

# Decoding Body Corporate Management

Property   
**deCoded**  
by the *Stephensons*

# Decoding

## Body Corporate Management

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Note: This ebook aims to cover topics and questions relevant to Body Corporate members and Trustees. Property Decoded cannot be held liable for any errors or omissions.





Property   
deCoded  
by the Stephansons

# Introduction

## Property Decoded: Simply Decoding Real Estate



*We are a 3rd generation real estate agency established four decades ago!*



**Tracy Stephenson**  
Owner, Principal

**Corinne Stephenson**  
The Matriach

**Christopher Stephenson**  
Candidate Estate Agent  
Registered with the PPRA

In the intricate world of real estate, understanding the complexities and making informed decisions can be a daunting task. That's where Property Decoded steps in – we specialize in decoding real estate, simplifying the process, and empowering our clients to make confident and informed choices. With a commitment to transparency, expertise, and trying our best to offer exceptional service, we are here to guide you through every aspect of your real estate journey.

### Decoding Real Estate

At Property Decoded, our mission is to demystify real estate by breaking down complex concepts, terminology, and procedures into clear and understandable language. We believe that knowledge is power, and we aim to empower our clients with the information they need to navigate the real estate market with ease.

### Comprehensive Services

We offer a wide range of comprehensive services tailored to meet the unique needs of sellers, investors, landlords, tenants and Body Corporates. Whether you're a first-time homebuyer, an experienced investor, or a seller looking to maximize your property's value, we have you covered. Our services include:

**Buying Assistance** We guide buyers through the entire purchase process, from property search and viewings to negotiation, due diligence, and closing the deal. We help you find the perfect property that aligns with your needs, preferences, and budget.

**Selling Support** For sellers, we provide strategic marketing, professional property valuation, effective listing strategies, and expert negotiation to ensure a smooth and successful sale. We work tirelessly to showcase your property's unique features and attract qualified buyers.

**Investment Opportunities** Investing in real estate can be a lucrative venture, but it requires careful analysis and understanding of market dynamics. We can assist investors in identifying profitable opportunities, conducting thorough market research, and analysing potential returns on investment.

# Introduction

## Property Decoded: Simply Decoding Real Estate



**Rental Services** Our rental services cater to tenants and landlords alike. We help tenants find suitable rental properties that meet their requirements, and we assist landlords with tenant screening, lease agreements, rent collection, and property maintenance.

**Property Management** Managing rental properties can be a time-consuming task. Property Decoded offers professional property management services, taking care of all aspects of property maintenance and tenant relations.

**Body Corporate/Community Management & Administration** We specialise in professional body corporate management, handling the day-to-day operations, administration and finances of sectional title schemes. Our team understands the intricacies of South African laws and regulations governing body corporates.

### Transparency & Integrity

Transparency is at the heart of our approach. We prioritize open and honest communication, ensuring that our clients are well-informed at every stage of their real estate journey. We provide clear and concise information, helping you understand the intricacies of contracts, legal requirements, and market dynamics.

### Expertise & Experience

With years of experience in the real estate industry, our team possesses extensive knowledge of local markets, legal regulations, and industry trends. We stay up to date with the latest developments, ensuring that we can provide accurate and reliable advice to our clients.

Property Decoded is your trusted partner in decoding real estate. Our commitment to transparency, expertise, and exceptional service sets us apart. We simplify the complexities of real estate, empowering you to make confident decisions. Whether you're buying, selling, investing, or renting, Property Decoded is here to guide you through the process with clarity, integrity, and personalized attention. Experience the difference of simply decoded real estate with Property Decoded.



### MEET THE TEAM

*(from left to right)*

**Jenna Dowdle**  
Portfolio Assistant

**Nicky Fiuggel**  
Portfolio Director

**Tracy Stephenson**  
Owner and Principal

**Megan May**  
Portfolio Senior Assistant



### **What is a Body Corporate and a Sectional Title Scheme?**

A body corporate is a legal entity comprising all the owners of units within a sectional title scheme. It is responsible for the management, administration, and maintenance of the scheme's common property.

### **What are the Rights and Obligations of Members in a Body Corporate?**

Members have the right to use and enjoy their units, participate in decision-making processes, access common property, and receive information about the scheme. They are obligated to pay levies, comply with rules and regulations, and contribute to the harmonious living within the scheme.

### **How is a Body Corporate Managed and Governed?**

A body corporate is managed by a board of trustees elected by the members. The trustees make decisions on behalf of the body corporate, manage finances, enforce rules, and handle day-to-day operations. The governance structure is defined by the Sectional Titles Act and the scheme's rules.

### **How are Decisions Made within the Body Corporate?**

Decisions are typically made through resolutions passed at meetings. Voting is conducted based on the number of participation quotas assigned to each unit. The required quorum and voting thresholds depend on the nature of the decision and are outlined in the scheme's rules and legislation.

# Chapter 2

## Meetings & Decision Making



### **What are the Different Types of Meetings in a Body Corporate?**

The different types of meetings in a body corporate include the Annual General Meeting (AGM), Special General Meetings (SGMs), and trustee meetings. The AGM is held annually to discuss important matters, while SGMs are called for specific purposes or urgent matters.

### **How are Meetings Conducted and Notified?**

Meetings must be properly notified to all members within a specific time frame. The notice should include the date, time, venue, and agenda of the meeting. Meetings are typically conducted in person but can also be conducted electronically or through proxy voting.

### **What is the Quorum Requirement for Meetings?**

The quorum is the minimum number of members required to be present at a meeting for it to be valid. The required quorum is usually a percentage of the total participation quotas or a specific number of members. If quorum is not achieved, the meeting may be adjourned to a later date.

### **How Does Voting Work in a Body Corporate?**

Voting thresholds for passing resolutions are typically based on a simple majority or a special resolution (higher threshold) as defined in the scheme's rules. A simple majority means more than 50% of the votes cast, while a special resolution usually requires at least 75% or 80% of the votes in favour. Proxy voting is allowed, where a member can appoint someone else to vote on their behalf by submitting a valid proxy form before the meeting.

# Chapter 3

## Levies & Financial Matters



### What are Levies and How are They Calculated?

Levies are the monetary contributions paid by members to cover the costs of maintaining and managing the common property. They are calculated based on the member's participation quota, which is determined by the size and value of their unit in relation to the whole scheme. Levies cover expenses such as security, insurance, maintenance, cleaning, and administration.

### What is the Body Corporate's Financial Responsibility?

The body corporate has a financial responsibility to ensure that there are sufficient funds to meet the ongoing expenses of the scheme as legislated. This includes creating and managing a budget, collecting levies, paying service providers, maintaining financial records, and providing financial statements to the members.

### Can Levies be Challenged or Appealed?

If a member believes that their levy contribution is incorrect or unjust, they can raise their concerns with the trustees or the managing agent. They may request a review or clarification of the calculations. If the issue remains unresolved, they may seek legal advice or refer the matter to the Community Schemes Ombud Service (CSOS) for assistance or dispute resolution.

### How are the Finances of the Body Corporate Managed?

The finances of the body corporate are managed by the trustees or a managing agent appointed by the body corporate. They are responsible for creating budgets, collecting levies, paying bills, maintaining financial records, and providing financial statements to the members. Financial management should be transparent, and members have the right to access relevant financial information.



### **Who is Responsible for Maintenance and Repairs?**

The body corporate is responsible for the maintenance and repairs of the common property, while individual owners are responsible for the maintenance and repairs of their units. Common property refers to areas shared by all members, such as foyers, staircases, gardens, and swimming pools. Owners are responsible for maintaining their own units, including fixtures, fittings, and interior spaces.

### **How are Maintenance and Repair Issues Addressed?**

Maintenance and repair issues can be reported to the trustees or the managing agent. The body corporate should have a process in place for members to report issues, such as a designated maintenance request form or a dedicated email address. The trustees or managing agent should respond promptly to reported issues, assess the required maintenance or repairs, and take appropriate action to address them.

### **Can Owners Undertake Improvements or Alterations to their Units?**

Owners may undertake improvements or alterations to their units with the prior approval of the trustees. The trustees will assess the proposed changes to ensure compliance with the scheme's rules, building regulations, and any necessary approvals from local authorities. It is important for owners to obtain written permission before proceeding with any alterations to avoid potential disputes or non-compliance issues.

### **What Happens if Maintenance or Repairs are Neglected?**

Neglecting maintenance or repairs can have consequences for both the individual owner and the body corporate. It can lead to further damage, decreased property values, and potential legal disputes. The body corporate may take action to enforce maintenance obligations, including issuing fines, engaging contractors to carry out the necessary repairs, and recovering the costs from the negligent owner. Owners should promptly address maintenance issues to ensure the longevity and value of their property.



### Is Insurance Required for the Scheme?

Yes, it is a legal requirement for a body corporate to have insurance for the scheme. This typically includes buildings insurance to cover the common property, liability insurance to protect against accidents or injuries on the premises, and fidelity insurance to safeguard against theft or fraud involving the body corporate's funds. Individual owners are responsible for insuring their own units and personal belongings.

### What Does the Insurance Cover?

Body corporate insurance typically covers the following aspects:

**Buildings** - The insurance policy usually includes coverage for the buildings within the complex, including the structural elements, fixtures, and fittings. This covers damages resulting from events like fire, lightning, storm, flood, and other insured perils.

**Common Property** - Common property refers to areas shared by all unit owners, such as lobbies, hallways, elevators, staircases, gardens, swimming pools, and parking areas. Body corporate insurance typically provides coverage for these common areas against damage or loss caused by insured perils.

**Public Liability** - This coverage protects the body corporate and its members against legal liability for injury or property damage caused to third parties on the common property. For example, if a visitor slips and falls in a common area and holds the body corporate responsible, the insurance may cover the associated legal costs and compensation.

**Trustee Liability** - Trustees, who are responsible for managing the affairs of the body corporate, may be exposed to personal liability. Body corporate insurance can provide coverage for legal expenses and damages arising from any wrongful acts or omissions by the trustees in their duties.

**Employee Liability** - If the body corporate employs staff, such as security guards or maintenance personnel, the insurance may cover liability arising from injuries or damages caused by these employees while performing their duties.

**Machinery & Equipment** - Body corporate insurance may include coverage for machinery and equipment used for the common property, such as lifts, pumps, generators, and other communal utilities.

It's important to note that the specific coverage and policy details may vary between insurance providers and policies. It's advisable for individual unit owners to obtain their own insurance coverage for their personal belongings and any improvements or additions made to their units, as these are typically not covered by the body corporate insurance.

### How are Insurance Premiums Paid?

Insurance premiums are typically paid from the levies collected from the members. The cost of insurance is divided among the members based on their participation quotas. The body corporate or the managing agent handles the payment of insurance premiums to the insurance provider.

A participation quota (PQ) is expressed as a percentage or fraction and is typically assigned to each unit in a sectional title scheme. It represents the relative value or size of a unit in relation to the entire complex.

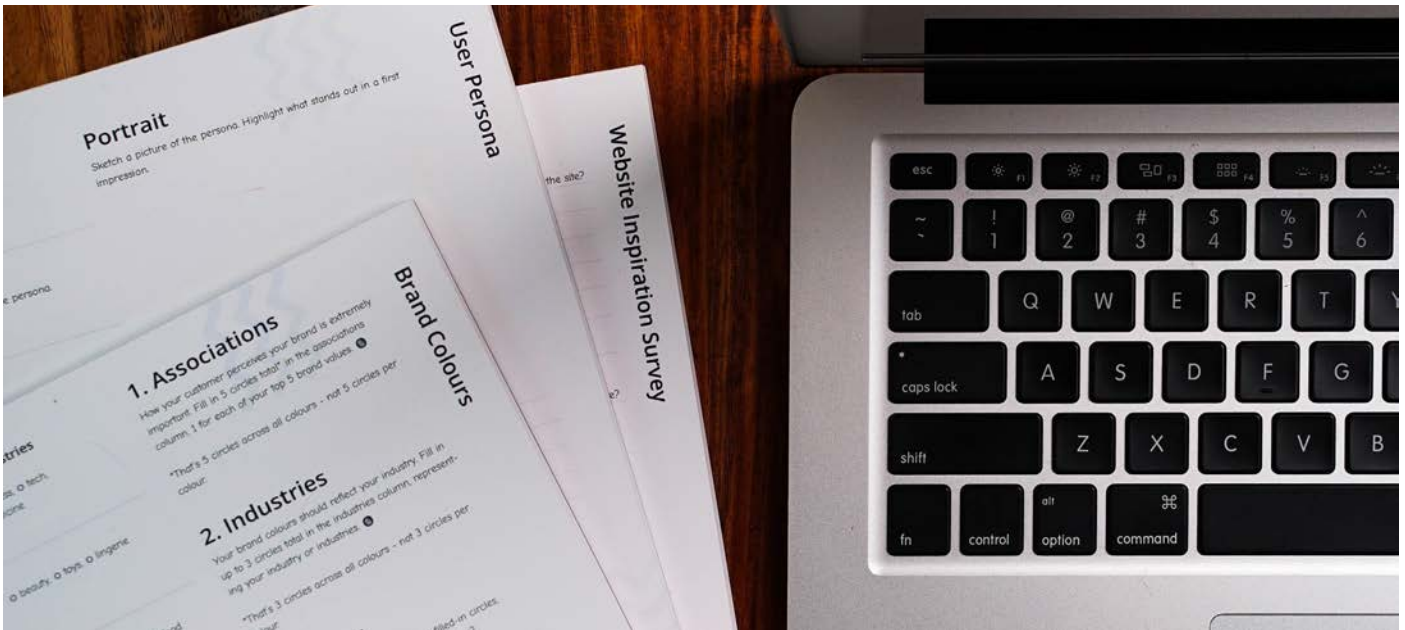


### **What Should I Do if I Have a Dispute within the Body Corporate?**

If you have a dispute within the body corporate, it is recommended to first try to resolve it amicably through open communication and negotiation with the other parties involved. If the dispute remains unresolved, you can escalate the matter by engaging in mediation or arbitration. The Community Schemes Ombud Service (CSOS) provides a platform for dispute resolution in sectional title schemes.

### **What is the Role of the CSOS in Dispute Resolution?**

The CSOS is an independent statutory body that aids in resolving disputes within community schemes, including sectional title schemes. They offer mediation and adjudication services to help resolve conflicts between members, trustees, and other relevant parties. Engaging the CSOS can provide a fair and impartial process for dispute resolution.



### What Rules Govern Body Corporates?

Body corporates are governed by the Sectional Titles Schemes Management Act (ST SMA) and the prescribed rules in the regulations. These laws outline the responsibilities and obligations of body corporates, trustees, and members, as well as the processes for decision-making, financial management, maintenance, and other important aspects of scheme governance.

### What Documents Should I Familiarize Myself With?

As a member of the body corporate, it is important to familiarize yourself with the scheme's rules, the Sectional Titles Act, the ST SMA, and any additional governing documents specific to your scheme. These documents provide the framework for the functioning of the body corporate and its members' rights and responsibilities.

# Chapter 8

## Roles & Responsibilities of Trustees



### What are the Duties of Trustees?

The duties of trustees include managing the affairs of the body corporate, enforcing the scheme's rules, maintaining the common property, managing finances, attending meetings, making decisions on behalf of the body corporate, and acting in the best interests of the members.



### **How is Communication Handled within the Body Corporate?**

Communication within the body corporate can be facilitated through various channels such as written notices, emails, newsletters, or dedicated communication platforms. The body corporate or the managing agent should ensure that members receive important information, updates, and meeting notices in a timely manner.

### **How Can Members Stay Informed?**

Members can stay informed by actively engaging in body corporate affairs, attending meetings, reviewing meeting minutes, participating in discussions, and seeking clarification on matters of concern. A member can also volunteer to become a Trustee and get voted on as a Trustee at the annual general meeting (AGM).

Some body corporates have websites or online portals where they publish important information and documents. Members can access these platforms to review financial statements and governing.

Please note that these answers are intended to provide a general understanding of the topics. For more detailed information and specific legal advice, it is recommended to consult with a qualified legal professional or refer to the relevant legislation and regulations in South Africa.

### **Can trustees be held personally liable for their actions?**

Yes, trustees can be held personally liable for their actions. Trustees have a fiduciary duty to act in the best interests of the body corporate and its members. If a trustee breaches this duty, they may be held personally liable for any losses or damages that result.

### **What happens if a trustee resigns or is removed from office?**

If a trustee resigns or is removed from office, the remaining trustees may appoint a new trustee to fill the vacancy until the next annual general meeting. The appointment must be done in accordance with the scheme rules and the Prescribed Management Rules.

### **Can a trustee be removed from office?**

Yes, a trustee can be removed from office if they are no longer eligible or if they have breached their fiduciary duty to the body corporate. The process for removing a trustee is outlined in the Prescribed Management Rules and the scheme rules.

### **Can a trustee be held liable for the actions of other trustees?**

Yes, a trustee can be held liable for the actions of other trustees if they were aware of the breach of duty or participated in it. Trustees have a duty to ensure that the body corporate and its members are protected from harm, and this includes ensuring that other trustees are acting in accordance with their fiduciary duties.

# Chapter 10

## Key Points to Remember



**Understand the governing documents:** Familiarize yourself with the scheme's rules, the Sectional Titles Act, and the Sectional Titles Schemes Management Act (STSMA). These documents provide the framework for the functioning of the body corporate.

**Know your rights and responsibilities:** As a member, understand your rights and responsibilities within the body corporate. This includes paying levies, participating in meetings, and adhering to the scheme's rules.

**Importance of effective communication:** Communication is crucial within the body corporate. Stay informed through regular communication channels, attend meetings, and actively engage in discussions and decision-making processes.

**Trustee duties:** Trustees play a vital role in managing the affairs of the body corporate. They have a fiduciary duty to act in the best interests of the members and the scheme as a whole.

**Maintenance and repairs:** Understand the division of responsibilities between the body corporate and individual owners when it comes to maintenance and repairs. Promptly address maintenance issues to avoid further damage and disputes.

**Insurance requirements:** It is a legal requirement for the body corporate to have insurance coverage for the scheme. Individual owners should also ensure they have insurance for their units and personal belongings.

**Dispute resolution:** In case of disputes, try to resolve them amicably through open communication. If needed, escalate the matter to mediation or arbitration. The Community Schemes Ombud Service (CSOS) provides assistance in resolving disputes.

# Chapter 10

## Key Points to Remember

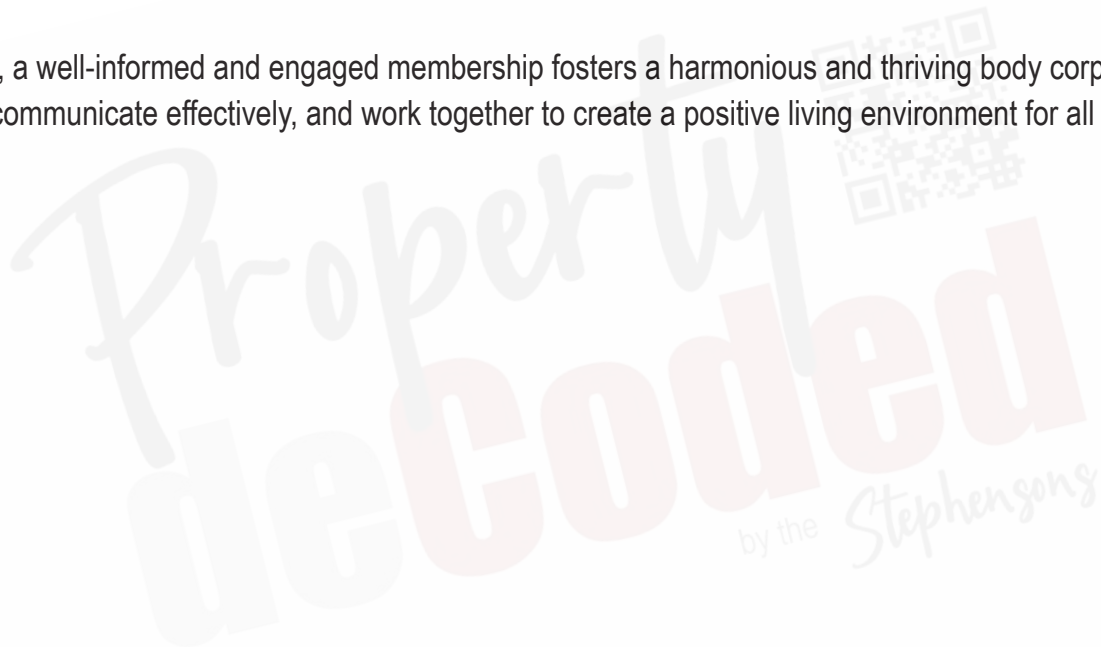
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**Seek professional advice:** When in doubt, it is always advisable to seek professional legal advice specific to your situation. A qualified attorney or legal expert can provide guidance based on the latest laws and regulations.

### **Empowering Members to Engage in the Body Corporate:**

By understanding the laws, rules, and processes that govern body corporates, members can actively engage in the decision-making and management of their scheme. Attend meetings, participate in discussions, and raise concerns or suggestions that can contribute to the overall well-being of the community.

Remember, a well-informed and engaged membership fosters a harmonious and thriving body corporate. Stay proactive, communicate effectively, and work together to create a positive living environment for all members.





In conclusion, being a member or a trustee of a body corporate in South Africa comes with certain rights and responsibilities. Understanding these responsibilities is essential to ensuring that the body corporate operates smoothly and that the interests of all members are protected. By following the rules and regulations outlined in the Sectional Titles Act, the Prescribed Management Rules, and the scheme rules, members and trustees can work together to create a harmonious and thriving community within the complex.

Property Decoded have tried to cover a range of frequently asked questions regarding body corporate members and trustees in South Africa. We cannot be held liable for omissions or oversights; this is just a guide to assist.



**If you are looking for managing agents to manage your Body Corporate in Cape Town, please don't hesitate to call us to enquire about our services.**

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