

CASE

CLOSED

“ Provision of access discs to all owners instead of waiting for the security guard to open the gate, removal of all private water meters installed to the various units in the building, minutes of the special meetings, AGM and statement of levies must be distributed in the manner that is accessible to the Applicant, which is her physical address, same will apply to all other owners who do not have access to email ”

These are the words of Adjudicator Thulani Khambule's order when closing a case in Durban between Adelaide Norris, an Applicant and the Respondent, Trustees of Stretten Bay Body Corporate recently.

The Applicant submitted that as owners they were not given the choice to make a collective

decision on implementing prepaid water meters, Furthermore, they do not have access discs as they should have access to their properties, i.e. the building entrance. She further alleged that they do not have Annual General Meetings (AGM) which is imperative to discuss important decisions affecting the building, and as owners they feel it's important to receive minutes of the meetings held as some of them do not have access to emails and they do not receive levy statements.

In their response, the Managing agent of the Stretten bay Body Corporate said in their opinion the dispute by Ms Norris, the Applicant, is baseless and there is no merit.

Through their Managing Agent the Respondent stated that with regards to access discs to allow access to the property, it has always been via a security guard who physically opens and closes for residents and visitors. Therefore, no access discs are necessary.

“Private water meters were installed to recover costs in 2007. The amount charged to owners for water use is fully aligned to what the municipality



charge. The prohibitive costs involved to install municipal meters far outweigh the need for change, given that the current longstanding meters adequately fulfill their function” said the Stretten Body Bay Corporate when responding to private meter allegations.

The Applicant’s allegations that they do not receive minutes for the meetings held by the Body Corporate were refuted by the Managing Agent who indicated that owners may view any meetings of trustees on request and are sent minutes of all general and special meetings held.

Upon evaluating the information and evidence obtained for the case, Adjudicator Thulani Khambule said that the general rule is that only evidence which is relevant should be considered. “Relevance is determined with reference to the issues in dispute. The degree of extent of proof required is a balance of probabilities. This means that once all the evidence has been tendered, it must be weighted up and determine whether the applicant’s version is probable. It involves the findings of facts based on an assessment of credulity and probabilities,” he said.

Adjudicator Khambule said upon further assessment of evidence he observed that with regard to private water meters, they were installed 12 years ago and there is no evidence led by the Applicant indicating that she consistently raised the issue with Trustees. Furthermore, she did not challenge the respondent’s submission. However, her application states that she had been raising the matter with the supervisor. “The Respondent states that its prohibitive costs involved to install municipal meters far outweigh the need for change; however this has not been substantiated by any evidence in the form of quotations that has been sourced except that there are prohibitive costs.”

With regards to the access discs “the Respondent deny that access into the building is through access discs. It has always been via a security at the entrance,” says Adjudicator Khambule. With further evaluation, Khambule said with owners without access to emails the challenge might be the manner of form that those minutes are sent e.g. when they sent via email then the Applicant and other owners who do not have access to email cannot access such minutes.