

## *Managing property properly*

### Withholding levies

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By Jennifer Paddock

An owner is not entitled to withhold levies to set-off a debt she believes is owed to her by the body corporate.

**There is no provision** in the Sectional Titles Act 95 of 1986 (“the Act”) or the prescribed rules that gives an owner the right to withhold duly raised levies. Even if an owner believes that the body corporate owes her money, this does not entitle her simply to set-off what she believes to be the quantum of the claim by withholding her levy payments without the matter being adjudicated. One is only entitled to set-off a “liquid debt” once a matter has been adjudicated by an arbitrator or a judge.

The legally correct way for an owner to deal with a situation where she believes that she is owed money by the body corporate is to continue paying levies and attempt to recover the money that she believes is owed to her **through the legal channels of arbitration or litigation.**

**If an owner does withhold her levies, she is subject to the following “sanctions” in terms of the prescribed rules:**

1. In terms of **prescribed management rule 31(6)**, the trustees are entitled to set a rate of interest to be applied to overdue amounts, so withholding levies could end up costing an owner substantially more than just the levy amounts in the long run.
2. **Prescribed management rule 64** provides that except in the cases of special and unanimous resolutions, an owner is not entitled to vote if any contributions payable by her in respect of her section have not been duly paid. Therefore an owner who withholds her levies is unable to vote for ordinary resolutions in respect of the section that she is withholding levies on.

#### ***Footnote from Compeg:***

*The views in this article are those of the author and do not necessarily represent the views of Compeg. Don't forget, you can visit our website to check your latest statements and as trustees, you can view levy rolls, disbursement statements and investment statements*