

Dear Client / Geagte Kliënt

## Newsletter

'n Omgekrapte kliënt skakel en braak gal omdat die trustees van die deeltitel-kompleks, waar hy altyd in Desember vakansie hou, hom pas in kennis gestel het van 'n spesiale heffing wat gehef is om die hysbak, wat weer gebreek is, te laat regmaak deur die vervanging van baie duur onderdele.

His major grievance was that he has been making contributions to a reserve fund since the managing agent had started collecting contributions from owners in terms of the new Sectional Title Schemes Management Act 8 of 2011 (STSMA) and he felt that sufficient funds for the reparation of the lift were readily available from the management agent.

Ek moes hom meedeel dat hy ongelukkig maar sy spaarvarkie sal moet oopkap en die spesiale heffing betaal, aangesien daar vasgestel is dat die trustees, heel tereg, 'n skriftelike resoluë geneem het om 'n spesiale heffing te hef vir daardie doel, as 'n noodsaaklike en onvoorsiene uitgawe, waarvoor daar geen voorsiening gemaak was in die aanvanklike jaarlikse begroting van die regspersoon nie. Hierdie magtiging word duidelik aan die trustees verleen ingevolge reël 21 van die Bestuursreëls onder STSMA.



It is noteworthy that a decision to impose a special levy only requires the approval of the trustees of the body corporate at a normal trustees' meeting, and not of all the owners in the scheme, as one would expect. The trustees must, however, albeit it is of scant comfort, notify the owners of the decision to impose the special levy in writing and also advise them of the amount to be paid, as well as for what the special levy will be used.

Artikel 3(3) van STSMA maak daarvoor voorsiening dat 'n spesiale heffing, soos goedgekeur was deur die trustees, verhaal kan word vanaf alle eienaars, wie ten tye van die goedkeuring van die betrokke besluit deur die trustees, geregistreerde eienaars van eenhede was. Dit is soortgelyk aan die bepalinge wat gegeld het met die vorige Wet, maar dit gaan egter een stap verder, deur te bepaal dat, in die geval waar die eienaarskap van 'n eenheid verander het na die instelling van die spesiale heffing en daardie heffing nog in terme van 'n paaïement-betalingsplan afbetaal word en nog nie vereffen is nie, die nuwe eienaar aanspreeklik gehou moet word vir 'n pro-rata-deel van daardie heffing-bydraes gegrond op die datum van oordrag.

It will therefore be prudent for Estate Agents as well as prospective purchasers of sectional title properties to not only establish the

financial position of the scheme, as such, but also to, in particular, establish whether any special levies have been approved, in the not too distant past, before a decision to purchase is finalised.

Greetings / Groete

**Hennie & Eberhard**



## Buying Property On Behalf Of A Company To Be Formed

A lot of prospective property buyers wish to purchase property to be held in the name of a Company. It might happen that someone is interested in purchasing a property, but they do not have a company already registered to sign the deed of sale agreement. A solution to this is for the prospective buyer to act as agent on behalf of a company yet to be formed when signing the agreement.

[READ MORE](#)

## Skuldeisers En Skuldenare: Belangrike Uitspraak Oor Verjaring

Skulde verjaar na 'n tydperk. Dit word dus regtens oninvorderbaar. In die meeste gevalle verjaar die algemene vorme van skuld na drie jaar. In ander gevalle soos met vonnisskuld, verbandskuld, eiendomsbelasting en belastingskuld verjaar dit eers na dertig jaar. Daar is ook ander tydperke op spesifieke statutêre skulde van toepassing en daar is ook altyd 'n paar uitsonderings. Verkry advies indien jy dalk meer besonderhede hieroor benodig.



[READ MORE](#)



## Closing Down the Guesthouse Next Door: Notes for Owners and Neighbours

You decide – for whatever reason - that your neighbour's new guesthouse is definitely not first prize in your sleepy and peaceful suburb, so you investigate. You find out that the local municipal zoning scheme doesn't allow anyone to trade as a guesthouse without a special departure permit, and that your neighbour doesn't have one.

What are your rights and what must you prove to get assistance from our courts?

[READ MORE](#)

## Agterstallige Onderhoud? Kan jy dit afdwing met Minagting van die Hof ?

As dit kom by die beskerming van die belange van kinders, maak ons wetgewing voorsiening vir 'n hele aantal opsies by die afdwinging van 'n onderhoudsbevel. Een van die opsies is om die hof te versoek om die wanbetaler tronk toe te stuur vir minagting van die hof.

Die idee daaragter is dat 'n werklike dreigement om in die tronk te eindig, waarskynlik voldoende motivering sal wees dat selfs die mees onwillige onderhoud ontduiker vinnig 'n plan vir 'n betaling sal maak.



[READ MORE](#)



## Evidence Obtained Under Threat Of Prosecution

When we hear of employers and employees at loggerheads with each other in our court system, we normally think of labour disputes – strikes, disciplinary hearings, unfair dismissals and the like. But at times such disputes end up in our normal civil



courts, dealing with issues which potentially apply to all civil claims. An interesting SCA (Supreme Court of Appeal) case provides a good example.

[READ MORE](#)

## Our Directors



**Hennie van Zyl**

DIRECTOR

021 180 4551 / 083 250 9501

[hvanzyl@vzk.co.za](mailto:hvanzyl@vzk.co.za)

[Full Bio →](#)



**Eberhard Kruger**

DIRECTOR

021 180 4552 / 082 789 1706

[ekruger@vzk.co.za](mailto:ekruger@vzk.co.za)

[Full Bio →](#)

© LawDotNews & Van Zyl Kruger Inc. This newsletter is a general information sheet and should not be used or relied on as legal advice. No liability can be accepted for any errors or omissions nor for any loss or damage arising from reliance upon any information herein. Always contact your legal adviser for specific and detailed advice.

**VAN ZYL KRUGER INCORPORATED (REG. NO 2015/174073/21) (VAT NUMBER 413 0273 172)**

**VZK**

[www.vzk.co.za](http://www.vzk.co.za)



Suite A4-2, Avanti Building, South Block,  
cnr Carl Conje Drive & Bill Bezuidenhout Avenue, Bellville, Cape Town

[info@vzk.co.za](mailto:info@vzk.co.za) | Reception: 021 180 4550 | Fax: 021 180 4540

**DIRECTORS:** H L VAN ZYL (B.PROC); E S KRUGER (B.COMM LLB MPRE).  
**ASSOCIATES:** A S WEBSTER (B Iuris LL.B), ASSISTED BY: D VAN ZYL (LL.B); K BEZUIDENHOUT (LL.B LL.D).  
**CONSULTANT:** J A L VAN ZYL (B.JURIS LLB); **PRACTICE MANAGER:** F BRAVENBOER (NDIP FIS).