

Constitution

1. DEFINITIONS

- 1.1 **Developer:** WARMBAD RENAISSANCE (PROPRIETARY) LIMITED.
- 1.2 **Managing agent:** ELRADO (ASSOCIATION INCORPORATED IN TERMS SECTION 21) OR SUCH AGENT AS MAY FROM TIME TO TIME BE APPOINTED BY VIRTUE OF REGULATION 6 OF THE ACT.
- 1.3 **The Acts:** THE HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT, 1988 ACT NO 65 OF 1988) AS AMENDED AS WELL AS THE SECTIONAL TITLES ACT, ACT 95 OF 1986 AS AMENDED.
- 1.4 **Regulations:** THE REGULATIONS PROMULGATED IN TERMS OF THE ACTS.

2. NAME

- 2.1 Warmbad Renaissance Retirement Village Management Association, hereinafter referred to as the Management Association.
- 2.2 The *domicilium citandi et executandi* is: Management Association, Warmbad Renaissance Retirement Village, Soetdoring Avenue, Warmbad (Bela Bela) 0480

3 OBJECTIVES OF THE MANAGEMENT ASSOCIATION

- 3.1 An association established not for gain and of which one representative of the developer and every purchaser are members, and every purchaser to whom a housing interest is alienated subsequent to the establishment of the Management Association, shall become a member of the Management Association.
- 3.2 The Management Association is responsible for the enforcement of the rules referred to in paragraph 5.1.15 and for the control, administration and management of the Housing Development Scheme, the accommodation, the land, the common property, facilities, and services for the benefit of all members.
- 3.3 The provisions of the Companies Act (Act No 61 of 1973) shall not apply in relation to the Management Association.
- 3.4 The Management Association shall have perpetual accession, and shall be capable of suing and being sued in its corporate name (refer paragraph 2) in respect of
 - 3.4.1 any contract made by it;
 - 3.4.2 any damage done to the land, the common property or facilities;

3.4.3 any matter in connection with the Housing Development Scheme, the land, the common property, facilities or services for which the Management Association is responsible; and

3.4.4 any matter arising out of the exercise of its powers or the performance or non performance of its functions under the Act or any rules referred to in paragraph 5.1.15.

4. DUTIES OF THE MANAGEMENT ASSOCIATION

4.1 Subject to any restriction imposed or direction given at a general meeting of members, it shall be the duty of the Management Association

4.1.1 to insure the buildings relating to the Housing Development Scheme and keep it insured to its replacement value against fire;

4.1.2 to insure against such other risks as the members may by special resolution determine;

4.1.3 to maintain the common property and all accommodation and to keep it in a state of good and serviceable repair;

4.1.4 to comply with any notice or order by any competent authority requiring any repairs to or work in respect of the relevant land or buildings;

4.1.5 to ensure compliance with any laws relating to the common property or to any improvement on land comprised in the common property;

4.1.6 to control, manage and administer the common property for the benefit of all members;

4.1.7 to keep in a state of good and serviceable repair and properly maintain the plant, machinery, fixtures and fittings, including elevators, used in connection with the common property;

4.1.8 subject to the rights of the Local Authority, to maintain and repair, including renewal where reasonably necessary, pipes, wires, cables and ducts existing on the land and capable of being used in connection with the enjoyment of more than one accommodation or of the common property;

4.1.9 on the written request of any member or registered mortgagee in respect of a housing interest, to produce to such a member or mortgagee, or any person authorized in writing by such a member or mortgagee, the policy or policies of insurance effected by the Management Association and the receipt or receipts for the last premium or premiums in respect thereof;

4.1.10 to enforce the rules referred to in paragraph 5.1.15; and

4.1.11 to keep a register of members in such a manner as the Management

Association decides.

4.2 The Management Association shall for the purpose of effecting any insurance under paragraph 4.1.1 be deemed to have any insurable interest in the replacement value of the building and shall, for the purpose of effecting any other insurance under paragraph.

4.1.2 be deemed to have an insurable interest in the subject matter of such insurance.

5. POWERS OF THE MANAGEMENT ASSOCIATION

5.1 Subject to any restriction imposed or direction given at a general meeting of members, the Management Association shall have the power

5.1.1 to establish for administrative expenses a levy fund sufficient in the opinion of the Management Association for the repair, upkeep, control, management and administration of the Housing Development Scheme, accommodation, land, common property, and the building or buildings relating thereto, including a reasonable provision for future maintenance and repairs, for the payment of rates and taxes, for the supply of electric current, gas, water, fuel and sanitary and other services to the building and land and any premiums of insurance, and for the discharge of any obligation of the Management Association (refer also to paragraph 7);

5.1.2 to require from members to pay the levy and to see to it that it is collected;

5.1.3 to determine at the Annual General Meeting the amounts to be raised for the purposes aforesaid;

5.1.4 to raise the amounts so determined by requiring the members to pay the levy in terms of paragraph 7;

5.1.5 to open and operate a current account and a savings account with a banking institution or a building society;

5.1.6 to appoint and dismiss employees in accordance with the Basic Conditions of Employment Act No 3 of 1983;

5.1.7 to purchase, hire, or otherwise acquire moveable property for purposes of the operation of the Housing Development Scheme;

5.1.8 to expand the facilities and services;

5.1.9 to borrow money required by it in the performance of its duties or the exercise of its powers;

5.1.10 to secure the repayment of money borrowed by any manner permitted in law, including the cession of any unpaid levies whether due and payable or not, or by suretyship or by encumbering any property

vested in the Management Association;

5.1.11 to invest any money of the fund referred to in paragraph 5.1.1;

5.1.12 to enter into an agreement with the local authority or any person or body for the supply to any building and the land of electric current, gas, water, fuel and sanitary and other services;

5.1.13 to enter into an agreement with any member for the provision of amenities or services by him to the accommodation relating to such housing interest or to the member or occupier thereof;

5.1.14 to do all things reasonably necessary for the enforcement of the rules referred to in paragraph 5.1.15 and the control, management and administration of the common property;

5.1.15 to make rules for the conduct of members, which rules shall not be in conflict with the Act or a regulation, shall be reasonable, and shall apply equally to all members in respect of accommodation put to substantially the same use;

5.1.16 to elect a committee of the Management Association which, subject to the directions of the Management Association, shall exercise all the powers and perform all the functions conferred upon it by the Management Association and which committee shall meet and conduct its affairs as the committee may from time to time decide (refer to paragraph 8);

5.1.17 to prohibit the transfer or any alienation of any housing interest unless any levy or other money due to the Management Association in respect of the housing interest concerned has been paid or provision has been made to the satisfaction of the said Management Association for the payment thereof; and 5.1.18 to address the Developer or any occupier in connection with any negligence or failure on his part relating to his responsibility or an obligation in the Village.

5.2 Any contribution levied under any provision of paragraph 5.1.1 shall be due and payable and may be recovered by the Management Association by action in any court including any Magistrate's Court of competent jurisdiction, from the persons concerned.

5.3 The Management Association shall on the application of a member or any person authorised by such member certify in writing

5.3.1 the amount determined as the contribution of that member;

5.3.2 the manner in which such a contribution is payable;

5.3.3 the extent to which such contribution has been paid by that member; and

5.3.4 the amount of any rate paid by the Management Association and not recovered by it.

5.4 The Management Association shall have the right to assign or cede to the Management Agent any of its rights and duties in terms of this constitution.

5.5 All general meetings of the Management Association other than the Annual General Meeting, shall be called Special General Meetings. Annual General Meetings shall be held once every year provided that not more than 15 (FIFTEEN) months shall elapse between the date of one Annual General Meeting and that of the next (refer paragraph 10).

5.6 At all meetings of the Management Association matters, except for an amendment of the Constitution in accordance with clause 17, shall be determined by a simple majority vote of those present in person or by proxy and a member shall on a show of hands have one vote, or on a poll, one vote for each housing interest alienated to such member (refer also to paragraph 5.7.2.1).

5.7 Meetings of members

5.7.1 The Management Association shall determine the matters relating to meetings of members and proceedings at such meetings and over and above such determination the following shall apply:

5.7.1.1 At least 14 (FOURTEEN) days notice of every general meeting, specifying the place, within the magisterial district where the Housing Development Scheme is situated, the date and hour of the meeting, and in the case of special business the general nature of such business shall be given in that notice to all members, the Developer and the Managing Agent. In exceptional instances, urgent matters may justify shorter notice.

5.7.1.2 The following business shall be transacted at an Annual General Meeting:

(a) the approval with or without amendment of the budget referred to in paragraph 6;

(b) the election of the committee referred to in paragraph 5.1.16 (refer also to paragraph 8);

(c) any special business of which due notice has been given.

5.7.2 No business shall be transacted at a general meeting unless a quorum of members is present in person or by proxy at the time when the meeting proceeds to commence business, and a quorum shall be the members present but not less than two members.

5.7.2.1 A member present who is entitled to vote may exercise only one

proxy in respect of each matter discussed.

5.7.3 The Chairman of the committee envisaged in paragraph 5.1.16 shall preside at every general meeting of the Management Association. If he is absent, the Vice-chairman shall officiate as Chairman and, if he is present, any other member of the Management Committee designated by the meeting shall act as Chairman.

5.7.4 In the event of a tie in the voting, the Chairman has a casting vote.

6. BUDGET

6.1 The Management Association shall prepare, or cause to be prepared, for each fiscal year of the Management Association, a detailed budget of expected income and expenditure of the Management Association, in connection with the proper control and operation of the relevant Housing Development Scheme for the following year, including a reasonable provision for future maintenance and repairs, and shall have such budget approved at the Management Association's Annual General Meeting. Refer also to paragraph 5.7.1.2 (a).

6.2 The budget for each fiscal year shall be made available to all members of housing interests at least 14 (FOURTEEN) days prior to the date of the Management Association's Annual General Meeting.

7. LEVIES

7.1 The liability of a member to pay the levy for the purposes of paragraph 5.1.1, shall be a percentage, expressed to four decimal places, and arrived at by dividing the floor area, correct to the nearest square metre, of the accommodation by the floor area correct to the nearest square metre, of all the accommodation in the Housing Development Scheme.

7.2 The Developer shall on the basis set out in paragraph 7.1 pay levies from the date of establishment of the Management Association on all housing interests which are owned by the Developer and have not yet been alienated by him.

8. MANAGEMENT COMMITTEE

8.1 The responsibilities, duties and functions of the Management Association are exercised and performed by the Management Committee paragraph 5.1.16).

8.2 The Management Committee shall consist of one nominated member, and seven to eleven elected members. The number may be

increased by way of co-option.

8.2.1 The nominated member represents the Developer.

8.2.2 The elected members are holders of housing interests who must be elected by the Management Association as follows:

8.2.2.1 Lists for nomination of members of the Management Committee are issued to members at least 14 (FOURTEEN) days prior to the Annual General Meeting.

8.2.2.2 Election of the Management Committee takes place at the Annual General Meeting by means of voting papers.

8.2.3 The Management Committee is for the purposes of the sectional Titles Act considered to be the chosen Trustees for the Body Corporate.

8.3 Composition of committees

8.3.1 Management Committee: All office bearers are chosen by the elected

committee members.

8.3.2 Executive Committee: Consists of the Chairman, Vice-Chairman, Secretary,

Deputy-Secretary, and one additional member of the Management Committee.

8.3.3 Financial Committee: Consists of the Chairman, Vice-Chairman, Secretary,

Deputy-Secretary, one additional member of the Management Committee, and a

representative of the Managing Agent.

8.3.4 Sub-Committees are appointed as required, and may be expanded by co-opting

members of the Management Association.

8.3.5 Any committee may be augmented by co-option as circumstances require.

8.4 The term of office of a member of the Management Committee, except that of

the Developer, expires

8.4.1 if he is not re-elected at the next Annual general Meeting;

8.4.2 if he is absent from three consecutive committee meetings without a valid

reason;

8.4.3 if he is declared incompetent by the majority of committee members;

8.4.4 if he resigns;

8.4.5 if he is no longer a holder of a housing interest.

8.5 The Management Committee must meet at least once a month and minutes of

such meetings must be available for perusal by members of the Management

Association except matters of sensitive nature which, in the opinion of the

Management Committee, should not be divulged and must be recorded in an

addendum to the minutes and which will not be available for perusal.

8.6 Half of the members of the Management Committee plus one constitute a

quorum.

8.7 Members of the Management Committee are expected to attend at least 7

SEVEN) management Committee meetings per year.

9. PAYMENT OF MONIES

9.1 All accounts in respect of levies, electricity consumption, or other obligations

to the levy fund, are payable to the Management Committee, or the Managing Agent,

as the case may be, not later than the seventh day of the month.

9.2 Failure to settle accounts before or on the date due, without a valid reason,

may give rise to action in terms of the provisions of paragraph 5.2.

10. ANNUAL GENERAL MEETINGS

10.1 Refer to paragraphs 5.5, 5.7.1.1 and 5.7.1.2.

10.2 A copy of the draft budget (refer paragraph 6) and the final Agenda must

accompany the notice of members of the Annual General Meeting.

NOTE

Since the Annual General Meeting is held before the end of the financial year, the

audited financial statements will be presented to members at a Special General

Meeting as soon as practicable after the end of the financial year.

11. SPECIAL GENERAL MEETINGS (Refer to paragraph 5.7.1.1)

11.1 A Special General Meeting is held

11.1.1 when the Management Committee deems it necessary;

11.1.2 at the request of at least one third of the members of the Management

Association authorised to vote.

11.2 Members may submit subjects for discussion at a Special General meeting in

writing to the Management Committee.

12. FINANCIAL STATEMENTS AND BOOKS

12.1 The financial statements and books of the Village are open for inspection by

any member of the Management Association with the approval of the Management

Committee.

13. FINANCIAL YEAR

13.1 The financial year of the Management Association runs from 1st January to

31st December of each year.

14. MALE/FEMALE HOUSING INTEREST HOLDERS/SECTIONAL TITLE HOLDERS

14.1 In the context of this Constitution, wherever applicable, the term "male"

also means "female", and "housing interest holders" also means "Sectional Title

holders".

15. REMUNERATION OF OFFICE BEARERS AND MEMBERS

15.1 Every member of the Management Committee or any sub-committee, office

bearer, or member, agent or employee of the Management Association, will be

reimbursed from the funds of the Association for all costs, liabilities and losses

incurred in the legitimate execution of the Management Association's business, or the

rightful performance of his duties, unless it can be ascribed to his own gross

negligence or default.

16. MANAGENT OF ASSESTS

16.1 No profits or earnings shall be distributed to any person/s or bodies other

than members of the Management Association, with whom or on whose behalf

transactions were concluded.

16.2 Funds available for investment shall only be invested with registered financial

institutions, as defined in Section 1 of the Financial Institutions Act of 1984 and in

shares of a registered unit trust exchange as defined by Act

1 of 1985.

16.3 In the event of the Management Association ceasing to exist, all remaining

assets shall be distributed in favour of members of the association with whom or on

whose behalf transactions were concluded.

17. AMENDMENT OF THE CONSTITUTION

17.1 This constitution can only be amended by a unanimous decision of all the

members of the Management Association/Body Corporate present at an Annual

General meeting or a Special General Meeting and after prior notice thereof. For

purposes hereof at least 80% of members must be present.

17.2 Any amendment to the Constitution must be approved by a Commissioner of

Oaths.

17.3 This Constitution was approved at a Special General Meeting held on 23 June

1995.

17.4 Amendments to the Constitution were approved at:

17.4.1 An Annual General Meeting held on 26 November 1997.

17.4.2 An Annual General Meeting held on 26 November 1998.

17.4.3 An Annual General Meeting held on 18 November 1999.

17.4.4 An Annual General Meeting held on 14 November 2000.