

## Levy Collection in Sectional Title Schemes

By Jennifer Paddock

All owners of sectional units are obliged to pay validly raised general and special levies to their bodies corporate. When owners default in paying their levies, the owners who have duly paid effectively subsidize the defaulting owners and the body corporate as a whole is prejudiced. If the defaulters persist, the body corporate will experience a shortfall in their expected income and it may not have enough funds to cover its running expenses.

It is essential that a scheme's trustees and managing agent are committed to ensuring that arrear levies are collected. These are the steps that we suggest should be taken when an owner falls into arrears:

- 1) Before taking any action against the defaulting owner, the trustees should ensure that they have resolved to charge an appropriate rate of interest on overdue amounts in terms of prescribed management rule 31(6). This is to ensure that the body corporate does not lose the investment value of the money during the period of the default.
- 2) The next step should be a reminder and warning telephone call to the defaulting owner made by a trustee or the managing agent, who should keep a note of the conversation, to ensure that the failure to pay is not an oversight or a genuine error.
- 3) Once it is established that the failure to pay is not a mistake, the trustees or managing agent should write the defaulting owner a letter of demand (which should be hand delivered or sent by registered post with a request that acknowledgment be recorded) giving the owner a specified period, such as seven days, in which to settle his/her debt, failing which a court action will be instituted to recover the arrear amounts.
- 4) If the defaulting owner fails to settle his/her debt within the period stipulated in the letter of demand, the trustees or managing agent should hand the matter over to a debt collecting attorney who will initiate a magistrate's court action against the owner to recover the outstanding amount. The trustees should ensure that any claim instituted against an owner by the body corporate's attorney includes all legal costs incurred on an attorney-and-own-client scale.

In terms of section 15B(3) of the Sectional Titles Act a conveyancer is obliged to certify that the body corporate has confirmed that all monies due to it in respect of a particular unit have been paid or have been secured to its satisfaction. Therefore if an owner in arrears sells his/her unit, s/he will have to obtain a 'levy clearance certificate' from the managing agent or trustees before the unit can be legally transferred to the buyer. This provision can be used as a tool by the trustees and the managing agent who must refuse to give the owner a levy clearance certificate until all arrear amounts owing to the body corporate have been paid.

Paddocks' 9th presentation of the **UCT (Law@Work) Sectional Title Scheme Management Certificate Course** is due to start on the 30th of November 2009. For more details or to register, please contact Kate on 021 674 7818 or [kate@paddocks.co.za](mailto:kate@paddocks.co.za). Alternatively, see [www.paddocks.co.za](http://www.paddocks.co.za).