



## To “Airbnb” or not to “Airbnb” (Met Apologie Aan Wyle William Shakespeare)

Na aanleiding van ‘n vraag deur ‘n vriend van wat hul kan doen om te verhoed dat ‘n ander eienaar in hul deeltitel-kompleks, in Hermanus, voortgaan om sy woonstel as ‘n “Airbnb” geleentheid te benut, sonder dat hy die beheerliggaam se toestemming verkry het, moes ek so bietjie wyer gaan naslaan oor wat hul en die beheerliggaam, te doen sal staan in die omstandighede. Nóg die 1986 Wet op Deeltitels, nóg die 2016 “Sectional Title Schemes Management Act,” óf die bestuurs- en gedragsreëls daaronder, bied antwoorde vir die redelik nuwe internet gedrewe bedryf.

Some of the challenges that our client is presented with, are matters relating to uncontrolled access to their scheme by visitors with remote controlled access as well as cleaning staff, general security issues, compliance with rules such as late arrivals at night, high noise levels and of course, the always present threat of lower property values within the scheme. Unfortunately these challenges were not foreseen by our law makers when promulgating aforesaid laws.

In hul gepubliseerde werk “*Demistifying Sectional Title*” is die skrywers Marina Constat en Karen Bleijs, beide praktiserende prokureurs, van mening dat kort-termyn verhuur in deeltitelskemas baie groot probleme veroorsaak vir ander eienaars, inwoners en trustees en stel hul voor dat die oplossing in die volgende opgesluit lê: “*To protect their complex’s reputation, maintain the security and preserve property values, sectional title trustees must ensure that the development’s conduct rules prohibit short-term letting.*”

Om egter die gedragsreëls van ‘n kompleks te wysig, soos om byvoorbeeld 'n klousule daarin te inkorporeer dat geen eenheid vir tydperke van korter as ‘n periode van byvoorbeeld drie maande verhuur mag word nie, moet geskied by wyse van ‘n spesiale besluit, wat daarna ook deur die wetlik aangestelde ombudsman goedgekeur en geregistreer moet word. Hierdie proses bied sy eie uitdagings. Die voorstel bied dus eintlik ‘n langtermynoplossing.

The answer to their problem clearly does not lie with sectional title legislation at this stage, but in many instances the solution lies

with the regulations and town planning schemes of the particular city or municipality in which the property is situated. Cape Town for instance has its Development Management Scheme which has a Guest Accommodation Policy that sets out the guidelines that have to be considered when applications are made to obtain the necessary planning permissions. According to such a Policy, should an applicant wish to provide a “self-catering, flexible accommodation option in line with current trends for transient guests, visitors and tourists, then these are the guidelines that should be followed and which document is available from:

<http://resource.capetown.gov.za/documentcentre/Documents/Bylaws%20and%20policies/Guest%20Accommodation%20Policy%20-%20approved%20on%202007%20September%202010.pdf>

Elke persoon wat dus ongelukkig is met die bedryf van ‘n kort-termyn verhuringsbedryf in sy onmiddellike omgewing word dus aangeraai om eerstens by sy plaaslike owerheid se stadsbeplanner kers op te steek ten opsigte van die owerheid se beleid. Indien die bedryf nie in ooreenstemming is daarmee nie, moet ‘n formele klag by die owerheid ingedien word.

Please do keep in mind that municipalities may vary greatly in how they enforce these laws and that it may even be possible that some have no legal policy or requirements in this regard at all.

Also see an interesting article “Regulating Airbnb in Cape Town” by Jan Vermeulen, MyBroadband. <https://mybroadband.co.za/news/government/210884-regulating-airbnb-in-cape-town.html>

Regards / Groete

**Hennie, Eberhard & Cheryl-Anne** | Directors



## Dealing With Scheme Governance Issues In Community Schemes

Danny van Zyl, associate attorney at Van Zyl Kruger Inc, was recently awarded his Master of Laws Degree from the University of Stellenbosch and wrote his thesis on the Community Schemes Ombud Service Act 9 of 2011. He shares certain aspects of his thesis with us in a series of articles to be featured in the next few newsletters.

*Click Read More link to view*

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## Testamente In Die Tegnologiese Era

Met die koms van die rekenaar en die gepaardgaande opkoms van die tegnologiese era, wat binne bereik van die meeste Suid-Afrikaners geplaas is, het die navigasieterrein van die lewe onherkenbaar verander. Elektroniese kommunikasie het die nuwe “skrif” geword. Handgeskrewe kwitansies, fakture en selfs ‘n brief om jou liefde teenoor iemand anders te verklaar, het ‘n rariteit geword. Die plek daarvan is lank reeds ingeneem deur EFT transaksies, e-pos en sosiale media om maar net ‘n paar voorbeelde te noem. Hierdie ontwikkeling is so algemeen, dat min mense wat daaglik in die milieu lewe, twee maal sal dink alvorens hulle dit sou gebruik om hul persoonlike sake daarop te verewig. Maar hoe raak dit die regsgeldigheid van jou testament?



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## Neighbours Building? Know Your Rights Re Plan Approval

Your neighbours apply to the municipality for approval of building plans. You object strongly – if allowed, you say, the new building/addition/alteration will seriously impact on your property’s appeal and value. It will be unsightly and objectionable. It will ruin the neighbourhood.



How must the municipality's "decision makers" assess the plans in light of your concerns? A long-running legal fight over just that question has finally been resolved by the Constitutional Court.

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**Is jy gereed om jou lisensie met AARTO Strafpunte te verbeur? Dit is makliker as wat jy gedink het, en die wiele is besig om te draai.**

AARTO (die Wet op die Administratiewe Beregting van Padverkeersmisdrywe) is al vir jare lank gedeeltelik in werking. Die bepalings wat handel met die strafpuntestelsel is al vir so lank in die pyplyn dat die meeste van ons al vergeet het hoe ernstig dit ons gaan beïnvloed, in ons persoonlike lewens sowel as by ons besighede.



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**Small Claims Courts - From 1 April You Can Sue For Up To R20,000**

The monetary jurisdiction of Small Claims Courts has been increased from R15,000 to R20,000 from 1 April 2019.

Not all claims can be pursued in a Small Claims Court . . .

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