CSOS PRESENTATION
BOARD OF TRUSTEES

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CSOS
Community Schemes
Ombud Service



THE BOARD OF TRUSTEES (and owners rights) IN A SECTIONAL TITLE DEVELOPMENT



11 DECISIONS TRUSTEES CAN DECIDE ON THEIR OWN WITHOUT MEMBERS APPROVAL!

Change external appearance

- **Prescribed Conduct Rules 5(1) (PCR) states that an owner or occupier of a section must not, without the trustees' written consent, make a change to the external appearance of the section or any exclusive use area allocated to it unless the change is minor and does not detract from the appearance of the section or the common property, i.e., air conditioners (generators – Special Resolution).**

Damage to common property

- **PCR 4(1) states that the owner or occupier of a section must not, without the trustees' written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.**

Erect a washing line

- **PCR 5(2)(a) states that an owner or occupier of a section must not, without the trustees' written consent, erect washing lines on common property.**

Laundry

- **PCR 5(2)(b) states that the owner or occupier of a section must not, without the trustees' written consent hang washing, laundry or other items in a section or any exclusive use area allocated to it if the articles are visible from another section or the common property, or from outside the scheme.**

Pets

- **PCR 1 states that the owner or occupier of a section must not, without the trustees' written consent, *which must not be unreasonably withheld*, keep an animal, reptile or bird in a section or on the common property. The trustees may provide for any reasonable condition in this regard and may withdraw any consent if the owner or occupier of a section breaches any condition imposed.**

REMEMBER: Disability and Guide Animals MUST be allowed in no pet complexes!!

Parking of Vehicles

- **PCR 3 states that the written consent of the trustees, as well as the duration of such permission, is required before an owner or occupier of a section may park a vehicle, allow a vehicle to stand or permit a visitor to park or stand a vehicle on any part of the common property other than a parking bay allocated to that section or a parking bay allocated for visitors' parking (except in the case of an emergency = Penalty – no towing of vehicles but clamping will be allowed….**

Refuse bins

- **PCR 2(2) affords the trustees the discretion to decide what type of dustbin for refuse is acceptable and must designate where on the common property that bin must be kept. PCR 2(3)(a) gives the trustees the power to designate the place and time that the owners or occupiers must move the dustbin.**

Safety devise and screen

- **PCR 4(2) states that the trustees have the discretion to approve, in writing, the design, colour, style and materials of a locking or safety device to protect the section against intruders, or a screen to prevent entry of animals or insects if the device or screen is soundly built.**

Signage

- **PCR 5(2)(c) states that an owner or occupier of a section must not, without the trustees' written consent display a sign, notice, billboard or advertisement if the article is visible from another section or the common property, or from outside the scheme.**

Storage of flammable substances

- **PCR 6(1) states that an owner or occupier of a section must not, without the trustees' written consent, store a flammable substance in a section or on the common property unless the substance is used or intended for use for domestic purposes,**

Subdivision and consolidation of sections

- **Section 7(2) of the Sectional Titles Schemes Management Act No 8 of 2011 states that the trustees of the body corporate must receive and *may consent,* to applications for the subdivision of a section or consolidation of two or more sections, made by the owners of sections.. NOT EXTENSIONS – Sec 24 must be followed + Section 5(h) of the STSMA which states = that the BC must upon application by an owner approve the extension of a boundaries or floor area in terms of the STA (sec 24 – holds the conditions).**
- **NB!!**
- **IF CSOS did not issue a section 10 compliance certificate for your management and conduct rules – the rules are not enforceable against members or occupiers!**

Election of the Board of Trustees

- The election of trustees takes place once a year at the annual general meeting (AGM). There is no other forum where the appointment of trustees can be made. A trustee does not need to be an owner in the scheme; it can be anyone who was nominated and accepted the nomination.

- If an insufficient number of trustees have been nominated and no other member at the meeting is prepared to make themselves available, the elected trustees may approach persons (members or non-members) after the AGM to convince them to serve as trustees. Such an appointment does not require the voting of the members of the scheme. The appointment of trustees in this manner is achieved by nominating the trustees along with their acceptance.

- IF A TRUSTEE resigns before the end of their term, a written resignation must be accepted by the trustees.

- With a vacancy needing to be filled, the remaining trustees have the option to approach other members of the body corporate (or non-members) to fill the position. Such appointments do not have to be approved by the rest of the members. The appointee will remain a trustee until the end of the next AGM…. No legal liability to fulfill the vacancy by the remainder of the trustees.

TRUSTEES MEETINGS and OWNERS' RIGHTS….?

- In terms of PMR 11(3), members, registered bondholders, holders of future development rights and the body corporate's appointed managing agent may attend the meetings and may further speak on any matter on the agenda. However, no one, other than the trustees, may propose any motion or vote.
- Should any part of the meeting deal with issues relating to contraventions of the STSMA and the rules of the body corporate, or any matter that the trustees resolve that the presence of the attendees will unreasonably interfere with the interests of the body corporate or a person's privacy, the trustees may request that any such attendees leave the meeting.
- In terms of PMR 27(4), any member may request access to, or copies of trustee's minutes within 10 days of their written request.

- **TRUSTEES meeting must be held on a platform accessible to all!**

- **PMR 11(5) specifically allows trustees to attend trustees meetings remotely. Trustees do not have to be in the same room to form a quorum! (Quorum = half of the trustees, minimum two).**

- **Each trustee = – including the chairman – has one vote at the trustee meetings, regardless of how many units they own in the scheme. Votes are counted by show of hand and is passed by a majority vote. If there is an even number of trustees and no majority vote is achieved, the chairman has an additional vote to determine the outcome of the vote.**

Remember:

1. **If the trustee has a personal interest, he may not vote at a trustees meeting.**
2. **Trustees can now be held personally responsible if they neglect their fiduciary duty towards a BC.**

CAN THE BOARD OF TRUSTEES APPOINT THE MANAGING AGENT?

- **Yes – by majority trustees' resolution**

  OR

- **By ordinary resolution (51%) of owners can tell trustees to appoint Managing Agent**

- **REMEMBER:**

  - By special resolution can cancel Managing Agents contracts but give Managing Agent 2 months' notice.
  - By ordinary resolution if Managing Agent contact is due to expire, refuse to renew it.

CONTRACTS & DELEGATION

Managing of Contracts:

- The trustees may enter into written contracts in respect of the powers and duties of the body corporate, provided that it is signed on the authority of a trustee resolution signed by two trustees or one trustee and the managing agent. Any trustee with a direct or indirect interest in any such contract is recused.

Delegation:

- The trustees may delegate one or more of their powers and duties to one or more of their number, to a member/s of the body corporate, agent or employee, as they deem fit, and may at any time, revoke that delegation.
- The trustees, in such delegation of their powers and duties, must specify in writing the power or duty concerned, a maximum amount of the body corporate's funds that may be spent for a particular purpose, and any applicable conditions.

THANK YOU

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