

CSOS PRESENTATION ANNUAL GENERAL MEETINGS

J WASSERMAN



ANNUAL GENERAL MEETINGS IN BODY CORPORATE'S



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1. When must the AGM be held?

- The AGM must be held 4 months after the BC financial year end (PMR 17) (The Act is silent if it is not held within this period)!!

2. What must be in the AGM pack? (PMR 15)

- The Agenda
- The documents to be discussed at the AGM
- The Proxy Form (Form C)
- Nomination form for new Trustees

WHAT IS THE ORDER OF BUSINESS AT THE AGM?

- 1. **Confirm proxies and nominees (Chairperson will read it out loud)**
- 2. **Determine the quorum**
- 3. **Elect person to chair the AGM**
- 4. **Present proof of notice of meeting or waivers of notice**
- 5. **Approve Agenda (no new items to be added!)**
- 6. **Approve the minutes of the **previous** AGM**
- 7. **Deal with unfinished business (if there is any)**
- 8. **Deal with any matters if there is a request by 25% of the members of the scheme to so do**
- 9. **Receive reports of the board of trustees (i.e., work that has been done in BC past year)**
- 10. **Approve the schedule of insurance values**
- 11. **Replacement values of the buildings on improvements of the common property**
- 12. **Replacement values of the units within the BC**

WHAT IS THE ORDER OF BUSINESS AT THE AGM?

- **13. Determine insurance cover**
 - ❑ **Public liability**
 - ❑ **Loss of funds**
 - ❑ **Other risks**
- **14. Approval of the administrative as well as the reserve fund = 10-year maintenance plan**
- **15. Consider AFS (REMEMBER: trustees had to approve it before the auditor will issue a final set)**
- **16. Appoint auditor**
- **17. Elect trustees (show of hand / one section one vote basis)**
- **18. Directions and Restrictions placed on the board of trustees – (i.e., the trustees cannot spend more than R 500 on garden services per week, without the members approval!!)**

HOW DOES QUORUM WORK?

- The PMR differentiates between less than 4 units and more than 4 units.
- Less than 4 = $2/3$ (66,66%)
- More than 4 = $1/3$ (33,33%)

FOCUS – $1/3 = 33,33\%$

PMR 19 = To form a quorum in value the PQ must be more than 33% for schemes more than 4 units (value of the votes of members present must be more than 33%) = provided that at least two persons must be present unless all the sections in the scheme are registered in the name of one person).

VOTES OF THE DEVELOPER OR THE UNITS IN THE NAME OF THE BC DOES NOT COUNT TOWARDS THE QUORUM!

PMR 19(4) = No quorum - same day the next week at the same place and time.

VOTING AT AN AGM

- There is 1 way of how votes are valued at the AGM = By PQ (always)
 - management rules say so! **[PMR 20(1)(b)]**

NB: At an AGM voting cards are usually handed out, where members indicate their votes, these voting cards can be prepared before the general meeting by the Managing Agent to make it easy to use at the general meeting and can look like this:

Beechwood Gardens Body Co rporate	
Unit 1	
P.Q.	1.4532
Resolution 1:	Yes/No
Resolution 2:	Yes/ No

{the value of your vote = PQ = size of members unit/s}

Any matter that is not approved at the AGM must be tabled at AGM as soon as possible....

CAN THE AGM BE HELD ONLINE?

- **PMR 17(10)** states that if a meeting is being held other than in person it is stipulated that the meeting **MUST** be accessible to all, members must be able to speak and the chairperson must be able to identify all the members.
- **IF not all the members can attend a virtual meeting then all reasonable steps need to be taken to ensure that a representative can represent them and fill in the required proxy form.**
- **If reasonable steps have not been taken THE MEETING CANNOT BE HELD!**
- **The TRUSTEES cannot appoint a proxy on behalf of a member, only the member him/herself can appoint a proxy.**

WHAT MUST MEMBERS DO PRIOR TO THE AGM?

- Send in proposed motions and nominations by the date requested on the Notice.
- Ensure that you have read all the documents sent to you and arrive in plenty of time for the start of the meeting
- If you can't attend in person, complete and send the proxy voting form or familiarise yourself with the technology that will be used if attending virtually.
- Enter your details on the attendance register, including your name and your unit number(s).
- When you are moving for a motion clearly identify your name and unit number.
- When the Chairperson asks if you vote in favour, against or abstain on a resolution, respond clearly.
- Speak to a motion only once it has been moved and opened for discussion.

WHAT MUST TRUSTEES DO AFTER THE AGM?

- **Appoint a chairperson**
- **Passing resolution to increase levies = must notify members within 14 days after AGM!**
- **Passing resolution to raise interest of arrear levies**
- **Passing resolution to advise on the action taken on arrear levies**
- **Informing owners of the levy increase – must notify members within 10 days after AGM**

WHO PRESIDES OVER THE AGM?

PMR 18 = Chairperson of the board of trustees must preside over the meeting, unless otherwise resolved by members.

IF chairperson does not show 15 MINUTES after the meeting has commenced or unwilling to preside over the AGM then members can decide on a chairperson.

Chairperson must act in a fair manner and be impartial at all times during the AGM!

A chairperson at a general meeting must not—

(a) from the chair, attempt to influence members' views on any item of business or

(b) disclose in advance of a vote how the chairperson intends to vote on any item of business.

CAN AN OWNER WHO IS IN ARREARS VOTE AT THE AGM?

PMR 20, . . . *NO, he or she may NOT vote in respect of an ORDINARY RESOLUTION (51%)*

BUT ONLY if there is a Court Judgment or Adjudication Order against him/her at the instance of the Body Corporate (not when handed over to CSOS or Attorney!!)

REMEMBER: Irrespective of whether a member has a judgment against him or her at the instance of the Body Corporate, he or she can still vote on a special or unanimous resolution.

OR

That member persists in the breach of any of the conduct rules of the scheme referred to in section 10(2)(b) of the Act after a court or an adjudicator has ordered that member to refrain from breaching such rule.

HOW DOES A PROXY WORK?

A person may only hold a proxy for him or herself and two other members.

PMR 20(4) = If the unit is owned by a trust, then the TRUSTEE for that trust may vote **NOT** the beneficiaries of the trust!

A natural person must be nominated if the unit is in the name of the Company or CC.

The Proxy form (c) must be completed.

The proxy must be handed in before the meeting starts.

- **REMEMBER:** When two or more persons are entitled to exercise one vote jointly, that vote may be exercised only by one person, who may or may not be one of them, jointly appointed by them as their proxy!

TRUSTEES NOMINATIONS

- ❑ **PMR 7 = This must be done in writing and sent to the board of trustees or the managing agent 48 hours in advance, if no nominations have been received, the nominations can be taken from the floor on the day of the AGM.**
- ❑ **A member may appoint a proxy to represent them at a meeting. The proxy may be any person (i.e., tenant or occupier). This appointment must be in writing, the proxy form is attached to the regulations. A person may not, however, be a proxy to more than 2 members (not units). The proxy is only valid for that meeting – or the postponed AGM a week later!!**

MINUTES OF AN AGM

Check the minutes of the AGM before attending the AGM on the day and provide inputs as the minutes must be approved at the AGM (PMR 17(6)(f)).

Minimum requirements on the minutes:

- a) Date, time (opened and closed) and place
- b) Names of those present
- c) Resolutions taken **(exact wording of resolutions in minutes!)**
- d) Results of all votes = for and against resolution

Minutes must be made available to members 7 days after the Meeting = PMR 9(e).

SHORT SERVICE OF THE AGM

Is the AGM now invalid?

NO!

PMR 15(8) = Failure to give proper notice of a general meeting to a person entitled to receive notice does not invalidate a vote taken at the meeting, as long as the body corporate made a reasonable attempt to give the notice.

PMR 15(9) = Voting at a general meeting may proceed despite the lack of notice as required by this rule, if all persons entitled to receive the notice in writing waive their right to notice.

[A general meeting must be held in the local municipal area where the scheme is situated unless the members have by special resolution decided otherwise].

SPECIAL RESOLUTION TAKEN AT AN ANNUAL MEETING

PMR 20(9) + (10)

- If a special resolution is passed at a general meeting by members **holding less than 50 per cent** of the total value of all members' votes—
- (a) the body corporate **must not** take any action to implement that resolution for one week after the meeting, unless the trustees resolve that there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage to the scheme; and
- (b) within seven days from a resolution referred to in sub-rule 9 (a), members holding at least 25 per cent of the total votes of all members in value may, by written and signed request delivered to the body corporate, require that the body corporate hold a special general meeting to reconsider the resolution.
- If a demand referred to in sub-rule (9)(b) is delivered to the body corporate, the trustees must not implement the resolution unless—
- (a) it is again passed by special resolution; or
- (b) a quorum is not present within 30 minutes of the time set for the meeting.

CAN THE MANAGING AGENT TALK AT THE AGM?

PMR 15(5) = A Managing Agent may speak but is not permitted to vote, **BUT**, if members decide that the Managing Agent will unreasonably interfere, then they are not entitled to attend that part of the AGM.

Remember: The Managing Agent will be advised by the board of trustees if there are certain agenda items they will need to speak on such as budgets and financial reports.

Can the Managing Agent chair the AGM?

Yes, if the Chairman cannot or will not act, and the members elect him/her as Chairman.

PLEASE ATTEND THE AGM!!

- ❑ Unless a member of the body corporate is a trustee, members **normally do not have access** to the monthly accounts of the body corporate. The AGM is therefore the only opportunity for members to discuss the financial affairs of the body corporate in a general forum.
- ❑ As an owner, it is necessary to be kept informed about the manner in which the trustees are running the body corporate, as well as being informed about special projects that may influence the financial position of the body corporate, such as a special levy.
- ❑ Members of the body corporate also have the opportunity to comment or make suggestions on the proposed budget. The approval of the budget directly affects the levies that owners will have to pay to the body corporate.
- ❑ Once the budget has been accepted, owners cannot object or demand that the budget be changed or argue that the levies are too high or too low!!
- ❑ Attendance at the AGM is therefore **crucial** in order for the meeting to proceed, for owners to be aware of important operational and management matters, and for decisions taken at the meeting to be binding = owners have SIGNIFICANT voting power!

THANK YOU

Johlene.Wasserman@csos.org.za

066 302 5408

