



BODIES CORPORATE NEWS

Keeping Trustees Informed

R9.95



Dictatorial chairpersons can be challenged

Dictatorships are alive and well in some sectional title schemes! Chairpersons, managing agents, and even caretakers are sometimes accused of **dominating members**, and behaving like Idi Amin. How do such circumstances occur when the sectional title concept is **democratic**. Owners are empowered to **elect trustees**, who in turn **elect** the chairperson, and who **collectively** appoint a managing agent, and their own staff (even the caretaker)?

Let's first exclude the *dominant, transparent, resolute, assertive and sometimes dogmatic chairperson who*

functions in accordance with the act. Such persons are probably the best option for a flourishing scheme. (There is a clear difference between an assertive and a very dictatorial

chairperson). The autocrat that we highlight is **power motivated**, lacks **transparency**, has little regard or **understanding** of the act, is **arrogant**, self centered and possibly corrupt.

The dictatorial chairperson is **empowered** as a result of the disassociation, or weak participation by **owners** or **trustees** who **collectively** should monitor and perform the **executive functions** of a body corporate. In fact it is the apathetic, impotent, and detached involvement by the **vast majority** of stake holders that gives rise to dictatorial tendencies, as no "checks and balances" are apparent.

Owners / Members can exercise their all powerful position when they collectively...

- Attend AGM's and General Meetings
- Stop giving **blank cheques** in the form of proxies
- Look beyond their preoccupation with **rental income**, and the need to appease their own tenants.
- Focus on the **long-term** growth of their property investment.

- Spend time **understanding** the sectional title rules and concept.
- Block moves by chairpersons who at AGM's subtly facilitate (without querying) the nomination of **only 2** trustees.
- Commit and **volunteer** to serve as trustees when there are no nominations other than the chairpersons best friends.
- Support resolutions which promote the interests of the **whole community** even if their personal short term investment goals are compromised.
- Scrutinise finances diligently especially when they feel that **transparency** is being compromised.
- **Take action** when they suspect that a **non-professional** alliance exists between their chairperson and the managing agent.
- Consider past experience and **review trustees powers** by imposing restrictions at an AGM.

Owners who **fail** to exercise their **responsibility** with regard to the above, do by their **non-involvement** facilitate the creation of autocratic chairpersons.

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Bodies Corporate News is provided to empower chairpersons / trustees, by enabling them to add value to the property investment of all owners in a complex. It is important that our newsletter reaches chairpersons or trustees as we offer them free copies. If you received Bodies Corporate News by chance please pass it on to your chairperson.

If you are a chair / trustee and have not yet confirmed your contact details, please do so in order to be included in our mailing-list.



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Trustees who allow dictatorships to succeed are generally...

- Easily influenced and involuntarily participate as they have been manipulated by the chairperson.
- Active in promoting their own agenda
- Ignorant of their responsibility as they do not understand the sectional title act.

Members who inadvertently abdicate their powers...

usually do so, because many are investors who's interests lie in the receipt of monthly rentals - They usually live "out of town," and expect unpaid and sometimes uninformed trustees to manage their investment. These disengaged landlords are often oblivious to the reality that "many others" invested in the same scheme for the same reasons, and as a result their investment could be at risk as the tenant population could exceed that of resident owners. As non participants these members often empower dictatorial situations, especially when an alliance exists between the autocratic chair and the managing agent. On occasion concerned owners attempt to rectify declining circumstances but are unable to secure the 25% participation needed to call a general meeting as they are limited in number, and the managing agent avoids providing contact details of absent landlords, which renders the owners powerless to act. When schemes collapse, absent landlords seem to appear from the woodwork and vent anger at the very dictators that they created through their lack of participation.

Bodies Corporate appoint managing agents, subcontractors, and staff - How do these servants manage to wield excessive influence?

- Through a corrupt relationship with a chairperson.



- When there is no formal, professionally written, and detailed contractual engagement agreement, with performance criteria, and termination clauses in place.
- When trustees who lack knowledge become reliant on the skills of a managing agent. Their status then becomes one of subservience.
- When trustees fail to monitor, organise and record the performance of staff / service providers (staff need a work plan with time related goals. Idle time can result in lobbying activities which can undermine the authority of the executive).

How then can conscientious owners deal with a dictatorial chairperson?

Trustees may dismiss their chairperson at any time by a majority resolution: it therefore makes sense for owners to appoint at least three trustees (excluding the chair) at an AGM. After all the members determine the number of trustees, and if only three nominations (including the chair) are received it is up to a fourth member to "come forth" and volunteer their services to ensure that a dictatorship does not take root. Autocratic chairpersons tend to influence their loyal aides into serving additional terms.

Owners can remove the chairperson (or trustees) by calling a special general meeting. All they need is a 25% support base (by quota drawn from all owners) and an adherence to the procedures required to instigate such a meeting. A simple majority is all that is required at a duly constituted meeting in order to oust a chairperson (or trustee).

If owners are unwilling to participate, or avoid involvement, then they have only themselves to blame. We reiterate, owners are to blame if their chairperson is dictatorial.

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ASK THE EDITOR

Try to
Rob will answer your questions

Numerous requests for information are received.

Many are answered within the pages of this magazine or by phoning our help-line 086 757 7882.

Q All members of our trust have enjoyed reading your Bodies Corporate News. We are a Sectional Title Retirement Village with a large staff. These include gardeners, maintenance people, kitchen and Medcare staff. All members of the Body Corporate are entitled to see the accounting records and

at no time while I have been in the trust have we refused a request to see the records. We also distribute summaries of the records timeously to all Members of the Body Corporate. Copies of the accounting records are made before each Body Corporate meeting. And of course annually a copy of the audited accounts are sent to all 150 members. Occasionally we get requests for detailed salary and wage schedules, which we believe should be confidential to the trustees. The conditions of service of staff working at our Village belong in various categories: Some are hourly paid and some belong to a Union. Some are labourers and others are more highly paid artisans. Some are monthly paid semi-professionals and others are monthly paid professionals. Those who are members of a Union are represented by shop stewards appointed by the Union. Some are in receipt of a thirteenth

cheque at the end of the year and others get a bonus very carefully calculated in each case by members of the trust. The global amounts paid to the staff including global contributions to Uif, Pension Fund, Funeral Benefit Trust, Skills Development Levy and J.S.B. are all detailed in our accounts available to all members. Our total staff is over 50. Are we correct in not advising individual members what each employee gets?
Ken Blight

A I appreciate your predicament but also acknowledge that members are stakeholders and it is there funds that are being spent. As I understand it, and I quote, "On the application of any owner, registered mortgagee, or of the managing agent the trustees must make all or any of the books of account and records available for inspection."

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News paper reading habits...

Business Day is read by the people who run the country.

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The Mail & Guardian is read by people who think they should run the country, and who are very good at crossword.

The Sunday Times is read by people who think they ought to run the country but don't really understand Business Day. They do, however, like the soccer cartoons.

The Cape Times is read by people who wouldn't mind running the country, if they could knock off at midday every Friday.

Die Burger is read by people whose parents used to run the country and did a far superior job of it, thank you very much.

The Citizen is read by people who

aren't too sure who's running the country, and don't really care as long as they can get the horseracing results.

The Daily Sun is read by people who don't care who's running the country as long as they do something really scandalous, preferably something rather gory, involving witchcraft.

Nose Week is read by people who aren't sure that the whole idea of a country isn't just a vast conspiracy to keep people paying taxes.

The Argus is read by people whose mothers used to run another country but need the English soccer scores.

Bodies Corporate News is read by people who are not sure how to run a block of flats. Thank your lucky stars that they don't run the country.

Is your insurance compliant?

You've insured your buildings against loss and/or damage, but are you sure your policies comply with Sectional Title law?

Many Trustees are not aware that the Sectional Title Act specifies certain requirements over and above the

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Your AGM

Part 3 Financials, trustees report, approval of insurance values, income and expenditure statements, budgets and levies

REPORT OF THE INDEPENDENT AUDITOR TO THE TRUSTEES OF THE VILLA VISTA BODY CORPORATE

I have audited the annual financial statements set out on pages 2 to 6 for the year ended 30 June 2004. These financial statements are the responsibility of the Trustees. My responsibility is to report on the financial statements, based on my audit

SCOPE

I conducted my audit in accordance with South African Auditing Standards. These standards require that I plan and perform the audit to obtain reasonable assurance that, in all material respects, fair presentation is achieved in the financial statements and that the financial statements are free of material misstatement. An audit includes an evaluation of the appropriateness of the accounting policies, an examination, on a test basis, of evidence supporting the amounts and disclosures included in the financial statements, an assessment of the reasonableness of significant estimates and consideration of the appropriateness of the overall financial statement presentation. I consider that my audit procedures were appropriate in the circumstances to express my opinion presented below.

AUDIT OPINION

In my opinion these financial statements fairly present in all material respects the financial position of the Body Corporate at 30 June 2004, and the results of its operations and cashflow information for the year then ended in conformity with generally accepted accounting practice.

C. Potgieter (SA)
2 SEPTEMBER 2004

Chartered Accountant
CLAREMONT

Management rule 56 provides for members to "consider" (not approve) the financial statements at their AGM. **Trustees** will have **approved** the financial statements before the AGM, as they are **ultimately responsible** for the financial management of the body corporate. The managing agent is a servant of the body corporate and should not be blamed if errors occur. Every financial statement must have **an auditors report** (if there are less than 10 units in a scheme, an accounting officer can do the audit).

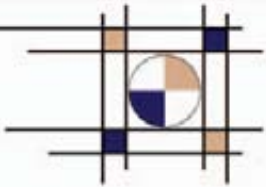
THE BALANCE SHEET (See pic in last issue) reflects the **financial position** of the Body Corporate **on the last day** of the financial year that is under consideration. It reflects all the Body Corporate's **funds in the bank**, plus **funds due** to the Body Corporate, plus **deposits paid** to service providers that are refundable (**assets**), it also reflects amounts which **are still due to be paid** by the Body Corporate (**liabilities**) if the liabilities (money owed) is more than the assets (money in the bank and monies owed to the body corporate) then there is a **serious problem**. Next on the agenda is usually the

TRUSTEES REPORT (sometimes known as the chairmans report). Trustees are **obliged** to produce a report (signed by the chairman) which reviews and reports on the state of affairs of the Body Corporate. Most often the report is multifaceted and overviews finance, maintenance, security, future plans, and aspects of community living and predicaments

faced by members. (A kind of "state of the ~~nation~~ complex overview") Next item to receive attention is the approval and adoption of the new

INSURANCE VALUES, Management rule 29 charges trustees to make **sure that** the Body Corporate is **adequately insured**. Buildings must be insured "for their **full replacement value**." (Trustees should ideally seek professional help in determining the replacement value of the buildings in their scheme!) The Body Corporate must keep the buildings insured against fire, floods, and such **other risks** that the owners **determine** by special resolution.

NATHOO & COMPANY
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INCOME AND EXPENDITURE STATEMENTS are then approved and adopted. This document details the amounts of **income earned** by the Body Corporate (usually levies and interest received), and **how the money was spent** (by category) in the various expenditure departments applicable to the running of a scheme.

THE ANNUAL BUDGET AND LEVIES FOR THE ENSUING FINANCIAL YEAR are then considered. Based on the **previous year's** financial performance, trustees (and the managing agent) are well positioned to collectively evaluate the needs for the next financial year. The new budget also allows trustees to calculate **each members levy** contribution in line with their **participation quota**. A Body Corporate **cannot** budget for a deficit.

Next issue (Last Episode): Appoint auditors, elect trustees, directions or restrictions for trustees, domicilium citandi.

New Sectional Title Publications

Demistifying Sectional Title

De"mist"ifying Sectional Title sets out to simplify difficult to understand concepts, and brings home in a practical manner, the ins and outs of living in a sectional title complex. Knowledge is power, and never is this more apt than in a community lifestyle.

This book is a must for all trustees who want to understand sectional title concepts - and it's available locally via Propell who have purchased copies for redistribution to interested parties at cost price. Phone Craig on 086 000 5050 to order your copy.



VILLA VISTA BODY CORPORATE				
Budget of levies for the year ended 30 June 2005				
	2004		2005	
	Budget per month	Budget per annum	Budget per month	Budget per annum
INCOME				
Levies receivable	19341	232100	21105	253264
Interest received	658	7900	561	6736
Total	20000	240000	21666	260000
EXPENDITURE	18832	225979	2402	244828
Administration fee	2210	26516	2394	28728
Accounting fee	69	830	75	900
Audit fee	138	1660	150	1800
Bank charges	177	2124	192	2300
Bad debts	193	2310	208	2500
Cleaning	12	138	14	150
Electricity	477	5725	517	6200
General Expenses	19	230	20	250
Insurance	1154	13845	1250	15000
Legal fees	154	1846	167	2000
Printing and Stationary	77	923	83	1000
Rates	2154	25844	2333	28000
Maintenance	2846	46150	4187	50000
Wages	1846	22152	2000	24000
Water and Sewerage	6307	75686	6833	82000
Budgeted savings	1168	14021	1264	15172
Proposed levy of R260,000 is an increase of 8,3% on last year				

VILLA VISTA BODY CORPORATE		
Schedule of contributions receivable and expenses payable for the year ended 30 June 2004		
	2004	2003
	R	R
INCOME	247196	222476
Levies receivable	239284	215356
Interest received	7912	7120
EXPENDITURE	254921	201998
Administration fee	27360	24624
Accounting fee	856	770
Audit fee	1700	1530
Bank charges	2213	1992
Bad debts	2070	1863
Cleaning	113	0
Electricity	5938	5344
General Expenses	200	282
Insurance	14140	12726
Legal fees	0	2300
Printing and Stationary	826	743
Rates	26249	23623
Repairs and maintenance	66266	36857
Wages	20375	19356
Water and Sewerage	77765	69988
Net (loss) / profit before tax	(7726)	20478
Taxation	(2317)	(3681)
Net (loss) / profit after tax	(10061)	16797
Retained income (start of year)	77423	60626
Retained income (end of year)	67362	77423

In need of advice?
PHONE OUR HELP LINE 086 757 7882
 Unfortunately we are not able to reply to each of the hundreds of emails that we receive requesting information.

ACKNOWLEDGEMENT
 THIS PUBLICATION ACKNOWLEDGES THE CONTRIBUTION MADE TO THE SECTIONAL TITLE INDUSTRY BY TERTIUS MAREE, GRAHAM PADDOCK, MARINA CONSTAS AND KAREN BLEIJS WHO'S PUBLISHED WORK PROVIDES US WITH ADDITIONAL INSIGHT.

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IN MY OPINION *Editors Comment*

MISFORTUNES CAN BE AVOIDED IF TRUSTEES TAKE APPROPRIATE AND PROMPT ACTION

The article published on the front page of the "Southern Courier" on June 1st by Julie Maule does much to reinforce the need

for "good governance" in Sectional Title schemes. Hopefully thousands of sectional title owners will now realise that their personal investment is only secure when they, and all members of a scheme contribute jointly, and timeously to a common fund. "No man is an island" in a Sectional Title Scheme." An individual only purchases a section of the complex and is reliant on the contributions of all in the community if the scheme is to succeed. The misfortune faced by the

Body Corporate of "Samiro Court" could have been avoided if the trustees applied their powers and exercised their duties in terms of the Sectional Title Act. Trustees are elected and act on behalf of owners, they must act in the best interest of members!

Trustees Duties include

A primary duty is to determine, collect and administer levies. Trustees need to act immediately against payment defaulters. (Body Corporate's should be run on business lines) I.e, A warning letter should be issued on a defaulter by the 8th of a month if payment was due on the 1st, this is followed by a

summons, issued by an attorney, by the 15th of the following month. Trustees can raise special levies for maintenance purposes and owners cannot refuse to pay such levies or withhold payment if they are in dispute with the body corporate.

Trustees Powers

Trustees are endowed with certain powers. Topping the list is the power to appoint agents and borrow funds. BCN contacted a leading "levy finance company" to gain an insight into the practicalities of using such services when schemes face predicaments similar to those that were reported in the "Southern Courier". We summarise the information provided to us by Mr Charles Coetzee of Propell Levy Finance:

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Family lose everything

Ignorance of sectional title deed cripples couple

Julie Maule

WITH a fully paid electricity account and paid up levies, a totally dumbstruck Marius Boshoff this week realised that he stands to lose everything.

Marius and his wife Betsie own a flat in Sameiro Court, La Rochelle, under a sectional title deed. Other residents in the block failed to pay their water and electricity accounts and arrears for the entire block of flats accumulated to R311 314,47. This led to the water and electricity supply to the block of flats being cut on May 17 by City Power.

legitimate expense which is due and owing."

The Boshoffs and their two children, aged six and two, have been without water and electricity for a week and a half, when they, out of desperation, approached the COURIER.

As their account is not in arrears they were shocked to learn that because of the other five owners in the block of six flats failing to pay their levies, lights and water, that they are also being punished because their flat is sectional title.

"We own our flat and don't even have a bond on it. We thought we were safe and I can't believe..."

Continues on Page 7



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* CONDITIONS APPLY

"An alarming percentage of Sectional Title Complexes experience difficulty collecting levies timeously and many do not have the necessary reserves needed for maintenance and repairs. These circumstances often result in trustees establishing contact with a levy finance professional who's first task is to evaluate the situation. This process requires that Bodies Corporate provide the levy finance professional with all the relevant financial information and details that govern the scheme. This cumulates in a "due diligence test" which results in an assessment to consider whether a body corporate can be financed. In most cases there is sufficient equity in a scheme to justify financial assistance. Once a scheme is "taken on," the levy finance company usually deals with the immediate arrears problem first. They also **guarantee** to pay 100% of all

monthly levies by the first working day of every month irrespective of whether individual owners have paid or not. Immediate finance is also provided to deal with urgent maintenance and repairs (ie, special levy finance). The levy professional in fact "takes over" the collection of levies process, and also attends to the collection of any arrears. Bodies Corporate contribute to the process by paying the levy financier a small "once-off take on fee" followed by a minimal monthly guarantee and collection fee (usually only 4,75% of levies p/m) In other words, each owner in a complex can receive asset protection for the monthly cost of a soft drink, burger and chips,

eg, 10 units x levy of R500.00 p/m = R5000.00. Levy Finance charges 4,75% guarantee and collect = R237,50 + VAT = R270,75 ÷ 10 units = R27,07 p/m.

In addition the body corporate will save costs related to their effort in the process of collecting levies plus the benefits attached to being cash flush, and not having to pay interest on accounts in arrears. The levy financiers, on the other hand generate a portion of their revenue through defaulters by imposing costs in the legal recovery of arrears that are legally due by defaulting owners. The levy finance company does however carry the cost of legal fees until these are recovered from defaulting owners." - Charles Coetzee

In conclusion we reiterate that there is no excuse for sectional title schemes to fail because of a debt burden. Trustees must exercise "good governance," and when necessary make use of services that are available within the industry.

Letters **received from readers**



I would like to thank you for the very informative publication, and more particularly for the latest edition with regards to "The removal of Trees and Creepers on Common Property." In

fact, almost every edition covers some issue / problem we experience in our complex. I have been the chairman of this complex for almost five years now.

I would like to comment too on the "letters received from Trustees," and more particularly the gentleman that was doing work in the complex with no remuneration. In our complex there are 24 units. When I "took over" the management of the complex almost five years ago - I as an owner and trustee actually "forced" the then Chairman of some years to resign as the complex was running at quite a loss and he was running the complex like a "Hitler" - not allowing anybody (trustees) any input or decision making. he spent money and between himself and the managing agent - at the time - they signed cheques and decided on their own how and when things should happen. Most of the owners were not interested or sort of fearful of him.

In a nut shell, I was a first time home owner at the age of 41 (single mom) and knew absolutely nothing about Sectional Title. I attended an intensive workshop - at my own cost and "jumped in on the deep end" on a rescue mission. Garden services, pool services, gardener and meter reading services were all

terminated and I started doing a lot of the work myself. Some assistance from trustees who soon decided that the work was too cumbersome without any reward. I even fixed the electric fence, light fittings, changing of globes, tap washers, etc. myself. I put in a lot of "woman" hours into this complex as it was my home! Well needless to say, many owners were - and still are - impressed by all my efforts, which I appreciate.

In closure I have managed to successfully rescue our complex. Managed to drop levies and have not increased levies for two years. Painted the entire complex with no extra levies, installed many new lights into this very dark complex, managed to negotiate a deal for all owners to have alarms in their homes - no cost for supply and fitting. Our bank balance is very healthy, we now have a full time gardener again, and

so the list carries on. I enjoy what I do, but must admit that in our happy family there are some thorns. I have learned to "tolerate" them too, as I have a philosophy where I believe that you please some people most of the time and others...well, they benefit too, as much as they refuse to give recognition. Many thanks for your publication.

Elizabeth Filiba Chair - Autumnfields

"Sectional title living provides many challenges for the community orientated - sadly these positive aspects are often diluted by the attitudes of the self centered individuals."

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Time: 9 -11 am. **Presented by:** Joe Gatz - (Cape Technikon Lecturer in Finance)
Cost: R100 per delegate (your Body Corporate should cover this cost) **Free for Propell clients.** **Refreshments:** Included
Bookings can be made by contacting Charlene at the Institute of Estate Agents on 021 531 3180.

Strukture op gemeenskaplike eiendom Tertius Maree

Individuele eienaars het geen reg om verbetering of veranderinge op gemeenskaplike eiendom aan te bring nie. Tog gebeur dit dikwels dat eienaars, met of sonder toestemming van die trustees 'n tuinhek, braaigerief, televisie skottel of ander struktuur of installasie op die gemeenskaplike eiendom laat aanbring of oprig.

Trustees het geen seggenskap om sodanige veranderinge te magtig nie. Die enkele uitsonderings hierop word bevat in Gedragsreël 4 en het betrekking op items soos diefwering, slotte, insekskerms en so meer. Wat die probleem onder bespreking betref kan die oplossing redelik maklik bereik word aangesien die nodige wysigings tot Gedragsreël 4 slegs 'n spesiale besluit verg. Die reël word gewysig om voorsiening te maak vir toestemming van die trustees in sulke gevalle.

"n Ander oplossing is om die betrokke gebied in 'n uitsluitlike gebruiksgebied te omskep. So kan trustees die reg verkry om verbetering toe te laat asook om heffings ten opsigte van die

gebied te vorder. Die neiging in die praktyk om eienaars, met die toestemming van die trustees, en selfs daarsonder, toe te laat om na willekeur verbetering aan te bring, moet bestry word. Die volgende is 'n paar algemene nadelige gevolge:

Dit skep 'n presedent wat sake later vir die trustees moeilik kan maak.

Hoewel die eenaar aanvanklik heel gewillig mag wees om die struktuur te versorg en in stand te hou, kan hy/sy, of latere eienaars van sy/haar deel, dit laat verwaarloos. Die instandhoudingsplig rus dan by die regpersoon, sonder enige vermoë om dit op die eenaar af te wentel.

Die trustees het geen bevoegdheid om heffings van die eenaar te vorder nie. Die eenaar het geen eksklusiewe regte ten opsigte van die struktuur nie en niks verbied

ander eienaars om daarop aan te dring om dit te benut nie. Die trustees kan nie sondermeer die voorwerp of struktuur verwyder nie en sal moontlik aansoek moet doen om 'n interdik.

Daar is dus twee alternatiewe en welke een gevolg moet word hang af van die aard van die struktuur en die betrokke area waarop dit aangebring word. 'n Tuinhek of braaigerief op 'n stukkie private grond wat slegs deur een eenaar benut word dui waarskynlik op die skepping van 'n uitsluitlike gebruiksgebied. In die geval van 'n TV skottel sal 'n gedragsreël 4 wysiging waarskynlik die beste metode wees om te volg.

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