

Date: 29 May 2020

Dear Valued Client,

“ALAN LEVY ATTORNEYS INC., THEIR DIRECTORS AND STAFF DO NOT ACCEPT ANY LIABILITY WHATSOEVER IN RESPECT OF ANY DAMAGES WHATSOEVER THAT MAY BE SUFFERED BY ANY PERSON AS A RESULT OF THE OPINIONS EXPRESSED IN THIS LETTER.”

RE: EDITION 2 - WHAT CAN AND CAN'T BE DONE IN COMMUNITY SCHEMES FROM MONDAY 1 JUNE 2020 – ALERT LEVEL 3

WE HAVE MADE CERTAIN INSERTIONS IN A RED FONT BELOW, WHICH ARE MOSTLY PERTINENT TO PARTIES MOVING BETWEEN PROVINCES, METROPOLITAN AREAS, DISTRICTS AND HOTSPOTS WHEN CARRYING OUT THE ACTIVITIES LISTED BELOW.

THIS LINK, WHICH WILL ALSO BE PROVIDED IN THE COVERING EMAIL TO THIS LETTER, PROVIDES A LIST OF METROPOLITAN AND DISTRICT AREAS.

<https://municipalities.co.za/municipalities/type/1/metropolitan>

HOTSPOT AREAS ARE TSHWANE, JOHANNESBURG, EKURHULENI, ETHEKWINI, NELSON MANDELA BAY, BUFFALO CITY, CAPE TOWN, WEST COAST, OVERBERG AND CAPE WINELANDS DISTRICT MUNICIPALITY, CHRIS HANI DISTRICT IN THE EASTERN CAPE AND ILEMBE DISTRICT IN KZN.

As the Country enters a level 3 classification from Monday 1 June 2020, below are common questions pertaining to Community Schemes.

The answers to the questions below are based on the Regulations published by the Minister of Cooperative Governance on 28 May 2020 (“**the Regulations**”).

CAN OCCUPIERS MOVE PREMISES FROM 1 JUNE 2020

Occupiers may move into new places of residence provided that they are in possession of an affidavit which corresponds with Form 6 of the Regulations. [**Regulation 33(4)(b)(i)**]

Attached is a copy of Form 6.

Estate Agents may meet owners at the Unit in the Scheme and bring prospective tenants and purchasers to view units in the Scheme. [Regulation 33(1)(a) and (c)]

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If the Estate Agent needs to move between provinces, metropolitan areas, districts or hotspots, they may only do so if they are in possession of a Form 2 permit. [Regulation 33(4)(a)].

Prospective tenants and purchasers may not move between provinces, metropolitan areas, districts or hotspots to view a unit in the Scheme.

CAN OCCUPIERS EXERCISE ON COMMON PROPERTY/ON THE STREET

Occupiers may exercise between the hours of 06h00 to 18h00. The exercise may not be done in organised groups. Health protocols and social distancing measures must be adhered to. [Regulation 33(1)(e)]

There is no limitation on how far from an occupier's residence the exercise may take place so long as the person does not move between a province, metropolitan area, district or hotspot.

Occupiers can use the common property to exercise only in the above timeframe, making sure to adhere to health protocols and social distancing measures subject to their Schemes conduct rules. Dogs may accompany them.

Whenever an Occupier leaves his unit, that person must be wearing a cloth face mask or an item that covers the nose and mouth. [Regulation 33(3)]

Gyms and fitness centres must remain closed. [Regulation 39(2)]

CAN OCCUPIERS HAVE TAKE AWAYS DELIVERED TO THEIR UNIT/THE SCHEME

Occupiers can have takeaways delivered to the Unit and can leave their unit to collect take-aways. [Regulation 33(1)(c)]

CAN MY HELPER/CLEANER COME TO WORK

THE SCHEMES EMPLOYEES – All the schemes employees regardless of what function they provide may return to work. No permit is required. [Regulation 33(1)(a) and (b)]. If the employee is moving between provinces, metropolitan areas, districts or hotspots, the employee must be in possession of a Form 2 permit. Form 2 is attached. [Regulation 33(4)]

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All gardeners, garden services and cleaners may therefore commence work on 1 June 2020.

Health protocols and social distancing measures must be adhered to for employees in private residences. **[Regulation 46(3)]**

The scheme must ensure that it has a **COVID-19 workplace plan** and a compliance officer. Our offices can be contacted to provide a scheme with a workplace plan. **[Regulation 47]**

CAN CONSTRUCTION CONTINUE AT THE SCHEME

Construction may continue at the scheme and at individual units. **[Regulation 33(1)(a) and (b)]** **[Regulation 46(1)]**. **If the persons employed by the construction company are moving between provinces, metropolitan areas, districts or hotspots, they must be in possession of a Form 2 permit. Form 2 is attached. [Regulation 33(4)].**

Health protocols and social distancing measures must be adhered to as well as the occupational health and safety directions issued by the Minister responsible for employment and labour and applicable labour legislation. **[Regulation 46(3)]**

CAN OCCUPIERS HAVE VISITORS TO THEIR UNITS

Occupiers may not have visitors to their Units. **[Regulation 33(1)]**

Immediate family members are allowed to visit units only to care for an immediate family member provided that they are in possession of an affidavit which corresponds with Form 6 of the Regulations attached. **[Regulation 33(4)(b)(ii)]**

MEETINGS

Physical meetings of owners may not take place. **[Regulation 37(1)]**

Physical meetings of trustees may take place so long as they take place at the scheme. **[Regulation 37(1)(c)]**

CAN CHILDREN BE MOVED BETWEEN CO-HOLDERS OF PARENTAL RESPONSIBILITIES AND RIGHTS

Children can move between co-holders of parental responsibilities and rights:

1. **If the parents and/or caregiver are in the same metropolitan area or district municipality**, ONLY if such parents and/or caregiver is in possession of a court order, a parental responsibilities and rights agreement, or parenting plan registered with the family advocate or a permit issued by a Magistrate. **[Regulation 34(1)];**

2. If the parents and/or caregiver are in different metropolitan areas or district municipalities or provinces. ONLY if such parents or caregiver is in possession of a permit issued by a Magistrate. [Regulation 34(2)]

For further information on the Regulations pertaining to this question, please contact our offices.

COMMUNITY SCHEME AMENITIES

The Schemes pool, playground, clubhouse, gym and other common property amenities may not be used. [Regulation 33(1) and 39]

The Schemes laundry, communal wash-lines and other facilities which are not for activities which are of a cultural, sporting, entertainment, leisure or organisational purpose, may be used.

AIRBNB/SHORT TERM LEASING

Units may not be let out for short term home-sharing, letting, leasing and rental for leisure purposes as well as for paid leisure accommodation. [Regulation 46(1)/Table2/3] [Regulation 39(2)(h)]

For ALL your Community Scheme Matters, please contact Alan Levy and Trisha Pillay on 010 001 8209/enquiries@alattorneys.co.za.