

Impact of POPI Act on community housing schemes

The Protection of Personal Information Act (POPI Act), now in effect, has significant implications for owners, tenants and executives in community housing schemes, says specialist sectional title attorney and BBM Law director Marina Constas.



Marina Constas, specialist sectional title attorney and BBM Law director

“It seems that in the last few years, sectional title owners have been hit left, right and centre with new legislation and directives. Trustees have been promoted to ‘scheme executives’ in the Community Schemes Ombud Service Act and are now held to a higher standard in terms of their fiduciary duties. The latest piece of legislation to burst onto the scene after a long delay is the Protection of Personal Information Act (POPI Act). Now that it is here, the wisest course of action for trustees is to get up to speed with what it says,” she stresses.

Privacy laws in line with international standards

Constas explains that Section 1, Part A of Chapter 5, Section 11 of the POPI Act commenced on 11 April 2014. “The commencement date of the other sections was 1 July 2020 with the exception of two sections. The Act is designed to promote the protection of personal information and to bring South Africa’s privacy laws in line with international standards. It limits the rights of businesses to collect, process, store and share personal information. It also makes businesses accountable for protecting the privacy of this information.

“Trustees must now be able to respond when owners want to know what they are doing with their personal information. Trustees must consider how they will warn residents that their personal information may be made available to those inspecting the books of account and record. They must be able to account when it comes to visitors who provide their personal information to the guards at the gate.”

Management of personal information

Constas recommends that every body corporate should have a clearly expressed and up-to-date policy about its management of personal information. The policy should include details of the type of personal information that the complex collects and holds, as well as how the complex collects and stores personal information. “The purposes for which the complex collects, uses and discloses personal information must also be detailed, along with information on how an individual

may access personal information. The policy document must also outline how an individual can complain to the Information Regulator and how the complex will deal with that type of complaint,” she advises.

“This list of recommendations is not exhaustive. I would strongly suggest that, with the enactment of POPI, all sectional title complexes and community housing schemes obtain professional advice and assistance to review and update their privacy policies and privacy statements,” she concludes.

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