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Risk in the South African Sectional Title Industry: An Assurance Perspective

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***Abstract*—**The sectional title industry has been a part of the property landscape in South Africa for almost half a century, and plays a significant role in addressing the housing problem in the country. Stakeholders such as owners and investors in sectional title property are in most cases not directly involved in the management thereof, and place reliance on the audited annual financial statements of bodies corporate for decision-making purposes. Although the industry seems to be highly regulated, the legislation regarding accounting and auditing of sectional title is vague and ambiguous. Furthermore, there are no industry-specific auditing and accounting standards to guide accounting and auditing practitioners in performing their work and industry financial benchmarks are not readily available. In addition, financial pressure on sectional title schemes is often very high due to the fact that some owners exercise unrealistic pressure to keep monthly levies as low as possible. All these factors have an impact on the business risk as well as audit risk of bodies corporate. Very little academic research has been undertaken on the sectional title industry in South Africa from an accounting and auditing perspective. The aim of this paper is threefold: Firstly, to discuss the findings of a literature review on uncertainties, ambiguity and confusing aspects in current legislation regarding the audit of a sectional title property that may cause or increase audit and business risk. Secondly, empirical findings of risk-related aspects from the results of interviews with three groups of body corporate role-players will be discussed. The role-players were body corporate trustee chairpersons, body corporate managing agents and accounting and auditing practitioners of bodies corporate. Specific reference will be made to business risk and audit risk. Thirdly, practical recommendations will be made on possibilities of closing the audit expectation gap, and further research opportunities in this regard will be discussed.

***Keywords*—**Assurance, audit, audit risk, body corporate, corporate governance, sectional title.

I. Introduction

THE research findings in this paper form part of the results of an extensive study done on the sectional title industry in South Africa from an accounting and auditing perspective, performed in fulfillment of the degree Philosophiae Doctor in Auditing. This paper will commence by giving a brief background and overview of the sectional title property industry in South Africa. The problem statement and aim of the paper will then be discussed, followed by the research methodology. The next section will deal with a brief literature review. A discussion of the empirical findings will then be done under different sub-sections, followed by possible recommendations and a conclusion.

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II. Background and Overview of the Sectional Title Property Industry in South Africa

Until the early 1970's, it was impossible to obtain full ownership rights to a section of a building such as an apartment, due to the fact that the concept of sectional property ownership was not recognized in South Africa. In South African law, the maxim *superficies solo cedit* was taken over from Roman Dutch law (an ultimately Roman law), in terms of which a landowner was also considered to be the owner of any building erected on the land, and all buildings were seen as single units [1], [2]. Property ownership consisted of the entire building, including the land on which the building was built [3], [4] and buildings could not be bought in separate parts. South Africa followed the lead of other legal systems around the world, considering the institution of legislation on sectional ownership, and in 1971, the Sectional Titles Act ushered in a new era in home-ownership in South Africa. For the first time in the history of South African law, home owners were able to purchase a section of a building, such as an apartment, with full ownership rights on that section [2]-[6].

The original Sectional Titles Act No. 66 of 1971 was later completely overhauled, improved and replaced by the Sectional Titles Act No. 95 of 1986. The Sectional Titles Act No. 95 of 1986 has been amended by Act No. 11 of 2010, which was published in the Government Gazette on 7 December 2010. The Sectional Titles Amendment Act No. 11 of 2010 contained the final amendments to the 1986 Sectional Titles Act before the split thereof into three separate statutes [2], [7]. According to Maree [8], the original 1986 Act contained a number of problems regarding the examination, approval and filing of scheme rules and dispute resolution. Van der Merwe [7] and Durham [9] explain that the three new pieces of legislation is referred to as third generation sectional titles legislation. The Sectional Titles Schemes Management Act No. 8 of 2011 (also referred to as the STSMA), incorporates all governance and management provisions regarding sectional titles. These sections were taken out of the 1986 Act and amended and adapted to create the STSMA. The remainder of the Sectional Titles Act No. 95 of 1986 (STA) was amended by the Sectional Titles Amendment Act No. 33 of 2013. The 1986 act now only contains technical registrations and survey provisions. The Community Schemes Ombud Service Act No. 9 of 2011 (also referred to as the CSOSA), henceforth provides a dispute resolution mechanism

for sectional title and other community schemes. In October 2015, the South African Department of Human Settlements published draft regulations in the Government Gazette that attempts to explain how the STSMA and the CSOSA should be applied. The amended management rules as per the old Annexure 8 of the STA were extensively revised and published for comment in the Regulations to the STSMA as Annexure 1 during October 2015 [10], [11]. The three new Acts operate as a unit, and more than four years after being promulgated, the final revisions were published on 7 October 2016. Due to the fact that the new STSMA, STA and CSOSA was not in operation at the time that the empirical study was conducted, reference will be made to the original STA where applicable throughout the text.

During 2010, it was estimated that there are almost 60 000 sectional title schemes in South Africa, comprising over 800,000 individual units [2], [12]-[14]. According to a recent general household survey issued by Statistics South Africa, there are currently approximately 714,000 households living in flats or apartments and a further 233,000 households living in town house complexes. This adds up to approximately 947,000 South African households living in sectional title schemes [15].

III. Problem Statement and Aim of the Paper

From the above it follows that sectional title property plays a vital role in the South African property industry. There have also been great changes in the sectional title legislative landscape in recent years. Trustees of bodies corporate face various risks, and uninvolved and financially illiterate owners increase these risks. Furthermore, various incidents of fraud occurred in the industry in recent years [16]. Due to a large number of contradictory and confusing legal aspects in the current sectional title legislation, accounting and auditing practitioners also encounter various practical challenges when performing accounting and assurance services for sectional title clients. The current weak economic climate and resulting cost constraints further raises questions on how to perform proper assurance engagements in the most cost-effective way [17]. Even though the legislation relating to sectional title property has been in place for more than 40 years, library, archive and Internet searches revealed that very little academic research has so far been done on sectional titles in South Africa. The academic research identified was mostly postgraduate research in the fields of law, cost accounting, taxation and regional planning, meaning that no academic research has been done, specifically from an accounting and auditing perspective to date on the sectional title industry in South Africa, except for the study by Lubbe for a Master Degree in Accounting [18].

The aim of this paper is threefold. Firstly, the findings of a literature review on various instances of ambiguity, uncertainties and confusing aspects in current legislation regarding the audit of sectional title property will be discussed. Specific reference will be made to matters that may cause or increase audit and business risk. Secondly, empirical findings will be discussed. The empirical study focused on risk-related aspects from the results of interviews with three groups of body corporate role-players. The three different groups of role-players selected for the empirical study were body corporate trustee chairpersons, managing agents of bodies and accounting and auditing practitioners doing work for bodies corporate in the sectional title industry. The focus will be specifically on business risk and audit risk. Thirdly, possible ways on how to close the audit expectation gap as well as practical recommendations in this regard will be discussed, together with opportunities for future research.

IV. Research Methodology

A. Research Design and Method

Mouton [19] and Blumberg et al. [20] define the research design as the blueprint for fulfilling the research aims and objectives and answering the research questions. Research designs can differ significantly in terms of detail [21]. Coldwell & Herbst [22] explain research design as the strategy for the study and the plan by which the strategy is to be carried out (see also [23].) To achieve the research objectives of this study, a comprehensive literature review and a qualitative empirical study will be conducted.

B. Literature Review

The literature study in this paper commenced with detailed searches done by research specialists at the academic libraries at the Central University of Technology, Free State and the University of the Free State, as well as the Archive for Contemporary Affairs at the University of the Free State. The searches identified various possible literature sources, including books, articles, theses, dissertations, Internet sources and professional and institutional publications.

C. Population

Two provinces in South Africa were selected for field visits, namely, the Free State Province (FS) and the North-West Province (NW). The two provinces are quite similar in nature in that they both have large rural areas and significant agriculture and mining operations. Two large municipalities from each of the two provinces were selected for field visits, namely, Mangaung Metropolitan Municipality (the 'larger' Bloemfontein) and Matjhabeng Local Municipality (the 'larger' Welkom) in the Free State Province, and the City of Matlosana Municipality (the 'larger' Klerksdorp) and Tlokwe Local Municipality (the 'larger' Potchefstroom) in the North-West Province. According to the Department of Rural Development and Land Reform, there were 3,207 sectional title schemes registered in Mangaung Metropolitan Municipality, 134 sectional title schemes in Matjhabeng Local Municipality, 233 sectional title schemes in the City of Matlosana Municipality, and 447 sectional title schemes in Tlokwe Local Municipality at the time the study was conducted.

For the purposes of the qualitative study, the population of interviewees was divided into three main groups of stakeholders in each of the selected municipal areas. The first

group or interviewees were chairmen of bodies corporate of sectional title schemes, the second group managing agents of sectional title schemes, and the third group accounting and auditing professionals involved in the sectional title industry. The reason for splitting interviewees into three groups is that the groups play different roles in the industry and have varying perspectives on practical issues, problems and challenges in the industry. Henning et al. [24] emphasize the importance of selecting interviewees who can shed optimal light on the issue being investigated and add that 'desirable participants' are an integral part of the purposive sampling procedure (see also [25].) The above-mentioned three groups of stakeholders comply with this requirement.

The exact populations of the accounting and auditing practitioners, the managing agents and the trustee chairmen were difficult to determine, due to various factors. As mentioned in above, the Department of Rural Development and Land Reform has statistics available on the number of registered sectional title units in each of the municipal areas in South Africa that are included in the study. However, many sectional title schemes in the selected municipal areas exist without an operational body corporate and board of trustees. Furthermore, there are many sectional title schemes in operation not making use of the services of a managing agent. In addition, not all the entities acting as sectional title managing agents are registered with the Estate Agency Affairs Board (EAAB) and the National Association of Managing Agents (NAMA). In addition, not all sectional title schemes are using the services of professional accounting and auditing practitioners. There are also various auditing and accounting practitioners who are not involved or prefer not to be involved in assurance services for sectional title schemes. The reasons why they prefer not to be involved differ from firm to firm. Some practitioners, for instance, do not want to get involved in this type of work because they perceive the risk to be too high. Others claim that the audit and/or accounting fees attached to the work are so low that it does not make financial sense to accept sectional title clients. Many of the larger accounting and auditing firms state that it is firm policy not to get involved in work of such a small scale [18].

D.Sampling

Due to the above-mentioned reasons, it was not practically possible to determine the exact populations of the functioning bodies corporate and managing agents in the three municipal areas in the three provinces. The fact that a large number of accounting and practitioners are not involved in service delivery in the sectional title industry makes the mentioned practical challenge also applicable to these firms to a large extent. In order to address these practical problems, extensive consultation was undertaken among the three target groups in the identified municipal areas, namely chairmen of bodies corporate of sectional title schemes, managing agents of sectional title schemes, and accounting and auditing practitioners involved in the sectional title industry. Factors such as knowledge of and experience in the industry as well as the number of clients of the managing agents, accounting and auditing practitioners played a role in the choice of the five respondents that were eventually chosen.

Regarding the empirical study on trustee chairpersons, a total of 20 requests for interviews were sent out as follows: six requests to the Mangaung Metropolitan Municipality, six to the Matjhabeng Local Municipality, three to the City of Matlosana Municipality and five to the Tlokwe Local Municipality. A total of 18 responses for interviews were received as follows: six out of six requests (100%) for the Mangaung Metropolitan Municipality, six out of six (100%) for the Matjhabeng Local Municipality, three out of three (100%) for the City of Matlosana Municipality and three out of five (60%) to the Tlokwe Local Municipality. A total of 18 positive responses were received out of the 20 requests sent out, resulting in a total response rate of 90%. The 18 chairmen of trustees of bodies corporate interviewed were selected after extensive enquiry from role players in the sectional title industry in the various municipal areas. The sample represents five large sectional title schemes (more than 50 units) in the form of town house complexes and blocks of flats, 12 medium-sized schemes (between 10 and 50 units) in the form of town house complexes and blocks of flat and one small sectional title scheme (fewer than 10 units) in the form of a town house. This ensured that in terms of residential schemes, the two main forms of complexes (flats and town houses) are represented and that inputs were received from the chairmen over the entire size spectrum, from small to large schemes. No combined-use sectional title schemes (comprising of both commercial and residential units) were included in the sample, since these types of schemes are not as common as pure residential schemes.

Regarding the empirical study on managing agents, a total of 20 requests for interviews were sent out as follows: six requests to the Mangaung Metropolitan Municipality, four to the Matjhabeng Local Municipality, four to the City of Matlosana Municipality and six to the Tlokwe Local Municipality. A total of 12 positive responses for interviews were received as follows: five out of six requests (83%) for the Mangaung Metropolitan Municipality, two out of four (50%) for the Matjhabeng Local Municipality, two out of four (50%) for the City of Matlosana Municipality and four out of five (80%) for the Tlokwe Local Municipality. A total of 13 positive responses were received out of the 20 requests sent out, resulting in a total response rate of 65%. The 13 sectional title managing agents interviewed were selected after extensive enquiry from role players in the sectional title industry in the various municipal areas. The sample represents three large sectional title managing agents (managing more than 100 units), four medium sectional title managing agents (managing between 30 and 100 schemes) and six small sectional title managing agents (managing less than 30 schemes). The total number of sectional title schemes managed by these 13 managing agents, amounts to 801. The selected managing agents manage a variety of residential, commercial and combined-use schemes. Six of the managing agents have been operating for 30 years or more, four of the managing agents have been operating between 10 years and 29

years, and three have been operating for less than 10 years. Between the 12 managing agents, they have a total of 272 years of experience and an average of 21 years' experience each.

Regarding the empirical study on accounting and auditing practitioners, a total of 17 requests for interviews were sent out as follows: five requests to the Mangaung Metropolitan Municipality, five to the Matjhabeng Local Municipality, four to the City of Matlosana Municipality and three to the Tlokwe Local Municipality. A total of 13 responses for interviews were received as follows: five out of five requests (100%) for the Mangaung Metropolitan Municipality, three out of five (60%) for the Matjhabeng Local Municipality, three out of four (75%) for the City of Matlosana Municipality and two out of three (67%) to the Tlokwe Local Municipality. A total of 13 positive responses were received out of the 17 requests sent out, resulting in a total response rate of 76%. The 13 accounting and auditing practitioners interviewed were selected after extensive enquiry from role players in the sectional title industry in the various municipal areas. The sample represents two large sectional title accounting and auditing practitioners (having more than 100 sectional title schemes as clients), two medium sectional title accounting and auditing practitioners (having between 30 and 100 schemes as clients) and nine small sectional title accounting and auditing practitioners (having less than 30 schemes as clients). One of the small practitioners used to service less than 30 schemes as clients; however, since 2016 the practitioner made the decision not to be involved in sectional title auditing any more. However, the practitioner agreed to provide feedback for an interview. The total number of sectional title schemes serviced by these 13 accounting and auditing practitioners, amounts to 713. The selected accounting and auditing practitioners service a variety of residential, commercial and combined-use schemes.

E. Qualitative Study

Clough and Nutbrown [26] state that interviewing is one of the most common and powerful ways in which researchers try to understand their fellow human beings. Henning et al. [24] explain that an interviewee gives his or her responses with the help of questions and prompts in an atmosphere of trust and accountability. According to [27] there are three types of interviews, namely structured, semi-structured, and unstructured (see also [28].) Flowing from the literature review, a qualitative research strategy was followed by way of a range of semi-structured one-to-one, face-to-face and telephonic interviews with role players in the sectional title industry. In order to address the research problem of the study, three different research questionnaires were developed as a measurement instrument in order to structure the interviews, one for each main group of interviewees. Some of the respondents were Afrikaans-speaking, and Afrikaans questionnaires were used in these. Questionnaires used in [18] were used as the starting point for developing the questionnaires for the first three groups of respondents, and adjustments were made taking into account the results of the previous study, as well as recent developments in legislation. The questionnaires were designed to structure the interview process, and ensure consistency of the coverage of questions between the three groups and individual interviewees. A formal cover letter explaining the purpose of the interviews and addressing the terms of confidentiality was sent to all interviewees before the interviews.

V. Literature Review

A. Introduction

During the course of the literature review, the author identified several regulations, rules and sections in the Sectional Titles Act and related publications that contain wording which is not in accordance with accepted accounting and auditing terminology. Various instances of unclear and contradictory pieces of legislation and literature were also identified. It should, however, be noted that a full legislative analysis falls outside the scope of this paper and will be dealt with by the author in a subsequent research output. This section of the paper will briefly introduce the concepts relating to auditing and accounting as per the Sectional Titles Act and highlight some practical issues identified in related literature.

B. Sectional Title Act Requirements

Prescribed Management Rule (PMR) 40 of the original Sectional Titles Act stated that at the first general meeting and thereafter at every subsequent annual general meeting, the body corporate shall appoint an auditor to hold office. The auditor should hold office from the conclusion of the annual general meeting until the conclusion of the next annual general meeting. Where a scheme comprises fewer than 10 units, an accounting officer may be appointed for that purpose. In these cases, either the auditor or the accounting officer, as the case may be, must sign the financial statements. Lubbe [18] explains that PMR 40 only mentions that the body corporate shall 'appoint an auditor to hold office', but nowhere in the Act is it stated what exactly is expected from the auditor, other than the last part of Section 40 which says that he 'must sign the financial statements'. The wording of this section is unclear and is not in line with the standards of the professional bodies governing the audit profession in South Africa. Furthermore, currently available publications on sectional titles also do not give any guidance on auditing other than what is stated in the Act. Paddock's Sectional Title Survival Manual [6], as well as Pienaar's publication on Sectional Titles [1] simply gives the prescriptions of the Act word for word (see also [29].)

C. Statutory Interpretation

In his book on statutory interpretation, Botha [30] explains that the legislator consists of a great number of people taking part in the legislative process, and it cannot always be expected of them to be fully up to date with highly specialized technical legislation. Therefore, the concept of 'intention of the legislator' is regularly used when interpreting the law [30], [31]. Botha [31] adds that where one encounters technical legislation, applicable to specific trades, industries or

professions, the wording of that legislation should be interpreted in its specialized, technical context. The court case of *Kommissaris van Doeane en Aksyns v Mincer Motors 1959 (1) SA 114 (A)* has specific reference [30].

The auditing profession has very specific guidelines and standards, such as the International Standards on Auditing (ISAs), which are issued by the South African Institute of Chartered Accountants (SAICA) and the Independent Regulatory Board for Auditors (IRBA). As a result, even though the wording in the Sectional Titles Act is unclear, the assumption can be made that the specific guidelines and standards are applicable to audits of sectional title schemes.

D. Audit Risk

The introduction of audit approaches that place emphasis on the business risks of organizations whose financial statements are being audited, has been documented as a major innovation in audit methodology since the second half of the 1990s [33]. This innovation has been associated with changes in the scope of the planning and risk assessment processes and in the related evidence gathering procedures used by auditors [37]. Knechel [38] explains that current auditing standards recognize that audit risk can never be zero. Furthermore, it is not the expectation that audits should be planned with zero risk in mind.

ISA 315 [32] deals with the responsibility of the audit practitioner to identify and assess the risks of material misstatement in the financial statements of the entity. This should be done by way of understanding the entity and its environment, including the entity's internal control. This provides a basis for designing and implementing responses to the risks of material misstatement that the auditor assessed. Paragraph A24 to A29 of ISA 315 [32] guides the auditor in obtaining an understanding of the entity and its environment, more specifically the industry, regulatory and other external factors. According to [33] and [34], this approach encourages audit practitioners to view the client in terms of their key business processes together with the risks and controls within those processes. This is viewed as a much better framework than one based solely on financial statement balances and transaction streams. In other words, auditors need to consider client business risk and the related strategic and other controls as a fundamental part of the audit process, rather than focusing more narrowly on financial statement risk [35], [36]. The logic behind this approach is that if the auditor can identify the sources of business risk and ascertain that the client has put in place appropriate measures to monitor and manage that risk, there is very little need for extensive substantive testing. Furthermore, obtaining this insight on the business provides the auditing practitioner with a solid basis for generating useful feedback for the client [33], [35].

Auditors of small and medium-sized entities often face an audit environment that is very challenging due to the fact that many of their clients often do not have formalized entity-level controls for assessing business risks [37]. Sectional title schemes can also be classified into the category of small and medium-sized entities [18], and it is therefore important for the auditors of such schemes to fully grasp the various risks relating to the sectional title industry.

VI. Empirical Findings

A. Introduction

In this section the empirical findings of the qualitative study will be discusses in three sections; the first section deals with the perspectives of sectional title trustee chairpersons, the second section with the perspectives of sectional title managing agents, and the third section with the perspectives of sectional title accounting and auditing practitioners.

B. Perspectives of Sectional Title Trustee Chairpersons

As part of the interviews, the trustee chairpersons were asked what they regarded to be the biggest problems they experienced in their sectional title schemes. The trustee chairpersons mentioned a great variety of problems, some which occur more often than others. Poor meeting attendance make up 16% of problems experienced, ignorance on legal issues 13%, difficulty to get trustees 9%, people, pets and parking 9%, developers 8%, service delivery and maintenance 8%, water and electricity estimates 8%, debt collection 7%, and the final 22% of problems are split between general apathy and uninvolved owners (6%), rules not adhered to (5%), tenants (4%), levy increases (4%) and owners not living in the complex (3%).

The single biggest problem experienced by chairmen of the body corporate (mentioned by 15 of the 18 chairpersons) is that owners do not attend meetings. Many of the chairmen mentioned that they have put communication mechanisms in place such as sending meeting notices via registered mail and SMS-messages, but despite these efforts meeting attendance remained poor.

Ignorance on legal issues was mentioned by 12 of the chairpersons interviewed. The chairpersons were of the opinion that most owners do not know what they buy into when they purchase a sectional title property, and they do not understand the roles and responsibilities of the various parties involved. These chairmen stated that many owners, and sometimes even fellow trustees, are uninformed and ignorant regarding the way a body corporate functions. In addition, five of the chairpersons mentioned that there is general apathy amongst owners in their complexes, and five chairpersons also stated that general management and conducts rules are not adhered to. Eight of the 18 trustee chairpersons interviewed stated that they spend most of their time as chairmen dealing with complaints and handling transgression of rules, such as noisy pets and residents, parking problems, and unauthorized changes and extensions to units. These are often referred to as the three P's in sectional title problems, namely pets, people and parking.

Of the 18 trustees interviewed, eight mentioned that they regularly experience difficulty in getting owners to serve as trustees. The chairmen mentioned that being a trustee entails much more work than people think. They also stated that being a trustee of a body corporate is a "thankless" job, and

perhaps it may be easier to find individuals willing to serve as trustees and trustees may also take their tasks more seriously if they were remunerated.

Not all the chairpersons interviewed had experience with developers. Seven of the 18 chairmen had been involved in schemes that were once under development. Most of these chairpersons said that the developers cut corners and used cheap materials during the building process, and did not want to take responsibility afterwards. Some of the chairmen mentioned that the developers bypassed certain building regulations. A few of the chairmen stated that they waited for a number of years to receive electricity certificates from the developers. A general opinion amongst the chairpersons is that developers only do the developments for their own financial gain, and that matters such as the registration of rules are not performed with the eventual owners in mind. The chairmen were of the opinion that the developers market and sell sectional title properties without informing potential owners exactly what sectional title entails. The chairmen also mentioned that developers tend to leave a great number of units "unoccupiable" and refuse to pay levies on these units, despite the fact that they use large portions of the common water and electricity of the scheme for their building purposes.

A further concern, which is experienced by seven of the 18 chairmen, is with regards to local authorities, more specifically, a lack of communication, account estimates for water and electricity, poor municipal service delivery, leaking water pipes not being repaired, inaccurate account balances, corrections and incorrect allocations on statements. Frustrations with local authorities were also mentioned in [18]. Many of the chairpersons mentioned that a lot of their problems with local authorities have been resolved after they installed prepaid water and electricity meters.

According to six of the 18 chairmen interviewed, there are many residents are falling behind on their payments and debt collection is regarded as a great challenge. The chairmen are greatly concerned regarding the financial situations of their bodies corporate.

General apathy and uninvolved owners were mentioned as a problem by five of the 18 chairpersons interviewed. These chairpersons stated that residents think trustees are available to handle complaints and are at their service 24 hours a day, seven days a week. Some of the chairpersons mentioned that the owners think that the trustees are groundskeepers, and they even expect the trustees to sweep corridors and take out refuse bags.

Problems with tenants in the schemes were mentioned by four of the 18 trustee chairpersons interviewed. These chairpersons stated that tenants often have very little concern for the fact that they stay in sectional title schemes, and that there is a general attitude amongst tenants that the rules do not apply to them. Three of the chairpersons interviewed mentioned that they experienced problems with owners who do not live in the complexes (non-resident owners). They were of the opinion that these owners are generally uninvolved, are only interested in receiving rental income and do not care about the day-to-day operations of the complex.

Four of the 18 trustee chairpersons interviewed stated that levy increases are always met with negativity. They mentioned that everybody wants to stay in a well-maintained complex, but nobody wants to see any increases in levies. One trustee mentioned that the problem is especially relevant in his scheme where many residents are pensioners. Some of the trustees also mentioned that sectional title owners tend to forget that if you own a house you will also have to pay money to keep your property maintained.

According to the chairpersons interviewed, the greatest risks involved in being a trustee of a body corporate include a lack of training, possible liabilities for not complying with legal requirements, poor management of scheme finances, overspending on the budget and personal vendettas against chairpersons. The greatest risks attached to being the chairperson of the board of trustees of a sectional title scheme included acting without the consent of other trustees, ignorance of the law, possible legal liability and making judgment errors. A number of misperceptions were identified during the interviews regarding the role of the trustee chairperson. These misperceptions included the fact that residents think trustees are being remunerated for their role as trustees, residents think that there are unlimited funds available, that the trustees take the body corporate money for themselves, and tenants often think that they have the same rights as owners. Some of the chairpersons also mentioned that the rest of the trustees on their board of trustees are under the impression that only the trustee chairperson should have knowledge of sectional title legislation. It was also mentioned that owners think that paying their levy is all that they are responsible for and that they do not think they have any additional responsibilities.

C. Perspectives of Sectional Title Managing Agents

As part of the interviews, the managing agents were asked to identify what they consider to be the greatest problems and risks they experience in the managing of sectional title schemes. The managing agents could give more than one answer. According to the managing agents interviewed, one of the biggest problems experienced with the managing of sectional title schemes is problems with municipal accounts. This frustration is also shared by chairmen and accounting practitioners. This problem makes up approximately 20% of problems identified by the managing agents and was mentioned by 12 of the 13 managing agents interviewed. The managing agents mentioned that regarding local authorities, poor communication and service, account estimates, corrections on statements and incorrect allocations on statements caused countless problems when managing schemes.

Nine of the 13 managing agents interviewed stated that debt collection is a great challenge that keeps on escalating. Debt collection makes up approximately 15% of identified problems. The managing agents said that a lot of time and money is spent collecting outstanding levies, interest, electricity fees and other amounts. It was also mentioned that the legal processes that have to be followed in the case of non-

payment are cumbersome and expensive. Some of the agents added that in the case of tenants, the available deposits are not always sufficient to cover outstanding balances in the case of non-payment.

Eight of the 13 managing agents interviewed stated that uninformed owners and trustees cause many problems when managing schemes, especially regarding rule enforcement, making up 14% of identified problems. They said that there is general ignorance among owners and trustees regarding the legislation governing sectional titles and many owners do not understand the basics of how sectional titles function.

Problems with owner apathy and uninvolved owners were mentioned by 8 of the 13 managing agents, accounting for 14% of identified problems. The managing agents mentioned that owners do not want to get involved in their schemes, and the fact that many owners rent out their units and do not stay in the complexes adds to the problem.

Seven of the 13 managing agents interviewed mentioned that owners are ignorant on legal issues and do not understand how sectional title functions. This makes up approximately 12% of identified problems.

The remaining 25% of identified problems are split between insufficient trustee knowledge (5%), poor meeting attendance (5%), unrealistic expectations from owners (5%), trustee apathy (3%), poor budgeting (3%), timing of audits (2%), and problems with tenants (2%). The managing agents mentioned that often owners and trustees expect them to act outside of their mandates and solve matters such as personal disagreements and conflicts between residents.

During the interviews the managing agents were asked to identify what they perceived to be the greatest risks involved in being a managing agent. Most of the responses related to financial matters. Five of the 13 (38%) managing agents mentioned that there is a risk of not properly identifying and budgeting for capital projects of schemes. This can lead to a situation where urgent capital projects may arise, but these projects were not foreseen. This may reflect poorly on the managing agent. A further risk, mentioned by seven of the 13 managing agents (54%) relates to improper budgeting, which may lead to budget overruns, and schemes running out of funds during the course of a year. The managing agents mentioned that they often propose a budget, but due to the fact that owners do not understand the purpose of a body corporate budget and want to keep costs to an absolute minimum, schemes often encounter financial difficulties. Some bodies corporate even have to borrow money for operational expenses due to the fact that they have run out of funds. Situations like these may reflect poorly on the managing agent.

In the light of current difficult economic circumstances, one of the 13 (8%) managing agents mentioned that they run the risk of operating at a loss, especially with smaller schemes. It was also mentioned by two of the 13 (15%) managing agents that they often find it difficult to collect outstanding debts. This creates a financial risk for both the scheme and the managing agent. One of the 13 (8%) managing agents also stated that managing agents face a risk of facing liabilities and claims, and may be held liable for the shortcomings of schemes that face financial difficulties. Managing agents may also face legal action if they act outside the scope of sectional title legislation. Three of the 13 (23%) managing agents stated that it is great risk to manage and handle bank accounts and financial matters of schemes. It is possible that payments may be made to incorrect beneficiaries, which puts the managing agent at risk.

Two of the 13 (15%) managing agents mentioned that real estate agents do not properly inform sectional title buyers regarding what they are buying into. Linking to this matter, four of the 13 (31%) managing agents stated that uninformed owners and residents put them at risk, due to the fact that these parties do not perform the required functions and leave everything to the managing agents, which puts the managing agent at risk. It was also mentioned that a great risk involved in being a managing agent is the fact that, even though they are given the freedom to perform the necessary management activities, the bodies corporate hold them responsible if they are unhappy with the outcome of the managing agent's decisions or actions. It was mentioned by one of the 13 (8%) managing agents that there is a large risk in taking over a scheme from another managing agent. It was stated that in such cases that it is difficult to verify balances and that the whole process creates various administrative challenges.

During the interviews, the managing agents were asked to identify some of the greatest misperceptions that exist with regard to the services they render. The responses from the managing agents included that owners and trustees think that managing agents are available at all times. Owners often think managing agents are to blame for high levies or levy increases. It was also mentioned that owners often confuse the functions of managing agents with that of a caretaker, and owners even request managing agents to do maintenance work on the inside of units. Some owners also think that the managing agent is responsible for resolving personal conflict between residents.

D. Perspectives of Sectional Title Accounting and Auditing Practitioners

During the interviews the practitioners were asked to give their opinion on the level of risk associated with the auditing of sectional title schemes, in comparison with the auditing of clients in other industries, with the options being very low, quite low, average, high and very high. One of the 13 (8%) respondents perceived the risk of auditing sectional title schemes as very low, compared to auditing clients in other industries. Three of the 13 (23%) practitioners viewed the risk of auditing sectional title schemes as relatively low, compared to auditing clients in other industries. Eight of the 13 (62%) practitioners viewed the risk of auditing a sectional title schemes as average, compared to auditing clients in other industries. None of the respondents perceived the risk to be high or very high.

During the interviews, the practitioners were also asked what they regarded to be the greatest risks related to the audit of sectional title schemes. The respondents were allowed to give more than one answer. Some 12% of the responses

(mentioned by two of the 13 practitioners) indicated that collectability of levies is a great concern. The practitioners stated that it is very difficult for them to determine provisions for doubtful debt. It also has an impact when determining going concern. According to four of the 13 (accounting for 25% of responses) practitioners interviewed, segregation of duties is a big problem in sectional title schemes and creates opportunity for fraud. Segregation of duties is often a problem due to the small number of people responsible (e.g. commonly only the managing agent, or one or two trustees) for handling the financial matters of a body corporate. It was also mentioned that there is often no clear audit trail available to provide evidence of transactions.

It was also stated by three of the 13 practitioners (19% of responses) that cost pressures and resulting time constraints make it difficult to perform all the procedures required by the auditing standards, which increases the risk. It was mentioned by three of the 13 practitioners (19% of responses) that the fact that there is trust money involved is a great risk, and therefore, great care has to be taken during the audit of bodies corporate. Lack of audit trails and the incompleteness of records and supporting documentation were mentioned by four of the 13 practitioners and the responses added up to 25% of the identified risks. The respondents added that invoices from local authorities for electricity, rates and water regularly result in problems with cut-offs. According to the respondents, it is not always easy to determine correct balances at year-end. Due to incorrect estimates on statements, and late delivery of invoices, statements and supporting documentation, the cut-off of debtors and creditors is a great risk.

According to six (46%) of the 13 practitioners interviewed, they are aware of the practice whereby some managing agents use one trust bank account in which all sectional title scheme money is managed. Auditors of individual schemes are often refused access to the trust bank account statements due to 'confidentiality' issues. Seven of the 13 (54%) respondents were not aware of this practice. The practitioners who were aware of this issue remarked that these managing agents are only willing to provide the auditors with their own summary of the bank account and transactions of the body corporate under audit. A further concern is that unallocated deposits relating to a specific body corporate which was deposited into the managing agent's 'pool' trust account can remain unnoticed and unallocated due to the fact that the information is not made available to the auditors. The accounting and auditing practitioners expressed concern that it is nearly impossible to reconcile the bank balances with the calculations and reconciliations that is provided to them by the managing agents.

Linking to the above matter, three of the 13 (23%) practitioners interviewed stated that they are aware of problems regarding the handling of interest on trust accounts by managing agents. They also mentioned that the interest accrued on this large trust account is never allocated to the individual bodies corporate, or even to the EAAB for the fidelity fund. The managing agents remain the sole beneficiaries of the interest on these 'pool' accounts. All of the practitioners stated that, even though is 'accepted practice' among managing agents in the industry they do not feel comfortable with this practice, and they would rather see managing agents open a separate bank account for each body corporate.

In line with the findings of [18], it seems that the handling of trust money by managing agents is a concern which accounting and auditing practitioners should be well aware of. Usually, interest "earned" on trust funds should not accrue to the managing agent, but to the EAAB for purposes of the fidelity fund or the individual bodies corporate. This is a serious aspect that should be taken note of by the industry.

During the interviews the accounting and auditing practitioners were asked to identify what they experienced as the biggest problems when doing accounting and auditing work of sectional title schemes. The respondents were allowed to give more than one answer. According to two of the 13 (15%) practitioners interviewed, the fact that some bodies corporate prepare their books of account manually leads to frustration. The practitioners would prefer that the bodies corporate computerize their accounting records.

One of the biggest problems experienced with the accounting and auditing of sectional title schemes, mentioned by nine of the 13 (69%) respondents, is problems with municipal accounts. The practitioners mentioned that corrections on statements, account estimates and incorrect allocations between water and electricity on statements caused problems when doing accounting and auditing work. It also makes it very difficult to perform analytical procedures on the account balances.

According to 11 of the 13 (85%) practitioners interviewed, a further problem is that bodies corporate often put unrealistic pressure on accounting and audit fees. Pressure on fees limits the time available to perform audits, and as a result, the scope of the work is restricted. It was also mentioned that many trustees and managing agents do not know exactly what an audit entails and the amount of work involved to complete an audit. Five of the 13 (38%) respondents mentioned that they regularly experience problems with incompetent trustees and managing agents who do not understand accounting.

A further concern, mentioned by six of the 13 (46%) respondents, is the fact that accounting records, reconciliations and audit trails are often incomplete. The practitioners also experienced frustrations with a lack of supporting documents for decisions taken by trustees and minutes of meetings. Four of the 13 (31%) practitioners stated that the collectability of body corporate debts is usually quite difficult to determine.

During the interviews, the practitioners were asked what their level of satisfaction was with regards to the completeness of source documents received from trustees and managing agents. The options given were very dissatisfied, dissatisfied, satisfied and very satisfied. Five of the 13 (38%) practitioners were very satisfied with source documents and information from trustees and managing agents, while eight of the 13 (62%) practitioners were satisfied with the source documents.

Another problem mentioned by one of the 13 (8%) practitioners is that bodies corporate changing from one

managing agent to another or from one audit firm to another. Some managing agents then refuse to hand over the control of the body corporate's bank account after changing to another agent. As a result of poor communication to owners and tenants, it also happens that fees are still paid over to the old managing agent. Verifying opening balances of accounts and financial statements can also become problematic.

Bottle-neck situations sometimes occur at accounting and auditing firms due to many February and June financial year-ends. Three of the five (60%) practitioners who experienced timing problems said that moving the financial year-ends of bodies corporate could be a solution to the problem. They mentioned that it is a great practical challenge and, therefore, they are not in favor thereof. The other two (40%) practitioners said that managing agents should improve their service and have financial information available sooner after year-end in order to solve the said problem.

Nine of the 13 (69%) practitioners said that they experienced problems with the South African Revenue Service (SARS) regarding their sectional title clients. It was mentioned that the process of registering a sectional title client with SARS is a lengthy, cumbersome and frustrating process. The practitioners were also of the opinion that the SARS officials do not understand the nature of the affairs of bodies corporate and that they are not up to date with the current tax legislation governing bodies corporate. Two of the 13 (15%) practitioners also mentioned that it is becoming increasingly expensive to obtain bank confirmations from banking institutions and that is often not financially worthwhile to obtain a bank confirmation for a body corporate. Many of the problems discussed in this section were also identified in the study of Lubbe [18].

During the interviews, the practitioners also mentioned a number of misperceptions that exist amongst various parties with regards to their services rendered. These included the fact that trustees and owners do not have a clear understanding of the work and time involved in preparing and auditing the financial statements of a body corporate. A further misperception mentioned was that managing agents think that auditing practitioners audit 100% of a body corporate and will always pick up fraud and identify all errors.

VII. Recommendations and Further Research Opportunities

From the results of the interviews with the industry role players, various concerns were identified. For all of the role players, the main concerns were uninvolved and uninformed owners, general owner apathy, difficulties with developers, as well as problems with local authorities, financial pressures and difficulties relating to debt collection.

The managing agents experienced specific problems with tenants and non-resident owners. The trustee chairmen cited rule enforcement, poor budgeting and lack of trustee remuneration as additional concerns. The trustee chairmen as well as the managing agents complained about poor meeting attendance. The accounting and auditing practitioners as well as the trustee chairmen had concerns about the use of one managing agent's bank account for the cash transactions of a number of bodies corporate. The practitioners also had various concerns about the handling of interest on trust money and lack of audit trails. All of the role players were of the opinion that auditing the financial statements of bodies corporate adds value and should be continued.

It is recommended that accounting and auditing practitioners take the above matters into consideration when assessing the risk of sectional title clients. It is further recommended that the South African Institute of Chartered Accountants (SAICA) and other role players in the South African sectional title industry take note of the findings.

Against the background of the empirical findings, further studies can be undertaken in other municipal areas in South Africa, covering a larger geographical area. Furthermore, the interviews were held with role players who are mainly involved in residential bodies corporate. In future research studies, interviews can be held with role players who are involved with commercial and mixed-use schemes.

VIII. Conclusion

The paper commenced with a brief literature review on the problematic aspects in legislation regarding the audit of sectional title property. Specific reference was made to issues that may cause or increase audit risk. Secondly, empirical findings of a series of interviews with sectional title role players were discussed, focusing on factors that have an impact on the risk of sectional title audits. Thirdly, practical recommendations were made on how the audit expectation gap can be closed. A number of opportunities for future research projects were also discussed.

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