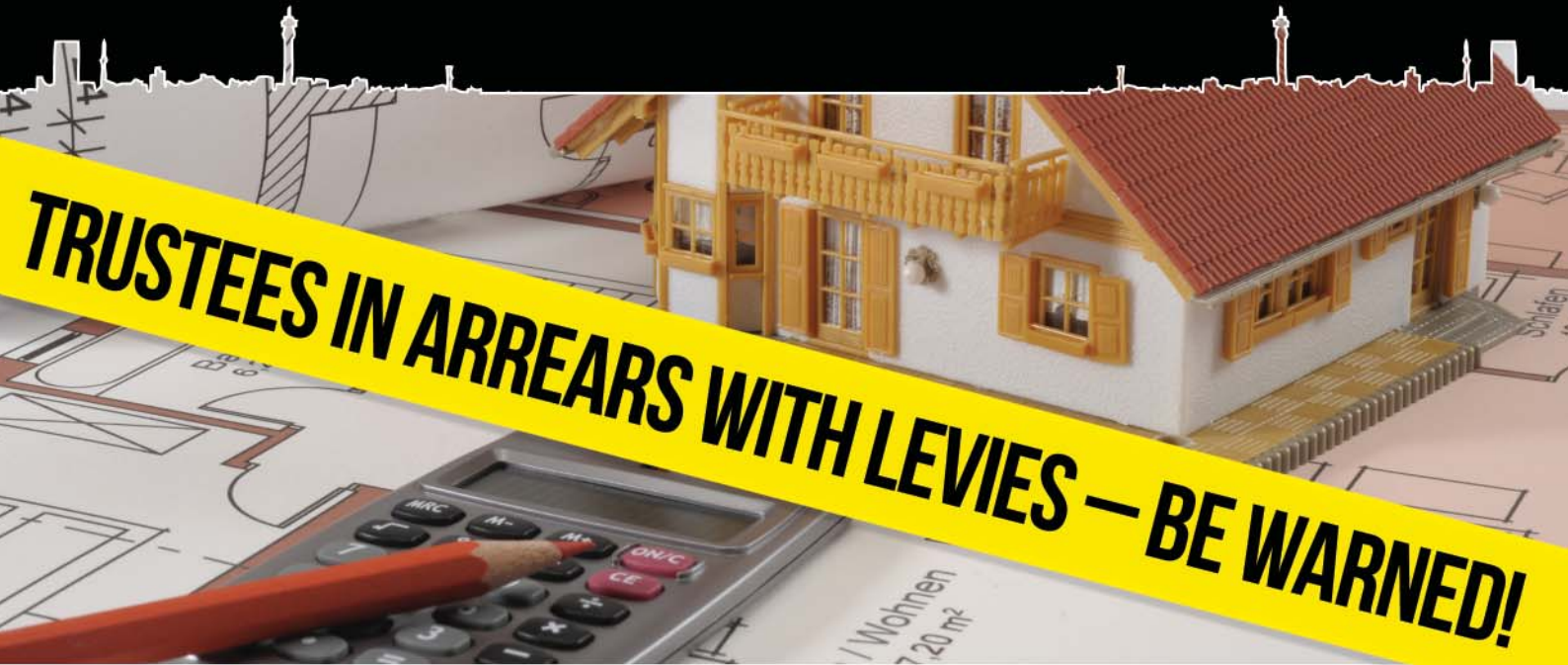


Managing property properly



It seems that we receive endless calls on a daily basis asking when the Sectional Title Schemes Management Act and Ombudsman Act will become effective. We are aware that a board has been constituted, and once the Ombudsman's office has been set up, the Acts will be passed into law, probably within this year.

The latest, hot off the press amendments to the Sectional Title Regulations, have become effective from the 14th of April 2013. It is heartening to note that one of the issues we have been lobbying for so long has finally been addressed. Let's start with that:

In an amendment to Annexure 8, Rule 7, we see an addition which states that the nomination or appointment of a Trustee cannot be made if that Trustee is in arrears with any contributions payable by him in respect of his section and his undivided share in common property. In addition, there can be no nomination or appointment if the individual has persisted to breach Conduct rules notwithstanding written warning by the Trustees or Managing Agents to refrain from breaching such rules. This will be interesting where an individual who has been nominated disputes that he is in arrears, or that he is in breach of Conduct rules. We suspect that many lively Annual General meetings lie ahead.

What about the situation where a Trustee is already in his position, and falls in arrears. The latest amendment now says that if he is in arrears for more than 60 days with any levies or contributions payable by him in respect of his unit or exclusive use area, and he fails to bring such arrears up to date within 7 days of being notified to do so, then he ceases to hold office. This appears to be automatic.

As mentioned, we have been vociferous in our views on this issue. This amendment is way overdue, and will ensure that Trustees can be relied on to hand over the debtors of the complex for legal action.

In the past, a Trustee who himself was in arrears, would be loath to initiate legal action, as he himself would be implicated.

The next amendment relates to a rule which has been deleted, Rule 31(4A). That rule catered for the temporary increase in the levy between the financial year end of the scheme, and the Annual General meeting, by allowing an escalation of 10%. As this rule has been deleted, what will replace it? Well, the answer may lie in the insertion of Rule 31(4B) – which says that “the Trustees may from time to time, when necessary, make special levies upon the owners or call upon them to make special contributions in respect of all such expenses as are not included in the budget”.

In other words, you could utilise the above section to raise the levy during the interim period between Financial Year end and the Annual General Meeting.

Finally, an amendment has just been made to the regulation of the Deeds Registries Act which is relevant to Sectional Title and which will be effective from 2 May 2013. The amendment stipulates that any person seeking to resolve a dispute by invoking Management Rule 71(4) ie: applying to the Chief Registrar for an arbitrator, will now have to pay a fee of R500. The Deeds office is entitled to a prescribed fee, but why this amendment has been effected now, so close to the passing of new Ombudsman legislation which will effectively wipe out Management rule 71, is a mystery.

There are exciting developments ahead of us, and only time will tell how the Sectional Title industry will be impacted.

Marina Constat (BA LLB FA Arb)
Director
BBM Inc Attorneys

Footnote from Compeg:

Don't forget, you can visit our website to check your latest statements and trustees can view levy rolls, disbursements statements and investment statements.



Complaints and Compliments

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“ ”

Quote of the Month

“Run a home like you would a small business and treat it with the same seriousness.”

- Anthea Turner



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2nd floor, 9 St Davids Place, Parktown, 2193
T: 011 481 3400 | F: 011 484 8460 | E: info@compeg.com

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