



Nama News

National Association of Managing Agents

Newsletter serving the
Sectional Title Property Community



ISSUE NO. 17

JULY 2008

Life as a non-Trustees in a Body Corporate



Article by
KAREN BLEIJS

Just about everything you read about Sectional Title deals with Trustees. What about life as a non-Trustee? After all, non-Trustees are by far in the majority when it comes to Sectional Title living.

More often than not owners are content to leave decision-making up to the appointed Trustees.

It is only when problems arise that affect them directly that they become pro-active in the day-to-day life of the Body Corporate.

It is only then that the mysteries of the workings of the scheme are made surprisingly (or sometimes shockingly!) manifest to them.

Trustees are often sceptical and unhelpful when they are approached by owners to attend their meetings.

This is because owners seldom attend Trustee's meetings to offer assistance.

Attend just to complain

Rather, they attend with the specific purpose of complaining about issues that usually only affect them, and often only at that specific stage.

In some cases, due to the unadulterated vitriol of some owners, Trustees have resorted to malicious misinformation by regrettably advising owners that they are not entitled to attend Trustees meetings notwithstanding that **Management Rule 15 specifically stipulates that any owner may attend and speak (but not vote) at trustee meetings.**

Another crucial point to note is that Mortgagees who have noted their interest and specifically requested the

Non-trustees may attend meetings

Trustees in writing to do so, must receive notice of Trustees' meetings.

In some Bodies Corporate owners may experience difficulty in obtaining support from their Trustees on points that they believe are important.

If you are such an owner you would be well advised to attend the annual general meeting of your scheme and:-

- (a) Ensure that you vote for the Trustees who will best serve the interests of yourself and other owners who share your views; and
- (b) Ensure that you add any restrictions and or directions to the Trustees, because this is a peremptory agenda item at each AGM.

FAQ's

By **ELMO STUART**

Can an owner in arrears with his levy contributions be nominated and elected as a Trustee?

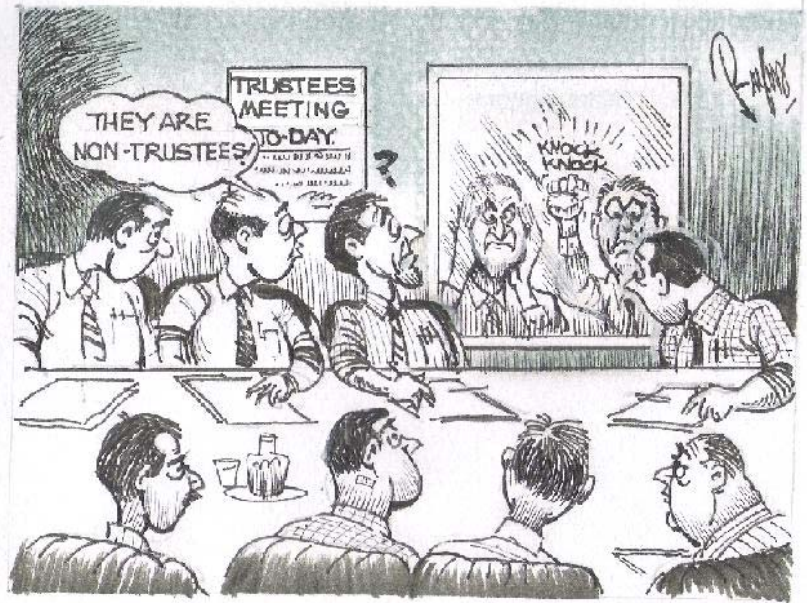
The answer to this question is yes. An owner is not entitled to vote at any general meeting (excluding where a special resolution or unanimous resolution is required) if any

unanimous resolution is required) if any contributions payable by him in respect of his section have not been duly paid.

It is undesirable that an owner can be nominated and elected as trustee where he is in arrears, as he will act in a fiduciary capacity and he cannot be said to act as such where he himself does not comply with the provisions of the Act and Rules.

It's recommended to prohibit

such appointment by amendment of the Management Rules of the Scheme. Owners often accept appointment as trustees, but then also fail to attend trustee meetings. It is advisable to impose a condition to their appointment to provide that they will be discharged from their appointment as such if they fail to attend 2 consecutive trustee meetings without prior valid notice or reason.



Be part of the solution, not part of the problem

Life as a non-Trustee need not be detrimental to your interests, provided that you are prepared to be part of the solution and not part of the problem.

Two categories of owners

You must make sure that you know your rights, which are comprehensively set out in the Act, the Management Rules and the Conduct Rules.

The Trustees, managing agent, attorney and various websites dealing with Sectional Title should be in a position to assist members at any time with queries of whatever

nature.

Essentially, as with all things Sectional Title, the secret I believe lies in harmonious co-existence and co-operation.

Ask any Trustee or managing agent of any complex and I can virtually guarantee that she'll/he'll tell you that owners can generally be divided into two categories: the "leave-the-decision-making-to-the-Trustees" owner and the "I'm-going-to-be-as-difficult-as-I-can-for-whatever-reason" owner.

Life as a non-Trustee should never mean life as a fence sitter!

How to remove a Trustee - and do it legally



Article by
ANDRÉ GRUNDLER

We need to start by considering how a Trustee is appointed in the first place. Usually, the appointment of Trustees takes place at an annual general meeting of members, decided by a simple majority vote.

When a member or members wish to remove a trustee from office, before expiry of his or her term, the decision must similarly be one where all members are entitled to express their vote.

This means that a special general meeting of members must be called to consider the removal.

If the decision to remove a trustee is that of the board of Trustees, they could call the necessary general meeting.

Calling an AGM

But what if it is the wish of only one distressed owner – how does he or she go about calling the general meeting?

The Sectional Titles Act makes provision in this regard, by entitling such an owner to

secure the support of owners holding 25% of the quotas of all sections and to submit a written request to the Trustees for them to call the meeting.

What if such an owner cannot secure adequate support from other members, and still feels that action is required?

The Act provides additional recourse to such an owner who can then refer a dispute to the Body Corporate, which if not resolved, can then be referred to arbitration – be aware, usually at a cost!

A general meeting for removal of a Trustee requires 14 days written notice, which must specify the intention to vote upon the removal from office.

There is no requirement to motivate the removal in the notice.

Filling the vacancy

Who fills the vacancy created by removal?

A general meeting of members may fill the vacancy. Alternatively, the Trustees themselves may do so.

Should the person requesting the removal prefer that the appointment be made by general meeting, it is suggested that this be provided for in the notice of meeting.

Management Rule 13

The Act does specify certain circumstances, other than removal by resolution, in terms of which a Trustee shall cease to hold office.

These are set out in prescribed Management Rule 13.

In closing, Trustees are accountable to owners - if an owner is dissatisfied, by all means take action, but also consider there are two sides to every coin.



MURPHY'S FINE PRINT LAWS

Change is inevitable, except from a vending machine.



Those who live by the sword get shot by those who don't.



Nothing is foolproof to a sufficiently talented fool.



The things that come to those that wait may be the things left by those who got there first.



Flashlight: A case for holding dead batteries.



The shin bone is a device for finding furniture.

**Just when I find
the key to success,
someone goes
and changes
all the locks.**

Quotes about home

Television enables you to be entertained in your home by people you wouldn't have in your home.

-- **David Frost**

We live in an age when pizza gets to your home before the police.

-- **Jeff Marder**

Human beings are the only creatures that allow their children to come back home.

-- **Bill Cosby**

The best way to keep children home is to make the home atmosphere pleasant --and let the air out of the tires.

-- **Dorothy Parker (1893 - 1967)**

I take my children everywhere, but they always find their way back home.

-- **Robert Orben**

Block for Managing Agents

Help e-mail: Help@namasa.co.za **F.A.Q. section :** Faq@namasa.co.za

Editor: Org Potgieter (editor@namasa.co.za) **Contributors this issue:** Karen Bleijs (kbleijs@vrblaw.co.za), André Grundler (andre@bodycorpsolutions.co.za), Elmo Stuart (eyes@eystuartinc.co.za). **Cartoonist:** Rufus Papenfus. **Publisher:** DATASTAT cc : Lucinda Britt (admin@namasa.co.za) P.O. Box 731330, Fairland, Johannesburg, 2030. **Copyright:** DATASTAT cc :

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