


# RECENT INTERESTING CASE LAW

## CSOS and Other Aspects of Community Scheme Law

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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.
  - Raised questions on the immunity of CSOS and its adjudicators against cost orders.
- **Implications:** Possible legislative reform to lower threshold for cost orders, enhancing accountability in CSOS adjudications.

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# 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.



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## ***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.

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# ***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.



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# ***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:**
  - 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.



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# ***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.



# *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.




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**THANK YOU!**

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