

Managing property properly

Parking: How far are trustees allowed to go?

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We often categorise the issues we experience in sectional title schemes as the “three ‘P’s’ of sectional title living”, namely pets, parking and people, which are more often than not, the cause of all the problems in sectional title schemes. Although this list has been added to over time, the abovementioned three issues remain the favourites.

Prescribed Conduct Rule (“PCR”) 3(1) included in Annexure 9 to the Regulations under the Sectional Titles Act 95 of 1986 (“the Act”) *provides that no owner or occupier shall park or stand any vehicle upon the common property, or permit or allow any vehicle to be parked or stood upon the common property, without the consent of the trustees in writing.*

Demarcated visitors parking bays are included in this PCR, and many schemes specifically prohibit or regulate residents’ use of visitors parking bays in their additional, amended or substituted registered conduct rules.

PCR 3(2) further provides that *the trustees may cause to be removed or towed away, at the risk and expense of the owner of the vehicle, any vehicle parked, standing or abandoned on the common property without the trustees’ consent.*



This PCR does not provide that the trustees may themselves remove or tow away the vehicle rather than they arrange for the removal or towing away of the vehicle. By arranging a specialised contractor, the trustees reduce the risk of possible damage to the vehicle, and liability for such damage. However, the situation has occurred when the trustees, managing agent or scheme employees have been unsuccessful in their attempts to arrange such a contractor to come out to the scheme to remove and / or tow away a vehicle. In such a case, clamping of the vehicle may be a better option.

PCR 3(2) does not provide for clamping of vehicles, however the scheme’s registered rules may provide for this action to be taken by the trustees, managing agent, security or other scheme employee. This additional, amended or substituted rule will need to comply with the provisions of section 35 of the Act, in so far as the rule has been approved by the members by either unanimous or special resolution, and that the rule has been filed with the Registrar of Deeds.

Bearing in mind that PCR 3(2) provides that the owner of the vehicle will be liable for the expense of removing and / or towing away the vehicle, when drafting a rule providing for clamping of vehicles, provision may be made for a release fee or penalty to be paid by the owner of the vehicle before the clamp will be removed from the vehicle. Issues may arise when the owner of the vehicle wishes to remove the vehicle at a time when there is no one available to release the clamp ie. late at night. When clamping the vehicle, it is suggested that a notice be placed on the car, providing the contact details of the party in charge of releasing the clamp.

As with any fining or penalty provision in the scheme's rules, the rule (and the amount of the fine or penalty imposed) must be reasonable, in terms of section 35(3) of the Act, and be enforced through proper procedure.

Footnote from Compeg:

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