

Sectional Titles Schemes Management Act - mixed blessing for community schemes

By [Michael Schaefer](#)

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It's four years since the revised and amended laws were enacted and many property owners are still coming to terms with the requirements of the legislation especially with regards to the setting of budgets.



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When the Sectional Titles Schemes Management Act (STSMA) was signed into law on 7 October 2016, it shook up the lives of many body corporate members. The intention of the Act is good and, in essence, very positive for trustees, however, implementation of the legislation has proven to be less successful. Many schemes have been slow to embrace both the requirements and intent of the legislation insofar as scheme maintenance is concerned and directed, the biggest failure being in that it assumes that the maintenance will be done.

Our experience has shown that in practice, this is not necessarily the case. In my opinion, three-to-five-year plans would be more realistic and more achievable. Definitive plans and the reserve levies required to implement them are often not practically affordable.

Financial wellbeing under threat

The legislation makes it mandatory for every scheme to have a 10-year maintenance plan, detailing projected works and providing the computation for levies that must be approved by the owners at the annual general meeting (AGM). Delayed AGMs due to Covid-19 and rising levels of debt, exacerbated by a weak economy, are also compromising the ability of schemes to run effectively. Their financial wellbeing is under threat and often funds ring-fenced as reserves – as per legislative directive – are utilised out of necessity to fund administrative shortfalls.

Sectional title schemes have to reassess levy contributions and critically, build up separate funds for reserve spend - on top of day-to-day expenses. This has created a challenge for many trustees whose fiduciary duty it is to fulfil this obligation. In all fairness, being a trustee is often a thankless task, carried out by well-meaning volunteers, who often, understandably, have neither the skill nor the experience in putting together 10-year maintenance plans and how to finance them.



AGM delays in residential schemes could leave them in a financial fix

3 Sep 2020



Reviewing the Act

On this, the fourth anniversary of the promulgation of the STSMA, we review aspects of the Act and offer advice, with specific reference to sectional title bodies corporate, on how community schemes (residential juristic entities, sectional title bodies corporate, homeowners associations and share block companies) can measure their current status and plan the way forward:

- **Levies and budgets:** Are schemes running the two required levy funds and are schemes ensuring that the day-to-day expenses are not being funded by what is meant to be built up reserves, to be implemented for the 10-year plan?
- **Maintenance plan:** Does your scheme have a maintenance plan and are you managing the scheme in accordance with the plan?
- **Role and responsibilities of trustees:** Now more accountable as a result of the legislation, trustees, many who don't fully appreciate that they are personally liable, need to take more of a lead in devising the long-term maintenance plan, prioritising the work and allocating the budgets.
- **Fidelity insurance:** All schemes, not only sectional title, need to ensure against potential loss, for example, through fraud and /or misappropriation by related parties.
- **Insurance requirements:** When did your scheme last have a professional valuation and update its insurance? At least one should have been done within the last cycle.

It is my view that only the market will correct the above, when prospective owners actively and critically assess reserve budgets and associated funds available, direct a maintenance and management plan and, critically, both managing agents and scheme executives accept that maintenance should be managed professionally and are prepared to meaningfully engage with specialists in the field.

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