



OFFICIAL MANAGING AGENT FOR THE ELISENHEIM HOME OWNERS ASSOCIATION

29 June 2016

Dear member,

CIRCULAR 34 – LEVIES PAYABLE & INVOICING AND STATEMENTS

There appears to be confusion about the payment of levies and invoices and statements issued by our office and this Circular intends to explain the position of levies payable and invoicing of levies together with interest being charged on arrear levies.

LEGITIMACY OF LEVIES

We have covered the legitimacy of levies being imposed on members in Circular 4 and various communications with members at AGAEM meetings. In this Circular we do not revisit this aspect of the levies.

ONUS OF INFORMING THE EOA OF CONTACT DETAILS

Before we deal with the payment of levies it is important that we highlight the onus of informing the EOA and/or the managing agent of the contact details of the owner.

The Articles are explicit that it is the responsibility of the member to inform the EOA and/or the managing agent of the contact details or any change in contact details and we quote from the Articles:

- 5.25 *Each Member shall be required to provide the ASSOCIATION with written details of his postal address and if he so indicates, any facsimile number and/or email address to facilitate delivery, it being competent for any Member to alter any such details by written notice to the ASSOCIATION at its registered office or care of management provided, however, that any physical address and/or postal address for delivery purposes shall be in the Republic of Namibia. The Members acknowledge that the postal authority(ies) shall act as their agent and not as the agent of the ASSOCIATION.*

We trust that this will now settle disputes where members claim that interest cannot be payable because members were not informed of levies payable or that members will not pay interest because they did not know about levies payable or did not receive invoices because of the EOA not having the correct details. This obviously excludes situations where information was provided correctly but for some reason was loaded incorrectly onto the system or likewise situations.

INTEREST ON ARREARS

Members are referred to the Articles of Association

- 6.14 *Members shall be liable for and shall pay interest on any debt due to the ASSOCIATION (including but not limited to any arrear levies of whatsoever nature), such interest to be calculated monthly in advance at the Prime Rate plus 2 (two percent) per month from the*

due date, to the date of actual payment, both days included.

ISSUE OF INVOICES AND STATEMENTS

Some members believe that invoices must be issued and received by the member before payment of levies can be made and in this regard we explain:

In terms of the Articles of Association:

- 4.4 *Without limiting the generality of 4.2.1 to 4.2.9, the ASSOCIATION shall have the following powers and functions*
- 4.4.2 *The right to impose levies upon the members of the ASSOCIATION for the purpose of meeting all the expenses that the ASSOCIATION has incurred or to which the trustees reasonably anticipate the ASSOCIATION will incur in the attainment of the objects of the ASSOCIATION or the pursuit of its business, including any special levy determined by the ASSOCIATION from time to time*

With regard to the above the EOA shall have the right to impose levies

- 5.3 *Upon a person becoming a home owner that person shall automatically be and become a Member of the ASSOCIATION and of the approved extension concerned and shall remain a Member of the ASSOCIATION and of the approved extension concerned until he ceases to be a home owner.*
- 5.17 *Every member is obliged to comply with:*
- 5.17.1 *the provisions of those Articles and any rules or regulations passed by the ASSOCIATION in terms hereof;*
- 5.17.4 *any directive given by the trustees in enforcing the provisions of these Articles.*

If you own an erf/property on the Elisenheim Estate you automatically become a member of the Association and are bound by the directives given by the Trustees

- 6.7 *The Trustees shall advise each Member, in writing, as soon as practically possible after the Annual General Meeting, of the amount of the levies payable by such Member for the affected financial year.*
- 6.11 *With effect from the commencement of a new financial year of the ASSOCIATION, and pending the approval of the levies in terms of the budget for the affected year, Members shall continue to pay the levies as were payable in respect of the preceding financial year and shall be obliged to pay:*
- 6.11.1 *the newly imposed levies with effect from the date stipulated in the written notice as delivered to the Member, consequent upon the approval of the budget; and*
- 6.12 *The annual levies shall be payable in equal monthly installments, due in advance on the first day of each and every month.*

With regard to the above members will note that members are obliged to pay levies in equal installments in advance once members were informed in writing by the Trustees

DEMAND FOR THE PAYMENT OF LEVIES

In terms of Paragraph 6.7 – the Trustees must inform the members in writing of the amount of levies payable.

In this regard we refer the members to Circular 4 when members were informed of the amount of levies payable from 1 November 2014 to date:

At the EOA Annual General meeting on 14 October 2014 the Board of Representatives for Phase 1 approved the budget that was tabled and in accordance with the budget the levies were reviewed as follows – effective 1 November 2014:

<i>a) Residential Erven</i>	<i>= N\$460-00</i>
<i>b) Business Erven</i>	<i>= N\$460-00</i>
<i>General Residential Erven</i>	<i>= N\$185-00 - Calculated on a bulk of 1 unit per 100sq meter</i>

We will soon issue a new Circular to inform members that the levies will not increase for the next financial year, meaning that the Trustees will inform members that the levies will remain the same.

ISSUE OF INVOICES AND STATEMENTS

In terms of the explanations provided it should be evident that the **payment of levies is not dependent on the issue of an invoice** but rather on the instructions received from the Trustees – in this regard Circular 4.

The EOA and the Managing Agent is of course mindful:

1. Members may require invoices for tax purposes
2. Members would like to receive a statement of account to make sure that all payments made have in fact been recorded against their account or to see any balance outstanding.

We confirm that the managing agent issues:

1. Statements on a monthly basis to all members
2. Invoices on a monthly basis to all members

The invoices and statements are e-mailed to all the e-mail addresses that we hold on record for members.

Please bear in mind that Invoices and Statements are mailed in “Bulk”, meaning that we mail all the invoices & statements at once to all members and that sometimes, for inexplicable reasons, the mail is not delivered to the recipient.

Members that do not receive invoices or statements should first see if the mail did not end up in “Junk Mail” or contact our office to enquire what would be the reasons that they do not receive invoices or statements. There could be several reasons, one of which may be that we do not have the correct e-mail address.

What is important to note from this communication is that if the member does not receive an invoice or a statement the member may not withhold levies and interest will remain payable on arrear levies.

It should be clear and we confirm that members are entitled to receive/demand copies of invoices or a statement of account and the Managing Agent will not hesitate to provide you with copies as requested!

CONCLUSION

We hope that this Circular provides clarity on the matter of payment of levies and the issue of invoices and statements

Kind Regards
EON Property Services
On behalf of the EOA Trustees