

## *Managing property properly*

### AGMs – A few questions answered

Posted in: [Paddocks Press Newsletter](#)

We were recently asked to answer a few questions relating to the responsibilities of the chairperson at the annual general meeting (“AGM”), as well as the eligibility for voting at this meeting.

The first question is whether the managing agent of the scheme may chair the AGM, on behalf of the chairperson of the trustees, who is present at the AGM.

To answer this question, we refer to Prescribed Management Rule (“PMR”) 59(1) of Annexure 8 of the Regulations to the Sectional Titles Act 95 of 1986 (“the Act”), which provides that the chairman of the trustees shall preside as chairman at every general meeting of the body corporate, unless otherwise resolved by the members of the body corporate at the meeting.

PMR 59(2) further provides that if there is no chairman, or if the chairman of the trustees is not present within fifteen minutes after the time appointed for the holding of the meeting, or if he is unwilling or unable to act as chairman, the members present shall elect a chairman for the meeting.

As can be seen from the PMR, as set out above, there is a mandatory requirement that the chairperson of the trustees chair the annual general meeting, unless the members resolve otherwise. Should the chairperson be unwilling or unable to chair the meeting, it may be proposed that the managing agent chair the meeting, if so resolved by the members in attendance. Alternatively, the chairperson of the trustees may chair the meeting, but proceed to refer particular agenda items to the managing agent to address, for example the budget or annual financial statements.

The next question addresses whether an owner, who is in arrears with their levies, may vote at an AGM, should the chairperson decide that the amount in arrears is negligible.

PMR 64 provides that an owner shall not be entitled to vote at any general meeting if (a) any contributions payable by him/her in respect of their section and their undivided share in the common property have not been duly paid. However, this disqualification from the vote is only applicable to ordinary resolutions, and not to special or unanimous resolutions.

There is no provision for the chairperson (or trustees and / or members of the body corporate) to exercise their discretion in allowing an owner to vote on ordinary resolutions should there only be a negligible amount outstanding on their levy accounts. Should the owner be in a position to settle the arrear amounts, or provide proof of payment, at the meeting, the chairperson may then confirm that the owner is no longer disqualified from voting at the meeting.

The last question that we will address is whether the chairperson should advise the members present at the AGM, that should they be in default with their levies, that they are not entitled to vote.

There is no legal obligation on the chairperson to advise the members in attendance at the meeting that should they be in default with their levy contributions, and other charges, that they will be disqualified from voting. However, for administrative purposes, and to ensure the smooth running of the meeting, the members should be reminded of this fact. In this regard, we suggest that the notice calling the annual general meeting should contain this reminder, which may be repeated during attendance registration prior to the commencement of the meeting.