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Issue 2 of 4

Jul - Sep 2022

**KNOW THE
INS AND OUTS
OF THE EMAs**

**HOW TO PAY
YOUR CSOS
LEVIES
AND WHY IT
MATTERS**

**THE PROCESS FOR
URGENT DISPUTE
RESOLUTION**



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Community Schemes
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VISION: A credible, world class OMBUD SERVICE for community schemes in South Africa.

MISSION: To promote harmonious community schemes by providing regulation, education and accessible dispute resolution services to all relevant stakeholders

VALUES: Accountability, Excellence, Independence, Integrity



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CHIEF OMBUD'S FOREWORD



The world has gone digital and we, at the Community Schemes Ombud Service, are moving with the times. We are delighted to announce the start of our modernisation journey.

A new dawn begins – a transition from manual operations into a digital and automated environment for both the organisation and our customers. Our aim is to have a one-stop-shop for you that will allow you, as our valued customer, at any time, to register a scheme, check on fees and levies, governance documents, lodge a dispute and access a whole host of other services.

The portal we are working on will allow us to manage our relationships and integrate the information that we have. This is a massive task and hence the solution will be delivered in phases over the next financial year. We plan to address many of the challenges that you currently experience as our valued stakeholder.

Operationally, we are concerned about the number of unallocated levy payments. We are still receiving payments that have either no reference number attached to them, or an incorrect reference number is used. We are appealing to all community

schemes to use their CSOS registration number when paying levies. In the past, the registration reference number would have been: **CSOS/REG/22/GP/123456**. However, going forward the registration reference number will be **REG/22/GP/123456**.

This change is because financial institutions were unable to assist with the allocation of payments made to the CSOS because the previous format was too long, resulting in unallocated payments in the CSOS suspense account. Schemes will also be receiving their account statements every 2 months or as and when the Scheme requests a statement of account. Should the Scheme require assistance with a specific levy payment, please contact levyqueries@csos.org.za.

Training and information sessions are also underway all over the country. In terms of the CSOS Act, we are mandated to “provide education, information,

documentation and such services as may be required to raise awareness to owners, occupiers, executive committees and other persons as to their rights and obligations”. Any individual who is part of a community scheme can apply to have CSOS training. Please follow our social media pages and website to see when the next training is. CSOS is also available to attend Annual General Meetings (AGM), and to present on the rights and obligations of Community Schemes. A request to attend an AGM must be sent a month before the actual date of the meeting to training@csos.org.za.

In this edition we are focusing on how to pay your levies and why it matters, the process for urgent dispute resolutions, the ins, and outs of Executive Managing Agents and many more articles which we hope will clarify some of the questions raised with us and in other forums.



The Community Schemes Ombud Service (CSOS) appeals to all unregistered community schemes to register and abide by the law with immediate effect.

In terms of the CSOS Act, read with Regulation 18(2)(a)(v) of the CSOS Regulations, all community schemes **must be registered with the CSOS within 30 days** after the incorporation of the community scheme or within 30 days of the coming into effect of the CSOS Regulations on 7 October 2016.

All scheme executives, including but not limited to the board of trustees, directors and management associations, have a duty to register their schemes with the CSOS as failing to do so is a serious breach of the law with serious legal consequences. Equally, it is an offence punishable by law to collect the CSOS levy from your scheme members and not pay it over to the CSOS.

Registration is free

For more information:

www.csos.org.za

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Head Office:
Berkley Office Park, 8 Bauhinia St, Highveld Techno Park, Centurion, 0169





KNOW THE INS AND OUTS OF THE EMAs

No one wants to be a trustee in my body corporate, what can I do?

The Community Schemes Ombud Service (the CSOS) is here to help!

An Executive Managing Agent (EMA) can be appointed in the instance where there is no trustees (scheme executives).

What exactly is an EMA?

An EMA is a qualified managing agent with the required knowledge, skill and experience, who is appointed to carry out all the functions and powers of the Trustees of a Body Corporate (BC) in terms of Prescribed Management Rule (PMR) 28 of the Sectional Titles Schemes Management Act No 9 of

2011 (the STSMA).

PMR 28(2) of the STSMA says that a BC may by special resolution, appoint an EMA to perform the functions and exercise the powers that would otherwise be performed and exercised by its scheme executive, being its trustees.

Consequently, EMA is a managing agent that is appointed in a specific way, in their place and stead, to carry out all the functions and powers of the scheme executives, but more on this later.

Now you may ask what is a special resolution?

It means that at least 75%, calculated both in value and in number, of the votes of the

members of the BC represented at a special general meeting must have passed the resolution called for this purpose; or agreed to in writing by members of a BC holding at least 75%, calculated both in value and in number, of all the votes, i.e., 7.5% in number and value out of the total of 10 units in a BC must vote for the resolution to be passed in writing.

But what if a special resolution cannot be obtained?

Then members entitled to 25% of the total quotas of all sections in the scheme may apply to the CSOS for the appointment of an EMA.

One of the CSOS 23 panelists can then be selected from and appointed to a scheme where

there is no functioning board of trustees. All 23 panelists have been carefully selected and undergone a vigorous review process to form part of our panel for 3 years. These 23 panelists have been chosen in the spirit of transformation from historically disadvantaged individuals.

You might ask if only an EMA can be selected from the CSOS panelists?

Absolutely not!

The Scheme can select any qualified Managing Agent to act as an EMA for a particular scheme.

In fact, the CSOS is in communication with existing EMAs regarding our transformation initiative and whereby the Black Executive Managing Agents can gain practical experience through twinning agreements with these experienced EMAs.

The CSOS are also devising a formula for compensation of the existing and experienced Executive Managing Agents in order to create an incentive to those EMAs that take on this developmental role.

However, should a scheme wish to appoint a panelist from our panel the process will be as follows:

1. CSOS will provide a list of all 23 EMA on its database including their Province of practice from which the BC may choose;

2. The BC then selects an EMA in its respective, and the CSOS will in turn provide the BC with the contact details of the EMA;
3. The BC will contact the EMA and advise the CSOS on which EMA it has selected;
4. If the BC cannot select an EMA, the Chief Ombud will select an EMA on the BC's behalf based on its specific needs;
5. It is also important to note that EMAs are required to submit their quarterly reports to the CSOS!

BUT, before entering into a management agreement with the BC, the EMA must, in writing, disclose the following information to the BC, including its general functions:

1. The EMAs trade name and, in the case of a company, close corporation or trading trust, its registered name and registration number;
2. Its postal and business street address, telephone number and e-mail address;
3. The date when the managing agent was established and commenced trading;
4. Confirmation and proof that it has current Professional Indemnity Insurance Policy in place and the amount of such cover;
5. The EMA's office hours and days of the week during which it conducts business as a managing agent;
6. A copy of its fidelity fund certificate for the current year issued to such managing agent, and when the fidelity

fund certificate for the current year was received from the Property Practitioners Regulatory Authority (Formerly known as the Estate Agents Affairs Board). Further to the aforesaid, the EMA must send out a letter with the monthly levy statements confirming that the new fidelity fund certificate is available to be viewed at the offices of the Managing Agent.

7. The name of the auditor appointed by the managing agent;
8. Confirmation of whether the EMA will be working in conjunction with the existing managing agent, or a newly appointed managing agent of the BC concerned, a copy of the managing agent's contract, and the managing agent's monthly fee (including all ancillary costs).

What are the functions of the EMA?

All the functions of the board of trustees, including but not limited to:

1. Identifying the risks to be insured against.
2. Handling any insurance claims.
3. Maintaining and keeping the scheme in a state of proper maintenance and repair, which includes all common property.
4. Complying with any notices or orders of any competent authority (including the CSOS).
5. Arranging for repairs to be

- 6. Collecting or receiving monies or levies owing to the Body Corporate.
- 7. Recruiting and/or appointing employees and/or service providers for the Body Corporate.
- 8. Ensuring that the Annual Financial Statements are prepared timeously.
- 9. Convening of general meetings.
- 10. Keeping and storing of financial and administrative records of the Body Corporate or ensuring that

- 11. Ensuring that access to records is permitted as per the Prescribed Management Rules.

The 23 panellists signed the CSOS Code of Conduct for Executive Managing Agents, however ALL EMAs must adhere to the Code of Conduct!

What must be in place when deciding upon an EMA?

- 1. EMA's must adhere to the CSOS Code of Conduct for

- such records are properly kept by the managing agent.
- 2. A signed agreement, a sample Service Level Agreement between CSOS and the Body Corporate – please ask us and we will provide you with one.

How do I cancel the EMAs contract?

The decision can either be taken by the board of trustees or by ordinary resolution by members. If the EMA contract is cancelled, all books of accounts must be handed over within a period of 14 days to the body corporate!

LASTLY, THE LIST OF THE 23 PANELISTS:

	PANELIST	AREA OF OPERATION
1.	Affluence Property Management	Gauteng
2.	Altamirus Realtors	Free State
3.	Area Group Property Services	Gauteng, Northwest, Limpopo, Mpumalanga
4.	BDM Property Management Agency	Gauteng, Limpopo, Mpumalanga
5.	Billionwalk Property Group	Gauteng, North West, KwaZulu Natal
6.	Cailey Ann Academy Properties	Gauteng, Northwest, Free State, Eastern Cape, Mpumalanga, KwaZulu Natal, Limpopo
7.	Dijalo Property Group	Gauteng
8.	Dishome Consulting	Limpopo
9.	Elaine Moonian Properties	Gauteng, KwaZulu Natal
10.	Greensite Properties	Gauteng
11.	Habitat Property Management	Gauteng, Mpumalanga, Northwest
12.	Jooma Properties	KwaZulu Natal
13.	Leapfrog Property Group	Gauteng
14.	Mafadi Property Services	Free State, Gauteng, KwaZulu Natal, Eastern Cape, Western Cape
15.	Ponelopele Property Management	Free State
16.	Property to Link	Gauteng, Free State, Western Cape, KwaZulu Natal, Mpumalanga
17.	Rampedi Properties	Gauteng, Free State
18.	Segoale Properties	Gauteng, Limpopo, Mpumalanga, Northwest
19.	Summit Homes	Gauteng
20.	Team Group Real Estate	KwaZulu Natal
21.	Unlimited Townhouses	KwaZulu Natal
22.	Vhumbanani Property Management Solutions	Gauteng
23.	Zamapho Property Management	Gauteng, Eastern Cape

Please contact Johlene.Wasserman@csos.org.za for more information on our panellists!

HOW TO PAY YOUR CSOS LEVIES AND WHY IT MATTERS

Non-payment of levies is a criminal offence and will also attract interest calculated at a rate as prescribed by the NCA or as determined by the CSOS from time to time.

In terms of Section 59 (a) of the CSOS Act each Scheme has an obligation to pay to the CSOS, the prescribed levies at the rate set in the schedule of levies, payable by each unit.

Community Schemes are obliged to collect from their members monthly an amount to be paid over to the CSOS. The CSOS Levy is equal to 2% of the amount by which the monthly admin levy exceeds R,500, but not more than R40.00 per unit per month.

The 2% is based on the admin fund levy and excludes the reserve fund portion. [Click here to see the CSOS Levy Calculator.](#)

To get the ins and outs on CSOS levies and fees payments, click on the following link: **AMENDMENT OF THE PRACTICE DIRECTIVE ON PAYMENT OF LEVIES AND FEES.**



DID YOU KNOW?

Before you can make an application for dispute resolution with the CSOS, applicants must first have exhausted all internal dispute resolution mechanisms of the community scheme concerned.

who is there to assist the parties in finding a resolution. If the matter is not resolved, the conciliator will issue a Notice of Non-Resolution and will refer the matter to Adjudication.

How to lodge a complaint:

1. Complete the Application for Dispute Resolution
2. The CSOS receives, registers, and acknowledges new application.
3. The Application is assessed to determine validity.
4. If valid, matter is referred to Conciliation.

5. Conciliation Fee – Free

- Informal Type – quick telephone conciliation
- Formal Type – conciliation hearing
- Conciliations are chaired by a CSOS Conciliator

6. Adjudication Fee – Free

- Matters that are referred for adjudication will be subject to a thorough investigation prior to presentation at the adjudication hearing. At the adjudication hearing, the Adjudicator will consider all the evidence presented and will hand down a determination that is binding on all parties to the dispute.

Adjudicator orders are enforceable in the Magistrate Court or High Court depending on the quantum or nature of the relief granted in the determination.

PROCESS FOR URGENT DISPUTE APPLICATIONS



Dispute Application Email addresses:

WC-complaints@csos.org.za
Western Cape, Eastern Cape and Northern Cape

GP-complaints@csos.org.za
Gauteng, North West and Limpopo

KZN-complaints@csos.org.za
KwaZulu-Natal, Free State and Mpumalanga

63 Wierda Road East, Wierda Valley, Sandton
0800-000-653 | mervin.dorasamy@csos.org.za



www.csos.org.za

The electricity supply to my sectional title unit has been terminated . . . The directors have denied me access to the HOA . . .

Can I approach the csos for urgent assistance?

The good news is **YES YOU CAN!**

As with a Court application, the CSOS does accept urgent dispute resolution applications, and will hear these matters within 24 hours (circumstances permitting); provided that all other prerequisites are complied with, such as full details of the dispute being received, the opposing party or parties being notified and given the opportunity to state their case, and the dispute resolution fee being paid to the CSOS. It is also imperative that the matter is actually urgent, and that the urgency is not self-created or simply perceived by the party bringing the application as being urgent, whereas it really is not urgent.

The application can be brought in terms of any sub-section under “Prayers for Relief” in terms of section 39 of the CSOS Act No.9 of 2011. The Applicant proves that the granting of the relief is in fact urgent.

Alternatively, where, for example, the electricity or water supply to a unit has been terminated simply because money is owed to the body corporate, or access to a scheme or unit is denied for the some reason, then the application must be brought in terms of section 39(7)(b) of the Act under “any other order proposed by the chief ombud”.

A dispute application is lodged with CSOS in terms of Section 38 of the CSOS Act which provides:

38. Applications

(1) Any person may **make an application** if such person is a party to or affected materially by a dispute.

(2) An application must be-

- made in the prescribed manner and as may be required by practice directives;
- lodged with an ombud; and
- accompanied by the prescribed application fee.

- The application must include statements setting out-
 - the relief sought by the applicant, which relief must be within the scope of one or more of the prayers for the relief contemplated in section 39;
 - the name and address of each person the applicant considers to be affected materially by the application; and
 - the grounds on which the relief is sought.
- If the applicant considers that the application qualifies for a discount or a waiver of adjudication fees, the application must include a request for such discount or waiver.

In addition, Section 36 provides:

36. Practice directives

- The chief ombud must issue practice directives with regard to any matter pertaining to the operation of the Service.
- Practice directives must, subject to this Act and the regulations, direct the performance of any act in the operation of the Service.

Most importantly, Clause 33 of the Practice Directive on Dispute Resolution, 2019, in respect of URGENT APPLICATIONS FOR DISPUTE RESOLUTION, provides:-

33 URGENT MATTERS

- The Applicant can submit an application for the matter to be heard on an urgent basis.
- The applicant must demonstrate that there is a current, genuine emergency requiring an urgent adjudication order. The urgency cannot be used to circumvent the ordinary conciliation and adjudication processes.



EDUCATION: A WEAPON OF MASS CONSTRUCTION

Nelson Mandela said, "Education is the most powerful weapon which you can use to change the world." This is what the Community Schemes Ombud Service (CSOS) embraces as its tenet when it comes to educating its stakeholders about its services tailored to empowering community members.

As society evolves from a society where people owned homes or lived in flats, we must embrace global trends where people now have other living options involving:

- Sectional title
- Share block company
- Home or property owners association
- Housing schemes for retired persons
- Housing co-operatives

The trend is to move toward urbanisation. However, this influx has resulted in a shortage of land. Consequently, developers capitalised on this need and the move toward community schemes offered a viable solution to accommodation. Whilst this option has distinct advantages, it is also plagued with challenges. The CSOS has a role to play as a body that regulates the conduct of parties to ensuring good governance.

Part of CSOS's mandate is "To provide training for Councillors, Adjudicators, and other employees of the Service" – a mandate that CSOS takes very seriously! CSOS is established in terms of the Community Scheme Ombud Service Act (Act 9 of 2011) to regulate the conduct of parties within community

schemes to ensure their good governance.

Prior to the establishment of CSOS, the public did not know who to turn to in cases involving disputes. Government received a myriad of complaints from owners of properties located in Community schemes, regarding problems that plagued them. At first, the Department of Rural Development and Land Reform (DRDLR) entertained some of the complaints, including articulating policies intended to have such complaints resolved. However, this did not offer a practical solution and resulted in consumers adopting the legal route. This option proved to be costly and time consuming.

In 2003 the National Department of Human Settlements (NDHS) and the DRDLR started a

dialogue focusing on developing a dispute resolution mechanism for community schemes in particular. It was natural that the NDHS, which focused on human settlements mandates, would have to develop relevant legislation and establish a dedicated entity to plan and implement an effective dispute resolution mechanism.

Disputes are generally resolved better outside of the expensive court system. Whilst some disputes do not have a legal solution, others are made worse by court action. Alternative Dispute Resolution (ADR) refers to any means of settling disputes outside of the courtroom. ADR typically includes early neutral evaluation, negotiation, conciliation, mediation, and arbitration. As burgeoning court queues, rising costs of litigation, and time delays continue to plague litigants, more states have begun experimenting with ADR programs. This is where CSOS and its role in the ADR process becomes critical.

Further to this, their education and advocacy programmes are also invaluable tools in helping affected parties in making informed decisions and choices.

The public and related stakeholders need to be aware of changing legislation, new and emerging legal implications and, more importantly, their rights and obligations within this dynamic framework. The rationale is always to ensure fairness and protect the interests of all involved. No party should be prejudiced in any way.

It is with this view in mind that CSOS offers training to all owners, occupiers, executive committees and managing agents so that they can navigate the increasingly complex environment of community schemes. So committed are they that they even offer training on a Saturday.

If any party enters the fray of, for example, dispute resolution, the costs incurred could be

exorbitant. Unless, of course, they could make an informed decision or choice, stemming from a sound understanding of, among others:

- The definition of a community scheme
- What alternative dispute resolution is
- Guiding principles of dispute resolution
- Applications and the lodging of applications
- Assessments
- Investigation and adjudication

A key focal area is to provide good governance of community schemes. A lot can be achieved with the appropriate training in place.

All members community schemes are encouraged to register, it is free.

Your registration will ensure that you belong to a "professional home" and that your rights are protected. We empower through education!

GET IN TOUCH WITH US



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Berkley Office Park, 8 Bauhinia Street,
Highveld Techno Park, Centurion
010 593 0533



KZN, MP, FS
7th Floor Aquasky Towers, 275 Anton
Lembede Street, Durban
031 001 4215



WC, EC, NC
8th Floor Constitution House,
124 Adderley Street, Cape Town
021 001 2569

HIGH COURT AFFIRMS CSOS'S JURISDICTION AS A FORUM OF FIRST INSTANCE



Article by Lihle Ntombela; Legal Services Manager

concurrent jurisdiction with the CSOS in relation to disputes pertaining to community schemes, they emphasize the following principles which are pivotal to the mandate and existence of the CSOS, namely that:

- (1) *"where disputes pertaining to community schemes such as sectional title schemes fall within the ambit and purview of the CSOS Act, they are in the first instance to be referred to the Ombud for resolution in accordance with the conciliative and adjudicatory processes established by the Act, and a court is not only entitled to decline to entertain such matters as a forum of first instance, but may in fact be obliged to do so, save in exceptional circumstances... convenience will not constitute an exceptional circumstance"* - *Heathrow Property Holdings NO 33 CC & Other v Manhattan Place Body Corporate & Others*;
- (2) *"to allow litigants to proceed directly to a court instead of the primary adjudicative forum which has been established by the CSOS Act, would undermine the administrative and quasi-judicial processes which have been provided for and result in 'forum-shopping' by better resourced litigants"; and*
- (3) *"It requires little insight to appreciate that those commendable policy considerations (i.e cheap and informal dispute resolution mechanism) would be liable to be undermined if the courts were indiscriminately to entertain and dispose of matters that should rather have been brought under the Ombud Act"*- *Coral Island v Hoge*.

The abovementioned judgements are a victory and a giant leap in the right direction for the CSOS as they enhance the main objectives of the CSOS Act and further highlight the important role of the CSOS as the regulatory authority for community schemes in the industry.

In a spate of cases recently decided by various High Courts in South Africa, the courts have affirmed the powers and jurisdiction of the CSOS as a forum of first instance where a dispute falls squarely within the ambit of the CSOS Act.

In the matters between *Coral Island Body Corporate v Hoge* 2019 (5) SA 158 (WCC); *Heathrow Property Holdings NO 33 CC & Other v Manhattan Place Body Corporate & Others* (7235/2017) 2022 (1) SA 211 (WCC) (1 JUNE 2021); *Wingate Body Corporate v Pamba & Another* (33185/2021) [2022] ZAGPPHC 46; *Prag N O v the trustees for the time being of the Mitchell's Plain Industrial Enterprises Sectional Title Scheme Body Corporate* 2021 (5) SA 623 (WCC); and *The Body Corporate of the Sorronto Sectional Title Scheme, Parow v Leozette Koordom and Wilfred Booyesen* delivered on 26 May 2022, the Applicants had bypassed the CSOS and instead opted to approach the High Court to have their disputes pertaining to the administration of their respective community schemes resolved.

Although the courts accepted that they enjoy



LEVY STATEMENTS

HOW TO GET YOURS



You're a community scheme and you paid the CSOS Levy, now what?

THE CSOS DOES ISSUE STATEMENTS.

CSOS levy queries should be sent to levyqueries@csos.org.za

Proofs of Payment should be sent to levypayment@csos.org.za

All requests are processed within 48 hours.

For enquiries please email levyqueries@csos.org.za



CASE CLOSED



photo: www.freepik.com

A BID TO ALTER COMMUNAL SPACE BY MR NCALA TURNED DOWN BY HIGH COURT AFTER THE BODY CORPORATE REFUSED HIM PERMISSION TO INSTALL HIS WASHING MACHINE AND MAKE OTHER ALTERATIONS TO THE COMMUNAL WASHING AREA.

amongst other things, Mr Ncala must move the washing machine to the inside of his section and remove the tap and the piping that he had installed, whilst restoring the common property area to its original state. If he failed to do so within the allotted time, then the Body Corporate would be permitted to do so and debit the cost thereof to Mr Ncala's levy account.

The Adjudicator also found that Mr Ncala must comply with the Body Corporate's Conduct Rules. Section 57(1) of the CSOS Act, No. 9 of 2011, permits a party to an adjudication who is unhappy with the order, to approach the High Court to appeal the order on a question of law. However, he must lodge the appeal within 30 days after he receives the order.

Whilst the Adjudicator delivered her order on the 30th of November 2018, Mr Ncala only lodged his Notice of Appeal on the 8th of March 2019, which the Body Corporate opposed.

The basis of his Appeal was stated as "... (The

This matter concerned the appeal to the South Gauteng High Court by Mr Ncala, who is blind, after the Park Avenue Body Corporate had insisted that he remove the washing machine, as well as an enclosure, the required plumbing to run the washing machine, and a plastic roof that he had installed on the common property courtyard adjacent to his section, without the Trustees permission, and the Adjudicator found against him when the matter was referred to the Community Schemes Ombud Service (CSOS).

The CSOS Adjudicator made an order that,

Adjudicator's failure in making her adjudication to have due regard to (Mr Ncala's) fundamental rights to dignity and equality as a disabled person".

The relief that he requested from the Court was that the adjudication order be set aside and that, inter alia, he be allowed to keep his washing machine (which the Body Corporate must re-install), that all his legal costs must be paid by the Body Corporate, and henceforth it must take all reasonable steps to accommodate him as a blind person living with a disability.

Decision of the Court:

The Court judgment is extremely long and makes for remarkably interesting reading, considering, as it does, the functions of the CSOS, the relief that an Adjudicator may grant in terms of the CSOS Act, the process of an adjudication, as well as the process that must be followed if a dissatisfied party wishes to take an adjudication order on appeal. For present purposes emphasis is placed on the relief that an Adjudicator may grant in terms of section 39 of the CSOS Act.

This article will focus on the decision of the Court:

As regards the infringement of Mr Ncala's right to equality and dignity:

Taking all the circumstances into account, which have not all been set out here due to a lack of time and space, the Court found that the Body Corporate had not treated Mr Ncala any other way than as a human being. The Judge commented that as part of a community he is also subject to societal rules, and the Body Corporate did attempt to engage with him, even though its Caretaker's conduct was unjustified (the Caretaker had been rude to him).

As regards the order that the

Body Corporate take all reasonable steps to accommodate (Mr Ncala's) needs as a person living with a disability:

In this instance, the Judge stated that Mr Ncala wants the Body Corporate to take reasonable steps to accommodate a person with a disability, and he found that the Adjudicator correctly dismissed Mr Ncala's claim, as it was formulated in vague and nebulous terms and was incapable of having any practical effect.

The Court dismissed Mr Ncala's application for leave to appeal on the above grounds, but it also considered the fact that he was out of time in lodging his Appeal, and he waited even longer to serve and file his condonation application (the purpose of which was to explain the reason for the delay in lodging the appeal).

In his concluding remarks, the Judge stated the following:

"Whilst it may be that Mr Ncala was seeking to protect his constitutional rights he was obliged to demonstrate that the orders fell within the CSOS's powers as set out in section 39. Thus, even if he had been able to demonstrate infringement of his constitutional rights, he would, and has not shown an entitlement to the orders themselves".



CONTACT US!



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COMPLAINTS

1. Gauteng, Limpopo and North West

Email applications to gp-complaints@csos.org.za

Contact (+27 10) 593 0533

Unit 2, Berkley Office Park, 9 Bauhinia Street,
Highveld Techno Park, Centurion

2. KwaZulu-Natal, Free State and Mpumalanga

Email applications to kzn-complaints@csos.org.za

Contact (+27 31) 001 4215

Visit 7th Floor Aquasky Towers, 275 Anton
Lembede Street, Durban

3. Western Cape, Eastern Cape and Northern Cape

Email applications to wc-complaints@csos.org.za

Contact (+27 21) 001 2569

Visit 8th Floor Constitution House, 124 Adderley
Street, Cape Town

COMMUNITY SCHEME REGISTRATION

Register a Community Scheme online at
www.csos.org.za