## RECENT INTERESTING CASE LAW CSOS and Other Aspects of Community Scheme Law

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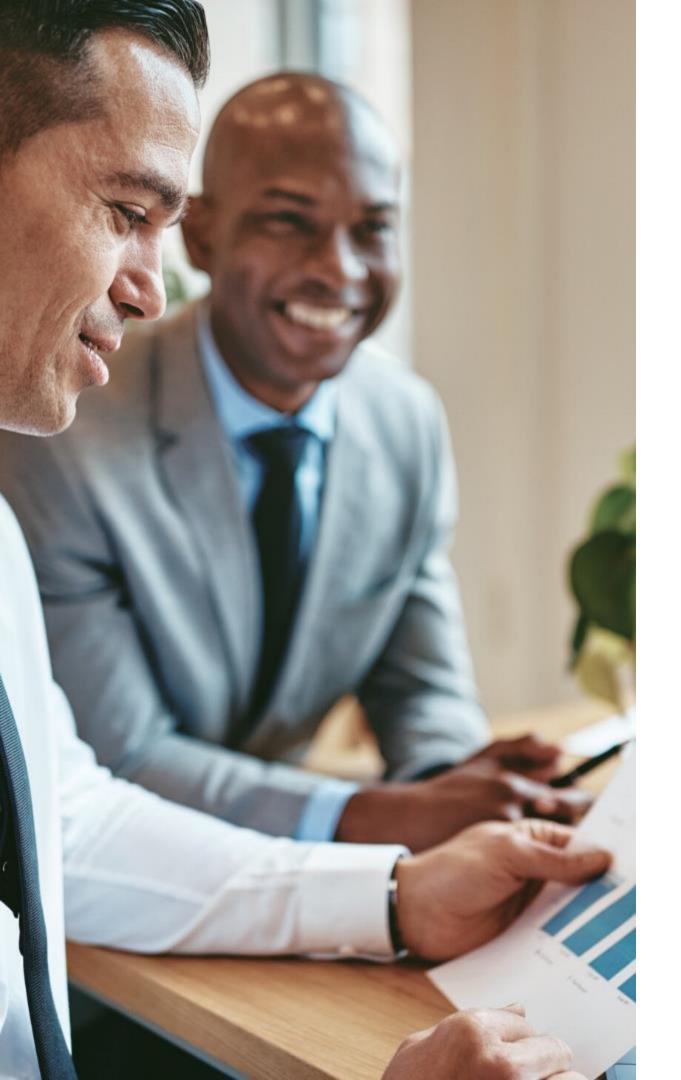


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## Lund and Another v Community **Schemes Ombud Service and Others**

- Johannesburg High Court
- **Case Background**: Application under PAJA for setting aside a CSOS adjudication order.
- Key Issue: Alleged procedural unfairness by CSOS adjudicator in excluding oral hearings and necessary evidence.
- High Court Findings:
  - Granted condonation and review application.
  - against cost orders.
- **Implications**: Possible legislative reform to lower threshold for cost orders, enhancing accountability in CSOS adjudications.

#### **CLICK HERE for insights into this case**

• Raised questions on the immunity of CSOS and its adjudicators



## SS Glen High v Kruger NO

- Johannesburg High Court
- **Context**: Clarification on recovering untaxed legal costs for levy collection in sectional title schemes.
- Legal Framework: Sectional Titles Schemes Management Act, Prescribed Management Rule 25(4).
- **Court Ruling**: Legal costs, if specified in conduct rules, are recoverable as "liquidated" amounts.
- **Implications**: Eases cost recovery for bodies corporate, promoting financial stability within sectional title schemes.





#### **Body Corporate of Old Trafford v** Muronzi

- Pretoria High Court
- **Background**: Sequestration of unit owner for unpaid levies.
- **Key Issues**: Balance between enforcement and housing rights under s 26 of the Constitution.
- **Court Findings**: Denied final sequestration, urging Rule 46A procedures first.
- **Implications**: Emphasises judicial discretion in balancing debtor's housing rights against creditor claims.

#### **<u>CLICK HERE</u>** for insights into this case





#### **Body Corporate of DSL v Lunika** and Another

- Pretoria High Court
- **Case Context**: Sequestration of respondents for unpaid levies.
- Key Arguments: Respondents claimed solvency through assets and income.
- **Court Findings**: Act of insolvency established, but respondents' financial situation warranted refusal of final sequestration.
- **Outcome**: Extended rule *nisi* for further arguments on securing debt, underscoring the need for cautious application of sequestration.



## THE APPOINTED TRUSTEES OF THE MADISON AT AMBERFIELD BODY CORPORATE V CSI PROPERTY MANAGEMENT (PTY) LTD

- **Johannesburg High Court**
- **Case Background**: Urgent application to end managing agent's mandate.
- Key Issues:
  - $\circ$  Urgency of case.
  - Respondent's refusal to hand over management data.
- Court Order: Transfer of all management information to the new managing agent.
- **Outcome:** Strengthened governance by reinforcing compliance with trustee decisions.



SECTIONAL SOLUTIONS

#### Nedbank Limited and Gold Reef Sands Body Corporate v. Hassan Mohamed Ali Gamal Eldin et al.

- Johannesburg High Court •
- **Context**: Confirming the sale of property after failed auction.
- Key Issues: •
  - Mr. Hassan's delaying tactics.
  - Financial strain on Body Corporate from prolonged arrears.
- **Court Order**: Confirmed sale at highest bid, ordered legal costs against Mr. Hassan. •
- **Implications**: Reaffirms fair sale processes and discourages delay tactics in debt enforcement.





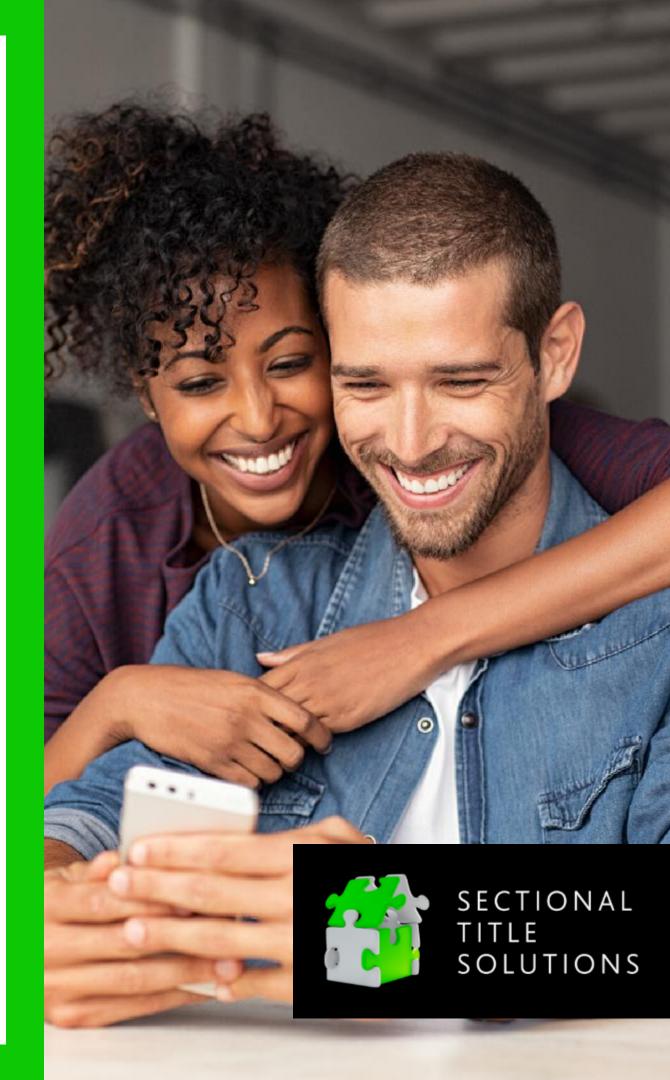
SECTIONAL SOLUTIONS

#### **Body Corporate of Argyle Green v Appeal Authority, City of Johannesburg and Others**

- Johannesburg High Court
- Case Background: Challenging procedural fairness in a rezoning approval.

#### • Key Issues:

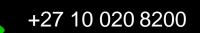
- Failure to consider/disclose critical documents.
- Procedural irregularities impacting property rights.
- **Court Ruling**: Rezoning approval set aside, remitted for rehearing.
- Implications: Reinforces procedural fairness in municipal planning, impacting rights of community schemes.



#### **THANK YOU!**

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SECTIONAL TITLE SOLUTIONS

11/11