

2ND CSOS INDABA 2024



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 **BOLIVIA LODGE,
POLOKWANE, LIMPOPO**



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Community Schemes.**





INTRODUCTION - DISPUTE RESOLUTION PROCESS



Beverly Goldberg Tries Representing Herself in Arbitration - The Goldbergs

Lindiwe Bulu





Case Management Process

- The Case Management Officer receive and conduct an assessment of the application which must include a statement of case and must be signed;
- The relief sought must fall within section 39 the CSOS Act, those are financial issues, behavioural issues, governance, meetings, managing agent contracts, common and private areas, access to information and urgent matters relating to disconnections or restriction of access, and other related issues.
- The details of respondent must be included in the application; please provide the correct email addresses and telephone numbers
- If the application is brought by the managing agent, it must include a resolution authorizing the managing agent to act on behalf the scheme;



CSOS Jurisdiction

- ❑ CSOS can only act within the confines of enabling legislation.
- ❑ Section 42 sets out the grounds for rejecting an application.
- ❑ CSOS lacks jurisdiction where the Applicant no longer has a material interest in the scheme.
- ❑ If the dispute is already before another the courts or another forum.
- ❑ The Applicant has failed to provide further information when requested to do so; or failed to show that they have exhausted all internal remedies.



Conciliation

- Conciliators are legally qualified and adhere to the principles of objectivity, fairness and equitable justice.
- The parties to a conciliation process must be willing to reach a compromise.
- Conciliation gives both parties an opportunity to decide the outcome.



Conciliation process

- Referral to Conciliation
- The CSOS will **notify** the parties in writing, by e-mail or by registered post of the time and date of a conciliation session. The Conciliator will give **7 (fourteen) working days' notice of Conciliation;**
- Parties may request a more suitable time but should be aware that a re-scheduled session will depend on the availability of the conciliator and the other parties to the dispute;
- Conciliation may take up to 3 hours and parties are requested to set aside this time for a possible resolution.
- Parties must represent themselves;
- The conciliator facilitates the discussions and assist parties to **resolve** issues.



Adjudications

- Adjudicators are admitted attorneys or advocates of the high court.
- They act independently and impartially in making decisions with regard to dispute resolution.
- Adjudicators have the same privileges and immunity from liability as a judge of the High Court.
- They must observe the principles of natural justice and must act with less formalities.



Adjudication process

- ❑ *If* the dispute has not been resolved through conciliation, the matter may be referred to adjudication;
- ❑ The Adjudicator has power to **conduct investigations** as envisaged in section 50 and section 51 of the CSOS Act;
 - The adjudication can be conducted on the papers or virtually or physically.
 - The adjudicator may dismiss the application or grant the relief sought or refuse part of the relief sought.
 - The order may contain ancillary provisions.