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Article by  
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1. Liz Lockstone owns and resides in a stunning ground floor simplex unit in the LockVillas Sectional Title Scheme in Lockerville. To her left are 4 other ground floor simplex units and to her right are another 4 ground floor simplex units.
2. Each of the units have perfectly sized walled in gardens with pedestrian gates at the back end left and right corners allowing pedestrian access through these exclusive use areas of the 9 units. This pedestrian access facilitates access to the complex pool and garden area.
3. Liz having had several break-ins in her previous complex is very security conscious and treasures her privacy and as a result has placed a padlock on the 2 pedestrian gates of her garden. Liz has advised that when the garden service needs access she will open the gate but that any other access through her garden must be pre-arranged with her.
4. The chairman, trustees and the occupants are enraged and approached Alan Levy Attorneys for their advice.
5. Alan Levy of Alan Levy Attorneys advises:
  - 5.1 Section 37 (1) (r) of the Sectional Titles Act (**STA**) states that it shall be a

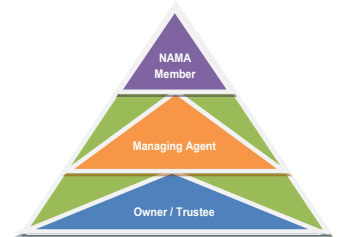
function of the Body Corporate to control, manage and administer the common property for the benefit of all owners;

- 5.2 Section 38 (j) of the STA provides that the Body Corporate shall have the power to control, manage and administer the common property;
- 5.3 Section 44 (1) (a) of the STA provides that an owner shall permit any person authorized in writing by the Body Corporate, at all reasonable hours on notice (except in case of emergency, where no notice shall be required), to enter his section or exclusive use area for the purposes of inspecting it and maintaining it ...
- 5.4 Section 44 (1) (d) of the STA states that an owner shall use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other owners or other persons lawfully on the premises;
- 5.5 Section 44 (1) (g) of the STA provides that an owner shall when the purpose for which a section or an exclusive use area is intended to be used is shown expressly or by implication on a registered sectional plan, not use nor permit such section or exclusive use area to be used for any other purpose;
- 5.6 Prescribed Management Rule (**PMR**) 68 (1) (v) states that an owner shall, when the purpose for which a section and exclusive use area is intended to be used, is shown expressly or by implication on a registered sectional plan or on the original approved building plan or which is obvious from its construction, layout and available amenities, not use, nor permit such section or exclusive use area to be used, for any other purpose;
- 5.7 Prescribed Conduct Rule (**PCR**) 4 states that an owner or occupier of a section shall not mark, paint, drive nails or screws or the like into, or otherwise

damage, or alter, any part of the common property without first obtaining written consent of the trustees and that notwithstanding this, an owner can install any locking device, safety gate, burglar bars or other safety device for the protection of his section provided that the trustees have first approved in writing the nature and design of the device and the manner of its installation.

6. Liz's garden is common property and is allocated to her, for her exclusive use, and is thus her exclusive use area.
7. In terms of PCR 4, Miss Lockstone must obtain the trustees approval in writing to place a padlock on the gates in her garden.
8. In terms of PMR 68 (1) (v) it is clear from the registered sectional plan and from the layout of the gardens and pool area, that one of the purposes of Liz's garden area is for other occupants of the complex to use it as a thoroughfare to the pool area of the complex.
9. In terms of Section 44 (1) (d) of the STA, Liz cannot use her garden area in a way that unreasonably interferes with the use and enjoyment of her garden and of the pool area by other owners and persons lawfully on the premises.
10. Alan therefore advises the chairman, trustees and occupants as follows:
  - 10.1 a letter must be dispatched to Liz granting her 24 hours to remove the padlocks from the 2 pedestrian gates that she has locked;
  - 10.2 failing Liz removing these padlocks, the padlocks may be cut off;
  - 10.3 Liz must apply to the Body Corporate in terms of PCR for the trustees written consent to place padlocks on these 2 pedestrian gates;
  - 10.4 the trustees can either grant the request, refuse the request or accept the request with conditions. Liz's rights to security and privacy may have to be sacrificed or limited in the interests of the other occupants in the complex. 

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NAMA EVENTS

**NAMA National AGM**

12/02/2016 – Johannesburg – venue to be confirmed  
Contact : [coenie@nama.org.za](mailto:coenie@nama.org.za) for more information

**Gauteng North Region**

10/02/2016 – Regional AGM and 120 Breakfast Seminar  
17/03/2016 – Charity Golf Day, Silver Lakes Golf Estate, Pretoria  
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**Kwa-Zulu Natal Region**

12/02/2016 – Regional AGM and 120 Breakfast Seminar  
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**Gauteng East Region**

05/02/2016 – Regional AGM and 120 Breakfast Seminar  
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**Gauteng West Region**

17/02/2016 – Regional AGM & 120 Breakfast Seminar  
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**Western Cape Region**

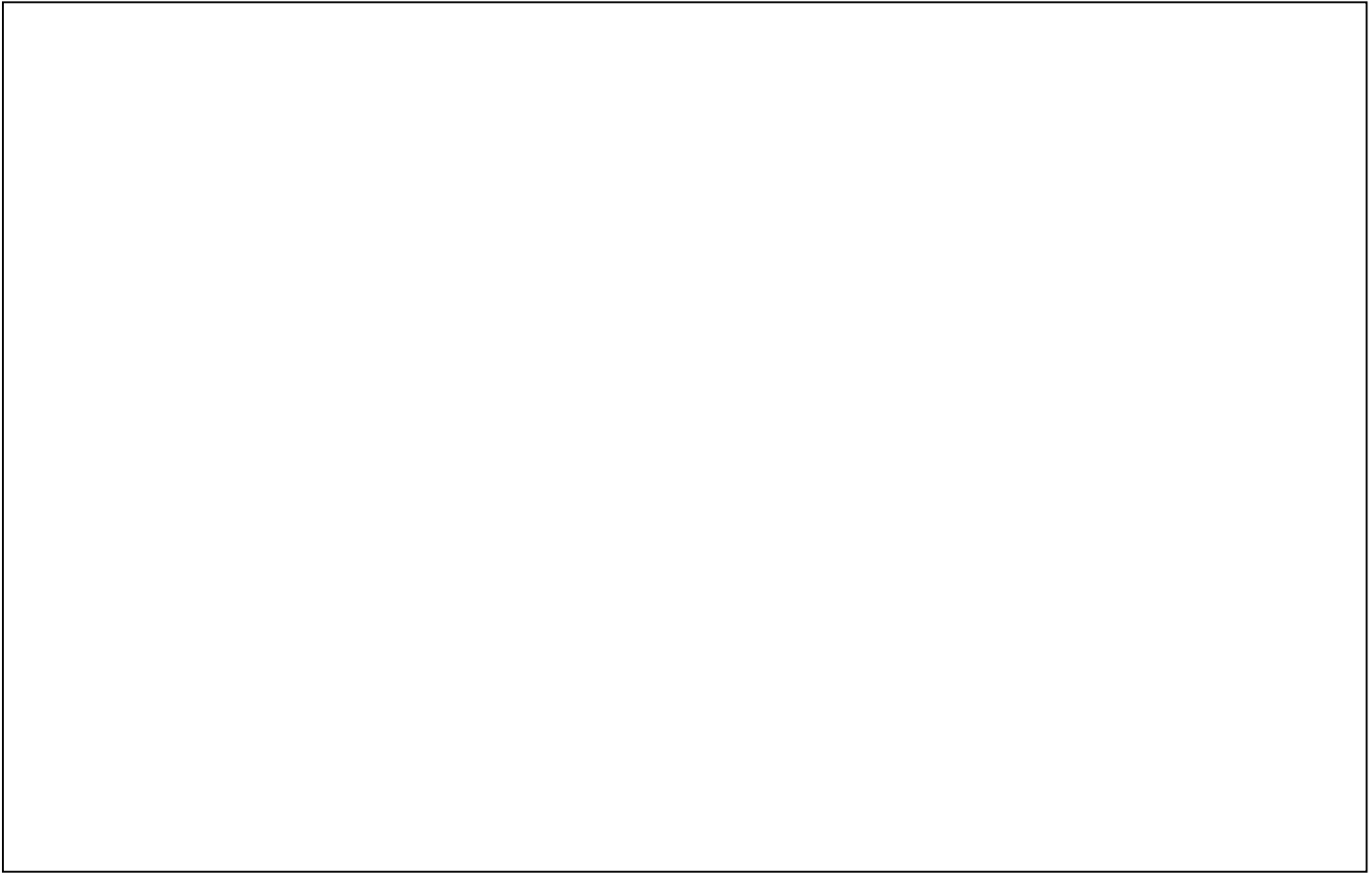
11/02/2016 – Regional AGM and 120 Breakfast Seminar  
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**Eastern Cape and Border Regions**

25/02/2016 – ST Training Seminar, Newton Park Library, PE  
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