
Act fast against incompetent trustees

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It is important to act fast if your sectional title managing agent or trustees are incompetent.



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This is the advice from Lanice Steward, MD of Anne Porter Knight Frank, who says that there has been considerable publicity in the property media recently about how sectional title owners, managing agents or trustees can and should deal with non-paying or badly behaved members.

What, however, is the position if the boot is on the other foot - if it is the managing agent or the trustees who are slack? Does the owner have any right to act against an inefficient managing agent who is failing to carry out his duties?

Steward says the owner does have this right, but he must act in the prescribed way. "This means that he must serve a written notice on the trustees of the body corporate that he (and probably other members) request the disciplining or removal of the managing agent."

If the body corporate then fails to respond, the owner can apply to the courts for an order to appoint a curator ad litem, says Steward.

If the court sees fit to agree to this, the infill curator then is given full authority to dismiss the current managing agent, to appoint another in his place and if necessary employ temporary assistance to help get matters such as the levy collections back on track. The temporary

curator is also entitled to call a special meeting of members at which he can propose the dismissal of the trustees and the re-election of new trustees.

Steward says that perhaps as many as 20% of South Africa's sectional title schemes run into financial and maintenance problems at some stage and in almost all cases the problem emanates from having a slack managing agent and/or ineffective trustees who do not know their responsibilities and probably do not even know the Sectional Title Act.

"This is always a very serious situation because once the management of a scheme slides so does the value of all the units in it, causing every member in the scheme to suffer - and I have to tell you that this happens far more frequently in [South Africa](#) than most people realise."

A proactive, go-getting owner/member capable of stopping the rot in these cases and finding a suitable replacement (generally through one of the established property management firms) is a great blessing to all, says Steward.

She encourages dissatisfied owners who find themselves in this unhappy predicament to act at once, and if necessary, get a court order. "It is imperative that they do not allow inefficient trustees or agents to wreck their investment."