

SharedLiving

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Issue 29

**SECTION 57
APPEALS**

**HOW TO
NAVIGATE THE
MAZE**



SCAN ME

AIRBNB'S

**SHORT-TERM
LETTING IN
COMMUNITY
SCHEMES!**



**CSOS
ENFORCEMENT:**

**TURNING LEGAL
VICTORY INTO
PRACTICAL RESULTS**

**ELECTRICITY
DISCONNECTION**

**YOUR RIGHTS WHEN YOUR
SCHEME WANTS TO CUT OFF
YOUR ELECTRICITY**

Accountability, Excellence,
Independence, Integrity

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Gedeelde Lewe Ukuhlalisana Tsamisana Ho Dulisana Mmoho



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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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Affordable Reliable Justice

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ACTING CHIEF OMBUD'S FOREWORD



Dear stakeholders,

As we progress through the first quarter of 2025/26, I am pleased to share the significant strides we have made at CSOS. Your continued trust and support remain instrumental to our mission, and I want to provide you with a transparent update on our efforts to enhance service delivery.

I acknowledge that many of you have experienced unacceptable delays in dispute resolution. We have taken decisive action to address this challenge by mobilising our full capacity to clear the backlog. Through the combined efforts of our six full-time adjudicators and 40 part-time adjudicators, we have successfully resolved 70% of outstanding cases. To complete this initiative, we are deploying an additional 15 supplementary adjudicators to address the remaining 30% of cases. Every dispute matters to us, and we are committed to delivering the timely, quality service you deserve.

As we continue to tackle historical backlogs, we're also making strong progress on our Schemes Verification and Validation Project. Our dedicated field teams are actively visiting community schemes across South Africa to ensure accurate registration and compliance. This initiative not only helps us resolve longstanding issues but also strengthens our ability

to prevent future challenges through improved education and regulatory adherence. By identifying both registered and unregistered schemes, we are working to establish a clear and comprehensive picture of the actual number of schemes in the country, laying the groundwork for more effective oversight and support.

I understand some stakeholders questioned our presence at events such as the Comrades Marathon and Two Oceans races. Allow me to clarify the strategic importance of these initiatives. Many residents in community schemes remain unaware of CSOS's existence and the services we provide. These high-profile events offer invaluable opportunities to reach thousands of South Africans through media coverage and direct engagement. At these events, we connect with scheme members who have never encountered our services and educate them about their rights and available remedies. This outreach is not additional to our core work; it is an essential component of our mandate to educate and

empower community schemes residents.

We have also implemented debt collections processes, including engaging professional debt collectors to recover outstanding levies. This initiative ensures our financial sustainability and enables us to maintain the resources necessary to deliver essential services. These efforts are not punitive but rather ensure we can continue supporting dispute resolution and sector development. In October, we will host the annual CSOS Indaba at the Minister's request. This gathering will provide a direct forum for stakeholders to engage with the Minister and contribute to shaping the future of community scheme governance. Your participation and input will be invaluable in driving sector improvements. This represents an unprecedented opportunity for direct dialogue about the challenges and opportunities facing our sector.

Our learnership programme continue to develop skilled professionals for the community

schemes sector. With our current cohort progressing successfully, we are preparing to launch a second intake to meet growing demand for qualified scheme management professionals and the previously disadvantaged. Every initiative we undertake is strengthened by your collaboration and feedback. Community schemes thrive when we work together, sharing knowledge and supporting one another. This magazine represents our collective commitment to excellence, with every article and insight reflecting our dedication to serving you better. We are not merely clearing backlogs, we are building a more responsive, efficient, and accessible service for all South Africans living in community schemes.

Thank you for your patience, partnership, and continued trust in this vital work. Together, we are creating a stronger foundation for shared living across South Africa.

**Kind Regards,
Kedibone Phetla
Acting Chief Ombud**



Comply with the law. Register your community scheme with CSOS now.

Visit www.csos.org.za or www.csosconnect.org.za



AIRBNB'S SHORT-TERM LETTING IN COMMUNITY SCHEMES!

If you were able to rent out your furnished apartment in Sandton's Golden Mile for only three (3) nights a month to an overseas visitor, and in so doing service your mortgage bond and utility account for the entire month on the Airbnb platform, why wouldn't you 'seize the day', so to speak?

Well, unless the Management or Conduct Rules of the community scheme places a minimum time limit on the period for which a property in the scheme can be rented out, *or any other reasonable condition with which you must adhere*, surely you can go ahead and do just that!

But you must remember that when you buy a unit in a sectional scheme (or an erf in a homeowner's association), you are buying into a community of people. You may own the four outer walls that you live in, or the erf that you live on in the case of a HOA, but the

common property belongs to all the owners in the scheme in undivided shares and their collective interests must be considered. It is for this very reason that most, if not all, community schemes have Rules in place that either prohibit the operation of AirBnB or short term letting platforms from the scheme, or place a lower limit on the periods for which a unit may be let out, or, for that matter (and this is an exceedingly difficult one given the tough economic climate that we live in) do not permit rooms in the unit from being let out on a night-by-night basis.

In October 2019, the issue of short-term letting in a sectional title scheme came before the High Court in the case of The Body Corporate of the Paddock Sectional Title Scheme No 249-1984 v Nicholl (29534/18) [2019] ZAGPJHC 437. In this matter the body corporate's Rules prohibited short-term letting for

a period of less than 6-months. The Court upheld the Rules, and the Respondent was directed to immediately cease from operating a short-term letting scheme from her unit.

In terms of the Sectional Titles Schemes Management Regulations an owner must take all reasonable steps to ensure

Members of community schemes who either utilise their units as Airbnbs and wish to do so, should take the following factors into account to ensure harmonious community living and that their guests are respectful of the shared environment:

1. The extra insurance cover that they must take out when operating such an establishment;



that his tenant complies with the Conduct Rules of the scheme, and Rules made in terms of Memoranda of Association usually include a similar

provision.

Of course, the same would apply in all other types of community schemes. With the advent of

finances and penalty provisions in Conduct Rules, unit owners would have to bear the cost of any fines that their short-term tenants incur should they misbehave.

2. Concerns around legal compliance relating to fire safety and other aspects of security – necessary safety signs and disclaimer signs must be put up in and around the unit;
3. The fact that the Rules of the scheme must be given to each and every short-term lessee;
4. Short-term tenants often compromise the security of a scheme as they tend to have a careless approach to issues such as ensuring that gates and the like are properly closed;
5. Access to, and the use of any common property areas, especially swimming pools, gyms, tennis courts and the like, are usually tightly controlled, but short-term tenants have no vested interest in the scheme and will take less interest in taking care of these facilities;
6. Frequently when it comes to short-term tenants, noise and other forms of nuisance increase significantly, and this places an unnecessary strain on permanent residents and other occupants of the scheme;
7. Short-term tenants often do not respect the strict parking rules of a scheme and park anywhere they please, which irritates existing residents of the scheme.

CSOS ENFORCEMENT: TURNING LEGAL VICTORY INTO PRACTICAL RESULTS



You have won your case at the CSOS, but what happens when the other party simply ignores the order? Here's how to turn that legal victory into tangible results. Your victory is not the end of the story it's the beginning of justice. With proper enforcement, that adjudication order becomes a powerful tool for securing compliance and compensation. Remember, an unenforced order is just expensive paper, but a properly enforced one? That's justice delivered.

Picture this: You've endured months of disputes over unpaid levies, unauthorised alterations, or management misconduct in your sectional title scheme. After presenting your case to a CSOS adjudicator, you finally receive that desired adjudication order in your favour. But then... crickets. The losing party acts as if the order doesn't exist.

Don't worry, your legal victory isn't just a piece of paper. The CSOS Act has teeth, and here's how to

bare them.

Think of your CSOS adjudication order as a sleeping giant. Once awakened through proper enforcement procedures, it carries the same legal weight as a court judgment. This means sheriffs, asset seizures, and all the enforcement mechanisms that make debtors lose sleep at night.

The magic happens in Section 56 of the CSOS Act, which transforms your Adjudication order into court-enforceable power. But like any legal superpower, it requires following the right steps.

THE MONEY TRAIL: WHICH COURT, WHICH BATTLE?

Here's where it gets interesting – and where many people get confused. The enforcement path depends entirely on the amount involved:

Magistrates Court (up to R200,000): Perfect for most levy disputes and smaller repair claims. Think of it as your neighbourhood enforcement venue, accessible and efficient.

Regional Civil Courts (R200,001 to R400,000): The middle ground for more substantial claims, like major structural repairs or significant outstanding levies.

High Court (above R400,000 or specific performance orders): The big league, reserved for substantial monetary claims or those tricky "make them do something" orders that can't be solved with money alone.

YOUR ENFORCEMENT TOOLKIT: WHAT YOU'LL NEED

Armed with your enforcement notice from CSOS (which is an official legal document), you'll need to gather:

- Your certified copy of the adjudication order
- The appropriate court forms (each court has its own paperwork preferences)
- Patience for the bureaucratic dance ahead

Once the court clerk stamps your order and assigns a case number, you're ready to unleash the sheriff, the legal system's enforcement specialist who knows exactly how to turn court orders into cold, hard compliance.

Here's the part nobody likes to discuss, enforcement is not free. Once CSOS hands you that enforcement notice, the Ombud legislative role has ended. You are now armed with a Court order, which will at this stage attract sheriff fees and all costs associated with enforcement process and contempt of court proceedings.

“

Some disputes are not about money; they are about getting someone to do something (or stop doing something). These "specific performance" orders can only be enforced through the High Court, regardless of monetary value. ”

Whether it's forcing a body corporate to hold proper meetings or stopping unauthorised building work, these orders pack serious legal punch.

Comply with the law

Register your residential complex with CSOS NOW!



THE SECTION 57 APPEAL MAZE



You're unhappy with a CSOS adjudicator's decision and want to appeal to the High Court. Simple enough, right? Well, not quite. Depending on which province you're in, you might need to follow completely different rules to get your day in court.

Welcome to the curious world of Section 57 appeals under the Community Schemes Ombud Service (CSOS) Act. While the Act gives you the right to appeal an adjudicator's decision on legal grounds, it does not mention exactly how you should do it. The result? South African courts have each created their own different approaches.

Currently, we have three different court divisions with three different approaches and knowing which one you are in can make or break your appeal.

THE GAUTENG WAY:

Most of the country follows what's known as the "Stenersen approach," named after a 2019 court case that finally gave some clarity to this situation. If you're appealing in Gauteng or most other provinces having no approach here's what you need to do:

The process:

- Write a notice of appeal explaining clearly why you think the adjudicator got the law wrong;
- Get the Sheriff to deliver this notice to everyone involved;
- Make sure to include both the adjudicator and CSOS as parties you're appealing against; and
- The adjudicator or CSOS can chip in with their own comments to help

the court understand the issues.

Think of this as the "no-frills" approach – it's designed to get your case heard without jumping through too many hoops.

THE KWAZULU-NATAL WAY:

KwaZulu-Natal decided to go its own way with a much more detailed system that's all about sworn statements (affidavits) and strict page limits.

The process:

- You need to file a notice of motion with an affidavit;
- Your main affidavit explaining the legal error can't be longer than 10 pages;
- The other side gets 10 pages to file its affidavit in response;
- You as the applicant you an opportunity to file your six pages affidavit in response for a final comeback;
- The adjudicator can add their own five-page report if they want;
- Everything must follow strict court timelines;
- You will need to file additional paperwork including legal arguments before your court date; and
- A single judge will hear your case.

This approach is thorough but demanding, make sure you have

your page-counting skills ready and a good understanding of court procedures.

THE WESTERN CAPE WAY:

The Western Cape combines elements from both other approaches but adds its own special twist. Based on a 2018 court case, it's like the middle child trying to be different from its siblings.

The process:

- Notice of motion with an affidavit (like KZN);
- Service through the Sheriff (like everyone else);
- Both adjudicator and CSOS must be included as respondents;
- The adjudicator can file their own report on relevant issues; and
- **Special rule:** If the CSOS order was already registered with the court

for enforcement, you must notify the court registry to remove it from their records.

This last point is crucial, if you miss this step and there's already a registered order, you could face complications with enforcement proceedings running parallel to your appeal.

This patchwork of different rules creates both headaches and opportunities. If you're planning an appeal, your location matters just as much as the strength of your legal argument. Getting the procedure wrong could sink your case before it even starts.

THE KEY TAKEAWAYS:

- **Know your province:** The rules change dramatically depending on where you file;

- **Get professional help:** These procedural differences are tricky enough that you'll want a lawyer familiar with your local court's requirements;
- **Plan ahead:** Some approaches require much more preparation and documentation than others.

The silver lining? Courts are clearly taking Section 57 appeals seriously and creating structured processes to handle them. The downside? You need to be in the right procedural lane to get your case heard.

As more people become familiar with CSOS appeals, we'll likely see calls for a unified approach across all provinces. After all, the same law shouldn't require different procedures depending on your postal code.

“*The good news is that courts are taking these appeals seriously and creating proper procedures to handle them. The challenge is navigating the different systems without tripping over the procedural hurdles each one has created.*”



YOUR RIGHTS WHEN YOUR SCHEME WANTS TO CUT OFF YOUR ELECTRICITY



WHAT EVERY SCHEME OWNER NEEDS TO KNOW ABOUT ELECTRICITY DISCONNECTIONS

If you live in a sectional title scheme OR Homeowners Association, you need to know your rights when it comes to electricity supply. A recent court case has clarified important protections for unit owners while also confirming the rights of Schemes to recover unpaid electricity costs.

In November 2024, the Johannesburg High Court made an important ruling in a case between The Body Corporate

The Straight and a unit owner, Jansen Madike Katsi. The court granted the body corporate the right to disconnect electricity supply, but only after they followed the proper legal procedures.

This case has set a clear precedent for how electricity disconnections should be handled in schemes across the country.

Schemes face a challenging

situation when unit owners don't pay their electricity charges. They must pay Eskom or the municipality for all electricity used in the Scheme, if they do not pay, electricity could be cut off to the entire Scheme. Schemes depend on recovering these costs from individual unit owners to keep operating.

The court recognised that Schemes have a legitimate right to recover electricity payments they have made on behalf of unit

owners. When a Scheme pays your electricity bill, you have a legal obligation to reimburse them.

However, the court was equally clear about your rights as an owner. You cannot have your electricity disconnected arbitrarily without proper notice. The Scheme must obtain a court order before disconnecting your supply, disconnections or cutting off electricity without following proper procedure are not allowed.

Before your electricity can be legally disconnected, the Scheme must:

- Give you adequate advance notice of their intention to disconnect your electricity
- Inform you of their intention to seek a court order for the disconnection
- Obtain a court order from the court before proceeding with the disconnection

Simply passing a resolution at a trustees' OR Directors meeting is not enough, however, written resolutions passed by trustees OR Directors are capable of being enforced by way of court order" accordingly the court must concur before action is taken.

WHAT CAN YOU DO IF YOUR ELECTRICITY IS WRONGFULLY DISCONNECTED?

If your body corporate has

disconnected your electricity without following the proper procedure, you have two main options:

Option 1: Contact the Community Schemes Ombud Service (CSOS)

This is often a faster and more affordable option. You can approach CSOS for:

- A resolution to your dispute
- An order requiring your electricity to be reconnected
- Protection while the body corporate follows proper procedures

Importantly, orders from CSOS can be registered as court orders, giving them the same legal force.

Option 2: Approach the Courts

You can apply to court for a "spoliation order", this is a legal remedy that can force the body corporate to reconnect your electricity immediately while they follow the correct procedures.

The CSOS Acting Adjudicator General, Mr Abraham Masilo, said that if one is struggling to pay their electricity charges, "Don't ignore the problem; communicate with your body corporate, try to arrange a payment plan before matters escalate and always seek advice from the CSOS if you are not sure about your rights."

He further urged the owners to check if they have received proper advance notice, verify whether the Scheme has obtained a court order before being cut off, and if proper procedures were not followed, they should contact the CSOS.

"If your electricity has already been disconnected, do not try to reconnect it yourself. Contact us or approach the courts for a spoliation order and make sure that you keep records of all communication with your Scheme.

This ruling protects you from arbitrary electricity disconnections while recognising that Schemes need to recover their costs to keep the Scheme running.

Living in a Scheme means balancing individual rights with collective responsibilities.

“*You have a duty to pay your share of electricity costs, but you also have the right to proper notice and due process before any disconnection.***”**

Remember, CSOS is here to help resolve these disputes fairly and efficiently. If you're facing electricity disconnection issues or have questions about your rights, don't hesitate to contact the CSOS.

BRINGING JUSTICE TO YOUR DOORSTEP



The sound of scissors slicing through a ceremonial ribbon marked more than just another office opening, it signaled a new era of accessible justice for thousands of community schemes. In April, the CSOS took a bold step forward by launching satellite offices in Bloemfontein and Rustenburg, bringing its dispute resolution services closer to the community schemes.

For many residents of sectional title complexes and residential estates, resolving disputes over levies, maintenance, or governance once meant long journeys to distant regional offices. Those days are now over.

On April both the Free State and North West provinces welcomed CSOS with open arms. The new offices are located at:

Bloemfontein: Suite 11, Hydro Park 2, 135–141 President Reitz Avenue, Westdene

Rustenburg: New Height Building, 67 Brink Street, Rustenburg 1

The launch events drew managing agents, trustees, homeowners, and government officials, many of whom described the expansion as a game changer for the regions.

“These regional presences not only improve accessibility and responsiveness to the

needs of local community schemes, but also foster greater collaboration,” said one managing agent in attendance. For them, having CSOS services right at their doorstep means quicker resolutions and stronger support for the schemes they manage.

Acting Chief Ombud Kedibone Phetla captured the spirit of the occasion saying “the launch of these offices reaffirms our commitment to being a responsive and accessible regulator. We are here to serve the people and to

ensure that every community scheme operates with fairness, compliance, and transparency.

Echoing this sentiment, Acting Adjudicator General Abraham Masilo added “We hope that by being on the doorsteps of the people of Bloemfontein and Rustenburg, we will be able to serve them better and ensure that our regulatory functions are executed both efficiently and exceptionally.”

The addition of these satellite offices marks a significant milestone in CSOS’s growth.

The organisation now operates through regional offices in Centurion, Cape Town, and Durban, with satellite offices in Port Elizabeth, Polokwane, Ballito, George, Mbombela, and now, Bloemfontein and Rustenburg.

As CSOS continues to expand its national footprint, one thing is clear: help is no longer a long journey away. It’s right in the neighbourhood, ready to ensure that every South African community scheme enjoys the benefits of fair, transparent, and well-governed living.



turn over for more pictures -->>



CASE CLOSED

A COMPLETE GUIDE TO LODGING A DISPUTE APPLICATION WITH CSOS

You don't need a lawyer to solve a dispute. Let's talk.

Following numerous inquiries from YOU, our stakeholders, about the dispute application process, we recognise the need for clearer guidance to help applicants submit complete and accurate forms on their first attempt. Too often, applications are returned due to incomplete documentation or procedural oversights, causing unnecessary delays for all parties involved.

We will be taking you through a comprehensive guide that will walk you through the essential steps and documentation

needed to successfully complete the CSOS dispute resolution process.

By following these established guidelines, applicants can submit clear, complete applications that minimise the risk of rejection and expedite resolution of their disputes.

PREPARING YOUR APPLICATION

Before submitting a dispute application, applicants are fully responsible for ensuring that their submission is complete

and compliant with all legislative requirements. Applications may be **typed** or **handwritten**, but clarity is essential:

- Typed applications must use clear, legible fonts.
- Handwritten applications must be neat and easy to read.

Submissions that do not meet these standards will be returned for revision, resulting in unnecessary delays.

If an applicant has multiple disputes involving different

respondents, separate applications must be submitted for each. Additionally, schemes must include a copy of the Executive Committee resolution authorising the dispute.

All applications must be personally signed by the applicant or their authorised representative. If a representative is acting on behalf of the applicant, their full contact details and role (e.g., trustee or managing agent) must be clearly stated.

KEY COMPONENTS OF THE APPLICATION

Each application must include:

- The relief sought, which must fall within the scope of Section 39 of the CSOS Act.
- Names and addresses of all parties materially affected by the dispute.
- A clear explanation of the grounds for seeking relief.

This information helps conciliators, case management officers, adjudicators, respondents, and other affected parties understand the applicant's objectives and rationale.

TIME-SENSITIVE SUBMISSIONS

Applications that challenge decisions made by an association or executive committee are subject to strict time limits. If more than 60 days have passed since the decision in question, the applicant must also submit a condonation request explaining the reasons for the delay.

MANDATORY INTERNAL RESOLUTION ATTEMPT

Before approaching CSOS, all applicants must first attempt to resolve the dispute internally within the community scheme. This step demonstrates a good-faith effort to settle the matter at its source.

HOW TO SUBMIT YOUR APPLICATION

Once complete, applications and supporting documents should be submitted via email to the relevant regional office:

- **KwaZulu-Natal, Free State & Mpumalanga:**
kzn-complaints@csos.org.za
- **Gauteng, Limpopo & North West:**
gp-complaints@csos.org.za
- **Western Cape, Eastern Cape & Northern Cape:**
wc-complaints@csos.org.za

CSOS registers and assesses all submissions. As of now, conciliation and adjudication services are completely free of charge.

Complex neighbours keeping you up at night?



0800 000 653

Talk to us about your rights, visit CSOS.org.za



CONTACT US!



- 1 CENTURION:** Berkley Office Park, 8 Bauhinia Street, Highveld Techno Park, Centurion
- 2 DURBAN:** 7TH Floor Aquasky Towers, 275 Anton Lembede Street, Durban
- 3 POLOKWANE:** Standard Bank Square, 49 Hans Van Rensburg St, Polokwane
- 4 BALLITO:** Suite 6; Second Floor, Regency House, 3 Douglas Crowe Drive Ballito
- 5 GEORGE:** 14 CJ Langenhoven Road, George Central
- 6 MBOMBELA:** Block 1 Riverside Office Park, 1 Aqua Street, Riverside Park Extension 24, Mbombela
- 7 BLOEMFONTEIN:** Suite 11, Hydro Park 2, 135 – 141 President Reitz Avenue, Westdene, Bloemfontein
- 8 RUSTENBURG:** New Heights, 67 Brink Street, Rustenburg