SharedLiving

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Issue 34



UNDERSTANDING URGENT CSOS APPLICATIONS

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I HAD A STRONG CASE. SO WHY DID I LOSE?

STEP-BY-STEP GUIDE
CSOS CONNECT MASTERCARD PAYMENTS

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Accountability, Excellence, Independence, Integrity

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Community Schemes Ombud Service



Gedeelde Lewe
Ukuhlalisana
Tsamisana
Ho Dulisana Mmoho

VISION: A credible, world class OMBUD SERVICE for community schemes in South Africa.

MISSION: To promote harmonious community schemes by providing regulation, education and accessible dispute resolution services to all relevant stakeholders

VALUES: Accountability, Excellence, Independence, Integrity

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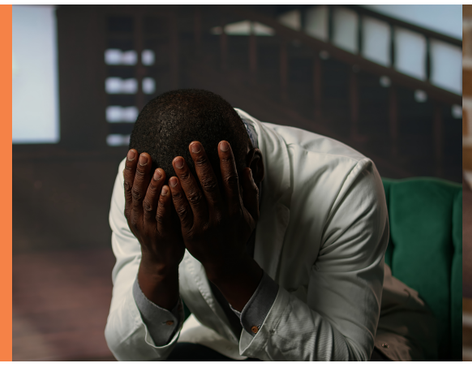


STEP-BY-STEP GUIDE TO CSOS CONNECT MASTERCARD PAYMENT FLOW 10



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wherever they are - 24/7!

CASE CLOSED THE BUYER WHO THOUGHT HE OWNED THE UNIT 14





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ACTING CHIEF OMBUD'S FOREWORD



Dear stakeholders,

For many stakeholders, the relationship with CSOS begins when something has already gone wrong. A dispute has escalated. Communication has broken down. A governance issue requires intervention. In those moments, stakeholders expect a resolution process that is fair, accessible and efficient.

We understand that, at times, we have fallen short of those expectations.

The challenges associated with dispute backlogs have not only affected our operations, but also the experiences of our stakeholders who rely on CSOS services. We recognise the frustration this has caused, and we remain committed to improving the quality, speed and accessibility of our services.

What is encouraging, however, is that meaningful progress is being made.

Over the past few months, CSOS has significantly increased its dispute resolution output, issuing more than 4,000 adjudication orders during a single quarter, the highest number achieved by the organisation to date. Additional adjudication capacity has been introduced and focused interventions are contributing to a substantial reduction in outstanding matters.

At the same time, the continued rollout of CSOS Connect is helping to modernise the way we engage with stakeholders. By automating processes, improving visibility and strengthening accountability throughout the dispute resolution journey, we are laying the foundation for a more responsive service experience.

These developments formed part of recent discussions with industry bodies and stakeholders, where there was a shared recognition that the sector works best when challenges are confronted honestly and solutions are pursued collaboratively.

The conversations also highlighted the importance of keeping pace with a changing sector. From transformation and governance to legislative review and digital innovation, the responsibility we share is greater than compliance alone. It is about building confidence in community living and creating institutions that are responsive to the people they serve.

While there is still work ahead, the direction is clear. CSOS remains committed to strengthening service delivery, improving turnaround times and providing stakeholders with the support they need to navigate an increasingly complex community schemes environment.

Progress is not measured by where we have been. It is measured by the steps we are taking to move forward. This edition of Shared Living explores many of the developments, conversations and initiatives shaping the future of the sector. Inside, you will find valuable insights on governance, dispute resolution, transformation, industry engagement and other topics affecting community schemes across South Africa.

I trust that you will find this edition informative, relevant and worthwhile.

Enjoy the read.

Rethabile Khamali
Acting Chief Ombud



UNDERSTANDING URGENT APPLICATIONS AT THE CSOS



For many, disputes can be frustrating, but they can usually wait their turn in the normal dispute-resolution process. However, some situations are so pressing that waiting could result in significant harm, financial loss, safety risks, or irreversible consequences. In these instances, parties may consider lodging an urgent application with the CSOS.

The concept of urgency is often misunderstood. Many applicants believe that because a matter is important to them, it automatically qualifies as urgent. In reality, urgency has a specific meaning and is subject to strict requirements.

WHAT IS AN URGENT APPLICATION?

An urgent application is a dispute application that requests the CSOS to intervene on an accelerated basis because the applicant believes that immediate action is necessary to prevent serious prejudice or harm.

The purpose of the urgent application process is to ensure that genuinely urgent matters receive prompt consideration while maintaining fairness to all parties involved. However, urgency cannot simply be claimed. It must be demonstrated.

WHEN MIGHT A MATTER BE URGENT?

While every case is assessed on its individual merits, urgency generally arises when delaying the matter until the ordinary dispute-resolution process has run its course may result in:

- Serious financial prejudice
- Health or safety risks
- Irreparable damage to property
- Breaches that may cause irreversible consequences
- Circumstances where a delay would render a future order ineffective

Examples may include serious structural defects posing an immediate danger, unlawful actions that threaten the functioning of a scheme, or situations where substantial losses could occur if intervention is delayed.

The mere fact that a dispute has existed for a long time does not necessarily make it urgent. One of the key principles considered when determining urgency is the applicant's own conduct.

Applicants who become aware of a problem but delay taking action for weeks or months may find it difficult to convince the CSOS that the matter is truly urgent.

In other words, urgency cannot usually be self-created. If an applicant waits too long before seeking relief, the circumstances may no longer support an urgent application.

WHAT MUST AN APPLICANT SHOW?

When lodging an urgent application, the applicant bears the responsibility of explaining why the matter should be treated urgently. A clear explanation of the circumstances giving rise to the urgency; Details of the harm, prejudice, or loss likely to occur if the matter is not addressed immediately

Reasons why the normal dispute-resolution process would not provide adequate relief
Supporting evidence demonstrating the urgency of the matter. The stronger and more detailed the evidence, the easier it is for the Ombud to assess whether urgent intervention may be justified.

WHAT HAPPENS AFTER AN URGENT APPLICATION IS SUBMITTED?

Once an urgent application is received, the CSOS conducts an assessment to determine whether the matter meets the requirements for urgency.

Importantly, submitting an urgent application does not automatically mean the matter will be treated as urgent. The Ombud first considers whether sufficient grounds exist to depart from the ordinary dispute-resolution process.

If urgency is established, the matter may proceed on an expedited basis. If urgency is not established, the dispute may continue through the normal CSOS processes.

CAN ANY DISPUTE BE BROUGHT AS AN URGENT APPLICATION?

No. Not every dispute qualifies for urgent treatment. Disagreements over routine governance matters, communication issues, administrative complaints, or matters where no immediate harm is evident may not meet the threshold for urgency.

The urgent application process exists to deal with exceptional circumstances rather than to provide a faster alternative to the normal dispute-resolution procedure. It plays an important role in protecting community scheme members when immediate intervention may be necessary. At the same time, the process ensures that claims of urgency are carefully assessed to prevent abuse and to maintain fairness for all parties involved.

Urgency is not about convenience or frustration. It is about demonstrating that immediate action is necessary to prevent serious prejudice or harm that cannot adequately be addressed through the ordinary process.

Understanding this distinction can help applicants determine the most appropriate route for resolving their disputes and ensure that genuinely urgent matters receive the attention they require.

KNOW BEFORE YOU APPLY: URGENT APPLICATIONS AT A GLANCE

- Urgency must be proven, not merely stated.
- Applicants must show potential harm or prejudice if the matter is delayed.
- Supporting evidence is essential.
- Delays by the applicant may weaken claims of urgency.
- Not all disputes qualify for urgent treatment.
- The CSOS assesses each application on its own merits.



The adjudication order arrived, and the applicant could hardly believe the outcome.

They had gathered emails, photographs, screenshots and correspondence. They were convinced the facts were on their side. Yet the adjudicator dismissed the application. It is one of the most common frustrations heard at the CSOS.

"How could I lose when I had such a strong case?" The answer is often simpler than people expect. Many applicants assume that if they can prove something unfair happened, they will automatically succeed. While evidence is important, it is only one part of the equation. An adjudicator must also be legally empowered to grant the remedy being requested.

In other words, being right is not always enough.

Most applicants focus on three questions:

- What happened?
- Who was responsible?
- What evidence can prove it?

Far fewer ask a fourth and equally important question: **What exactly do I want the adjudicator to order?** This matters because adjudicators can only grant certain types of orders set out in the Community Schemes Ombud Service Act.

Their powers are defined by legislation. They cannot simply order what feels fair or reasonable if the remedy falls outside the scope of the law. As one dispute resolution practitioner explains, *"A strong case requires more than evidence. The remedy being sought must also fall within the categories of orders that the Act allows an adjudicator to grant."*

Consider a dispute between neighbours that has deteriorated over several years. Relations have broken down, complaints have been exchanged and tensions are high. Eventually, one resident approaches CSOS seeking an order that the neighbour apologise.

While many people may view that request as reasonable, an apology may not be a remedy that an adjudicator can compel within the framework of the Act. The complaint itself may be genuine. The applicant's frustration may be entirely justified. However, if the requested outcome falls outside the powers granted to an adjudicator, the application may not succeed.

The problem is therefore not always the dispute itself. Often, it is the remedy being requested. Why Section 39 Matters. Section 39 outlines the categories of orders that adjudicators may grant, including matters relating to finances, meetings, governance, behaviour, management services, and the use of private or common property.

Think of it as a roadmap. It helps applicants understand whether the outcome they seek is one that can legally be granted and enforced.

What About Urgent Cases?

SEE OUR FEATURE ON URGENT CASES ON PAGE 7 **Not** every dispute can follow the usual process.

Situations involving serious health and safety risks, denial of access, or interruption of essential services may require urgent intervention.
In such circumstances, applicants may request urgent relief in line with the CSOS Practice Directives. Where a matter is determined to be urgent, an urgent adjudication order is issued within 48 hours. However, urgency is asessed on the facts of each case and is not simply a way to speed up the process.

Every year, thousands of people approach CSOS because something has gone wrong in their community scheme.

Evidence remains important, but success often depends on two things:

1. Clearly explaining the dispute.
2. Requesting a remedy that falls within the powers granted by law.

Sometimes the strongest case is not the one with the most evidence.

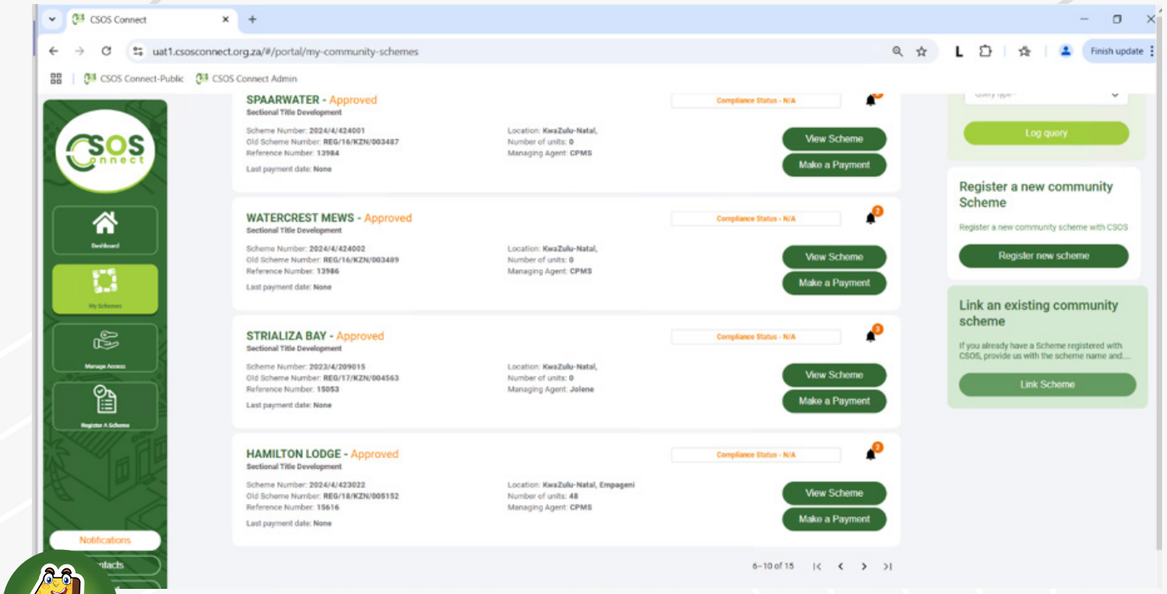
The Community Schemes Ombud Service, CSOS, is calling on all managers of body corporates, home-owners associations, retirement villages, estates and sectional titles in general, who are yet to register their community schemes with CSOS to do so immediately.



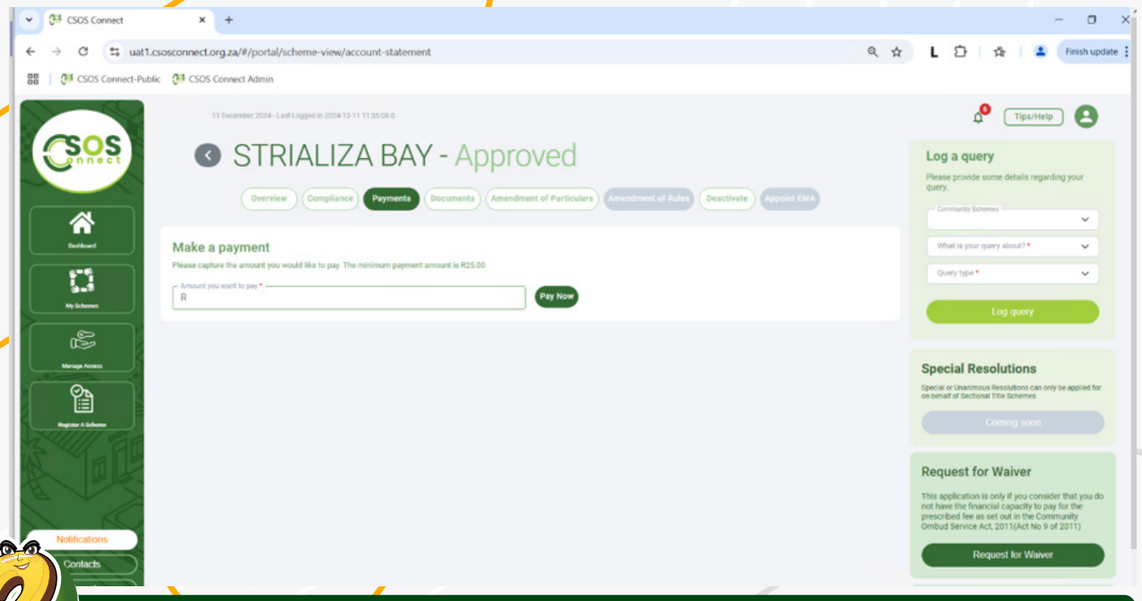
Comply with the law and register your community scheme with CSOS now. Avoid being penalised.

To register, visit our website: www.csos.org.za, or call us on our toll-free number: 0800-000-653.

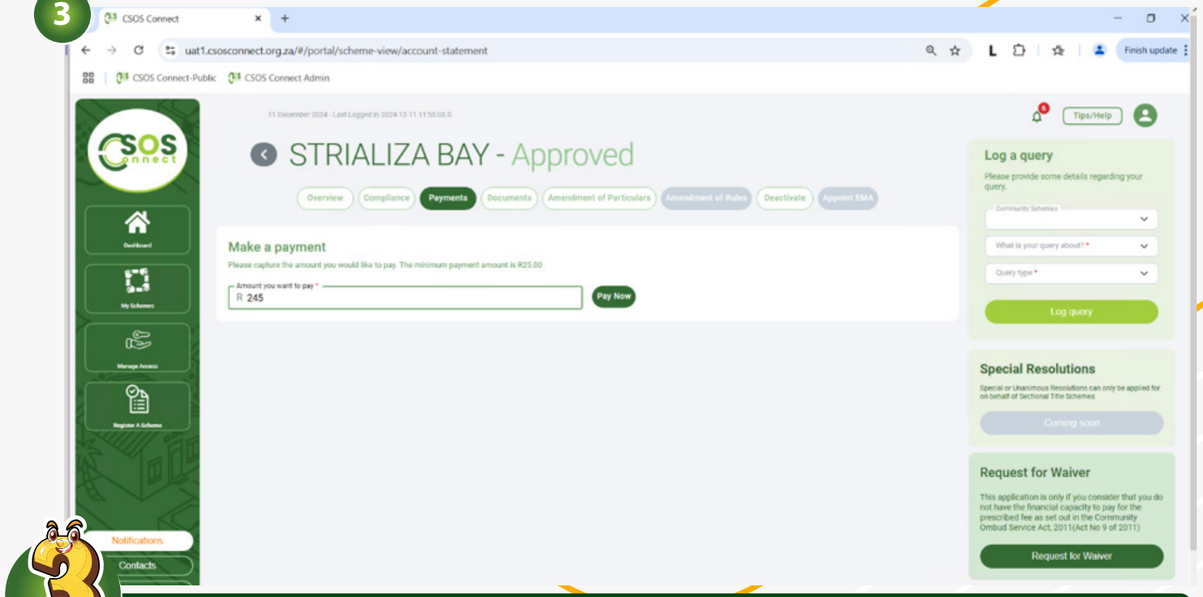
STEP-BY-STEP GUIDE TO CSOS CONNECT MASTERCARD PAYMENT FLOW



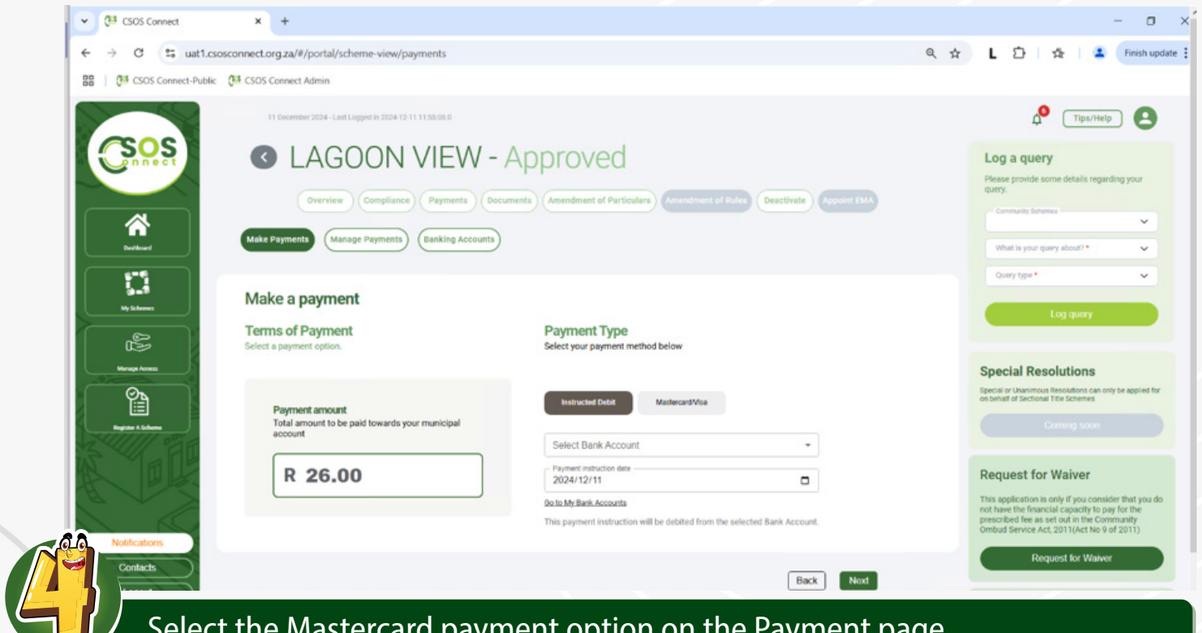
1 Log in to the CSOS Connect public portal and click on the My Schemes menu in the dashboard



2 Navigate to the scheme where the user wants to make a payment and click on the **Make a Payment** button

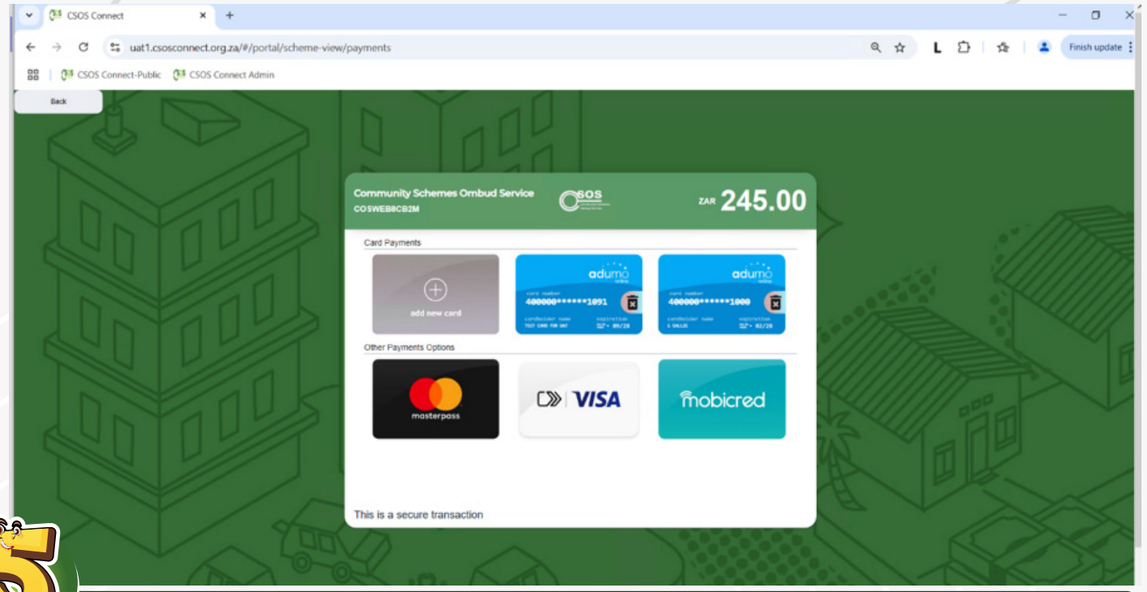


3 Once the user enters the payment amount, click **Pay Now**

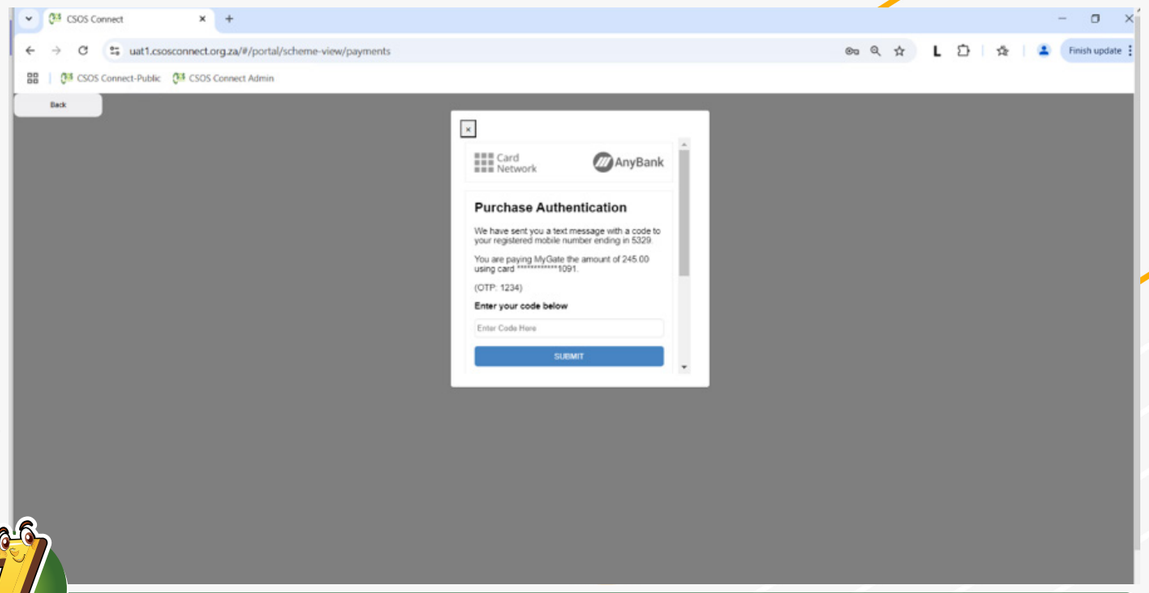


4 Select the Mastercard payment option on the Payment page

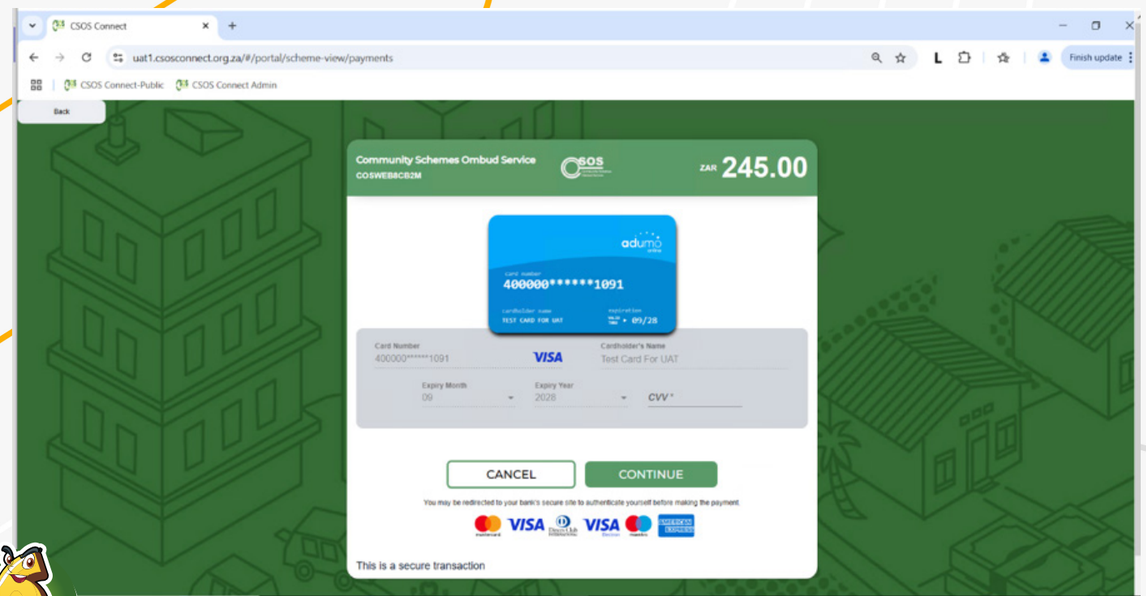
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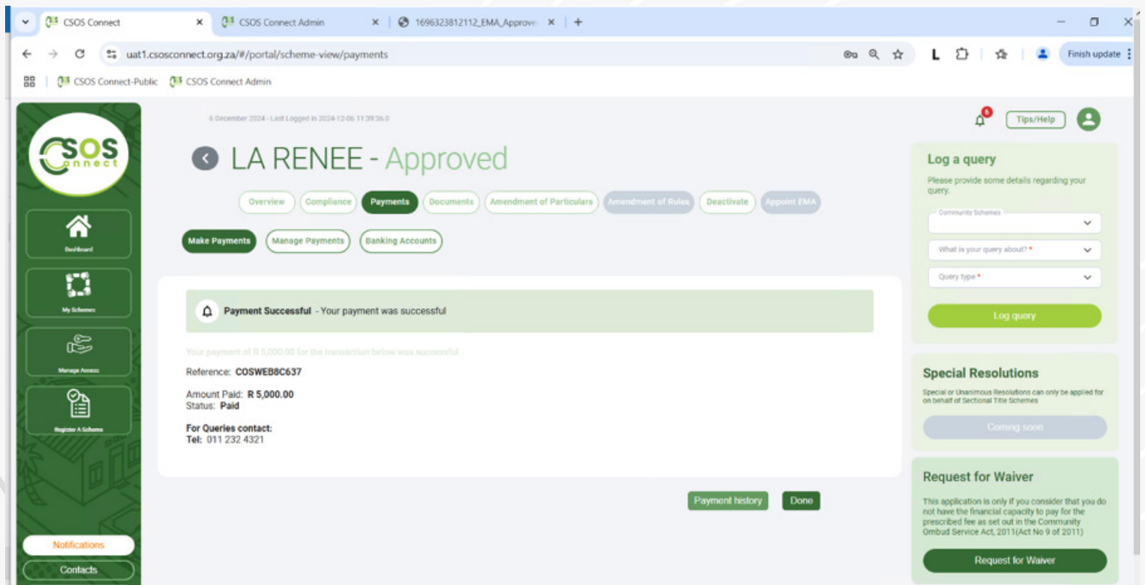
5 The system will display the card details page with the user's previously added cards



7 Once the CVV is entered, the system will redirect to the OTP page



6 Once the user selects the card, the system will display the card details page, and the user will need to enter the CVV





CASE CLOSED

THE BUYER WHO THOUGHT HE OWNED THE UNIT

He bought the unit. He took possession. He even rented it out to tenants. So, when a dispute erupted with the body corporate, he naturally believed he had every right to challenge decisions affecting the property.

There was just one problem. In the eyes of the law, he was not the owner.

That surprising reality lay at the heart of a dispute recently brought before the CSOS. The applicant had purchased a sectional title unit at a sale in execution and believed that, having paid for the property and taken occupation, he was entitled to exercise the rights associated with ownership.

When disagreements arose with the body corporate over issues including electricity and access to the unit, he approached the CSOS seeking urgent relief.

At first glance, the case appeared to be about whether electricity had been lawfully disconnected and whether access to the property had been unfairly restricted.

But as the matter unfolded, a far more important question emerged: Did the applicant have the legal right to bring the dispute before the CSOS at all?

The applicant believed he did. He argued that he had purchased the property years earlier and that the conditions of sale entitled him to possession and enjoyment of the unit. In his view, this included the right to place tenants in occupation and protect their interests.

The body corporate disagreed.

According to the respondent, a High Court order had already authorised the disconnection of electricity to the unit due to substantial outstanding levy debt. More significantly, the body corporate pointed out that transfer of the property had not yet taken place.

Suddenly, what appeared to be a dispute about electricity and access became something else entirely.

The case became a lesson in a legal concept known as locus standi, or legal standing. Put simply, legal standing refers to a person's right to bring a matter before a tribunal or court. Without it, a case may fail before the actual dispute is ever considered.

After examining the evidence, the adjudicator found that although the applicant clearly had an interest in the property, he was not the registered owner. He was also not an occupier or representative recognised under the legislation governing applications to the CSOS. Transfer had not yet taken place, and certain conditions relating to the sale remained outstanding.

As a result, the adjudicator concluded that the applicant lacked the legal standing required to pursue the application.

The outcome may surprise many property buyers. The adjudicator never had to decide whether the electricity disconnection was lawful. Nor was it necessary to determine the complaints relating to access to the unit. The matter ended before those questions could even be considered. An important reminder that purchasing a property and becoming its legal owner are not always the same thing. Until the property has been transferred and/or the conditions of sale have been met, buyers may not enjoy all the rights they assume come with ownership.

In this dispute, that distinction proved decisive.



Complex neighbours keeping you up at night?



0800 000 653

Talk to us about your rights, visit CSOS.org.za

CSOS Community Schemes Ombud Service

CONTACT US!



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4 **POLOKWANE:** Standard Bank Square, 49 Hans Van Rensburg St, Polokwane

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