Managing Agents:

From appointment to cancellation

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In our consulting department, we are finding more and more self-administered community schemes which, following the change in legislation, are now requiring the services of a managing agent to assist them with the administration and management of the schemes.

In this article, we will take a look at how managing agents are appointed in sectional title schemes, and how the management agreement entered into can be cancelled.

What or who is a sectional title scheme managing agent?

The regulations to the Sectional Titles Schemes Management Act defines a managing agent as any person who provides scheme management services to a body corporate for reward, including any person employed to render these services.

How is a managing agent appointed?

A managing agent can be appointed by either the trustees or the members of the body corporate. The trustees, by majority trustee resolution, or the the members of the body corporate, by ordinary resolution, may make such an appointment. In addition, the registered mortgagee/s of 25% in number of the primary sections within the scheme, may require such appointment. The appointment must be made in terms of a written management agreement, which will set out the specified financial, secretarial, administrative or management services (defined as “scheme management services” in the regulations) to be performed by the appointed managing agent. It is important to note that such a management agreement may not endure for a period of longer than 3 years.

What or who is a sectional title scheme executive managing agent?

An executive managing agent, is defined as a managing agent appointed to carry out the all the functions and powers of the trustees.
How is an executive managing agent appointed?

An executive managing agent is appointed by special resolution of the members of the body corporate, or by an Adjudicator appointed by the Community Schemes Ombud Service in terms of an application made by 25% of the total participation quota of the scheme.

How is a management agreement cancelled?

The management agreement may be cancelled, without liability or penalty, despite any provision to the contrary in the management agreement, by special resolution of the members of the body corporate, or by the managing agent. In these circumstances, two months’ notice must be given either way.

Alternatively, the trustees, by majority trustee resolution, or the members, by ordinary resolution, may cancel the management agreement according to the terms of the contract, or refuse to renew the agreement when it expires.

If you are an owner or trustee in a sectional title scheme, and have any concerns or queries relating to this topic, feel free to contact the writer, Zerlinda van der Merwe, via email at consulting@paddocks.co.za or on 021 686 3950, for a non-obligation quotation.