

Short notes on:

## **Not Happy with the CSOS order? Here's your next step**

It is common cause that disputes may arise between members of the community schemes. It is therefore paramount that provisions need to be in place to facilitate the dispute resolution process when the need arises.

The Community Schemes Ombud Services, known as CSOS, was founded by the Community Schemes Ombud Services Act, 9 of 11, hereinafter referred to as the Act. CSOS has many responsibilities, one being the adjudication arising over disputes in community living schemes, vetting of conduct and management rules and educating members of the Sectional Title Schemes or Home Owners Association.

In an event where the adjudication process has been followed and a party thereto is not satisfied with the outcome, such party may appeal the outcome.

Section 57 of the Act provides that an order of an Adjudicator can be appealed. In the case of *Sternesen and Tulleken Administration CC v Linton Park Body Corporate and Another (A3034/2018) [2019] ZAGPJHC 387; 2020 (1) SA 651 (GJ) (24 October 2019)*, the Court was required to determine how the Section 57 appeal process must be executed. However, conflicting interpretations by different provisions of the High Court and amended practice directive resulted in confusion.

An Appellant may only appeal to the High Court of South Africa on the point of law within 30 days from the date of delivery of the judgement or order by the Adjudicator. The Appellant may further request the Adjudicator's order's stay pending the appeal's outcome.

The Section does not provide for application for leave to appeal. Therefore, the aggrieved party may file the Notice of appeal without applying for leave to appeal from the adjudication forum.

The procedure to be followed is summarized as the following: a Notice of Appeal must be brought which contains the complete grounds upon which such appeal is brought, the Notice

is served on the Respondent by the sheriff of the Court, the Respondents in the appeal must be both the Adjudicator and the CSOS, and lastly, the Respondent may file reports on aspects of law to assist the Court in its determination.

For any assistance on property disputes, contact an attorney at SchoemanLaw Inc.

