

2025 Consolidated Practice Directive



Topics to be covered

➤ Section 3

Scheme Governance under the Disaster Management Act And Regulations

➤ Section 4

Approval of Special and Unanimous Resolutions for Sectional Title Schemes (Section 6(9) of the Sectional Titles Scheme Management Act - STSMA)

SCHEME GOVERNANCE UNDER THE DMA AND ACT AND REGULATIONS

Scope of Application

- This section applies to Community Schemes as defined in the CSOS Act, all persons who own and occupy units in such Community Schemes and all persons who manage such Community Schemes.

Scheme Governance under the Disaster Management Act 57 of 2002 (DMA) and Regulations

- The DMA provides for disaster management policies that focus on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, rapid and effective response to disasters and post-disaster recovery.
- Role of CSOS features in instances where a state of disaster is declared in terms of the DMA and certain sanctions are imposed by the Government.
- CSOS may adversely affected by any state of disaster at national, provincial or municipal level, CSOS should be afforded an opportunity to make contingency plans in line with its disaster management policy and/or business continuity policy.

Scheme Governance under the Disaster Management Act 57 of 2002 (DMA) and Regulations

- A declaration of a state of disaster at a national, provincial or municipal level has a direct impact on Community Schemes, Community Schemes must adhere to the Consolidate Practice Directive.
- In the event of any conflict or inconsistency between the provisions of the DMA and the provisions of the Community Schemes Ombud Service Act (CSOS Act), STSMA or the Practice Directive (PD), the provisions of the DMA shall prevail. Any rules, guidelines, or provisions contained in the PD must be interpreted and applied in a manner consistent with the DMA and where necessary, shall be deemed modified to the extent required to comply with the DMA.

MEETINGS OF COMMUNITY SCHEMES

Trustee Meetings

- Meetings may be convened in accordance with the provisions of the DMA Regulations. However, CSOS prescribes the following ways to convene a meeting:
- Prescribed Management Rule (PMR) 11(5) of Annexure 1 of the Regulations to the STSMA, the trustees may make arrangements for attendance at a trustee meeting by telephone or any other method, if the method is accessible to all trustees and other persons entitled to attend the meeting, permits all persons participating in the meeting to communicate with each other during the meeting and permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- The requirements relating to the time period for calling for the meeting, quorum and voting remain applicable.

MEETINGS OF COMMUNITY SCHEMES

Cont...

Owners Meetings

- The owners' meetings may be convened through video-conferencing platforms. Provided all participants have access to such platforms.
- Other requirements relating to the notice period, quorum or voting remain applicable.
- Alternatively, the members can pass the necessary resolution by means of round robin.
- Members must be aware that they can waive notice periods for calling meetings in accordance with the STSMA Act.

MEETINGS OF COMMUNITY SCHEMES

Cont...

Special and Annual General Meetings

- If restrictions on the holding of gatherings are applicable in terms of DMA Regulations, the Special and Annual General Meetings (AGM) must be held in accordance with the provisions of PMR 17(2) and PMR 17(9).
- PMR 17(2), the Body Corporate is not obliged to hold an AGM if, before or within 1 (one) month of the end of a financial year, all members in writing waive the right to the meeting and consent in writing to motions that deal with all items of business that must be transacted at the AGM; provided that if two or more persons are jointly entitled to exercise a vote, all of them waive the right to the meeting and consent to the resolutions in writing.
- PMR 17(9), the Body Corporate does not have to hold a special general meeting to consider a resolution if all members waive the right to the meeting and consent to the resolution in writing, provided that two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolution in writing.

MEETINGS OF COMMUNITY SCHEMES

Cont...

- If there is a matter on the agenda that must be discussed and cannot be resolved in terms of a procedure provided in PMR 17(2) or PMR 17(9), then the meeting can be held by other means as provided in PMR 17(10).
- PMR 17(10) provides that a Body Corporate may make arrangements for attendance at a Special or/and AGM by telephone or any other method; if the method is accessible to all members and other persons entitled to attend the meeting, permits all persons participating in the meeting to communicate with each other during the meeting and permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- The agenda for the AGM must still comply with the provision of PMR 17(6)(j) and PMR 17(7).
- The notice period for the meeting must also be complied with unless waived by all members.
- All meetings that will be held telephonically or via video-conferencing platforms. The meeting must be recorded, and the minutes must be taken.

MEETINGS OF COMMUNITY SCHEMES

Cont...

Home or Property Owners Association

- HOA's can be incorporated as non-profit companies in terms of the Companies Act or established according to the common law. Meetings for a HOA registered as a non-profit company must comply with the requirements of the respective HOA's Memorandum of Incorporation (MOI) for the calling of the meeting and voting. Meetings for a HOA established according to the common law must adhere to the provisions of the Constitution governing that association.
- The rules contained in the MOI must be consistent and similar to those submitted to the CIPC (Companies and Intellectual Property Commission).
- The Companies Act, which governs the HOA registered as a non-profit company, provides that the meetings can be conducted entirely by electronic communication - Section 63(2)(a).

MEETINGS OF COMMUNITY SCHEMES

Cont...

Share Block Company

- Share Block Companies must comply with the provisions of the founding legislation and the use agreement on the requirements for calling the meeting and voting. The actual meeting may be held telephonically or via video-conferencing platforms. The meeting must be recorded, and the minutes must be taken.

Housing Co-operatives

- Housing Co-operatives must comply with the provisions of the Constitution for a Housing Co-operative for the calling of the meeting and voting. Meeting may be held telephonically or via video-conferencing platforms. The meeting must be recorded, and the minutes must be taken.

MEETINGS OF COMMUNITY SCHEMES

Cont...

Housing Scheme for Retired Persons

- Housing Schemes for Retired Persons must comply with the provisions of the Constitution for the Housing Scheme for Retired Persons regulating the calling of the meeting and voting.
- The actual meeting may be held telephonically or via video-conferencing platforms. The meeting must be recorded, and the minutes must be taken.

HEALTH AND SAFETY OF EMPLOYEES AND SCHEME MEMBERS

- Community Schemes must ensure the safety of their employees during a state of disaster by providing the necessary risk mitigation kits.
- If the necessary risk mitigation measures cannot be implemented, the common facilities must be closed.
- Safety measure notices must be visibly displayed at the Community Scheme entrance and common areas.

Biometric Systems

- If the use of finger scanning systems, facial recognition systems or any other form of biometric system pose a biological hazard, its use must be suspended.

USE OF THE COMMON AREA DURING A STATE OF DISASTER

- Owners and occupiers (including tenants) living in Community Schemes may only use the common property (such as the common driveway shared by all residents in the scheme or essential common property facilities such as the laundry room, the refuse removal area or club house) insofar as access is necessary.
- Community Schemes are required to publish a list of essential common property facilities necessary for use during this period. Community Schemes must take precaution and ensure that the published list authorising use of the common property facilities is in compliance with the Disaster Management Regulations.

USE OF THE COMMON AREA DURING A STATE OF DISASTER

Cont...

- The Community Schemes are tasked with ensuring compliance with the regulations. Community Schemes must also ensure that only a limited number of individuals gather or utilise the shared essential common facilities at one time. They may also implement any other measures within the Community Scheme in order to ensure the safety of all the residents.
- These implementation measures developed by Community Schemes do not require any prior approval by CSOS insofar as they enhance compliance with the regulations. Provided such measures are not prejudicial to any person residing within the Community Scheme. If any of the measures in relation to disaster management result in the amendment of the rules, such rules must be submitted to CSOS

USE OF THE COMMON AREA DURING A STATE OF DISASTER

Cont...

- Owners and occupiers are not permitted to walk around or perform any sort of activity on the common property, unless classified as essential by the DMA and its regulations. An owner may occupy his/her Exclusive Use Area (**EUA**), and owners are advised to peruse the title deed of the unit or the rules of the Community Scheme to ascertain whether there is an EUA allocated to them.
- CSOS will not penalise any Community Scheme for scheduling an AGM after a lockdown period, after sanctions are terminated or whatever restrictions that may be imposed. Community Schemes will submit their annual return to CSOS directly after their AGM. However, it will not be necessary for Community Schemes to complete an application for condonation for late filing of their annual returns. Should an AGM be scheduled after a lockdown period, sanctions or whatever restrictions imposed, the AGM should be recorded, and the minutes must be taken.
- Transgression of the Regulations may result in a fine or imprisonment as prescribed in the DMA Regulations.

Conclusion of section 3

- It is inevitable that a state of disaster will have a negative impact on the economy of South Africa; therefore, Executive Committee Members are encouraged to enter into reasonable payment arrangements or relief plans with homeowners adversely affected and are not able to meet their monthly levy obligations in the short term. Executive Committee Members are reminded to comply with the Disaster Management Regulations as amended from time to time when carrying out their functions.

Dispute Resolution during a state of disaster

- *Any dispute that arises will be resolved in accordance with the provisions under Chapter 4 (Dispute Resolution) of this Practice Directive.*

Section 4

Approval of Special and Unanimous Resolutions

Scope of Application

- This section applies to Sectional Title Schemes, all persons who own such schemes, all persons who manage such schemes and the CSOS.
- The section only applies to applications in terms of section 6(9) of the STSMA, which stipulates that “*a Body Corporate or an owner who is unable to obtain a special or unanimous resolution, may approach the Chief Ombud for relief*”.
- It should be noted that at least 75% (seventy-five) or more of members entitled to vote both in number and value should have voted in favour of the unanimous resolution prior to the approval of the application by the Chief Ombud; or

- Special Resolution: at least 50% (fifty) or more of members entitled to vote both in number and value should have voted in favour..

ADMINISTRATIVE PROCEDURE

- Application for a Unanimous or a Special Resolution must be submitted in Form ST 1, in the CSOS Connect platform.
- The applicant bears the onus of ensuring that all relevant information has been submitted. The applicant must ensure that the application form is correctly completed and meets all the legislative requirements. The CSOS Scheme Governance Officer (**SGO**) cannot complete application forms for applicants and neither instruct applicants on how to complete their application form, unless the applicant is unable to read and write or has some physical impairments.

- The SGO may only provide guidance that relates to the approval of the resolution by the Chief Ombud, however the CSOS SGO cannot provide advice in relation to the merits of the case (such guidance being timelines, the documentation required and whether the applicant qualifies to bring such an application).
- The application form and any attachments may either be typed or handwritten, provided it is legible and easy to read. All applications must be in English however CSOS does recognise and make provision for other official languages.
- If an application is not clear and legible, the applicant shall be requested to resubmit a new application to the CSOS SGO. Timelines are triggered by the completeness and legibility of the application.
- If the applicant requires multiple approvals, a separate application for each approval sought must be submitted or one form with separate annexures per request for approval must be submitted.

- The application form must be signed by the applicant or the applicant's authorised Representative.
- Where an applicant is represented, full particulars and contact details of the Representative must be disclosed in the application form, including the capacity in which the Representative acts (i.e., trustees, managing agent, etc.).
- An applicant submitting the application for approval of a unanimous or special resolution must ensure that the application and any supporting material contains only information that the applicant is prepared to disclose to all the other parties to the matter. Should the application and supporting material contain Personal Information of others, i.e. Data Subject, consent from the Data Subject is required. The information submitted by the applicant shall not be classified as private and confidential. The applicant waives its right to confidentiality, and the applicant shall provide adequate proof that the consent of the Data Subject has been obtained.

- An applicant submitting the application for approval of a unanimous or special resolution must ensure that the application and any supporting material contains only information that the applicant is prepared to disclose to all the other parties to the matter. Should the application and supporting material contain Personal Information of others, i.e. Data Subject, consent from the Data Subject is required. The information submitted by the applicant shall not be classified as private and confidential. The applicant waives its right to confidentiality, and the applicant shall provide adequate proof that the consent of the Data Subject has been obtained.
- The application must be made within a period of 90 (ninety) business days if the applicant was unable to obtain the required approval. However, should the applicant fail to bring the application within the mentioned timeframe, condonation can be granted by the Chief Ombud.

SPECIAL AND UNANIMOUS RESOLUTIONS APPROVAL PROCESS

- Prior to submission of an application to the Chief Ombud for the approval of a unanimous resolution, such application must have been tabled at a meeting or through a round robin. The application to the Chief Ombud must be made as a last resort after all the internal processes have been exhausted.
- The notice of the scheduled date of the meeting for the purpose of approval of a special or unanimous resolution should be issued within at least 30 (thirty) business days prior to the date of the scheduled meeting except where the rules provide for shorter notice.
- The requirement for a special resolution is that at least 75% (seventy-five) calculated both in votes in value and in number of the members of the Body Corporate present or duly represented at a general meeting or agreed to in writing by all the members of the Body Corporate holding at least 75% (seventy-five) calculated both in value and in number of all the votes.

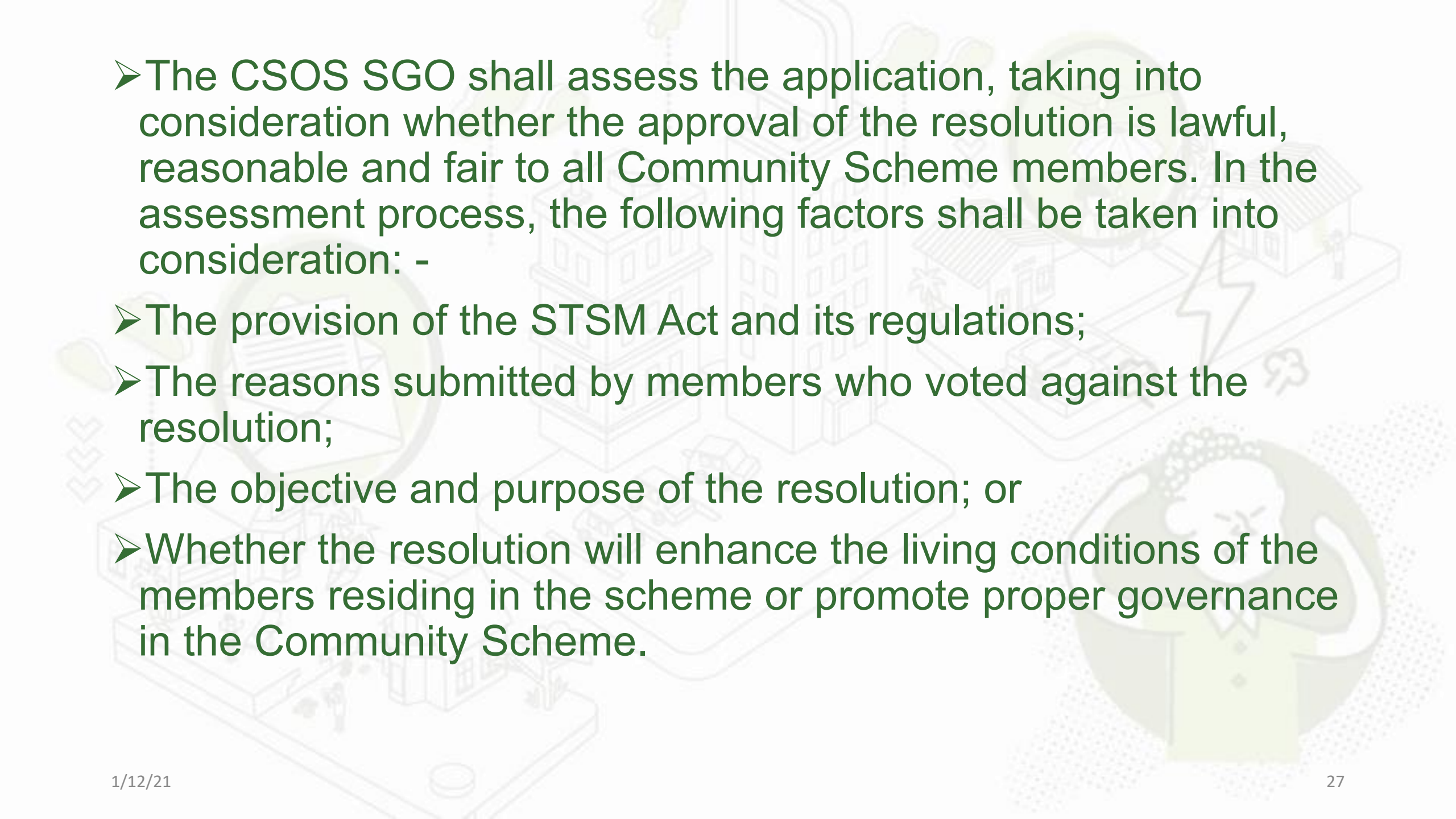
- The requirement for the unanimous resolution is that it shall be passed unanimously by all members of the Body Corporate at a meeting in which at least 80% (eighty), calculated both in value and in number, of the votes of all the members of a Body Corporate are present or duly represented; and all the members who cast their votes do so in favour of the resolution; or agreed to in writing by all the members of the Body Corporate.
- All the above requirements must have been satisfied prior to submission of an application to the Chief Ombud.

SUPPORTING DOCUMENTATION

- Notice of the meeting, proof that all owners received the notice and/or proof that a round-robin was conducted must be submitted where applicable.
- Minutes of a duly constituted general meeting reflecting a number of members who attended or were duly represented.
- The read receipt notice or member's signature acknowledging receipt .
- Confirmation by trustees indicating votes, both in number and value, of members who voted in favour of the resolution.
- A list indicating the number of members who voted against the resolution.
- Reasons furnished by members who voted for or against the resolution, if provided.
- Any other documents in support or against the application.
- Any motivations given in support or against the resolution.

REGISTRATION AND ASSESSMENT OF THE APPLICATION

- Upon receipt of the application by the CSOS SGO, a new file shall be opened, and a unique file reference number will be allocated. The determined timeline of 30 days will commence once a complete application has been received.
- The application shall be assessed by the CSOS SGO to determine whether the application complies with the legislative requirements and this Practice Directive.
- Where necessary, the CSOS SGO shall contact the applicant and request clarification or any additional information to satisfy the requirements of the STSMA and this Practice Directive.

- 
- The CSOS SGO shall assess the application, taking into consideration whether the approval of the resolution is lawful, reasonable and fair to all Community Scheme members. In the assessment process, the following factors shall be taken into consideration: -
 - The provision of the STSM Act and its regulations;
 - The reasons submitted by members who voted against the resolution;
 - The objective and purpose of the resolution; or
 - Whether the resolution will enhance the living conditions of the members residing in the scheme or promote proper governance in the Community Scheme.

REJECTION OF APPLICATION

- The CSOS SGO may reject an application that fails to meet the prescribed requirements of the STSM Act or this Practice Directive.
- If the CSOS SGO decides to reject an application, the applicant shall be informed in writing and be furnished with reasons for the rejection.
- The grounds for rejection of the application may include but not limited to the following:

That the application is part of, or is closely related to the existing proceedings in court;

That the applicant failed or neglected to provide the requested further particulars within the date set by the SGO;

That the application does not fall within the ambit of section 6(9) of the STSM Act; and

That the application does not meet the prescribed requirements.

PAYMENT OF PRESCRIBED FEE

- No fee is payable for the processing of the application.

NOTICE TO MEMBERS OF THE COMMUNITY SCHEME

- Having considered the provisions of section 33 of the Constitution of the Republic of South Africa and the Promotion of Administrative Justice Act 3 of 2000 (**PAJA**), it is imperative that the CSOS SGO notifies any interested and affected parties and 65 provides them with an opportunity to be heard before a decision is made. This is in line with the principle of *audi alteram partem* rule.
- The CSOS SGO shall provide the interested and affected parties with a copy of the notice detailing the nature and purpose of the application received from the applicant.
- The Body Corporate must ensure that the said notice is circulated to all its members and provide proof to that effect. The read receipt notice or member signature acknowledging receipt will serve as proof that the notice has been received by a member.
- The affected parties will have 21 (twenty-one) business days to respond to the notice.
- The CSOS SGO shall only consider an extension by 10 (ten) business days if an affected party provides exceptional circumstances for not responding within the given time frame as mentioned above.
- If no response is received from the members, as requested, the CSOS SGO shall proceed and make a decision which shall be circulated to the parties within 30 (thirty) business days.

DECISION BY THE CHIEF OMBUD

- Once the Chief Ombud has made a decision, any affected or interested party who is not satisfied by the decision may file a review application with the High Court against the decision of the Chief Ombud.



THANK YOU!!!