



Resolutions and the role of CSOS in sectional title living

Training by Leigh Maingard – 27 November 2023

Legislation

- Sectional Titles Act 95 of 1986
- STSM Act 8 of 2011 & Regulations
- CSOS Act 9 of 2011 & Regulations
- CSOS Act – Scheduling Levies & Fee Regulations

Resolutions

Types of resolutions:

- Trustee resolutions - Majority vote
- Ordinary resolutions - General meeting, counted in value of votes (PQ - %)
- Special resolutions
 - General meeting, ordinary quorum (33,33%), counted in number & value
 - Round Robin – 75% of all the members in number & value (sections & PQ - %)
- Unanimous resolutions
 - General meeting, quorum (80,00%), counted in number & value
 - Round Robin – all the members to vote in favour

Resolutions

Considerations for resolutions:

- Trustee resolutions – within their responsibilities & powers (refer STSMA)
- Ordinary resolutions – inaugural & AGM agenda items
- Special resolutions
 - Conduct rules, EUA, common property issues
- Unanimous resolutions
 - Management rules, EUA, matters that will have a more diverse effect on owners

Resolutions

- Resolutions can be overturned if requirements not met
- Call the meeting again and ensure requirements are met
- Approach CSOS to compel scheme to have meeting again and ensure requirements are met

Community Schemes Ombud Service

What is the purpose of the CSOS & the CSOS Act?

- Establishment of CSOS
- Provide mandate and functions
- Provide dispute resolution mechanism
- Provide for matters connected therewith

Community scheme

What is a community scheme?

- Any development with shared use
- Shared responsibility
- Land and building

Examples:

- *Sectional title development*
- *Share block company*
- *Home or property owners` association*
- *Housing scheme for retired persons*
- *Housing co-operative*

Lodging an application or dispute

Who can? Any person who is a party to or materially affected by the dispute.

What must be included? Relief sought & grounds for relief. Names of all persons materially affected.

Grounds for relief:

- financial
- behavioural
- scheme governance
- meetings
- management services
- works pertaining to private and common areas
- general and other issues (i.e. denied access to information)

Other considerations

Time limits may apply to void decisions taken by scheme committee

Ombud may reject an application by written notice:

- Not in jurisdiction of Ombud
- Application does not comply with time limits
- Applicant fails to confirm within 14 days to proceed
- Ombud believes other court of law must preside

Ombud must inform scheme and relevant parties of dispute

Legal representation not allowed by parties:

- Unless mutually agreed to
- Adjudicator believes unreasonable for parties not to have legal rep.

Adjudicators

Function of adjudicator:

- Investigate application and decide if an order can be made
- Consider relevance of evidence presented

Powers of adjudicator:

- Request further information from relevant parties
- Request written submissions from person that may assist with matter
- Inspect areas relevant to application (on site)
- Inspect schemes records – minimum 24 hour notice

Must provide adjudication order to scheme, relevant parties, ombud

Adjudication order can be made an order of Court (not automatic)

Applicant can appeal adjudication order in the High Court

THANK YOU