



# THE LANDLORD

APRIL 2023

## Newsletter for Sectional Title Trustees and Landlords

Out with the old and in with the new! The original The Landlord ran from 2008 until the end of last year. As many of you will know, I sold Platinum Global in June last year and am now running as an independent advisor and Professional Associated Valuer. I have been asked to continue with The Landlord. As a result it is now being recreated in a new format to continue the work of keeping sectional title Owners, Trustees, and to a lesser extent their tenants informed of happenings in the Sectional Title Industry. It will also be used to keep readers informed about happenings in the property development industry, where some exciting happenings are taking place. One of these will be the opportunity to invest in high quality apartment (and other) new developments using the consortium method of investment. I am very excited about this new development as it allows for both top quality low maintenance buildings, but does away with many of the management problems associated with investment ownership in sectional title developments. More about that once the first development is further advanced. As always, I encourage readers to ask questions that concern them and I will do my best to give good advice on how to overcome problems associated with owning a sectional title unit.

Please note my new contact details. Email [mike@mikespencer.co.za](mailto:mike@mikespencer.co.za) & Cell 082 082 0990

Recently I have had questions from owners in different Body Corporates as to the ability of the developer to make changes to the original building plans, without getting current permission from owners in the building.

From Appeal Court decisions it is quite clear that the developer only has right in terms of section 25 of the STAMA, the act that governs sectional title schemes. This means that they can only extend the scheme (build further units), if they have retained their rights in terms of Section 25 to do so. I am quite sure that they are correctly advised by their attorneys and do register such rights. This right of extension has a time limit usually between 20 and 30 years after which the right to extend falls back on the body corporate. Such right is a real right, registered in the Deeds Office so can be sold to another developer.

Importantly the Developer cannot change what he builds from the building plans that are submitted when the scheme is originally opened. That means that ONLY what was on that development plan can be built ie. they cannot decide to build one bedroom flats instead of two or townhouses instead of flats. Not only that they can only build to the plan as far as design, materials, finishes, and outside appearance. They cannot for instance use wooden windows instead of steel ones. The only way that they can change to layout or design is to have a unanimous decision by all the owners at a properly convened general meeting AND the written approval of any owner that is negatively affected by the proposed change. They cannot put such approval into the sales documents or rules of the body corporate as this would be against the act. The whole purpose being that the final building is as per the development plan. A copy of the development plan must be attached to the developer's sales documents.

Another question that I am getting is about schemes where the AGM is not held on time and who is responsible to arrange it.

The AGM MUST be held within 4 months of the end of the financial year end. So a February year end needs a meeting by the end of June. To send out the notices of the AGM you need the budget, the Annual Financials, and the Trustee's report to be attached. The budget is created at the budget meeting just before the year end. The Trustee's report is quick to do. The Auditors report can only be done if the books are sent to the body corporate's accountant for compiling and then to the Auditors in time. They need to be back in time to send out the AGM notice with 14 days' notice or longer where there are special resolutions.

Who is responsible for sending them out. Actually the Trustees but in reality, the managing agents, if you have one. It is a good idea to send a reminder at the end of the year to your managing agent reminding them of calling the AGM on time. Accounts should always be up to date, so if it does not happen you would be entitled to fire your managing agents and get one that can do the job properly. \* Trustees can decide on the new levy if it is 10% increase or less but it is always better to call a Budget General Meeting with all owners.

## WATCH THE WEATHER!

We have experienced some very wet summers for the past few years, but weather forecasters are indicating that this is about to come to an end with a switch over to a period of hot dry seasons from the end of July. How does this affect a sectional title scheme.?

Waterproofing. Everything should be in order because you will have experienced heavy rain but be aware that hot dry weather will shrink the rafters and age flashings. Keep an eye of them. No maintenance no insurance claim.

Trees will have grown and grown. Are they or their roots causing or likely to cause problems. Sort it out before problems arise.

Wall foundations. Have these been washed out or is the wall leaning. Don't let them fall over as it could cause serious damage/injuries.

Wooden windows lover damp weather so may not have been maintained. Check them out and be ready to revarnish when required.

Sprinkler systems have probably been switched off for the last three years. Have them serviced ready for the summer.

## MANAGING SMALL SCHEMES

There are far more small schemes that there are big ones. I would consider a larger scheme to be 40 units or more to be a larger scheme. From a practical point of view, mainly financial, this is about the smallest scheme that is financially viable for a good management company to manage.

So what should small schemes do? If you understand the requirements of the STSMA, you should be able to run any scheme successfully. The biggest failing of Trustees, is generally their lack of accounting and bookkeeping skills. They should be able to set up and run budgets, be competent bookkeepers and have an understanding of how to send out and keep track of levy and services (water & electricity) accounts. They also would need to know the legal requirements to run a Body Corporate such as registration with CSOS, the local authority for water and electricity payments and running a bank account.

Importantly they would need to know what Trustees were able to do and not do. For example they can set the budget at the beginning of the financial year but need to have it re approved at the AGM. They would need to have the accounts audited and available to send out with the notice of the AGM which must be held within 4 months of the financial year end.

Picking the right trustees for small schemes is vitally important as Trustees represent owners and need to manage things to every owners benefit equally – no favourites or managing the building in a way to suit the Trustees.

Mike Spencer was previously the owner of Platinum Global in Bloemfontein and sold his business in June 2022. He now works as a Professional Associated Valuer and does valuations in various areas and property types with the exception of farms. Valuations are different from likely selling price opinions by Estate Agents and are legal documents that can be used in Court. Valuations are required when people get divorced and especially where property is bought or sold by Trusts, Companies, CCs and the like. A Professional Valuer has to be able to justify how they came to their valuation price.

Mike is also a Consultant to Trustees and Owners of sectional title units giving them advice on how to run schemes and overcome problems that they are experiencing. He is able to assist Body Corporates via Trustees and individuals

He is also a Consultant to Developers on the practical management and marketing aspects of new developments. Here he advises on design, future maintenance, layout, and amendments to the standard rules. .

Mike can be contacted at his new email address of [mike@platinumglobal.co.za](mailto:mike@platinumglobal.co.za) or by cell phone at 082 082 0990