

CONSOLIDATED PRACTICE DIRECTIVE PARTS: 5 & 6

Presented by: Ms. Asanda Taylor



INTRODUCTION

- Applicable to non-sectional title schemes (*different from Part 4 of the PD*)
- New area we are chartering
- Approval /rejection of application with reasons is at the discretion of the Chief Ombud
- Affected /interested party who is not happy with the decision of the Chief Ombud may file a review of the application with the high Court
- No fee is payable for processing the application

APPLICATION REQUIREMENTS

❑ General

- Application is on CSOS Connect Platform (Form ST1 is built- into the system)
- Applications to be in English other official languages will be catered for
- The information submitted by the applicant shall not be classified as private and confidential
- If the application and supporting documents contain personal information, the consent and the proof will be required
- The application must be made within **90 business days** from the date the applicant is unable to obtain the resolution (it is within the discretion of the Chief ombud to grant condonation)

❑ Supporting documents

- Notice of the meeting and proof that all owners received the notice and/or proof that a round-robin was conducted must be submitted where applicable.
- Draft minutes of a duly quorate general meeting reflecting a number of members who attended or were duly represented.
- The read receipt notice or member's signature acknowledging receipt will serve as proof that the notice has been received by a member of the Community Scheme.
- Confirmation by directors indicating votes, both in number and value, of members who voted in favor of the resolution.
- A list indicating the number of members who voted against the resolution
- Any other documents and motivation in support of or against the application

APPLICATION REQUIREMENTS

❑ Additional requirements

▪ **Share block Company/Housing Co-operatives/ Housing scheme for retired persons/HOAs**

- Must adhere to its founding legislation and its scheme governance documentation
- The resolution must have been tabled at a meeting prior to bringing the application
- For HOAs, the resolution must have been proposed at least by two members
- The community scheme must ensure that the application is circulated to all members (provide proof) who will have 21 days to respond with possibility of 10 business days extension on exceptional circumstances
- If no response is received from members, decision will be made within 30 business days

PART 6: RULES



RULES

INTRODUCTION

- Quality Assurance is designed to ensure that the schemes governance documentation applies fairly and equally to all members of community schemes.
- All scheme governance documentation must be subjected to a process of periodic review to ensure that the information contained in the document is still correct and accurately reflects current and any changes to legislation.
- The section only applies to applications in terms of section 10(5) of the STSM Act (*other community schemes are covered in Part 7*)
- No certificate will be issued if:
 - ❖ a scheme is not registered with the CSOS
 - ❖ there is a pending dispute lodged with the CSOS regarding rules
 - ❖ without section 10 certificate rules are unenforceable against the members
- The trustees must inform the Body Corporate of the approved amendments, either via email or by affixing the amended rules on the notice board of the body corporate **within 7 business days** after the trustees received the section 10 certificate from CSOS.
- No fee is payable for processing the application

APPLICATION PROCEDURE

❑ Application is on CSOS Connect Platform (*Form B is build into the system*) OR

❖ Manual application to sectionaltitle@csos.org.za (*Form B available on CSOS website/ CSOS regional offices*)

❑ Documents required

▪ ***New community schemes/ Opening a sectional title:***

- Prescribed Form B signed by developer and conveyancer
- Approved and complete sectional plan by Surveyor General
- Consolidated Rules
- Title deed reflecting the Developer's details
- Conveyancer Certificate (*with practice number*) if Annexure 1& 2 of the STSMA Regulations are adopted, confirming such adoption

▪ **Existing community scheme**

- Prescribed Form B signed by two trustees or one trustee and the managing agent);
- Consolidated Rules (management and/or conduct rules)

APPLICATION PROCEDURE

▪ Existing community scheme (cont.....)

- Signed minutes of the general meeting where the rules were tabled for approval by the members of the body corporate, including minutes of round robin meetings;
- Unanimous resolution where the management rules were submitted; or
- Special resolution in respect of conduct rules.
- Notice of meeting; and
- Attendance register.

▪ Regulation 6 (4) (process of registration of sectional title schemes)

- Prescribed Form B signed by developer and conveyancer
- Approved and complete sectional plan by Surveyor General
- Consolidated Rules
- Title deed reflecting the Developer's details
- Conveyancer Certificate (with practice number) if Annexure 1& 2 of the STSMA Regulations are adopted, confirming such adoption
- the conduct and management rules must be submitted to CSOS for quality assurance and section 4 & 10 will be certificates will be issued.

QUALITY ASSURANCE AND CERTIFICATION

- The SGO may ask for additional information
 - ❖ Applicant will have 7 days to respond
 - ❖ If no response is received, a reminder will be sent, granting the applicant additional 7 business days
 - ❖ If still no response is received, a file will be closed after 14 days and the applicant will be advised accordingly.
- The scheme governance documentation will be quality assured against the provisions of the STSM Act, the CSOS Act, the Constitution of the Republic of South Africa, municipal by-laws, and any other relevant and/or applicable legislation.
- SGO's recommendations shall be forwarded to the scheme/ applicant to be effected.
- After all the recommendations have been incorporated, the Chief Ombud will issue the certificate which will be sent together with stamped rules to the applicant via email or on request couriered/ fetched from CSOS offices.
- For undesirable rules please refer to Annexure "B" of the Consolidated Practice Directive

Thank you

Asanda.Taylor@csos.org.za

