



“arrear or non-payment of levies or electricity” POLICY

INTRODUCTION

The Home Owners Associations (hereinafter “Associations”) are obliged in terms of their respective Memoranda of Incorporation (hereinafter “Memoranda”), to meet legal obligations as set out in the provisions of the Memoranda and Rules.

One of the obligations in the Memoranda is that the directors need to annually establish and maintain in their opinion an itemized estimate of the anticipated income and expenditure, which may include a reasonable provision for contingencies, of the Associations during the ensuing financial year in the furtherance of the Associations’ objectives and business as stated in the Memoranda.

The provisions of the Memoranda proceed to set out that for the purpose of meeting all the itemized estimated income and expenses which the Associations have incurred, or which the directors reasonably anticipate the Associations will incur, in the furtherance of the Associations’ objectives and business and which the respective Associations have to contribute as members to the Master Owners Association, each board of directors of the Associations will establish a levy fund.

The Memoranda of the Associations in their provisions also entitle and empower the boards of directors to impose special levies on members and interest on arrear levies.

The Associations, via Master Owners Association, is a reseller of electricity in terms of the Electricity Regulation Act, 4 of 2006 to consumers being residents of stands within the Estate D’Afrique.

Failure by a member to pay the monthly contributions so levied or failure to pay the electricity charges and costs charged separately gives the Board of Directors the right to terminate or limit services to a Stand and to limit the residents access to and use of certain common property facilities.

The non-payment or short payment of levies or services such as water and electricity place a substantial financial burden on the Associations to continue to meet its obligations. This policy acts in conjunction with Estate d' Afrique Master Owners Association NPC and Associations Memoranda in order to regulate the consequences of non-payment of levies.

1. DEFINITIONS

Master Owners Association (MOA)

The Estate d' Afrique Master Owners Association NPC, a Non-Profit Company incorporated and registered in terms of the Companies Act, Act 71 of 2008, represents the Home Owners Associations of Ville d'Afrique, Port d'Afrique (generally known as Port Provence) and Beau Rivage (Non-Profit Companies and future developments known as Le Chateau and Manpark.

Estate / Estate d'Afrique / Township / Village These are the portions of the farm Welgegund No 491 and the subdivisions thereof that are known as the Townships of Ville d'Afrique, Port Provence, Beau Rivage, Le Chateau and Les Forteresses.

2. MEMORANDUM OF INCORPORATION AND RULES.

This policy has been formulated having due regard to the following clauses contained the Memoranda of the Associations:

- i) Upon transfer of an erf the new owner is obliged to become a member of the Home Owners Association. (Clause 5.1 of MOI).
- ii) A member cannot resign as a member of the Home Owners Association. (Clause 5.7 of MOI).
- iii) A member shall comply with the provisions of the Memorandum of Incorporation and comply with all the rules of the Home Owners Association made in terms of Article 8. (Clause 6.1 of MOI).
- iv) A member shall pay the levies and special levies as raised by the Home Owner Association on the due date, without deduction. (Clause 6.2 of MOI).
- v) A member shall not be entitled to withhold payment for any reason whatsoever of any levy or special levy due by him to the Home Owner Association. (Clause 7.7 of MOI).
- vi) No member shall be entitled to the privileges of membership unless and until he shall have paid every levy due and payable to the Home Owner Association. (Clause 7.14 of MOI).

- vii) Subject to any restriction imposed or direction given at a general meeting of members of the Home Owner Association, the directors may from time to time make, add to, amend, repeal or suspend rules regarding:
 - a. Controlled access to and egress from the land and property; and
 - b. The use of common property; and
 - c. The financial conduct of the company (Clause 8.1 of MOI).
- viii) For the enforcement of any of the rules made by the directors in terms of the Memorandum of Incorporation, the directors may:
 - a. Take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule by summarily terminating the supply of services to the member's land and/or denying or restricting access to the property by the member. (Clause 8.2 of MOI)

3. THE PROCESS

Levy statements to members:

- 3.1 The member's levy statements / invoices are to be prepared and submitted as per clause 3.3 to members by the 25th day of each month.
- 3.2 If the 25th day of the month falls over a weekend or public holiday the statements/invoices will be processed the following working day thereafter.
- 3.3 All members' invoices are to be transmitted via email to each member's email address.

Levy payments:

- 3.4 All levies and all other amounts are due and payable to the association on the 1st day of the following month and the total amount is payable by no later than the 7th day of the following month
- 3.5 Debit orders will be processed by the association between the 2th and 9th of each month, these dates inclusive.
- 3.6 A debit order form can be requested from the Association's Admin Office then completed, signed and transmitted to the association offices.
- 3.7 Payments need to reflect the member's stand number.
- 3.8 No cash payments will be accepted by the association's admin office.
- 3.9 Direct deposits should be made with stand number as reference.
- 3.10 Payments that are made by members until the 19th of each month will reflect on the member's statements and the debtors ledger.
- 3.11 Levy accounts should be paid in full and up to date of all levies and any other related charges and penalties or imposts levied by the association before any construction commences on a stand.

Interest on arrear levies and related charges:

- 3.12 Interest on arrear levies and related charges will monthly accrue and be imposed by the association at the following rate: the prime rate as charged and published from time to time by ABSA Bank Limited together with an additional 5% (five per centum) on levies and related charges that are in arrears on 30 days or more, monthly compounded or such rate as the board of association may resolve in their sole discretion.

Debtors:

- 3.13 The debtors list is to be processed on the 10th of each month. If the 10th falls over a weekend the accounts will be processed the following Monday thereafter. The debtor's list to clearly set out 30 / 60 / 90 day arrear levies and related charges.
- 3.14 Should payment of levies / sundry charges / all amounts due and payable not be settled in full by the 7th of each month, a reminder notification will be issued to the defaulting member as per paragraph 3.16 via the member's email address.
- 3.15 Reminder notices in respect of arrear levies and related charges are issued by the association to members in default as follows:
 - 3.15.1 Initial Notification – No Charge
 - 3.15.2 Final notices are issued by the association office via email to debtors that are in 30 (thirty) days in arrears demanding that payment be made within 24 (twenty four) hours of notice, failing which, the matter is handed over summarily for legal action and collection and all legal costs for the debtor's account. The association attorneys to be copied on this final notice for their further processing an Administration Charge of R250,00
- 3.16 In the event that a Member falls in arrears with the monthly levy contributions on 60 (sixty) days or more, the total outstanding levy contributions for the remainder of the financial year for which they were raised, become immediate due and payable by the Member concerned.
- 3.17 All accounts that are in arrears of 30 (thirty) days will automatically be handed over for collection to the association's appointed attorneys. All legal costs incurred will be levied against the defaulting members account for payment.

Steps of legal interaction:

- 3.18 Issue letter of demand on 30 (thirty) days in arrears awarding 10 (ten) days to settle account in full or to approach attorneys with a payment plan acceptable to the board of the association and as per the terms of this policy.
- 3.19 If debtor makes contact with the Estate offices or accountants and wishes to pay in instalments, kindly utilize the pre-approved Acknowledgement of Debt. Repayment arrangements are that arrears are to be settled in four months (inclusive) together with

current monthly levies and related charges to be settled in addition to the repayment.

- 3.20 Levy accounts should be paid in full and up to date of all levies and any other related charges and penalties or imposts levied by the MOA or its members before any construction commences on a stand. If levy account remains unpaid or payment terms are not made or concluded , then legal action is incepted as follows:
 - 3.20.1 Companies and Close Corporations - proceed with liquidation application. In the event that the member has prior to the legal hand over raised a legal dispute as to why levies are not due and payable, if so, proceed with summons to avoid a liquidation application being dismissed with costs order against the association.
 - 3.20.2 Individual owners and trusts –Summons.
 - 3.20.3 Legal process to follow as per Rules of Court and summary judgement applications to be incepted to bring legal process forward.
- 3.21 Levy clearance figures are only to be provided by the Estate Manager/Financial Director and will reflect calculations up to and inclusive of a future date after the anticipated transfer. Clearance figures to set out the association's bank account details.
 - 3.21.1 The levy clearance figures to be provided will state that if not paid on a specified date, the figures expire out of time and fresh clearance figures are to be requested.
 - 3.21.2 Levy clearance figures are to be paid in full and secured in the association's bank account before a clearance certificate is to be issued.
 - 3.21.3 A levy clearance certificate is only legitimate if signed jointly by the estate manager and financial director.
 - 3.21.4 An irrevocable, unconditional and written undertaking given by a conveyancer that payment will be made upon transfer is to be only considered and accepted by the estate manager/financial director. Such undertaking can act as alternative to payment of the full amount as reflected in clearance figures. Upon acceptance by the estate manager/financial director of the undertaking, a clearance certificate will be issued.
 - 3.21.5 Clearance Certificates will only be issued under the following conditions:
 - 3.21.6 If clearance figures is paid in full; or
 - 3.21.7 An irrevocable unconditional written undertaking is received from the transferring attorney to pay on date of transfer the clearance figures (if applicable); and

- 3.21.8 An acknowledgement letter is signed and completed by proposed purchaser that he/she/it will bind himself/herself/itself to the following:
- 3.21.8.1 The Memorandum of Incorporation of the association; as well as
 - 3.21.8.2 The rules of the association; as well as
 - 3.21.8.3 The architectural design, building rules and building contractor rules; and
 - 3.21.8.4 Estate Agents name and purchase price are provided; and
 - 3.21.8.5 Consent received from the association office that the dwelling erected conforms to plans on file and the rules of the association (if applicable).
- 3.22 If a member falls sixty (60) days into arrears with the utility portion account, it will be required that such member install a pre-paid electricity meter in the replacement of the existing electricity and water meters
- 3.23 If a tenant falls sixty (60) days into arrears with the utility portion account, it will be required that such member install a pre-paid electricity meter in the replacement of the existing electricity and water meters
- 3.24 All arrears in excess of 60 days will be become eligible to have the electricity services terminated or restricted.
- 3.25 If the Board of Directors chooses to discontinue or restrict the electrical services and / or any or all of the services described in Clause 4 below to a Stand due to non-payment, the owner shall be given written notice of 7 days via the members' email at the address to which the monthly statement is sent and/or by SMS and/or a notice may be delivered to the resident of the stand. A copy may be delivered to a tenant, if any, as notice of the intended discontinue or restriction of the services.
- 3.26 The Board of Directors may thereafter at any time without further notice choose to terminate or restrict selected or all the services to the stand, until the balance owing is paid in full or arrangements acceptable to the Board is made. There will be a charge to re-instate services once disconnected or restricted and such re-instatement will be subject to clauses 3.22 and 3.23 above
- 3.27 The Board of Directors shall not be responsible for any loss or damage to the owner's or tenants property, or inconvenience to the resident caused by the discontinuance or restriction of services.
- 3.28 These actions shall in no way limit the Board of Director's right to recover in court or through the Ombud, all the amounts owed. Termination of services will in no way change or alter the owners obligation to continue paying any of the direct costs for services that are charged to an owner and the monthly contribution levied by the Estate.

4. SERVICES PROVIDED AND CONSEQUENCES OF THE TERMINATION OF THESE SERVICES

In addition to the Electrical Services, one or more of these services may be restricted or privileges withdrawn for non-payment of service costs or levies

4.1 VISITOR ACCESS

The resident's details may be removed from the access control system so they will not be able to grant remote access by phone to any anyone (visitors, guests or contractors).

The guardhouse will not be able to contact the resident by phone so the visitor will have to call the resident on their own phone to request them to come to the gate to sign them in.

Residents will have to go to the guardhouse personally to sign anyone in and go to the guardhouse again to allow them to exit the estate.

Residents will have to go to the guardhouse personally to sign the domestic worker in and go to the guardhouse again to allow them to exit the estate.

Residents will have to provide proof of their identity by means of a SA ID or passport every time they wish to allow someone to enter and to exit the estate. Only persons who are registered as resident in the unit at the estate office may allow someone to enter or exit the estate.

4.2 RESIDENTS ACCESS

The resident's automatic access by means of biometrics scan, remotes or tags will be limited.

The resident may be required to sign in at the guardhouse each time they wish to enter and every time they wish to exit the estate, providing proof of identity or a driver's license. This identity will be checked against the register of residents by the guards before allowing anyone to enter the estate.

4.3 SECURITY GUARDING SERVICE

Guards may not respond to the resident's requests for assistance or help, and the security backup service will not respond to any calls from the stand or occupants of the stand.

4.4 COMMON PROPERTY SERVICES

The use of one or more of these services may be restricted for non-payment

- **USE OF THE CLUB HOUSES and SERVICES** – Residents and their families will be restricted from using some of these facilities
- **USE OF THE COMMUNAL POOLS** – Residents may have restricted use of the pools