



OFFICIAL MANAGING AGENT FOR THE ELISENHEIM HOME OWNERS ASSOCIATION

12 July 2017

Dear Member,

**ANNEXURE "P" CIRCULAR 30 - VOTING RIGHTS OF SECTIONAL TITLE UNITS**

At previous AGAEM meetings owners of sectional title units were not regarded as owners because the EOA relied on Clause 19.1.3 of the Articles of Association:

19.1.3     *The body corporate of every sectional title complex has in respect of the extension in he is a homeowner one vote in respect of all the units in the complex: provided that the owner of a unit is in good standing (in other words is not in arrears with respect to any levies or other debt),*

In the "Notice of the AGAEM" meeting we mailed all sectional owners as well and part of the notice included was the following:

**PLEASE NOTE THAT OWNERS OF SECTIONAL UNITS ARE REGARDED AS INDIVIDUAL MEMBERS – MEANING THAT EVERY OWNER OF A UNIT IN A BODY CORPORATE IS ALSO INVITED AND HAS ONE VOTE!**

Further to the postponed AGAEM meeting for Extension "Proper" held on 10 July 2017 owners of sectional units felt that not all members understood the change and recommended that we should issue a circular to Sectional Unit Owners to better explain the voting rights of Sectional Unit Owners.

The change in the interpretation of the Articles came about when one of our members with a legal background referred us to aspects of the Articles of Association and the new Sectional Titles Act whereby the following aspects were highlighted:

*The Articles of Association of the EHOA (AA) clearly defines members of the EHOA as the registered owner of an erf or a unit as reflected in the Deeds Office. Specific definitions are also given iro an "erf" and a "unit" and "registered owner"*

*Under the new Sectional Title Act 2009 body corporates of sectional titles **are not the owners** of the erf or the common property. Under section 40(b) of the Act, the BC may however acquire a unit/s as an owner.*

*Article 5.5 of the Articles of Association provides for membership of the EHOA in respect of each owner of either an Erf or Unit. As owners of Units of sectional titles,*

*such individual unit owners are not the joint owners of the erf as defined in the AA, but just of the unit consisting of the section and share in the common property.*

*Under article 19.1.1 voting rights are bestowed upon registered owners of an erf or a unit. However where there are joint owners of an erf or a unit, they have jointly just one vote. It is thus clear that the AA acknowledges that **each** owner/joint owners of an erf and a unit enjoys one vote.*

*In addition to these voting rights, under article 19.1.3 the AA then bestows the right to vote on a BC “of every sectional title complex, in respect of the extension in which he is a home owner one vote in respect of all units in the complex.”*

*The BC under the new Sectional Title Act is not a “home owner” unless under section 40(b) of the Act, it is the registered owner of one or more units in the sectional title scheme for which it then has one vote.*

*This interpretation i.r.o. voting powers seems to be the correct view and not that the BC must vote and enjoy just one vote for the whole complex and all unit owners.*

The Trustees have considered the submission and decided that the interpretation of the member is correct and accordingly acknowledged that owners of sectional units should have one vote at the AGAEM meetings and concurrently are included in the register of members that may vote at Annual General Approved Extension Meetings or any General Meetings for the Extension that they are an owner of a Sectional Unit.