produced to him-**

**(a) a conveyancer's certificate confirming that as at date of registration-**

**(i) (aa) if a body corporate is deemed to be established in terms of section 36 (1), that body corporate has certified that all moneys due to the body corporate by the transferor in respect of the said unit have been paid, or that provision has been made to the satisfaction of the body corporate for the payment thereof ; or**

**(bb) if a body corporate is not deemed to be established, no moneys are payable;**

**(ii) no real right of extension of a scheme as contemplated in section 25 is registered in favour of a developer or the body corporate or, if such right is so registered, that it is disclosed in the deed of alienation to the transferee as contemplated in section 25 (14) or, if it is not so disclosed, that the transferee after the conclusion of the deed of alienation has in writing exercised his or her option in terms of section 25 (15) and that he or she has elected not to annul the alienation on the ground of the said defect;**

**(b) a clearance certificate from the local authority that all rates and moneys due to such local authority under any law in respect of the land and buildings of the scheme have been paid if-**

**(i) provision is made by law for the separate rating of units; or**

**(ii) the transfer will result in the establishment of a body corporate in terms of section 36;**

**(c) if the transferor is a developer, an affidavit by the developer in which it is declared whether the relevant unit is a unit to which the provisions of section 10 apply or not and, if those provisions so apply, that the transfer is effected in terms of a contract which is not contrary to any provision of that section.**

## SECTION 15B(3) OF THE ACT ... continued

moneys due to such local authority under any law in respect of the land and buildings of the scheme have been paid.

The requirement for a rates clearance certificate in respect of the land and buildings in the scheme when a separately-rated unit is transferred is absolutely clear from section 15B(3)(a) and (b), but I do not think that Registrars of Deeds and local authorities have taken this provision into account in implementing the separate rating of units in schemes.

### QUESTIONS:

What should be done about this situation?

Is the provision in section 15B(3) unne-

cessary? Should it be removed by amendment of the Act? But even if it should be removed, how can the Registrars of Deeds ignore this requirement while it remains in the Act?

Is the provision, as Mike believes, a necessary and sensible consumer protection provision designed to prevent the abuses and inequities that Mike complains of? And if it is, why are the local authorities and Registrars of Deeds not applying it?

It is clear to me, if not to the City of Cape Town and to the Law Society of the Cape of Good Hope, that the Registrar of Deeds is legally obliged to require lodgment of a local authority clearance in

respect of the land and buildings in the relevant scheme before allowing registration of transfer of a separately-rated unit. I have sent an advance copy of this article to the office of the Chief Registrar of Deeds, who I consider to be the government official responsible to deal with this issue. ■

*Have your say about this article at our Paddocks Facebook Fanpage.*



Left: Mike Power

UCT Law @ work  
Professional Development Project



## UCT (Law@Work) Business Writing and Legal Documents Course

### This part-time course will:

- deal with the challenges of writing effective emails, memos, minutes, proposals, agendas, reports, notices, corporate CVs or any other written communications
- provide you with the confidence and skills that you require to complete these written communications effectively; and

### Who should attend:

Working professionals and anyone who deals with English in a business context or wishes to improve their English writing skills and/or understanding legal documents.

### Course dates:

- Registrations close: 14th of August 2009
- Course starts: 24th of August 2009

For further information please contact Deborah on 021 683 3633 or visit [www.getsmarter.co.za](http://www.getsmarter.co.za)



## NEW AND IMPROVED SECTIONAL TITLE BOOKKEEPING COURSE

In March 2009, Paddocks together with Clint Riddin & Associates presented the first Sectional Title Bookkeeping Course to 87 students in Cape Town and Johannesburg. The course was presented over a 2 day period and students had the option of completing an exam to test their competency in the field of sectional title bookkeeping.

The course has since been reformatted to include 3 weeks of internet-based distance learning prior to the 2-day contact session. During these 3 weeks, students will work through material covering **accounting terminology, the concept of accrual-based accounting, generally accepted accounting practice and where the sectional title treatment of certain entries and transactions differ, and financial reporting standards and the influence of the different needs of sectional title.** The 3 new modules have been included to ensure that all students have a basic knowledge of sectional title bookkeeping terms and concepts before they attend the 2-day workshop and thereby extract maximum value from the course.

### The Next Paddocks Sectional Title Bookkeeping Course:

Paddocks in conjunction with Clint Riddin & Associates presents the Sectional Title Bookkeeping Course - a 3 week distance-learning course with a 2-day workshop focusing on the legal and financial aspects of sectional title bookkeeping.

Students received a 10% discount when enrolling in groups of 3.

### The Course in a Nutshell:

- Ideal for anyone who wishes to practice as, or understand the function of, a bookkeeper of sectional title schemes
- Foundation modules are covered during the first 3 weeks via distance-learning
- Students then attend a 2-day intensive workshop presented in Cape Town and Johannesburg
- Focuses on the legal, financial and administrative aspects of sectional title bookkeeping
- Will equip students with necessary skills to be highly competent bookkeepers of sectional title schemes
- Students have the opportunity to write an optional exam on the last day of the workshops to test their knowledge
- Compiled and presented by sectional title accountant Clint Riddin.

### Course Dates:

**Registrations close:** 11 September 2009

**Course begins:** 21 September 2009

**Course fee:** R3,500 (excl VAT)

### Ideal For:

- Managing Agents and Portfolio Managers
- Trustees, Unit Owners, Chairpersons
- Attorneys
- Property Development Financiers

For further information please contact Kate at 021 674 7818 or at [kate@paddocks.co.za](mailto:kate@paddocks.co.za).

**"In March 2009, Paddocks together with Clint Riddin @ Associates presented the first Sectional Title Bookkeeping Course to 87 students in Cape Town and Johannesburg"**

**The 3 new modules include: accounting terminology, the concept of accrual-based accounting, generally accepted accounting practice and where the sectional title treatment of certain entries and transactions differ, and financial reporting standards and the influence of the different needs of sectional title.**

**"The additional modules have been included to ensure that all students have a basic knowledge of sectional title bookkeeping terms and concepts before they attend the 2-day workshop and thereby extract maximum value from the course."**

## BUILDING MAINTENANCE

BY ROB PADDOCK (Rob the Builder)

### Types of Windows and Exterior Doors



#### By Rob Paddock

Any item that gets pushed, pulled and slammed as much as windows and doors in a typical South African home is likely to take a beating over time. And even the highest quality items that get beaten on a regular basis are bound to require some maintenance and upkeep from time to time. A useful first step in window and door maintenance is to become more familiar with the common terms used to describe windows and doors and their various parts.

There are two main types of windows - those that open, referred to as "operable windows", and those that do not open, referred to as "fixed windows". Your unit may have different types of operable windows, such as awning, casement, hopper, horizontal slider, or tilt and turn windows. The opening part of operable windows is often referred to as a "sash" or "vent". The window frames can be made of wood, metal or vinyl. The transparent portion of the window is typically referred to as the "glazing".

Exterior doors generally come in two varieties: hinged or sliding (such as sliding

patio doors). Exterior doors are generally made of metal or wood. Sliding patio doorframes are usually made of metal or vinyl, and resemble a large horizontal sliding window.

Operable windows and exterior doors share similar methods of providing an air and weather seal, or what is commonly referred to as weather-stripping.

#### Why do windows and doors need to be maintained?

Windows and exterior doors deteriorate over time due to age, usage, exposure to the weather and wear and tear. Proper maintenance will ensure that they remain in good working order for as long as possible, and continue to function well in terms of providing clear vision to the outdoors, as well as providing security, access, light, ventilation, weather protection and aesthetics.

A relatively small investment in maintenance will extend the life of your doors and exterior windows, as well as reducing heat loss and energy consumption. Most importantly, proper maintenance will help prevent major damage that can arise through condensation or water leakage from the window or exterior door into the interior of the building or into the wall.

#### What maintenance must be performed?

Generally speaking, proper inspection and maintenance should cover all com-

ponents that make-up windows or exterior doors, including:

- glass/glazing;
- frame material and finishes;
- operating hardware such as handles, cranks, hinges, latches and locks;
- weather-stripping;
- screens;
- sealant joints and gaskets; and
- surrounding interior finishes for any signs of water leakage or damage.

The inspection and maintenance of windows and doors should be coordinated by your schemes managing agent or an experienced contractor. Unit owners can carry out a few basic inspection and maintenance tasks on the interior side only, such as cleaning the sills, frames, door surfaces or glass. Beyond this, however, owners/tenants should report symptoms of potential problems or maintenance concerns to the schemes managing agent.

Specific inspection and maintenance items will depend on the type of windows and exterior doors that you have. Ensure that any maintenance guides provided by the window or door manufacturer for your building are closely followed. A comprehensive checklist of common window and door maintenance items will be described in my next article for Paddocks Press.

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### Why?

We regularly update our Paddocks Fan Page with relevant articles as well as photos of the various courses and events presented during the year. Stay connected with your student group and other Paddocks' students and keep up to date with bite-size Sectional Title articles.

### How to find us:

- Simply log-in to Facebook, and search for "Paddocks" on the top right hand side.
- If the Paddocks Fan Page is not displayed under "All Results", click "Pages" and it will be displayed.
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### Why?

For short updates on the Sectional Title industry and hot "sectional title tips of the day."

### How to find us:

- Type the following into browser's address bar: [http://twitter.com/paddocks\\_tweet](http://twitter.com/paddocks_tweet)
- If you are already registered on Twitter, click "Follow".
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## Advanced Sectional Title Scheme Management Course

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### Course topics include:

Financial and maintenance obligations in mixed schemes; Individual and en-masse extension of sections; Extension of schemes and fractionalising scheme extension rights; Sectional title meeting law and procedures; Creating exclusive use rights and appropriate conditions; Providing for and enforcing financial sections.

### Course Dates:

Registrations close:	25th of September 2009
Course begins:	5th of October 2009
Course fee:	R7,000 (excl VAT)

For further information contact Kate on 021 674 7818 or [kate@paddocks.co.za](mailto:kate@paddocks.co.za).



## Q & A WITH THE PROFESSOR



By Prof. Graham Paddock

### Question: Blocked Telephone Cable Duct

Telkom was at my home today to install a telephone line. The technician determined that the telephone duct that leads from my unit to the main Telkom board on my floor is blocked up in some way that he could not pull the telephone line in.

He mentioned that I need to get a electrician in to fix or open the duct so that the telephone line can be pulled in and connected. I contacted my body corporate and they are refusing to pay for the electrician to come and repair the duct.

I feel that this is part of the building infrastructure and they should carry the repair cost and not me. Please advise if I am right or not.

*Craig Retief*

### Answer

If the defect is in the common property, i.e. a common property duct is blocked, the body corporate is responsible to arrange and pay for its repair. The fact that the common property duct only exists to take a cable to your or a limited number of owners sections does not mean that you have to pay for the repair.

### Question: Debtor Protection Under the National Credit Act

One of our owners has been in arrears with her levies and court action has been taken. We have now received a letter to say that the owner is "under debt review" and "...please remember that you will never get an order of the court because you are not a registered credit provider and this is exclusively for credit agreements only. As discussed, I will, however, place you in her living budget expenses".

Does this mean that we will never be able to take action against defaulters for levies if they place themselves under debt review.

*Judy Blyth*

### Answer

The question of whether the National Credit Act does or does not apply to sectional title levies has not yet been determined by a court.

A lawyer at the National Credit Regulator has given an opinion that levy collections do fall under the credit consumer protection provisions in the Act. If this is correct, then bodies corporate will have to take payment of levies in reduced instalments under the debt review and re-scheduling procedures provided for under the NCA.

I intend to deal with the arguments - for and against - in a future article.

### Question: Extension of a Balcony - can it be a Exclusive Use Area?

Where balconies are included in a sec-

tion, can an owner extend the balcony further and ask that the extension be included in the rules as new exclusive use area?

*Connie Mcarthur*

### Answer

An extension of a part of the balcony part of a section in a scheme where all balconies are parts of sections will very likely be considered an extension of that section.

In this case the provisions of section 24 of the Act must be complied with and the trustees are not allowed to approve the building works even if they are within an existing exclusive use area.

### Question: Owners not willing to stand for election as trustees

Please advise what our situation will be if no members of the BC are prepared to stand for election as Trustees at our next AGM.

It is a very real situation that we may find ourselves in and need to understand how the AGM will proceed at this point as well as for the following year.

*Mike Richardson*

### Answer

Try hard to get people to stand for election. Lead by example.

But if you really cannot get anyone to volunteer, the owners may need to consider paying someone to do the job. A special resolution is required to authorise payment of a trustee, and this is a

## Q & A WITH THE PROFESSOR ...continued

solution we have implemented in a number of schemes that require a professional, accountable person on site in addition to the managing agents.

The positive aspect of paying a trustee is that you can then hold them to detailed performance standards.

**Question: Is arbitration mandatory if PMR 71 is removed?**

If a body corporate has adopted an entirely new set of management rules that make no mention of arbitration (dispute resolution save for the term legal proceedings) and do not include PMR 71, is it obligated to arbitrate if a dispute arises?

My thinking is that the body corporate would not be bound to the Greenacres decision because it has adopted new rules in substitution of the existing rules.

*Tracey Steele*

**Answer**

The Minister inserted PMR 71 into Annexure 8 to the regulations under the Act (the PMRs) in 1997. Thereafter a scheme could, by unanimous resolution and lodging a form V with the Registrar, have removed this provision from its rules.

The Arbitration Act would still apply to any arbitration held under the Act, as provided in Regulation 39, but the scheme rules would no longer provide that disputes "between the body corporate and an owner or between owners" must be submitted to arbitration, i.e. the compulsory submission to arbitra-

tion contained in PMR 71 would no longer apply to that scheme.

**Question: Is a non-owner trustee entitled to attend the AGM?**

What is the position of a non-owner trustee who does not hold a proxy with regard to attendance /participation/voting at the Annual General Meeting?

Can he only attend if he is specifically invited?

*Annette Stones*

**Answer**

Trustees are entitled to be at the AGM to present their budget, their report and do all the other things required of them at the AGM.

A trustee is one of the scheme's elected executive and it is in this capacity that s/he attends the AGM as of right.

A non-owner, non-proxy trustee cannot vote at the AGM, that being the right of an owner or his/her representative, but such a trustee can certainly attend and speak without the need for any invitation.

**Question: PQ deviations**

I am wondering if a PQ can be amended, such that certain owners pay more, due to having use of a lift, which the majority of the members don't utilise.

I own property in a scheme which comprises three separate buildings. The building with the fewest residents has a lift, the other two buildings don't have a

lift. The majority of the residents would therefore never use the lift. Is there any precedent for adjusting a PQ due to the 'exclusive use' by some of something like a lift?

*Ashwin West*

**Answer**

Actual PQs are only amended when the sections in the scheme are changed or added to, but the Act allows owners to change two of the effects of the participation quotas, namely the value of votes and the extent of liability for contributions to the scheme's administrative fund.

Section 32(4) of the Act sets out the procedure your scheme needs to follow to make rules that allow it to collect levies from owners other than in accordance with the participation quota schedules.

It sounds as if your scheme might consider ring-fencing the expenses of each building and ensuring that these are recovered only from the owners of sections in those buildings.

This could also be achieved by making the one lift subject to exclusive use rights in favour of the owners of sections in the same building.

I suggest that if they think that this type of arrangement is likely to be approved by a significant number of owners, the trustees should get someone with experience of segmented expenses in sectional title schemes to advise them on the detail of a proposal they can make to owners. ■

# Classifieds

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**Compeg Services** is a leading Sectional Title and HOA Management Company. We have been providing services for over 30 years and this has given us invaluable experience to help you with any matters regarding the management of your complex. Managing Property Properly.

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**Email:** info@compeg.com

**Website:** www.compeg.com

## EY Stuart

We specialise in Property and Sectional Title Law. Our services include Commercial Law, Family Law, High Court litigation, Magistrate's Court litigation, collections, evictions, conveyancing, sequestrations and liquidations.

**Tel:** 012 320 1079 / 322 2401/ 322 5930

**Fax:** 012 322 7337/320 4434

## Sectional Title Auditors

**Kruger Stoltz Inc** registered accountants and auditors: Body Corporate and Home Owners Association audits completed within 2 weeks.

For further details, contact us.

**Tel:** 011 792 1010

**Email:** office@beanies.co.za

**Website:** www.beanies.co.za

## Sectional Titles Online

Sectional Titles Online ([www.sto.co.za](http://www.sto.co.za)) is a free community website that facilitates the exchange of sectional title knowledge. The website has over 8,000 users with over 2,500 questions and answers, over 14,000 sectional plans and many more resources.

See [www.paddocks.co.za](http://www.paddocks.co.za) for more information.

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## ABOUT PADDOCKS

Paddocks is a specialist sectional title firm that offers a range of sectional title training products.

Prof. Graham Paddock is the head of Paddocks, an authority on Sectional Title law and practice and an adjunct Professor at the University of Cape Town. He is the Project Manager and one of the lead consultants to the Department of Human Habitation in the restructuring of the Sectional Titles Act and the establishment of an Ombud Service.

### Training Products

Together with the Universities of Cape Town and Stellenbosch as well as the National

Association of Managing Agents and other professional organisations, Paddocks Learning offers several sectional title certificate courses.

### Paddocks Sectional Title Survival Manual

Since 1983, Prof. Graham Paddock has written sectional title books, pamphlets and training manuals for trustees and managing agents. The Sectional Title Survival Manual is a popular guide to the management of sectional title schemes. It is available for order from our offices at a cost of R265 (including postage and packaging).

### Paddocks Press

Paddocks Press is a free digital newsletter published monthly to educate and update the sectional title community.

### Sectional Titles Online

Sectional Titles Online ([www.sto.co.za](http://www.sto.co.za)) is a free community website that facilitates the exchange of sectional title knowledge. The website has over 8,000 users with over 2,500 questions and answers, over 14,000 sectional plans and many more resources.

See [www.paddocks.co.za](http://www.paddocks.co.za) for more information. ■

### The Paddocks Team

