

## **Dispute between Residents**

In the event of annoyance, aggravation or tension occurring between owners and/or tenants, an attempt shall be made by the parties concerned to settle the matter themselves in an amicable way consistent with the values of the estate. Should this process fail, the aggrieved party may bring his/her grievance to the notice of the Estate Manager in writing, who may attempt reconciliation or mediation or resolution of any dispute or difference or refer the matter to the Trustees.

To facilitate the process, a standard form, entitled "Request or Complaint to HOA", is available under the category "Estate Forms" on the community portal or from the Estate Manager.

## **Dispute between HOA and Resident (initiated by the HOA)**

In the event of the Estate Manager and Trustees becoming aware of a breach of the Rules of the HOA, the following steps will be taken:

1. The Estate Manager will contact the Resident by phone or face-to-face and mention the breach and ask the Resident to remedy the situation offering practical (non-financial) assistance to do so.
2. The Estate Manager will send a friendly letter reminding the Resident of the conversation with evidence of the breach (photo, statement by complainant, etc.). The letter should state the Rule that has been violated and explain why it's important for Residents to observe the Rules. It will have a positive tone and again offer assistance (as in 1 above) to remedy the problem.
3. The Estate Manager will send a second letter. More business-like and firm in tone and cite the specific section of the Rules that have been violated, providing evidence of the breach. It will give the Resident a date by when the problem must be corrected and it will grant a reasonable amount of time. It will explain what will happen if the problem is not resolved by a specific date, including financial penalties if appropriate.
4. Should the matter still not be resolved the Estate Manager will refer the matter to the Chairman of the Trustees who may constitute an appropriate Disciplinary Committee of Trustees to deal with the matter.
5. Should the Disciplinary Committee of the Trustees wish to pursue the matter, the Estate Manager will send an official notification that the HOA is about to take action and schedule a hearing when the Resident may address the Disciplinary Committee.
6. The Disciplinary Committee reserves the right to refer the matter to the CSOS Ombud for resolution at any stage of proceedings if it deems it appropriate.
7. Should the Disciplinary Committee decide to conduct a hearing then such a hearing will be conducted in a fair manner and the Resident will be treated with respect consistent with the values of the estate. The Resident may bring witnesses or their legal counsel to the hearing. The HOA reserves the right to invite the estate's legal counsel to any/all Disciplinary Committee hearings.
8. After the hearing the Disciplinary Committee will decide how to proceed and issue a finding.
9. The Resident will have the right to appeal the decision. In such cases the Chairman will assemble Trustees who did not participate in the original Disciplinary Committee hearing, to form an Appeals Committee to hear and consider the appeal.
10. If all dispute resolution processes fail then the HOA will refer the matter to the CSOS Ombud for a ruling. The process to be followed to lodge a dispute with the CSOS Ombud is included below.

## **Dispute between Resident and HOA (initiated by the Resident)**

Should a Resident wish to dispute an issue with the HOA such Resident will submit their complaint/dispute in writing to the Estate Manager. A standard form to be used for this purpose, entitled “Request or Complaint to HOA”, is available under the category “Estate Forms” on the community portal or from the Estate Manager.

1. The Estate Manager will endeavour to resolve the issue if it is within his/her scope and capacity. If not the Estate Manager will refer the matter to the Chairman of the Trustees who may send it to the Trustees involved in the matter or the entire Board depending on the nature of the issue or call a meeting to consider and resolve the matter.
2. The Estate Manager or Trustees, whichever is applicable, will respond in writing to the complainant within 14 days.
3. Should the resident not accept the proposed resolution they may appeal the decision. In such cases an appropriate group of Trustees (usually the Chairman, Vice Chairman and one other Trustee) will arrange a hearing for the Resident to state their case.
4. If all dispute resolution processes fail then the HOA will refer the matter to the CSOS Ombud for a ruling. The process to be followed to lodge a dispute with the CSOS Ombud is included below.

## **CSOS Ombud**

The CSOS (Community Schemes Ombud Service) was established in terms of the Community Schemes Ombud Service Act (proclaimed on 07 October 2016) to regulate the conduct of parties within community schemes and to ensure their good governance.

The process to be followed to lodge a dispute with the CSOS is captured on the CSOS website at <http://www.csos.org.za/index.html>. This also includes the contact number for the Western Cape (021 001 2569).

If you click on “How to lodge a dispute”, it explains exactly what one needs to do from downloading and filling in a dispute application form to how it can be delivered (walk-ins or email). The direct link is <http://www.csos.org.za/disputeresprocess.html>