

ZDFin

COMMUNITY SCHEME FINANCE

THE IMPORTANCE OF EFFECTIVE ARREAR LEVY MANAGEMENT (By Amdené Viljoen)



Amdené Viljoen

Effective arrear levy management is essential for the financial stability of every community scheme.

Levy payments are fundamental to the proper functioning of a community scheme. A correctly calculated and approved budget provides for the day-to-day operational expenses of the scheme, while also ensuring that adequate provision is made for the reserve fund in accordance with the approved 10-year maintenance plan. Without consistent levy income, even a well-structured budget becomes ineffective.

In many instances, a community scheme may have an appropriate and sustainable budget in place, yet financial strain arises when owners fall into arrears. When contributions are not received in full, the community scheme is deprived of 100% of its projected income. This shortfall often forces the community scheme to utilise funds paid by compliant owners to cover legal fees associated with pursuing non-paying owners.

This situation is both unfair and unsustainable. Effective levy management requires that the collection process commence immediately once an owner falls into arrears and not only after two or three months of non-payment. It is considerably easier to recover one month's arrears on the 7th day of the month than to recover three months' arrears later in the cycle, when an owner's available funds may already be depleted.



Trustee resolutions typically provide that levies are due on or before the 1st day of each month in advance. However, many owners believe they have until the 7th day of the month to make payment before interest or further collection steps are implemented. While this understanding may stem from common practice, there is no legal prohibition against commencing the collection process earlier, provided that the trustees have properly resolved and communicated the due date.

Owners often underestimate the importance of punctual levy payments. These contributions enable the managing agent and trustees to meet the scheme's financial obligations timeously, including payments to security providers, municipal accounts, service contractors, and staff salaries. Any disruption in levy income directly impacts the scheme's ability to meet these obligations.





THE IMPORTANCE OF EFFECTIVE ARREAR LEVY MANAGEMENT (By Amdené Viljoen)

There are lawful mechanisms available to strengthen the collection process. Payment information may be reported to credit bureaus such as TPN, in compliance with the requirements of the National Credit Act. Late or non-payment can therefore negatively affect an owner's credit profile, and such listings cannot simply be reversed once made in accordance with the law.

A common misconception is that recovery of arrear levies must only be pursued through the Community Schemes Ombud Service (CSOS). While CSOS provides an accessible dispute resolution forum, it is not the only avenue available. The courts remain a competent and effective forum for the recovery of arrear contributions.

Currently, due to a significant influx of applications, CSOS is experiencing delays as a result of a shortage of adjudicators. Although the CSOS process may initially appear more cost-effective than litigation through attorneys, enforcement can become complex. Once an adjudication order is granted, and should the owner fail to comply, an enforcement order must be obtained, followed by the issuing of a warrant of execution. Legal costs are therefore still incurred in the enforcement stage.

Additionally, adjudicators have broad discretionary powers and may issue orders different from those sought. For example, an adjudicator may order that arrears be settled within six months without specifying instalment terms. In such circumstances, the scheme may be compelled to wait the full six-month period before proceeding with execution. This introduces uncertainty and risk.

By contrast, when summons is issued through the courts, the relief sought (the prayers for judgment) is specifically defined. The court considers the relief as pleaded, which provides greater predictability in the outcome.

The appointment of the correct legal firm is crucial in levy collection matters. Not all firms approach levy recoveries with the necessary diligence and integrity. There are instances where excessive fees are charged, incorrect legislation is cited in particulars of claim, or insufficient proof of claim is attached to the summons. Such deficiencies can delay recovery and increase exposure to unnecessary costs.

Trustees and managing agents should conduct proper due diligence before appointing attorneys. It is advisable to conclude a clear and reasonable fee agreement to limit financial exposure, particularly when matters proceed to taxation of costs.

Conclusion

Effective arrear levy management is not merely a legal function — it is a financial necessity for the sustainability of any community scheme. Early intervention, consistent enforcement of due dates, strategic use of credit bureau reporting, careful selection of legal remedies, and the appointment of competent attorneys are all critical components of a successful collection strategy.

Proactive management protects compliant owners, preserves the community scheme's financial stability, and ensures the long-term viability of the community.



+27 (0) 10 020-3228



info@zdfin.co.za



www.zdfin.co.za

Z&Fin

COMMUNITY SCHEME FINANCE



Administration



Equipment
Rental Finance



Executive Managing
Agent (EMA)



Insurance



Levy Finance and
Specialist Collections



Loans



Overdraft
Facility



Unfinanced
Levy Collection

THE FINANCE COMPANY FOR COMMUNITY SCHEMES
ADDING VALUE, ONE SOLUTION AT A TIME



+27 (0) 10 020-3228



info@zdfin.co.za



www.zdfin.co.za