



AG BODY CORPORATE SOLUTIONS CC

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THE PLIGHT OF AN APPOINTED S46 ADMINISTRATOR

Who and what is an administrator? An administrator is the person appointed to a body corporate by the High Court, in terms of Section 46 of the Sectional Title Act No. 95 of 1986 (the Act), to re-instate compliance with the provisions of the Act and its annexures. The purpose of the appointment is to protect the interest of owners, the body corporate itself, mortgagees, creditors and municipalities and any of these parties may make application for such appointment.

Bodies corporate, where administrators are appointed, are generally in financial distress, often additionally faced with serious physical deterioration of their buildings and structures, an absence of any management and administrative processes, and further complicated by owner conflict. An indicator of bodies corporate in distress nationally is the R100's of millions still owing to municipalities from periods before the implementation of individual rating of sectional title units. Of course owners largely deny their responsibility for the chaos they have created. It is always the fault of someone else – owners who do not pay, the managing agent, the creditor, even the administrator.

Each body corporate under administration is unique and the challenges of rehabilitation are diverse. One aspect common to all is the need to generate levy income, the lifeblood of bodies corporate. Many schemes in distress have become entrenched in a culture of non-payment of levies and reject the very existence of their body corporate and refuse to recognise the protection afforded by proper implementation of the Act. Also where non-payment of levies has resulted in the absence of services such as water, electricity, working lifts, fire protection and more.

It is common in such schemes that levy income will only be generated by way of legal process, a time consuming process designed to protect the interests of the debtor without taking cognisance of the prejudice to the paying owner. Rehabilitation requires relentless zero tolerance collections in an environment where proper levy budgets must be implemented as part of a broader rehabilitation plan. Expect problems!

The circumstances of owners are economically and politically diverse. Political involvement in protecting the interests of voters creates pressure. When owners are faced with losing their homes to pay for a debt they are not prepared to recognise, be it levies or the demands of creditors, mobilisation of owners in various forms becomes a real risk.

Put your rhino hide on, balance it with empathy to the real plight faced by many, and implement the law.

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