



**ADJUDICATION ORDER IN TERMS OF SECTION 53 AND 54
OF THE COMMUNITY SCHEMES OMBUD SERVICE ACT NO.9 OF 2011**

Case Numbers: CSOS 195/WC/17
CSOS 153/WC/17

IN THE MATTER BETWEEN

MICHAEL RYDER

(Applicant)

and

MARINA DA GAMA HOME OWNERS' ASSOCIATION

(Respondent)

ADJUDICATION ORDER

1. PARTIES

- 1.1 The applicant is Mr Michael Ryder, the registered owner of an erf in the Marina da Gama Estate, situated in Cape Town. Mr Ryder attended the hearing in his personal capacity.
- 1.2 The respondent is the home owners' association of the aforesaid Marina da Gama Housing Estate ("MDGA" or "Estate"). The Respondent was represented at the hearing by Mr Giljam and Mr Robin Carlisle, both members of the executive committee of the MDGA ("Excom").

2. INTRODUCTION

- 2.1 This is an application for dispute resolution in terms of Section 38 of the Community Ombud Services Act No. 9 of 2011. The application was made in the prescribed form and lodged with the Western Cape Provincial Ombud Office. The application includes a statement of case which sets out the relief sought by the applicant.
- 2.2 This application is before me as a result of a referral sent by the Western Cape Provincial Ombud in terms of section 48 of the Act, which Notice of referral was communicated to both parties.
- 2.3 It is to be noted that MDGA (as applicant) made application against the Applicant (as respondent) under case number CSOS 195/WC/17. Given that the two cases are interlinked and largely cover the same subject matter, the two matters were joined in the hearing.
- 2.4 MDGA was established as an Association in terms of the then applicable legislation on approval of the rezoning and subdivision of the land upon which it is situated and is governed by a constitution, the latest version of which is dated July 2016 ("the Constitution"). It is noted that the approval of the City of Cape Town is required for certain amendments to the Constitution.
- 2.5 The MDGA consists of approximately 1323 members, including owners in a number of sectional title schemes.

3. APPLICABLE PROVISIONS OF THE ACT

- 3.1 The hearing was conducted in terms of section 38 of the CSOS Act No 9 of 2011 which provides that –
"Any person may make an application if such person is a party to or affected materially by a dispute".
- 3.2 Section 45(1) provides that –
"The ombud has a discretion to grant or deny permission to amend the application or to grant permission subject to specified conditions at any time before the ombud refers the application to an adjudicator"
- 3.3 Section 47 provides that –

“on acceptance of an application and after receipt of any submissions from affected persons or responses from the applicant, if the ombud considers that there is a reasonable prospect of a negotiated settlement of the disputes set out in the application, the ombud must refer the matter to conciliation”.

3.4 Section 48 provides that –

“If conciliation contemplated in section 47 fails, the ombud must refer the application together with any submissions and responses thereto to an adjudicator”.

4. SUMMARY OF EVIDENCE

The dispute between the Parties arose on account of various complaints by the Applicant based on alleged failure by the Excom to comply with the Constitution, the failure of Excom to provide the Applicant with information when requested and, what he termed, general lack of proper governance. The Respondent, in turn, alleges that the Applicant's actions vis a vis the MDGA amounts to harassment and that they are complying with Constitution and their statutory duties. The case that the Respondent instituted against the Applicant has as a basis the alleged vexatious nature of the Applicant's conduct and requests a determination that the Applicant is a vexatious correspondent.

5. APPLICANT'S VERSION

5.1 The Applicant was a previous member of the Excom, but resigned in August 2016. He contends that the Excom fails to comply with the Constitution in a number of instances:

5.1.1 some members do not pay their levies and, despite the fact that the Constitution calls for action to be taken after 90 days, the Excom fails to do so and as such are not complying with section 12.5 of the Constitution. Summonses are not issued and non-payers are not chased according to him. Mr Ryder alleged that some owner at some stage approached the South African Human Rights Commission about the legal status of the MDGA and that, as such, there is uncertainty as to the enforceability of the Constitution and the liability of owners for levies. According to the Applicant, this fact contributes to the lack of action to collect levies

on behalf of the MDGA as Excom fears that this defence may be raised and lead to a levy revolt. It is the view of the Applicant that the Excom has a duty to eliminate this element of doubt and uncertainty with respect to the levy liability of owners and should go to court if this is required to achieve certainty.

- 5.1.2 The Applicant expressed the view that the debt collector, who is also an owner on the Marina da Gama Estate, is not managed properly, that he is paid unrelated to success in collection and that he is not doing his job (judging from the, according to the Applicant, huge amount of levies outstanding).
- 5.1.3 The Applicant questioned the discretion and who exercises it to decide when an unpaid levy debt is recoverable or not.
- 5.1.4 The Applicant expressed the view that the Excom is obliged to pursue the amendment of the Constitution to allow levies to be collected from tenants of owners.
- 5.1.5 The Applicant expressed criticism of the manner in which levy statements are delivered to owners. He referred to the fact that, at some point in the past, statements were delivered by the gardener working for the chairperson.

5.2 The Applicant complained of the lack of governance by the Excom and in this regard the following was noted by him:

- 5.2.1 according to him, Excom does not budget properly. He is of the view that the Marina da Gama Estate cannot be properly run on the current budget and levies and that a substantial increase is required to run the Estate professionally.
- 5.2.2 no management accounts are drawn and tabled for discussion at Excom meetings.
- 5.2.3 there is a lack of maintenance, especially in respect of the north facing wall of the Estate which he believes is ignored (only the eastern part of the wall is maintained according to him). This, according to the Applicant, is also the lower income section of the Marina da Gama Estate. He stated that the MDGA should apply maintenance expenditure uniformly and fairly.
- 5.2.4 the MDGA employs "illegal" immigrants (in other words foreigners without the necessary work permits) and as such is in contravention of the laws of the Republic of South Africa.
- 5.2.5 with respect to the opposition to a rezoning application made by one of the members of the MDGA, the Applicant explained that donations were made by some members, but that these amounts were "mixed up" with MDGA funds with no proper record kept thereof and, more concerning to him, was the fact that, although a certain amount (R29 000) was reflected as being approved in the Excom minutes for this purpose, a higher amount (R60 000) was

- in fact spent. He also expressed the view that, as far as he is concerned, Excom did not have any authority to act in respect of the rezoning application, but merely were allowed to comment on it.
- 5.2.6 with reference to the amount indicated in the financial statements of the MGDA in respect of deposits collected under the auspices of the Architectural Committee of the MGDA, the Applicant expressed the view that the ongoing appearance of these amounts in the financial statements is irregular and not correct-these should be removed from the books.
 - 5.2.7 in his view, Excom is not providing sufficient security services and it is seen by him as an abject failure on their side.
 - 5.2.8 with reference to an earlier incident where the office manager stole money from the MDGA, he expressed the view that Excom has not learnt from this and changed their modus operandi. He is of the opinion that they should not receive cash at the office, where the office manager works alone, as this is a security risk and also a risk of money being lost.
 - 5.2.9 he wishes to have a full explanation of written off debts as this information is not readily available to him as an owner.
 - 5.2.10 in his view, Excom has a duty to meet the collective interest of all owners by procuring the amendment of the Constitution to allow for a structure that will support a better run Estate, which includes a levy differentiation based on the value of properties.
- 5.3 The Applicant complained about the lack of information to owners from Excom and in this regard the following was noted by him:
- 5.3.1 despite requesting debtors' lists, he has not received any from Excom;
 - 5.3.2 he wishes to have access to all invoices, receipts and correspondence with regard to the rezoning objection.
- 5.4 With respect to the allegations made by the Respondent to support the claim for the Applicant to be declared a vexatious correspondent, the Applicant in general denied all allegations and responded as follows:
- 5.4.1 with reference to the definition of vexatious, he denied that he sends excessive correspondents without purpose and purely to annoy Excom. He questioned what a "normal" member is and what level of correspondence is to be expected of a "normal" member. In his view, agreeing to curtail correspondence would mean that he relinquishes a fundamental right.
 - 5.4.2 he denied that he defamed Mr Giljam and his wife and stated that the formal apology does not contain an admission.

- 5.4.3 he has done a lot for the MDGA and gave examples of initiatives taken by him.
- 5.4.4 he denied that he had a hand in the splitting off of the Uitsig Neighbourhood Watch from the rest of the Estate and stated that they are very successfully fighting crime.

6 APPLICANT'S PRAYERS

6.1 The Applicant claims:

- 6.1.1 compliance by Excom with the Constitution and law insofar as levy collection is concerned, including the pursuit of defaulters, the collection of cash, the issue of statements and the discretion to write levy debt off;
- 6.1.2 Excom to exercise good governance by, inter alia, providing budgets and monthly management accounts to members, correcting unlawful treatment of building deposits and rezoning funds and maintaining common property;
- 6.1.3 access to the debtors' list and invoices and correspondence pertaining to the rezoning objection.

7 RESPONDENT'S VERSION

7.1 As noted earlier, the Respondent attempted to institute a "counter" application under Case number CSOS 195/WC/17 against the Applicant in terms of which it requested that the Applicant be declared a vexatious correspondent. The Respondent referred to the terms of a proposed settlement tabled by them at the conciliation which preceded this hearing and again requested that the Applicant considers agreeing to the those terms. The representatives of the Respondent stated that the Applicant is dividing the community, interferes in the operational aspects of the MDGA and leaves the members of Excom feeling helpless (in fact to the point that some members expressed a desire to resign as a result of his behaviour). In support of this contention the following was tabled by the Excom representatives as examples of the Applicant's behaviour:

- 7.1.1 the Applicant bombards the MDGA with correspondence and whilst he sometimes have good ideas, it gets lost in the quantity and denseness of the communication. They have on more than one occasion asked him to address one issue per email in order that it may be referred to the correct person, but he refuses. According to the Excom representatives, the Applicant generates

- over 80% of correspondence to the MDGA, constituting 54 emails in two months;
- 7.1.2 the hearing is unnecessary and the constant threats of further complaints to the CSOS is evidence of the Applicant's generally obstructive behaviour.
- 7.1.3 the litter net issue is an example of the fact that the Applicant is adamant that rules should be complied with, whilst he himself did not follow the rules when he did not obtain prior consent for expenditure. When confronted, the Applicant used the opportunity to spread an inaccurate account of the events to a large number of people stating that Excom did not want to reimburse the relatively small amount for the nets. This, according to the Excom representatives, painted a very negative picture of Excom, based on a factually incorrect email.
- 7.1.4 the Applicant's behaviour with respect to the Guardians (the loosely formed association of different guarding precincts of which the Applicant is not a member) and the proposal for the appointment of a specific person as an independent security consultant caused the entire MDGA to split as a result of which the Uitsig area no longer forms part of the Guardians (and in fact, a group of Uitsig residents spend a huge amount of time slagging off the Excom, digging holes for them and generally being negative-it is noted that 3 of the CSOS cases come from that group). The Excom representatives further tabled evidence with respect to a defamation claim made against the Applicant by the then chairperson based on a response letter sent to Excom by the Uitsig Neighbourhood Watch following the nomination of a potential security consultant for the MDGA in a letter to the Guardians by Excom (this letter somehow was distributed to the Applicant). It is common cause that the letter by the Uitsig Neighbourhood Watch, which the Excome representatives believed was instigated by the Applicant, was based on incorrect information-they had the identity of the potential security consultant wrong.
- 7.1.5 the Applicant wished to call an ordinary meeting of members, but since no resolution was tabled, Excom decided to turn the meeting into a general discussion. The Applicant then actively boycotted the meeting and was party to a notice that was sent out to discourage members to attend.
- 7.1.6 the Applicant over-reacted in respect of an incident where an owner was servicing his car in his drive way, causing unnecessary friction.
- 7.1.7 the Applicant does not pay his levies (and has offered to pay same in kind, which has been refused by Excom).

7.1.8 the Applicant's application for consent to build a garage has led to more correspondence, bad blood and threats than any of the other 8 -10 plans received per month have.

7.2 With respect to the failure to comply with the Constitution and in particular the Applicant's complaints about levy collection, the Respondent explained that they are not aware of a general view amongst owners that there is a potential status problem with the MDGA and its authority to collect levies from members. They have not had any written response from any owner disputing levies on those grounds. They believe that they are doing the best they can insofar as levy collection is concerned and are using state of the art systems. In fact, levy collection is better than ever resulting in the MDGA having built up a cash balance. They try to send statements as far as possible by email, but admit that the use of email and email correspondence can still improve. Owners are encouraged to pay by EFT, but they do allow cash payments. They believe that the appointment of Magnum (as a professional debt collector, but also someone who knows the Estate and the owners) is in the best interest of the MDGA. He is paid on success and this fee is then charged to defaulting owners by Excom, who in turn pays Magnum. In their view, normal debt collecting criteria is used to decide when a debt should be written off and they rely on the discretion of the debt collector and the treasurer. In general, they do not write off a debt where the whereabouts of the defaulter is still known, bearing in mind that it does not make sense to pursue a debt where the cost of collection does not warrant it. It was explained that the fact that a levy clearance is not required for a transfer to be registered in the Deeds Office is unfortunate. In an effort to collect outstanding levies on the sale of a property by a member, they liaise with estate agents. They stated that there is in their view no legal way to claim levies from tenants.

7.3 With respect to the budget, the Respondent contended that a budget is tabled at the Annual General Meeting for approval by members. The total income is not high, being in the region of half a million Rand per annum and most expenses relate to salaries and wages, with about R100 000 left to be spent in the discretion of Excom. As such, the financials are relatively simple and do not warrant monthly management accounts. The example of management accounts tabled by the Applicant in any event, according to Mr Carlisle, does not represent management accounts, but a running annual account.

7.4 With regard to the maintenance of the wall, the Respondent explained that the current Excom inherited the situation from their predecessors. According to them, the wall does not belong to the MDGA. For the greater part the wall belongs to owners whose properties borders the wall

and, for a portion thereof, it belongs to the City of Cape Town. In their view, the MDGA should technically not be maintaining the wall at all. They agree with the Applicant that the best way to deal with this is probably to force owners to maintain their particular sections of the wall.

- 7.5 With respect to the employment of "illegal" labourers, the Respondent explained that by far the greatest percentage of the income of the MDGA is spent on employees/labourers. The current Excom inherited the "problem" with these labourers and took legal advice on the matter. As the MDGA is not entitled to terminate their services on the grounds of being "illegal" immigrants, it was decided, on humanitarian grounds, to retain the labourers, but, where someone leaves or where a contract is terminated on other grounds, to replace with "legal" labour.
- 7.6 With respect to the Applicant's complaints about the monies spent on the objection to the proposed rezoning, the Respondent explained that Excom came to know of the proposed rezoning via an owner. Excom, along with a large number of owners, believed the proposed rezoning not to be in the interest of the MDGA and resolved to apply some of the MDGA monies in opposing the rezoning. The Respondent did not agree with the Applicant's contention that it (the Excom) was only authorised to comment and that lodging an objection was exceeding its mandate. It is conceded that the minutes of the Excom meetings in which the amounts for legal fees are approved, may not be entirely correct, but the full amount spent is reflected in the annual financial statements. Monies were, in addition to the funds from the MDGA, donated by owners to support the objection to the proposed rezoning. These monies were also paid to the MDGA, but, according to the Respondent, proper records were kept of these collections.
- 7.7 With respect to the Archcom deposits, it was explained that owners pay a deposit before commencing building works with the intention that these are repaid as and when works finished. Many owners fail to claim their deposits back with the result that the MDGA has a substantial amount reflected as building deposits in its financials. The custom is to take portions into income over time. In the last financial year, this was not done to avoid an income tax liability on the MDGA.
- 7.8 With respect to the financials of the MDGA, the Respondent explained that a new firm of auditors was appointed in the last year, that all books are up to date and that a clean audit was received. The financial statements contain a series of notes to avoid any misunderstandings and to serve as explanations to owners. Excom went further in resolving that the firm of auditors, for reasons of good governance, will be replaced every five years. Excom, in the last financial year, succeeded in having

the audited financials ready within two months of year end. The query on the financials (from the previous auditor) to which the Applicant referred was in fact, according to the Respondent, criticism that the financials are too detailed. Excom considered this, but resolved to continue with the current modus operandi insofar as the financials are concerned.

7.9 With respect to the Applicant's request to see the debtor's book and the tabling thereof at Excom meetings, the Respondent replied that the debtor's book contains potentially sensitive information and that they do not see any reason why the contents thereof are to be divulged. The total levy debt is reflected in the annual financial statements.

7.10 The Respondent tabled a list of the current MDGA Excom achievements, including, inter alia, timeous financial statements, implementation of township security system under the Guardians, residents' survey, improved relations with external parties such as the Muizenberg Police Forum and the Ward Council, improved communication systems and others.

8 EVALUATION OF EVIDENCE SUBMITTED

8.1 There is no dispute between the Parties as to the current valid Constitution of the MDGA.

8.2 The actions and behaviour of the members of Excom are to be judged by the terms and the requirements of the Constitution. They have a fiduciary duty to the owners and members of the MDGA to comply with the Constitution and the law in general. This is the only test: personal preference, desires and opinions are just that. For any application to be successful against Excom, an applicant has to prove, on a balance of probabilities, that Excom has failed to comply with the Constitution or the law and/or that trustees have not complied with their fiduciary duties.

8.3 The Community Schemes Ombud Services Act ("CSOSA") does not provide for prayer for relief in the form of declaring any party "vexatious." Section 53 of CSOSA does provide the option to an adjudicator to declare an application vexatious if he or she believes the application is frivolous, vexatious, misconceived or without substance. As such, no order can be made to declare the Applicant a vexatious correspondent as requested by the Respondent. This leaves the question if the application in itself can be viewed as vexatious and as such be dismissed in terms of Section 53 of CSOSA. I accept the evidence that the Applicant excessively communicates with the MDGA and that some of his actions can be viewed as obstructive. It is also regrettable that the parties could not come to

agreement on the settlement offer made by Excom to the Applicant insofar as his future interaction with MDGA and Excom is concerned. Nothing in the requests by Excom tabled at the hearing struck me as unreasonable or attempting to deprive the Applicant of his rights as an owner. It is possible that some of the poetry may have had to be adjusted to give the Applicant the necessary security that he is not giving up fundamental constitutional rights, but he seemed uninterested to pursue that route. However, I do not believe this action is vexatious. I cannot comment on the nature of other existing and future complaints that may be levied against the Respondent by the Applicant. It appeared that the Applicant may have misunderstood the powers of the adjudicator to make those orders provided for in Section 39 of CSOSA. The fact that an adjudicator may have the powers to rule in terms of Section 39 does not detract from the requirement in law that such order, in respect of the members of Excom, can only follow the Applicant's proof on a balance of probabilities that the members of Excom failed to uphold the Constitution, acted outside of its mandate or failed to comply with fiduciary duties. With regard to the relief sought under Section 39 (3) in respect of scheme governance issues, evidence that the current scheme is unreasonable having regard to all owners and occupiers of a scheme is required. Whilst the Applicant is of the opinion that the current levy stipulations applying to the MGDA may be unfair, no evidence to support a notion that a scheme governance provision is unreasonable was led by him.

- 8.4 With respect to the duty of the Respondent, as representative by Excom, to collect levies, I have no reason to doubt the evidence that levy collection is done in a considered manner and properly managed-this applies to the appointment of the debt collector, the collection of cash, the sending of statements and the exercising of discretion as to when debt should be written off. Clause 12.5 of the Constitution states that a member is regarded as delinquent if levies are not paid within 90 days of the due date. However, the same provision very clearly authorises the Excom to exercise discretion in its actions against delinquent members.. It is common cause that only in exceptional cases estates have a 100% levy collection success rate. No evidence was led to support the contention that the Excom is not complying with the Constitution in this regard. The Constitution does not sanction levy collection from tenants and Excom has on powers to act in this manner. Should the Applicant believe that the Constitution should be amended to provide for this, as well as the suggested differentiation in levies, nothing is preventing him from initiating the necessary amendments to the Constitution, in accordance with the correct procedures, to achieve this. Nothing in the Constitution or the law in general obliges Excom to do so. This also applies to the suggested investigation into the potential dispute about the status of the MDGA. It is

purely a personal opinion of the Applicant that Excom should act in this manner.

- 8.5 With respect to the budget of the MDGA, the Constitution does not specifically require the tabling of a budget, but one would be able to read that into the provisions of Clause 12 of the Constitution, detailing the levying of an annual subscription. I have no reason to doubt the evidence by Mr Carlisle that a budget is tabled at the Annual General Meeting and approved by members. Clause 13 of the Constitution requires Excom to lay before the Association at an Annual General Meeting, "books of account, balance sheets and reports of the Association." Similarly, it is not disputed that this in fact done by Excom (books of account in modern accounting practice would not be physically tabled but given that financial statements are audited, there is no reason to believe that these do not exist to form the basis of the audited financials). Neither the Constitution nor the law in general requires of Excom to table management accounts.
- 8.6 With respect to the lack of maintenance, no evidence was led to support a claim that MDGA fails to maintain any common property that it should by law or in terms of the Constitution maintain. I accept that the wall in fact does not belong to MDGA-this has not been disputed.
- 8.7 With respect to the "illegal" immigrants, I accept that it is an unfortunate situation and potentially in contravention of the laws of South Africa. However, I accept that Excom acted reasonably in the seeking of legal advice and is acting in the best interests of the MDGA whilst solving the problem. There is no provision in the Constitution or in law which allows a member not to pay annual subscriptions based on an alleged non-compliance by a Scheme and the Applicant cannot rely on these circumstances to avoid paying his levies.
- 8.8 With respect to the objection against the rezoning application, it is noted that one of the objects of the MDGA is indeed to "comment" on rezoning issues. There is nothing to suggest that this provision precludes or disallows any further action by Excom, especially when sanctioned by a general meeting. In any event, the decision to act on the rezoning application was taken some years ago and Section 41 of CSOSA requires that an application declaring any decision of an association or an executive committee to be void, may not be made later than 60 days after such decision has been taken. The monies spent by the MDGA on this objection (including that received by way of donations) are clearly reflected in the audited financial statements and I fail to see on what grounds the Applicant wished to undo this expenditure. Excom has a discretion and also the authority to spend a limited amount of money on

behalf of the MDGA and no evidence was led to suggest that they did not exercise this discretion in the best interest of the MDGA. This applies similarly to the uncollected building deposits. I accept the evidence that this is handled on advice from the auditors of the MDGA and there is nothing to indicate that Excom is addressing this matter in any way which is in contravention of the Constitution or any law.

- 8.9 This forum does not administer or enforce the Promotion of Access to Information Act of 2000. With respect to the Applicant's request for information, such as the debtors' books and the invoices pertaining to the rezoning objection, there is no evidence to suggest that Excom is in contravention of any of the provisions of the Constitution. Whilst transparency is in the interest of any housing scheme and should be encouraged, there is no provision which requires Excom to provide the requested information to the Applicant and there is no evidence to suggest that Excom is secretive or denies access to information without good reason. I accept the evidence led to support the notion that Excom publishes the minutes of its meetings and generally aims to operate transparently. This is supported by the positive audit report.
- 8.10 Judging from the list of current achievements tabled by the Respondent, which was not disputed, it appears that Excom is on balance active and working in the interest of the MDGA. Whilst apathy by owners remain a problem, as it is the case in other estates of this nature, it appears to not be the result of the actions or inactions of Excom. If anything, attendance at the recent annual general meeting improved to the credit of Excom.
- 8.11 It is regrettable that the Applicant seems to expend his energy in finding fault and being suspicious of the intentions of Excom. It has to be born in mind that Excom members are volunteers, that mistakes are likely to be made from time to time, things can always be done better or more efficiently and that there will always be room for criticism. However, no evidence was led by the Applicant to support a finding that Excom acts outside of its mandate, do not comply with the Constitution or act in any way in contravention of their fiduciary duties or in their own personal interest as opposed to that of the MDGA. Given that the Applicant clearly has a passion for the Estate, it would be in the interest of all concerned if personal feuds can be set aside to facilitate positive co-operation in everybody's interest. It is hoped that the attempt to come to mutual understanding based of the list of requests tabled by Excom (or an agreed adjusted version thereof) can indeed over time be achieved.

9 POWERS AND JURISDICTION OF THE ADJUDICATOR

The Adjudicator is empowered to investigate, adjudicate and issue an adjudication order in terms of sections 50, 51, 53, 54 and 55 of the Community Schemes Ombud Act, no 9 of 2011 ("CSOS Act"). The CSOS Act enables residents of community schemes to take their disputes to a statutory dispute resolution service instead of a private arbitrator or the courts. The purpose of this order is to bring closure to the case brought by the applicant to the CSOS.

10 ADJUDICATION ORDER

10.1 Each part of the relief sought by the Applicant is refused in terms of Section 54 of the CSOS Act.

10.2 The Respondent's prayer to have the Applicant declared a vexatious correspondent is dismissed.

10.3 Each party is to carry its own costs.

11 SECTION 56 OF THE CSOS ACT, 2011

The parties' attention is drawn to the status of the order made herein. In terms of Section 56, which reads as follows:

'If an adjudicator's order is for the payment of an amount of money or any other relief which is within the jurisdiction of a magistrate's court, the order must be enforced as if it were a judgement of such Court and a clerk of such Court must, on lodgement of a copy of the order, register it as order in such Court'

orders made under the CSOS Act are of the same status as that of an order made by either the Magistrate's Court or the High Court, depending on the amount of money or relief sought. As such, the order made herein may be enforced by a party in the same way as it would enforce a court order. Any party who wishes to enforce an order made in terms hereof, should approach the clerk of the relevant court (being the Magistrate's Court or High Court in the area where the Scheme is situated) to ensure that the order is registered with such court, whereafter it is capable of being enforced as a court order.

12 RIGHT TO APPEAL

The Applicant, the Respondent or any person affected by the order may appeal to the High Court on a question of law in terms of Section 57 (1).



**HANNCHEN ELIZABETH LOUW
ADJUDICATOR**



ADJUDICATION ORDER

DATE: 6 June 2017

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