

Managing property properly

CHAIRPERSONS IN SECTIONAL TITLE: What do you need to know?

Any man who says
“I am the King”
is no true king.

By Jennifer Paddock

In sectional title schemes the chairperson can be mistaken for (or decide to be) “the king of the castle”. But although a committed chairperson may well work harder and take on more responsibility than the rest of the trustees, s/he does not have individual executive powers and may not make decisions relating to the scheme’s management on his/her own. The responsibility to manage the scheme falls onto the trustees as a group.

The duties and functions of a chairperson that are exercised alone are only those relating to the proper conduct and chairing of meetings. In this post we look at a few of the legalities surrounding the chairperson’s position as set out in the prescribed management rules (PMRs) made under the regulations to the Sectional Titles Act 95 of 1986.

Election and tenure

At each annual general meeting (AGM) the body corporate is obliged to elect trustees for the ensuing year. At their first meeting after the AGM, the newly elected trustees must elect a chairperson from among their number. The chairperson will hold office until the end of the next AGM.

Voting rights

The chairperson has a deliberative as well as a casting vote. A deliberative vote is the chairperson’s ordinary vote, which is used in his/her capacity as a trustee at a trustee meeting. A casting vote is a vote reserved only for the chairperson in the context of trustee meetings. This vote can only be used by the chairperson to break a deadlock where, after all the trustees have

cast their deliberative votes (including the chairperson), the votes are tied. The casting vote cannot be used in a trustee meeting where there are only two trustees present.

Removal

The chairperson can be removed during his/her term of office either by the trustees taking a decision to this effect in a trustee meeting or the body corporate doing so in a general meeting, provided that notice of the intention to vote upon such removal must be disclosed in the notice calling the meeting. [Click here](#) to read another post I've written dealing with the removal of a chairperson in more detail.

Disqualification

PMR 13 envisages a number of circumstances in which a trustee is automatically disqualified from office. If the chairperson is disqualified as a trustee in terms of this provision, it follows that s/he is also automatically disqualified from the office of chairperson.

Replacement

If the chairperson vacates office, is removed or is disqualified the trustees must elect another chairperson from among their number who will hold office for the remainder of the period and who will have the same voting rights.

Temporary chairperson

If the chairperson vacates the chair during the course of a trustee meeting, is not present or for some reason is unable or unwilling to preside, the trustees present must choose another chairperson for the duration of that meeting. This temporary chairperson will have the same voting rights as the normal chairperson.

If the chairperson is not present within fifteen minutes of the scheduled time of a general meeting, the members present must elect a temporary chairperson for the duration of the meeting.

Entitlement to chair meetings

The chairperson is entitled to preside as chairperson at every general meeting of the body corporate unless the members of the body corporate at that meeting resolve otherwise. For our 12 Steps to successfully chairing body corporate meetings, [click here](#).

Chairperson's discretion regarding voting method

The default method of voting in sectional title schemes is by a show of hands unless a poll is demanded by any person entitled to vote at the meeting either prior to or on the declaration of the result by the chairperson. However, if a poll is not demanded the chairperson is entitled, in his/her discretion, to change the method of voting to one by poll and not by show of hands.