



**SELECT
ADJUDICATION
ORDERS**

HUMAN BN

Finally! A friendly guide to prepare you for any dispute resolution by Adjudication through CSOS (the Community Schemes Ombud Services)



This reference work is an insight into the Adjudication process of Dispute Resolution. It consists of adjudication transcripts as contained within CSOS archives, and is arranged by the section 39 clauses against which they were applied for

So often the delicate balance between the expectations of a member of a Body Corporate with the perceived rights of Ownership, clash with the obligations of the Executives of the Body Corporate. Or the prescriptive governance of a complex flies in the face of the activities of its members. This dispute of opposing standpoints has resulted in resolution by means of Ombud adjudication in a number of instances.

This work aims to take the records of a sample of such resolutions, and presents them to the reader with the intent of providing empirical evidence of the nature of such resolution. It further aims to provide precedent to similar conditions within your complex. It is always nice to have the confidence of a similar set of circumstances before deciding upon any resolution to a dispute

LAYOUT:

Each section of the book relates to one of the conditions of Section 39, being section 39 (1) to 39 (7) The select orders are indexed according to the dispute topic applied for within the adjudication process

Section 39(7) – General Issues		231
0086	Owner has 2 units and mixed allocations	233
0345	Ill prepared but valid concerns	237
0350	Short term letting by conduct rules	242
0611	Existing structures not on Sectional Plan	248

Every section is prefaced with the appropriate clause from Section 39 of the Act, enabling certainty and understanding in the process

6. In respect of works pertaining to private areas and common areas —

- (a) an order requiring the association to have repairs and maintenance carried out;
- (b) an order requiring the relevant person —
 - (i) to carry out specified repairs, or have specified repairs made; or

This extract from the Act is further described in simple layman’s English, articulating the scope of power granted the Adjudicator in easy to understand everyday language

The Sectional Title Schemes Management Act stipulates that meetings must be held; either general meetings involving all members of the Body Corporate, or Trustee meetings involving the Scheme Executives. The relief offered by this section allows for an Order to convene a meeting with a specific agenda item of business. It also allows for any meeting to be deemed invalid.....

SELECT ADJUDICATION ORDERS

Each section has an executive summary of the hearings contained within that section, providing a quick insight into the nature of the dispute. There is no indication of any result – this work is more concerned with the process than the outcome

Case #	Synopsis
0248	Provides for recourse in failing to achieve the unanimous resolution criteria
0276	Considers a special levy being raised, the purpose of which exceeds the value of restriction placed on the Trustees at the previous Annual General Meeting

The individual hearings are placed in context with a header that clearly identifies information that might be of relevance to the reader. The office of Adjudication, the duration of the adjudication process, the Adjudicator before whom the dispute was presented, the parties involved, the extent of representation allowed, as well as (where possible) the size of the scheme by units registered with the Deeds office, including any additional representation

Hearing Date : 02 July 2017

Duration : 1 day

Heard by : HE LOUW

Final Order : 2 July 2017

CSOS Office : Western Cape

CECIUA CAMPHER

Applicant

BODY CORPORATE OF LENGRO PARK

Respondent

Notes :

- Body Corporate comprises 74 units
- Managing Agent representing

A verbatim transcript of the hearing with statutory and process discussion removed, leaving you with a record of both sides of the dispute as presented, as well as the considerations the Adjudicator had given before announcing the order

RELIEF SOUGHT

11. In his application to run for dispute resolution dated 26 June 2017, the Applicant prays for relief in the following terms:

"Want to keep the kitten on the basis that the existing conduct rule is unconstitutional and not binding,

Want the rule to be amended based on the principle that the rule discriminates against cats and my constitutional rights as a person.

In the amended rules, both cats and dogs should be treated equally and reasonably, as the law states. "

In many cases the Adjudicator includes their own observations of any shortfalls, omissions, or superfluous evidences toward reaching an order. These provide extremely helpful guidelines should the reader be considering a dispute of a similar nature

APPLICANT'S PRAYER

46. The parties must educate themselves on the CSOS Act, the Sectional Titles Schemes Management Act No.8 of 2011 and the Regulations made under the Act.

47. The body corporate must hold a Special General Meeting (SGM) by no later than 30 September 2018 to present the 10 year maintenance, repair and replacement plan.

48. The body corporate must, at the SGM, raise the amounts determined as levy contribution in proportion to quotas of the respective sections.

49. The body corporate must establish the administrative and the reserve

REFERENCING:

The contents of this work / book are arranged by the relief applied for according to the Act

Very often a dispute within a Community Scheme is but the veneer over another deep seated dispute. This book cross references the topics of such surface disputes, thus allowing the reader to draw on aspects of an adjudication process that might not have been the content of relief applied for, but will expose any similarities or corresponding circumstances in their own situation

This exposure to similar conditions and possible outcomes will allow for better preparation for one's own resolution through arbitration to such a dispute

- a) By Section as per the Act
- b) By topic within each Section
- c) By topic prayed for
- d) By Province
- e) By Case number in Numerical Order

Matters where the Body Corporate have applied for relief										
0042	0086	0407	0430	0535	0553	1386	1643	2643		
Matters that have had Body Corporate application upheld										
0407	0535	0553	2643							
Non attendance by one of the Parties										
0261	0535	0553	0678	0701	1275	1643				
Scheme Rules (supplemental to Prescribed Rules)										
0044	0130	0248	0305	0345	0350	0407	0430	0553	0611	0701
0736	0770	0901	1646	2367						
KwaZulu-Natal										
0305	0338	0345	0384	0444	0770	0774	0901	1133		

IN CLOSING:

Don't get disparaged by the seemingly insurmountable issue of Community ownership. Feel confident when asserting your rights as an owner and member of the Body Corporate. This selection of actual transcripts will pave the way to resolving your dispute with the experience of past resolutions

With three generations of shared ownership and over 36 years of corporate documentation experience, we can proudly say that we have your interest at heart with our selection of Orders

Our passion for processes in Sectional Title management is surpassed only by our commitment to Scheme Executives and Managing Agents to deliver due diligence to unit holders, and to make Community Ownership about being Human.

Never before has precept been able to provide such context

What Our Readers Say:

Fred Gatlin – Seaside Willows:

“This book targets everyone in a dispute process, from home owner to Trustee to Body Corporate Executive to Managing Agent – including the complex lawyer – EVERYONE that needs to know what to expect from an Adjudication resolution. Valuable insight into possible outcomes! From similar samples you can gain valuable insight as to the possible outcome for a specific topic under specific circumstances ”

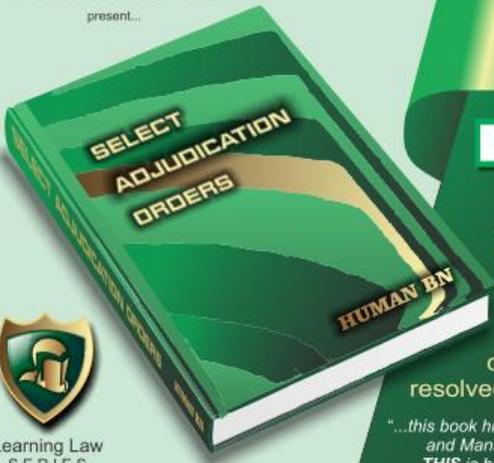
Dr R Phiri – Ambledene:

“By using actual transcripts from previous hearings, this book gave me the confidence to apply my circumstances, and gave me the support in getting what I know was right”

Brett Nylstryk – Inverness:

“If you are involved in Sectional Title control in ANY way.... you should read this before you engage in another meeting, or seek resolution for another dispute... and make sure of the facts the SAO way! ...”

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- Body Corporate complaints?
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- New to Community Ownership?

An easy to use reference to the actual transcripts of Adjudication Orders issued by the Ombud Services

AT LAST!
We have compiled the LEADING reference on the most common disputes found in Complexes, Sectional Title Schemes and other community ownership developments and how they were resolved through the CSOS Adjudication

"...this book hits the nail on the head! Every Scheme Executive and Managing Agent *must* have a copy on their desk! **THIS** is how things should be handled..." - S Demerest

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