

Body corporates need to protect funds

All sectional title schemes are obliged to have two separate funds: a day-to-day administrative fund and a reserve fund and these funds need to be protected and invested wisely to guard the viability of the property.



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“It is of utmost importance to assess whether all the money accumulated is protected as well as it should be,” says Mandi Hanekom, operations manager of sectional title finance company Propell.

All money received by the body corporate must be deposited into an account with a registered commercial bank in the name of the body corporate. Section 3(1)(g) of the Sectional Titles Schemes Management Act (STSMA) states that the body corporate has the function ‘to open and operate an account or accounts with any registered bank or any other financial institution’. This should be, according to Prescribed Management Rule (PMR) 21(4), an interest-bearing account in the body corporate’s name or a trust account.

Investing funds

Sometimes, however, the owners in a scheme decide that excess money from funds should be invested instead which can be done only if there is a written trustee resolution to this effect. PMR 21(3)(d) provides that moneys the reserve fund may be invested, but it should be a secure investment with an institution referred to in the definition of ‘financial institution’ in section 1 of the Financial Services Board Act. ‘Financial institutions’, as defined, includes collective investment schemes, authorised financial services providers and banks.

“The investment of any body corporate funds should be done through an experienced financial adviser,” adds Hanekom.

Fidelity insurance

In addition, the body corporate must take out insurance ‘for an amount determined by members in a general meeting to cover the risk of loss of funds belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by a trustee, managing agent, employee or other agent c

the body corporate (as stated in PMR 23 (7))'. This is also mentioned in Regulation 15(1) in the Community Schemes Ombud Service Act (CSOSA), which states, 'every community scheme must insure against the risk of loss of money belonging to the community scheme or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by any insurable person'.

In terms of CSOSA, the minimum amount of insurance cover must be the total value of that scheme's investments and reserves as at the end of the previous financial year, plus 25% of the scheme's operational (administrative) budget for the current financial year. The required fidelity insurance cover must pay for any loss, after reasonable satisfactory proof of the loss is presented, and must not require that criminal or civil proceedings be taken or completed against the insured person (as in the case with some insurance cover).

Fidelity insurance cover is not necessary if the person handling the funds (the managing agent) has his own cover and has provided written proof of the required cover.

"The administrative and reserve funds are the lifeblood of any sectional title scheme and the trustees should do everything they can to ensure the protection of the money accumulated therein," concludes Hanekom.

For more information, go to www.propell.co.za.

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