

# CSOS PRESENTATION SECTION 6(9) APPLICATIONS

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# NEW PD: SECTION 6(9) APPLICATIONS

- The objective of the Practice Directive is to provide further information on the **procedures** and content requirements for approval of **unanimous and special resolution** applications lodged with the CSOS
- Sectional Title Development Schemes defined in terms of the STSMA, all persons who own such schemes and all persons who manages such schemes
- Applicants must complete the Application for Approval of Special or Unanimous Resolution Form – **Form ST1**
- The email address is [sectionaltitles@csos.org.za](mailto:sectionaltitles@csos.org.za).
- If the applicant has multiple resolutions, separate applications must be submitted or one form with separate annexures per resolution
- The application form must be signed by the applicant unless the application form is signed by an applicant's authorized representative, which must be indicated on the form. Where an applicant is represented, **full particulars and contact details of the representative** must be disclosed in the application form, including the capacity in which the representative acts (i.e., trustee, managing agent, etc.)

# IMPORTANT!

- ❑ An applicant submitting the application for approval of a unanimous or special resolution must ensure that the application and any supporting material contain **only information** which the applicant is prepared to have made available to all other parties to the dispute. The information submitted by the Applicant will not be classified as private and confidential
- ❑ The application should be made within **90 days** after failure by the Applicant to obtain the required resolution
- ❑ THIS IS A FREE SERVICE!
- ❑ **BEFORE SUBMITTING TO CSOS:** Ensure that the resolution was tabled at the AGM (or via round-robin)... 30 days.!
- ❑ **QUESTION?** What is the quorum requirements for Special and Unanimous Resolutions?

# THE PROCEDURE...

- The Chief Ombud **WILL** notify any interested and affected parties and provide them with an opportunity to be heard before a decision is made by providing the parties with the notice (together with supporting documents) on the nature and purpose of the resolution received from the applicant. This is also meant to ensure that there is **transparency** in the approval process
- The body corporate must ensure that the said notice is circulated to all members of the body corporate and provide proof to that effect. The read receipt notice or member signature acknowledging receipt will serve as proof that the notice has been received by a member of the body corporate
- The affected parties will have **21 (twenty-one) working days to respond** to the notice
- The Chief Ombud will only consider an extension of the 10 (ten) days if exceptional circumstances exist as to why an affected party cannot respond within the given time frame as mentioned above
- If no response is received from the members, as requested, the Chief Ombud will proceed and make the decision which will be circulated to the parties **within thirty (30) working days**

# WHAT SHOULD BE SUBMITTED TO CSOS?

- I. **Notification** for the meeting and proof that all owners received same. Notification for a round robin should be submitted where applicable
- II. **Minutes** of the general meeting indicating the number of members who attended or duly represented by proxy, clearly indicating quorum requirements
- III. The **read receipt notice** or **members signature** acknowledging receipt, will serve as proof that the notice has been received by a member of the body corporate
- IV. **Confirmation by trustees** indicating votes, both in number and value of members who voted in favour of the resolution
- V. **A list** indicating the number of members who voted against the resolution
- VI. **Reasons** from members who voted against the resolution if so provided
- VII. Any other documents in support of the application
- VIII. **Motivations** in support of the resolution

# CONSIDERTATIONS OF THE CHIEF OMBUD

- ✓ The objective of the STSMA and the Regulations
- ✓ The reasons submitted by members who voted against the resolution
- ✓ The objective and purpose of the resolution
- ✓ Whether the resolution will enhance the living conditions of the members residing in the scheme or promote proper governance in community scheme

## **BUT!!**

- Before the Chief Ombud can approve the application, at least more than 75% of members entitled to vote both in number and value should have voted in favour of the unanimous resolution. At least more than 50% of members entitled to vote both in number and value should have voted in favour of the special resolution

# WHEN WILL THE APPLICATION BE REJECTED?

- That the dispute is part of, or closely related to the existing proceedings in court
- That the applicant failed to provide requested further particulars within **14 (fourteen) days**
- That the application does not fall within section 6(9) of the STSM Act
- That the application does not meet the necessary requirements

APPLICANTS WILL BE INFORMED IN WRITING IF THE MATTER IS REJECTED

- Once the Chief Ombud has made a decision, any party who is affected or is an interested party who is not satisfied by the decision may file a review application with the High Court against the decision of the Chief Ombud

**THANK YOU**

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