

PRIVATE RETIREMENT FACILITIES IN THE MANGAUNG AREA: A CORPORATE GOVERNANCE PERSPECTIVE

by

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Declaration

I, Anna C E Coetzee, CUT student number hereby declare that the thesis handed in for the qualification Master of Philosophy in Management Sciences (Internal Auditing) at the Central University of Technology is my own independent work and that I have not previously submitted the same work for a qualification at/in another university/faculty. I hereby cede copyright of this product in favour of the Central University of Technology.



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Abstract

Limited housing for the elderly in South Africa indicates that all opportunities must be studied both by government and private stakeholders. People move into retirement facilities at a younger age, and this puts further burden on the demand for safe and affordable facilities. Sectional title and life right retirement facilities play an essential role in addressing the housing problem for the elderly. Private retirement facilities often face challenges regarding financial difficulties, mismanagement and not delivering on promised facilities and services. Sound governance is crucial for retirement facilities, for lessening the risk of financial scandals and contributing to the efficiency and effectiveness of the facility.

The main aim of this study was to provide an in-depth understanding of problems and challenges experienced by the role players concerning management, accounting, auditing and corporate governance of the selected retirement facilities in Bloemfontein in the Mangaung district. Furthermore, to develop recommendations for the various role players in the private retirement facility industry. The literature review covered four main areas, namely legal aspects relating to management, accounting and financial reporting aspects, auditing and assurance aspects as well as the applicability of King IV corporate governance on sectional title and life right retirement facilities. The literature review provided the approach for the empirical study by way of interviewing a sample of knowledgeable role players in each selected facility. A qualitative research approach was followed, using a case study design and a thematic content analysis design to evaluate the semi-structured interviews of the selected participants.

The findings of the empirical study revealed unclear, unnecessary and confusing legal aspects that contribute to further financial burden on the facilities. Various practical problems were discovered concerning management, accounting and auditing aspects. The management of most facilities were unaware of the King IV Code and the applicability of the corporate governance principles and practices on the industry; the concern that was raised regarding the application of corporate governance principles was cost versus value creation. Various recommendations are made that may add value to the retirement industry. The findings can also be valuable for further research.

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List of abbreviations, symbols and acronyms

| | |
|----------------|--|
| ACCA | : Chartered Association of Certified Accountants |
| AG | : Auditor General |
| AGSA | : Auditor General of South Africa |
| APA | : Auditing Professions Act |
| APB | : Accounting Practices Board |
| CA(SA) | : Chartered Accountant (South Africa) |
| CC | : Close Corporation |
| CGT | : Capital Gains Tax |
| CSSA | : Chartered Secretaries Southern Africa |
| CSOS | : Community Schemes Ombud Service |
| CSOSA | : Community Schemes Ombud Service Act |
| CIMA | : Chartered Institute of Management Accountants |
| EAAB | : Estate Agency Affairs Board |
| FRSC | : Financial Reporting Standards Council |
| GAAP | : Statements of Generally Accepted Accounting Practice |
| HDSRPA | : Housing Development Scheme for Retired Persons Act |
| IAC | : Institute of Accounting and Commerce |
| IFRS | : International Financial Reporting Standards |
| IFRS for SME's | : IFRS for Small and Medium-sized Entities |
| IoD | : Institute of Directors in Southern Africa |

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| IRBA | : Independent Regulatory Board for Auditors |
| ISA | : International Standard on Auditing |
| ISAs | : International Standards on Auditing |
| MCIBM | : Members of the Chartered Institute for Business Management |
| NAMA | : National Association of Managing Agents |
| NCA | : National Credit Act |
| NPOA | : Non-Profit Organisations Act |
| NPO | : Non-Profit Organisation |
| PMR | : Prescribed Management Rule |
| RDP | : Reconstruction and Development Programme |
| SAARS | : South African Auditing practice Statement |
| SA GAAP | : South African Generally Accepted Accounting Practice |
| SAIBA | : South African Institute of Business Accountants |
| SAICA | : South African Institute of Chartered Accountants |
| SAIPA | : South African Institute of Professional Accountant |
| SME's | : Small and Medium-sized Entities |
| STA | : Sectional Titles Act |
| STSMA | : Sectional Titles Schemes Management Act |
| VAT | : Value Added Tax |

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Remarks to the reader

It should be noted that the legislation consulted in this study refers solely to the masculine form. The usage of the masculine form throughout this study is for purposes of convenience and consistency, and should be interpreted to refer to men and women alike.

The electronic reference managing tool Mendeley was used to prepare the citations and bibliography in this dissertation. The style selected in Mendeley was the American Psychological Association 6th edition.

Chapter 1

INTRODUCTION TO THE STUDY

“We shape our buildings thereafter they shape us.” – Winston Churchill

1.1 Background of this study

According to the Bill of Rights in the Constitution of South Africa, everyone has the right to adequate housing (Department of Justice, 1996, p. 11). In the Housing Act 107 of 1997, the Parliament of the Republic of South Africa recognised that housing is a key part of the national economy and is important to the socio-economic security of the nation. According to this Act, national, provincial and local spheres of government must ensure that housing development provides a choice of housing as wide as possible that is economically, fiscally, socially and financially affordable (Department of Housing, 1997, pp. 5–6).

In 1994, the White Paper on Housing estimated that the housing backlog in South Africa stood at about 1.5 million houses (Tissington, 2011, p. 33; Wilkinson, 2016, p. 1). From 1994 to 2010, the housing backlog has grown from 1.5 million to an estimated figure of over 2.1 million (Tissington, 2011, p. 33). In 2016, the non-profit organisation People’s Environmental Planning (PEP) and the SA Institute of Race Relations indicated that the housing backlog in South Africa stood at between 2.1 and 2.5 million units, compared to approximately 12 million people without acceptable housing, and the shortage continues to grow (J. Muller, 2017, p. 1; Peoples Environmental Planning, 2016, p. 1). The Department of Human Settlements disclosed that the data to estimate the housing backlog in South Arica is most likely unreliable and at times contradictory and, as a result, the Department is not exactly clear on where it stands (Lubbe, 2013, p. 5; Osman, 2017, p. 2; Tissington, 2011, p. 30).

Since 1994, the South African government focused on delivering RDP (Reconstruction and Development Program) houses, a fully subsidised housing scheme targeted at the poorest of poor, with an income of below R3 500 per month (Lubbe, 2013, p. 6; Osman, 2017, p. 3; Peoples Environmental Planning, 2016, p. 1). This approach of

government has given rise to rows of “one size fits all” housing far from work opportunities and services. Although this housing programme was considered to be successful in relation to the number of houses built, it did not keep up with the increased demand for housing in urban areas (Osman, 2017, p. 3). Since 1994, socio-economic, demographic and policy shifts have occurred - which required a new housing vision and objective. The South African government introduced The Comprehensive Plan in 2004, which envisaged a departure from individual ownership detached houses on individual stands towards a more all-inclusive approach based on actual needs. Provision is now being made for higher density, rental, tenure-based options to accommodate middle-income households earning between R3 501 and R7 000 per month (Department of Human Settlements, 2010, pp. 45–48).

The 2017/2018 national budget for the Department of Human Settlements and municipal infrastructure had increased by 9%. Accordingly, Treasury allocated R3.2 billion to lower-income housing projects to promote affordable medium-density rental - housing which seems to be a move away from government’s policy to promote home ownership among the poor. According to the then Minister of Finance, Pravin Gordhan, while government had increased their expenditure providing housing to benefit many lower-income families, it was unlikely to make a significant dent in the housing backlog in South Africa over the short term (J. Muller, 2017, p. 1).

The severity of the housing issue in South Africa is further evidenced by the last performance audit on the approval and allocation of housing subsidies at the Department of Local Government and Housing in 2006 by the Auditor General of South Africa (AGSA). The provinces under audit was the Free State, Northern Cape, Limpopo, and Gauteng, and various exceptions were raised in the reports by the AGSA (Lubbe, 2013, p. 6). In this report, the AGSA inspected 970 houses - of which 737 were identified with defects such as walls and foundations being cracked, roofs leaking, windows and doors not closing properly and gaps between the outside walls and roofs (Auditor General, 2008, pp. 11–12). A study on the audit reports of the Free State Provincial Departments completed by Crous (2012: 7) showed that the Free State Department of Local Government and Housing received qualified audit reports from the Auditor General (AG) from 2008 to 2010; this study also revealed a serious lack of control over actual service delivery over several years. As indicated on the

website of Provincial Government, three out of nine Departments of Human Settlement, of which the Free State Department is one, received qualified audit reports for the years 2015/2016.

Section 2(1)(e)(viii) of the Housing Act promotes the meeting of special needs housing by government (1997: 7). Special needs housing is a form of housing for individuals because of their specific vulnerabilities, for whom adjustments are required to their housing or for those who cannot live independently and require care in state-funded housing (Human Rights Commission, 2017, p. 5). Government special needs housing includes government subsidised housing that is intended for the most defenceless groups in society, being persons with physical, intellectual and psychiatric disabilities, **the elderly**, victims of domestic abuse and orphans, to name but a few (Mukadam 2014: 1). The current reality is that providing affordable housing for these groups by government has largely not come to effect (Mukadam, 2014: 1; Human Rights Commission, 2017: 5).

Further to the previous, the Older Persons Act 13 of 2006 supports the Bill of Rights as set out in the Constitution of South Africa, and one of the objects of this Act is to establish and manage residential facilities for older persons. This Act also promotes that an older person remain in his or her own residence within the community as long as possible (Department of Justice, 2006, p. 4). Older people have the right to live in an environment suitable to their changing needs, and the required access to occasions and activities that promote their social, physical, mental and emotional well-being. Section 3 of the Older Persons Act indicates that the Act must be implemented by all organs of state rendering services to older persons (Department of Justice, 2006).

The National Housing Framework is failing to meet the demand of vulnerable groups such as the elderly. The draft Special Housing Needs Policy and Programme (SHNP) issued by the Department of Human Settlements recognises that there is currently a special housing needs facility backlog and that many vulnerable persons are unable to access special needs housing, due to insufficient availability and unaffordability of spaces within existing facilities (Human Rights Commission, 2017, pp. 13–15). Government-funded special needs group housing programmes are only found in KZN, the Eastern Cape and to a small extent in Gauteng; the fact is that people with special

care needs have limited access to state-assisted housing (Project Preparation Trust of KwaZulu-Natal, 2014, p. 12).

Werksmans Attorneys provided a legal opinion on the existing legislative and policy framework in terms of obligations, powers and functions of the different government departments for the development of special needs group housing. The key findings were that the Department of Human Settlements failed to provide 'sheltered housing' for older persons (Werksmans Attorneys, 2015, p. 3). Further, that the Department of Social Development does not have the capacity, nor the funding, to build such housing (Human Rights Commission, 2017, p. 27; Werksmans Attorneys, 2015, p. 3). Several pieces of legislation, such as the Housing Act 107 of 1997 and the Older Persons Act 13 of 2006, to name but a few, enable outsourcing of services and certain types of funding to non-profit organisations (Werksmans Attorneys, 2015). Non-profit organisations primarily responding to the necessity for special need housing are constrained by funding that does not extend far enough for the development, building and establishment of residential facilities (Human Rights Commission, 2017, p. 27; Werksmans Attorneys, 2015, p. 3).

The population in South Africa increased from 40,6 million in 1996 to 55,6 million in 2016, according to the Community Survey by Statistics South Africa (2016: 23). Of the world's population, more than 7% are over the age of 65 and this percentage is expected to double by 2050 (Rabie & Klopper, 2015, p. 3). The age cohort over 60 increased from 8,01% of the South African population in 2011 to 8.13% in 2016 (Stats SA, 2016, p. 19). South Africa has one of the most rapidly ageing populations in the world (Mathiso, 2011, p. 3). According to Arthur Case (2017: 1), CEO of Evergreen Lifestyle, this rapidly ageing population will have a substantial impact on the need for a range of services such as social security, private pension funds, and medical services. The existing shortage of housing for the elderly is expected to increase in future. Further, this shortage of housing, and specifically government retirement facilities in South Africa, is seen throughout the retired community, as evidenced by long waiting lists at both government and private retirement facilities (Case, 2017, p. 1). The housing concern for the elderly in South Africa means that all opportunities must be explored both by government and private stakeholders (Case, 2017, p. 1). The current trend in the retirement accommodation industry is that people move into

retirement facilities at a younger age, putting further pressure on the existing high demand for these facilities (Case, 2017, p. 1).

Private retirement villages are designed for housing people above a certain age, which would normally have associated amenities such as recreation, health care, social and catering facilities. Most of these retirement villages presently cater almost exclusively to those that are relatively wealthy (G. Muller, Brits, Pienaar, & Boggenpoel, 2019, p. 602; Promedcare, 2016, p. 5). After retirement, many retirees find that the cost of a home in a retirement village is out of their reach and the sale of their current home might not be enough to afford retirement accommodation (Writer, 2017, pp. 1–2). Retirement villages are, however, a popular choice among retirees who can afford it (Writer, 2017, pp. 1–2). According to the 2017 Alexander Forbes Benefits Barometer, a retiree can obtain the following housing in a private retirement village: life rights (from R1.3 million); rental schemes (from R 9 140 per month including frail care); sectional titles (from R2.3 million) and full titles (from R3.2 million) (Alexander Forbes, 2017, p. 272). Residents in retirement villages may have certain expectations of management; for example, open communication, active involvement of management, management keeping up with industry changes and management listening to and acting on residential complaints (O’ Keeffe, 2016; Property Council of Australia, 2013, pp. 2–3).

Corporate governance is the system of rules, practices and processes by which an entity is directed and controlled, and is applicable to **all** entities, regardless of their size or nature, which leads to accountability and the responsibility of different role players within the entities (Jackson & Stent, 2016, p. 4/3). The King IV Report on Corporate Governance (hereafter referred to as King IV) is the benchmark code for good governance practices in South Africa (Werksmans Attorneys, 2016, pp. 16–17). King IV defines corporate governance as the application of ethical and effective leadership by the governing body of an entity towards the achieving of an ethical culture, good performance, effective systems of control and legitimacy (IoDSA, 2016, p. 15; Werksmans Attorneys, 2016, pp. 16–17).

Corporate governance encompasses practically every domain of management; it is a very extensive continuum. The focus of this study will be on the relevant corporate governance principles according to the King IV Code, specifically the principles relating to accounting, auditing and management of different ownership forms in

retirement villages. The responsibilities of governing bodies involves development and implementation of strategies through planning, to ensure accountability through reporting, disclosure and monitoring (IoDSA, 2016, p. 21). The concept of corporate governance will be discussed in more detail in section 1.5 and further in the text.

All organisations act on behalf of their stakeholders, and therefore, regardless of their size or nature, need to adopt sound corporate governance practices (IoDSA, 2016, pp. 28–29; Khomba, 2011, p. xxii). The principles of good corporate governance are of paramount importance regarding the care and housing of those with special needs. Governance in special needs care was recently put under the spotlight with the Life Esidimeni tragedy in South Africa. According to Katherine Child (2018: 1), the number of people who died in the Life Esidimeni saga could be closer to 156, rather than the accepted number of 144 deaths, and the deaths can be mainly attributed to “chaotic” and “bad” management (Chabalala, 2018, p. 1). Poor governance is also not limited to only government special needs and elderly housing facilities. Private retirement facilities often face challenges regarding financial difficulties, mismanagement and not delivering on guaranteed facilities and contracted services (Brown, 2012; Die Vryburger, 2015, p. 1; M. King, 2013, p. 1; Maroela Media, 2017, p. 1).

1.2 Previous research

In performing the preliminary literature review for the purposes of this study, the researcher consulted various international academic databases as tools to sort through the body of available literature in order to identify relevant studies already performed. These search engines search multiple databases at the same time. Combined keyword searches were performed to obtain the most inclusive results limited to the English and Afrikaans languages.

Some worldwide studies were identified on corporate governance and retirement villages from the results presented by the keyword searches. Four global studies on aged living and aged care facilities were identified:

1. *Resident-identified issues shaping wellbeing in retirement and aged living and care facilities*. This study focuses on four major concerns for residents in Australia; namely, the social environment; the physical environment; **issues of**

governance; and activities which support active living. These issues have been mentioned as important for the care of the elderly (Harris, Wenham, & Grootjans, 2008). – Psychology Field of study.

2. *Ethics and Governance of ICT-based social engagement in institutional aged care*. In this conference proceeding, the researcher focused on the extent to which ICT and Internet access increased the social engagement of residents, within the aged care facility. It also included the views of staff and management and provides a focus for discussion about the ethics and **governance of ICT-based social engagement** in institutional aged care. (Eustance & Burnmeister, 2013, p. 18). – Information Technology (IT) Field of study.
3. *Accountability, Obligation and Social Responsibility: A Case study of retirement villages*. This research study has found that accounting does not fully accommodate the social needs of aged citizens in Australia; this might be indicative of a wider accountability problem and that accounting might contribute to better **governance** and management (Lehman, 2008, pp. 368–371). – Accounting field of study.
4. *Housing Governance and Senses of Home in Older Age: The Provider Scale*. This study indicates a connection between housing governance and housing design with different housing typologies associated with different aging bodies and **forms of management practice**, with profound implications for residents' senses of home applicable to Australia (E. Power, 2017, p. 193). – Geography Field of study.
5. *The Sectional title industry in South Africa: Enhancing accounting and auditing practices*. This study focused on the accounting and auditing practices within the overall **sectional title** industry in South Africa (Steenkamp, 2017a). The emphasis in this study was not retirement facilities specific.

Within the South African context, numerous studies have been done on health management issues of older people as well as ethical problems in terms of health workers and management of medicine in retirement facilities (C. Clarke, 2017; Gerber, Botes, Mostert, Voster, & Buskens, 2016; Mabunda, London, & Pienaar, 2017; Visagie

& Schneider, 2014). All of the identified South African studies fall within the fields of Health Care, Medicine and Psychology.

Therefore, it could be reasoned that sufficient effort has not yet been bestowed on the research of corporate governance in retirement villages from an accounting, auditing and management perspective. This will be the first critical study on corporate governance of private retirement villages in South Africa focusing on identifying accounting, auditing and governance problems and solutions.

1.3 Retirement facilities in South Africa – Background and overview

The ever-increasing demand for affordable housing for the elderly in South Africa is a major challenge, and the government has seemingly abandoned their responsibility in this regard (Human Rights Commission, 2017, p. 13; Mukadam, 2014, p. 1). The private sector therefore plays a key role in bridging the gap in the provision of such housing and in providing appropriate residential facilities. The Report on Residential Facilities for Older Persons in South Africa 2017 indicates that there are an estimated 1 150 residential facilities for older persons, of which only 415 are registered with the Department of Social Development (Mahomed, 2017). According to the Department of Social Development, there are 410 residential facilities for older persons in the country that are managed by non-profit organisations, and only 8 state-managed and fully subsidised residential facilities, of which three of the eight are situated in the Free State (Human Rights Commission, 2015, pp. 19–20; Mahomed, 2017). Nationwide, there are more than 1000 private residential facilities and retirement villages. In these facilities, residents are accountable for the full cost of their accommodation as well as additional services (Report Buyer, 2017). Retirement facilities that are run independently, as a business or by non-government organisations, currently form the bulk of well-functioning facilities in the country (Van Biljon & Roos, 2015, p. 202).

1.3.1 Legal forms

The Older Persons Act 13 of 2006, in the chapters on residential facilities and community-based care and services, specifies three categories of residential care facilities, namely independent living, assisted living and frail care (TNK Attorneys,

2017, p. 1; Van Biljon & Roos, 2015, p. 203). Independent living is suitable for elderly persons who can take care of themselves with little or no observation. Assisted living offers all elementary services provided by independent living, but provide further daily support to the elderly persons - whereas frail care provides 24 hours' service to those elderly persons in need of special attention (TNK Attorneys, 2017, pp. 1–2).

Private retirement residential facility options in South Africa can be divided into two main categories; namely, retirement villages and retirement homes (Roux & Bruwer, 2017, p. 741). Firstly, retirement villages provide independent living within detached or semi-detached units that may incorporate assisted living and frail care services (Roux & Bruwer, 2017, p. 741). Secondly, retirement homes provide assisted living and frail care services with attached units, and the lifestyle facilities are generally more limited in retirement homes than in retirement villages (Roux & Bruwer, 2017, p. 741). Private retirement homes are often owned and managed by non-government organisations, church organisations or private developers (CityPress, 2017). As mentioned in section 1.1, the reality is that these private retirement facilities in South Africa presently cater almost solely to the relatively wealthy (Froneman, Van Huyssteen, & Van der Merwe, 2004, pp. 414–415; Promedcare, 2016).

Regarding legislation, the Housing Development Schemes for Retired Persons Act 65 of 1988 (HDSRPA) was designed to safeguard the interests of retirees (G. Muller et al., 2019, p. 602). The HDSRPA must protect the individual interest of retired persons who invest in retirement schemes; it needs to serve the interest of the community, in offering appropriate accommodation for the elderly by limiting welfare as far as possible; and it needs to look after the interests of the developer (G. Muller et al., 2019, p. 602). The Act covers three forms of property holding; namely sectional title, life rights and share block schemes, or a combination of these that are used in most accommodation schemes for retirees (Department of Trade and Industry, 1988; M. King, 2013, p. 3). Figure 1.1 below illustrates the legislative framework applicable to the management of retirement facilities.

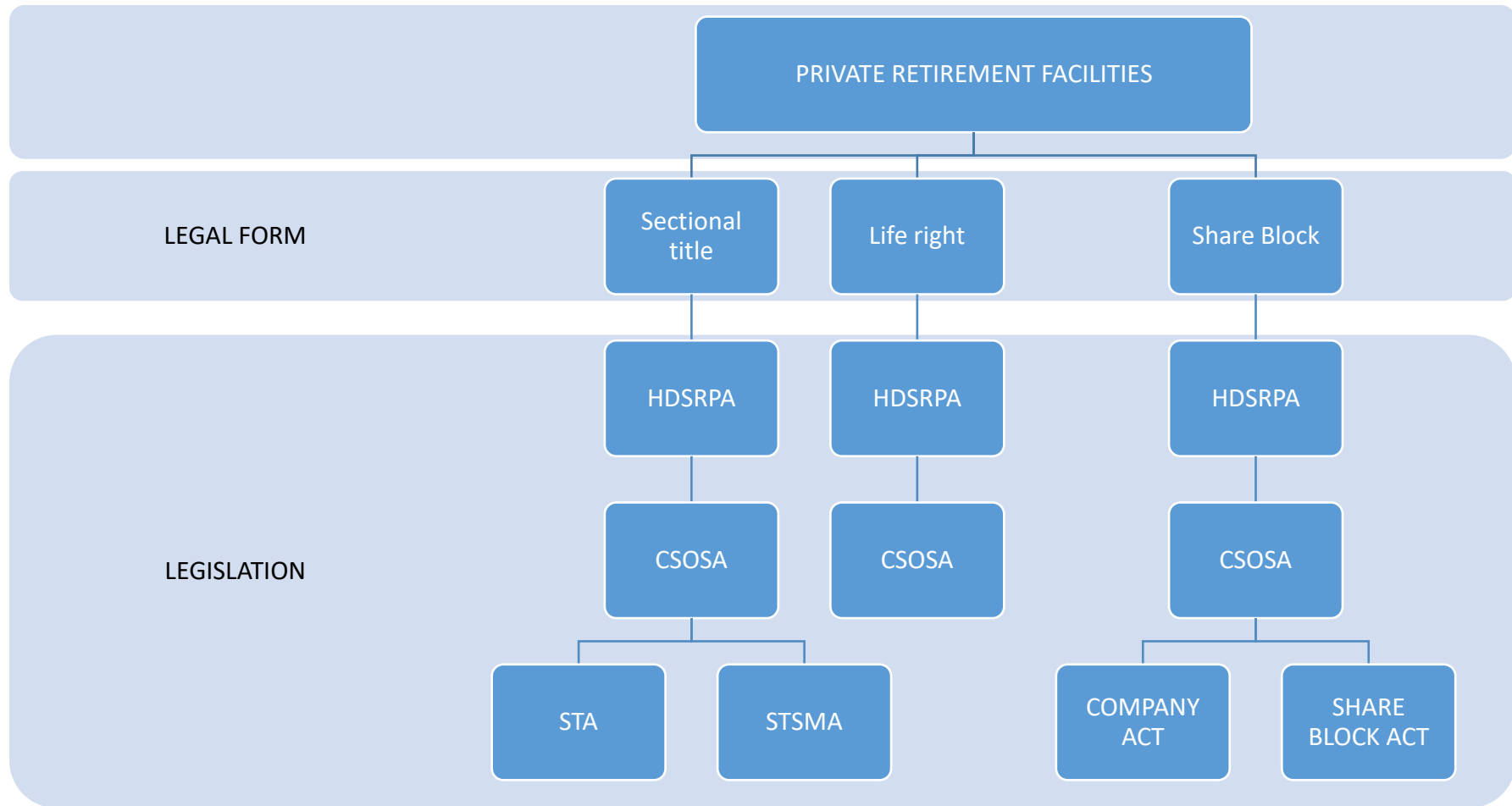


Figure 1.1 Legislative framework of retirement facilities in South Africa

A brief overview of these three forms of property holding in South Africa will be given for background purposes in the following sections; the topic will be dealt with in detail in Chapter 2 of the study.

1.3.1.1 Sectional title

Sectional title schemes have proven to be the most popular legal form for retirement villages in South Africa (Kilbourn, 2008, p. 4; Lubbe, 2013, p. 13). The Sectional Titles Act (STA), Sectional Title Schemes Management Act (STSMA), Community Schemes Ombud Service Act (CSOSA) and the Housing Development Schemes for Retired Persons Act (HDSRPA) applies to sectional title retirement facilities. According to Paddock, a sectional title scheme can be defined as, “A piece of land with a building(s) where individual owners own portions of the building(s) and co-own the common property” (2013: 2). A sectional title scheme can be set up and structured in various ways; for example, a scheme can be a vertical block of apartments or a one level row of townhouses that may be attached or detached (Kelly, 2013, p. 2).

1.3.1.2 Life right

Purchasing and managing a life right in a retirement village is subject to the provisions of the HDSRPA, furthermore to the CSOSA. The definition of “housing interest” in this Act incorporate life right (G. Muller et al., 2019, p. 603). In terms of the HDSRPA, a ‘housing interest’ is defined as follows: “in relation to a housing development scheme any right to claim transfer of the land to which the scheme relates, or to use or occupy that land” (Department of Trade and Industry, 1988, p. 2). Life right is a personal right of occupancy, a lease or even a usufruct, depending on the particular situations (G. Muller et al., 2019, p. 603). In short, life right means that the purchaser provides an interest-free loan to the developer in return for the right of living in the housing unit for the rest of their life (G. Power & Wolmarans, 2017, p. 1).

1.3.1.3 Share block

Share block companies were a common development method for retirement facilities during the 1970s and 1980s. Share block companies are complex to run, and due to a number of legislative changes in the new Companies Act No 71 of 2008, no new share block schemes may be registered (Schaefer, 2014, p. 1). Although many share

block schemes have changed to sectional title, there are still a number of these schemes that are fully operational, the most prevalent being on the KwaZulu Natal south coast (Kelly, 2013, p. 1).

Share block schemes for retirement villages are regulated by the Companies Act of 1973, Share Block Control Act of 1980, the HDSRPA of 1988 along with the CSOSA of 2011 (Department of Human Settlements, 2011a, p. 6; M. King, 2013, p. 9). According to the Share Block Control Act of 1980, a share block scheme, “means any scheme in terms of which a share, in any manner whatsoever, confers a right to or an interest in the use of immovable property” (1980: 3). In a share block scheme, the purchaser owns shares in the company that owns the building, and the shareholders of the shares will have the right of occupation to specific portions of the building (Goslett, 2017, p. 1; Hill, 2018, p. 3). A sale agreement is a requirement to validate the sale of a share block unit, and transfer duties on the purchase price are payable to the Receiver of Revenue, but a share block transfer is not registered in the Deeds Registry (Hill, 2018, p. 4). The costs involved in purchasing a share block scheme are normally minimised due to the fact that shares are purchased in a company and not sections of the building (Hill, 2018, p. 4).

Potential disadvantages of buying into a share block scheme is that the purchaser does not acquire a title of the share block; and because of insufficient security, financial institutions normally do not provide financing for such purchases (Goslett, 2017, p. 1; M. King, 2013, p. 9). With insolvency of the share block company, the immovable property may be sold and this would leave the shareholders as coexisting creditors, meaning the shareholders would be last in line for their share of the assets to be distributed (M. King, 2013, p. 9). Another possible disadvantage is that a set of management rules exist, the same as with a sectional title scheme that control the way in which a tenant occupies a unit (M. King, 2013, p. 9). The leading advantage of purchasing into a share block scheme is that the shareholders will never be liable for the debt of the share block company (Hill, 2018, p. 4).

A share block scheme can be converted into a sectional title scheme; if this occurs, the purchasers become property owners rather than share owners. Such conversion is a fairly common occurrence due to recent legislative changes, specifically in the South African Companies Act (Goslett, 2017, p. 1; Hill, 2018, p. 4). A share block

company normally does not have consistent income to manage the property; therefore, the directors established a levy fund to which the shareholders contribute for maintaining the property (Hill, 2018, p. 4).

1.3.2 Management structures

In terms of Section 11 of the HDSRP Act, Regulation 6 stipulates clearly that a managing agent need to be appointed for a retirement scheme, in terms of a management agreement (Minister of Economic Affairs and Technology, 1990, p. 5). The term 'managing agent' according to the regulations: "means the person appointed by a developer, or in the case of a development scheme by the body corporate as defined in the Sectional Titles Act, or in the case of a share block scheme by a share block company as defined in the Share Block Control Act, or a management association, as the case may be, to manage a housing development scheme in terms of a management agreement". Such agreement shall specify the management fee and the manner in which the managing agent shall manage the housing development scheme (Minister of Economic Affairs and Technology, 1990, pp. 2–5).

1.3.2.1 Sectional title

In a sectional title scheme, the section owners are automatically members of the body corporate - which is the governing body who need to comply with the general rules and regulation of the STA (Hill, 2018, p. 3; Kelly, 2013, p. 2). The body corporate is the legal entity with administrative, accounting and secretarial duties. These duties are delegated to and performed by the board of trustees who are appointed at the general meeting by the body corporate as the representatives of the scheme (Durham, 2016a). The developer of a sectional title development bears no obligation for the maintenance and cost management aspects once the development has been built; the responsibility falls upon the residents to do so (Hill, 2018, p. 4).

1.3.2.2 Life right

In a life right scheme, the life right holders are automatically part of the management association by power of their involvement in the scheme (M. King, 2013, p. 8). The duties and powers of the managing associations are described by the regulations of the HDSRPA. Some duties described by the regulations under the Act include to

control, manage and administer the common property for the benefit of the members (M. King, 2013, p. 8). The management associations make and enforce rules of conduct and have the power to appoint a management committee that, subject to the rules of the association, can “exercise all the powers and perform all the functions conferred upon it by the management association” (Department of Trade and Industry, 1989). Management also has the power to assign any of its rights and duties under the Act to a managing agent (Department of Trade and Industry, 1989). Arthur Case (Case, 2017), general manager of Evergreen Lifestyles, says, “A life right village and all its facilities remain the responsibility of the developer. This is a fundamental difference between life rights on the one hand and sectional title on the other” (M. King, 2013, p. 9).

1.3.2.3 Share block

In a share block company, the directors and management are responsible for the managing of the company; taking all the decisions without needing to consult with the shareholders (Kelly, 2013, p. 1), although the shareholders do have the opportunity to play a role in the management of the scheme through a general meeting of shareholders (M. King, 2013, p. 9). As required by regulation 6 of section 11 of the HDSRPA, a share block scheme needs to formally appoint a managing agent under an agreement or arrangement (Minister of Economic Affairs and Technology, 1990, p. 2). Information about this third party needs to be stated in the contract with the acquisition of a share (Department of Trade and Industry, 1980, p. 27).

A share block company does not have regular income to maintain the property, therefore the directors have to create a levy fund for the shareholders to contribute monthly in order to meet the running expenses of the scheme (Hill, 2018, p. 4). According to the Share Block Act, the monthly contributions will be deposited in a separate account which the company shall open with a bank or building society. The account can be entrusted to a practitioner or estate agent to manage (Department of Trade and Industry, 1980, p. 13). With a share block scheme, a set of management rules must exist, similar to the rules in a sectional title scheme, which control the way in which an owner or tenant occupies a unit (M. King, 2013, p. 9).

Retirement facilities with share block ownership fall outside the scope of this study, because in the Mangaung area no retirement facilities are operating with share block ownership.

1.4 Financial reporting in South Africa – background and overview

The accounting profession in South Africa underwent many changes since its foundation in 1894 (Steenkamp, 2017b, p. 201). The profession today is highly regulated (Visser, 2013, p. 1) and there are many accounting societies and institutes in South Africa. The most prominent institutes in South African are the South African Institute of Professional Accountants (SAIPA) and the South African Institute of Chartered Accountants (SAICA) (Content, 2014, p. 1). Examples of international accounting institutes and societies that are also recognised by the profession in South Africa are the Chartered Institute of Management Accountants (CIMA), Association of Chartered Certified Accountants (ACCA) and the Association of Accounting Technicians (AAT), to name but a few (Ngenda, 2018, pp. 2–3).

The Accounting Practices Board (APB), the former standard-setting body in South Africa, was established in 1973. This board issued South African generally accepted accounting practice also known as SA GAAP (SAICA, 2018). In March 2012, a number of decisions were made by the Financial Reporting Standards Council (FRSC), which was formed in 2011 as the legally constituted standard-setter for South Africa (SAICA, 2018). Firstly, to withdraw SA GAAP, which would cease to apply in respect of financial years commencing on or after 1 December 2012 and the commencement of the process to voluntary winding up the Accounting Practices Board (IASB, 2018, p. 1; Lubbe, 2013, p. 24). As a result of these decisions, all entities have to convert to International Financial Reporting Standards (IFRS) or International Financial Reporting Standards for Small and Medium Size Entities (IFRS for SME's) (IASB, 2018, p. 1). These accounting standards will be discussed further in detail in section 2.6.

Some retirement facilities may be considered as micro, small and medium-sized entities, if in line with the definition of these types of entities as further discussed in

section 2.4, but the assumption cannot be made that all retirement facilities will be considered as micro, small and medium-size entities. A detailed discussion of financial reporting aspects on retirement facilities will be done in Chapter 2 of this study.

1.5 Corporate governance

Corporate governance is the system or process whereby entities are directed and controlled (Jackson & Stent, 2016, p. 3/4). Good corporate governance is valuable to all types of enterprises, small, medium and large (Deloitte, 2016, p. 7). The King IV Report on Corporate Governance for South Africa 2016 (King IV) was published by The King Committee on 1 November 2016, replacing the King III Report in its totality, and is applicable on financial years commencing on or after 1 April 2017 (Deloitte, 2016). The King Committee drafted the King IV Report in such a manner that this report can be applicable to **all organisations**, public and private, small and large, for-profit and non-profit. The report has been drafted with this in mind by using words like organisations and governing bodies instead of companies and board of directors (Dartnall, 2016, p. 1; IoDSA, 2016, p. 6). Additional sector supplements for municipalities, non-profit organisations, retirement funds, state-owned entities and small and medium enterprises have been introduced in the King IV Code that forms part of the King IV Report (PwC, 2016, p. 2).

King IV explains that the responsibility of a governing body is to steer and set strategies, approve policies, oversee activities and report in such a manner that the good governance outcomes of ethical culture, good performance, effective control and legitimacy with stakeholders are achieved (KPMG, 2016, pp. 7–8). The King IV Code sets out 17 principles that are fundamental to good corporate governance and are escorted by a set of suggested practices to achieve the governance outcomes (Harduth, 2016, p. 1; PwC, 2016, p. 4).

1.5.1 Recent governance scandals

As indicated by the above literature, the specific management structure in a retirement village depends on the form of property holding. However, there are a number of similarities regarding the duties and functions of the governing bodies. Even though legislation has attempted to put proper regulations in place for the management of

community schemes, a number of large fraud scandals has hit the retirement facility industry at large, and more specifically the sectional title industry in South Africa, in the past few years. These scandals include those of the Theodosiou brothers, Sharemax Investments, Wendy Machanik Properties, Constantia Sectional Title Management, Sectional Title Administrators, Spitskop Village properties, Auction Alliance as well as Deston Property Management (Steenkamp, 2017b). Irregularities at the Estate Agency Affairs Board, state capture, and within retirement villages cases of fraud incurred (for example theft of large amounts of money) have been reported (Die Vryburger, 2015; Maroela Media, 2017; Salomon, 2012; Steenkamp, 2017b; Wessels, 2011).

1.5.2 Applicability of the principles of corporate governance

As mentioned earlier, the principles of corporate governance excellence continue to be important in all types of organisations. Private retirement facilities are no exception. Retirement facilities together with their governing bodies should apply the principles of good governance as contained in the King IV Code, and need to consider the best practice recommendations in the King IV Code (Werksmans Attorneys, 2016, p. 7). However, this is not easily implemented, due to a number of factors. Governance problems already start with developers who, apart from construction shortcomings, fail to put in place workable frameworks for proper management (O' Keeffe, 2016). Further, many members of governing bodies are not equipped with the necessary skills and knowledge to deal with the complexity of property schemes and management systems (O' Keeffe, 2016). In addition, the governing body should take responsibility for ensuring that the retirement village remains a going concern, because they are responsible for the collection and managing of levy funds. With the risk of serious cash-flow problems and financial constraints in the current difficult economic situation, they should display leadership in terms of good corporate governance for managing these risks, which is often a daunting task (Lubbe, 2013, p. 20). The fact that spending of levy funds, which is in fact "trust money", is handled and dealt with on a day-to-day basis emphasises the importance of applying the principles of good governance. Good corporate governance is therefore critical to retirement facilities, since it provides structure and control to entities, which leads to

accountability and responsibility of the various role players within the entities (Van Der Westhuizen, 2018).

The CSOSA and Regulations of this Act are effective from 7 October 2016. The main functions of this Ombud Service is to develop and provide dispute resolution services to community schemes that include retirement villages (COMPEG, 2018, pp. 1–2). In addition, to regulate, monitor and control the quality of scheme governance documentation, and to promote good governance of community schemes (COMPEG, 2018, pp. 1–2). Unfortunately, the Ombud is currently under scrutiny for its involvement in the VBS scandal, whereby an amount of R80 million was invested with VBS Bank failure to deliver applicable information to the board concerning to the investment (Opperman, 2019). Therefore, even though the Ombud is tasked with overseeing governance in community schemes, the entity itself does not seem to be immune to its own governance challenges.

1.6 Problem statement and objective of this study

From the above, it follows that private retirement villages play an important role in addressing the elderly housing problem in South Africa. People electing to move into retirement facilities at a younger age, government not meeting their responsibilities to provide housing for the elderly, and the rapidly ageing population in South Africa create an even greater demand for retirement facilities.

There are various risks involved in governing a private retirement facility, and the risks are often being aggravated by a lack of specific governance guidance, owner apathy and ignorance with regard to facility management. Furthermore, various incidents of fraud occurred in the industry in recent years. Even though the private retirement facility industry in South Africa is highly legislated, there are a large number of outdated, contradictory and confusing legal aspects in the current retirement facility legislation. Auditing practitioners also face various practical challenges when performing accounting and assurance services for retirement facilities, to such an extent that many practitioners choose not to take on such engagements anymore.

The nature of retirement facilities and the cost constraints they face also raises questions on how to perform proper assurance engagements in the most cost-effective

way. Even though these challenges and uncertainties have been in existence for many years, very little research has so far been done on the South African retirement facility industry from a governance and auditing perspective. Good corporate governance is crucial if an organisation is to achieve prosperity for itself and the broader society. Implementing sound governance practices have the potential to minimise challenges experienced and can effectively mitigate stakeholder risk.

1.6.1 Main and subsidiary objectives

Against the background information, the main objective of the study is to give an overview of selected sectional title and life right retirement facilities in the Mangaung district, specifically from a risk, governance and control perspective.

More specifically, the subsidiary objectives are:

- (RO1) To explore and comment on the current legislative frameworks relating to the management, governance and control of two types of private retirement facilities.
- (RO2) To identify and gain an in-depth understanding of corporate governance principles, as contained in King IV, applicable to the governing of types of private retirement facilities.
- (RO3) To identify and describe risks associated with governing two types of private retirement villages.
- (RO4) To identify challenges and problems experienced by South African auditors in performing statutory assurance engagements on two types of retirement facilities.
- (RO5) To describe accounting- and bookkeeping-specific problems relating to two types of private retirement facilities.
- (RO6) To identify and describe problems faced by those in charge of governance, specifically relating to the day-to-day management of the two types of private retirement facilities.
- (RO7) To develop recommendations for various role players in the private retirement facility industry on how to address governance challenges and problems in the industry.

1.6.2 Research questions

- (RQ1) What are the current legislative frameworks in place relating to the management, governance and control of two types of private retirement facilities?
- (RQ2) Which corporate governance principles according to King IV are applicable to the governing of two types of private retirement facilities?
- (RQ3) What are the risks associated with the two types of retirement facilities?
- (RQ4) What are the current auditing and assurance-related problems experienced by South African auditors performing statutory engagements for the two types of retirement facilities?
- (RQ5) What are the current accounting and bookkeeping challenges relating to the two types of retirement facilities?
- (RQ6) What problems do those in charge of governance experience relating to the day-to-day management of the two types of private retirement facilities?
- (RQ7) What are the possible solutions to the current governance problems and challenges in the retirement facility industry?

1.7 Contents of the study

The content of the study consists of the following:

Chapter 1 – In the first chapter, the background to the housing problem and the retirement facilities industry in South Africa was presented briefly. The chapter then briefly discusses legal forms, management and governance of retirement facilities in South Africa. The chapter concluded with the problem statement, research objectives and research questions.

Chapter 2 – The second chapter deals with the legal aspects surrounding the private retirement facility industry in South Africa, with specific consideration given to legal aspects relating to management. The auditing and assurance aspects are examined as well as the accounting and reporting features of private retirement facilities.

Chapter 3 – In the third chapter, corporate governance principles according to King IV are discussed, and the applicability of these principles to private retirement facilities.

Chapter 4 – In the fourth chapter, the research design and method will be undertaken. The chapter also explains the population of the study and the sampling methods used. This chapter will give an overview of the qualitative empirical study.

Chapter 5 – In the fifth chapter, a qualitative empirical study of selected private retirement facilities in Mangaung is set out. The study is based on interviews held with stakeholders in the retirement facility industry. The chapter is divided into four parts.

Part 1: **Legislation matters** within interviews held with management, management agents, accountants and auditors of private retirement facilities.

Part 2: **Management matters** within interviews held with management, managing agents, accountants and auditors of private retirement facilities.

Part 3: **Accounting and auditing matters** within interviews held with management, managing agents, accountants and auditors of private retirement facilities.

Part 4: **Corporate governance matters** within the interviews held with management, managing agents, accountants and auditors of private retirement facilities.

Chapter 6 – Chapter six indicates the conclusions of the study and suggests possible solutions for auditing, governance and accounting problems identified during the empirical study. It also presents possibilities for future research.

1.8 Summary

This chapter commenced with an overview of some challenges faced by South Africa to provide for the housing needs of the elderly in the country. It was illustrated that private retirement facilities that consist of sectional title and life right schemes plays a significant role - particularly in providing housing to the elderly, and that there are clear indicators that it will play an increasingly important role in future. There are various

challenges facing private retirement schemes, specifically from a governance, management, accounting and auditing perspective. In the next chapter, legal aspects surrounding private retirement facilities in the form of sectional title and life right in South Africa will be discussed and specific consideration will be given to legal aspects relating to management, corporate governance, accounting and auditing matters of sectional title and life right schemes.

Chapter 2

LEGISLATIVE FRAMEWORK RELATING TO MANAGEMENT, ACCOUNTING, AND AUDITING MATTERS OF PRIVATE RETIREMENT FACILITIES

2.1 Introduction

This chapter provides, amongst others, a theoretical groundwork for the study and specifically for the empirical study in Chapter 5. This chapter deals with legal aspects regarding management, accounting and auditing aspects relating to sectional title and life right as a form of property holding in private retirement facilities.

The chapter aims to answer the following research question:

(RQ1) What are the current legislative frameworks in place relating to the management, governance and control of two types of private retirement facilities?

Regarding legislation as mentioned in section 1.3.1, the Housing Development Schemes for Retired Persons Act 65 of 1988 (HDSRPA) was designed to safeguard the interests of retirees. As mentioned in Chapter 1, the Act covers three forms of property holding, namely, sectional title, life rights and share block schemes, or a combination of these that are used in most accommodation schemes for retirees (Department of Trade and Industry, 1988; M. King, 2013, p. 3; Pienaar, 2010, p. 465). According to the HDSRPA, a “development scheme” means a development scheme as defined in section 1(1) of the Sectional Title Act, whereas “housing development scheme” means any scheme, arrangement or undertaking in terms of which housing interests are isolated for occupation as considered in section 7 (Department of Trade and Industry, 1988). An overview of the two most prominent forms of property holding in private retirement facilities; namely, sectional title and life right will be presented in the next two sections.

2.1.1 Sectional Title Schemes – a brief overview

The link between sectional titles and retirement villages is if the developer decided to sectionalise the retirement village under development and register it as a sectional title scheme. This means that the Sectional Titles Act (STA), Sectional Title Schemes Management Act (STSMA) and Community Schemes Ombud Service Act (CSOSA) apply as mentioned in section 1.3.1. The developer of the scheme applies for the opening of the register for the scheme and can specify that the prescribed rules according to the STSMA apply or can change certain of the management and all the conduct rules (Kelly, 2014b). The fact that the scheme is strictly a retirement village is reflected as such in the rules of the complex (Paddocks, 2017a).

Furthermore, the HDSRPA specifically applies to retirement schemes developed in terms of the sectional title legislation. According to the HDSRPA, a retired person means a person who is 50 years of age or older (Department of Trade and Industry, 1988). The sale of sections to retired people falls under the HDSRPA, the scope of use focus largely on the formalities regarding the agreement of sale between the developer and purchaser (Kilbourn, 2008, p. 4; M. King, 2013, p. 3). The following provisions and regulations of the HDSRPA, namely contract formalities, contents of contracts, a purchaser's remedies for non-compliance, requirements regarding advertisements and a purchaser's right to documentation are also applicable to retirement schemes based on sectional titles (Pienaar, 2010, p. 474). In terms of management and administration of retirement schemes the STA, STSMA and CSOSA will be applicable, and therefore regulations 7 – 14 of the regulations to the HDSRPA do not apply to avoid duplicating governance structures (Coertse, 2013, p. 4; Kilbourn, 2008, p. 4; Pienaar, 2010, p. 482). Regulation 6 of the HDSRP Act provides for the appointment of a managing agent and this is applicable to all retirement schemes, including retirement schemes based on sectional titles (Pienaar, 2010, p. 482). A sectional owner may use the unit in agreement with the rules of the scheme and the provisions of section 7(1) of the HDSRPA, which limits the occupation of the unit to a retired person and his or her spouse (Pienaar, 2010, p. 467). A unit may be sold, exchanged, donated or bequeathed to a person who is not a retired person, unless the rules of the scheme provide otherwise, but the unit must be occupied by a retired person (Pienaar, 2010, p. 467).

The purchase of a sectional title unit is concluded through the Deeds Office by a conveyancer; costs such as transfer duty and the conveyancing attorney fees will be applicable (Goslett, 2017, p. 1). Possible benefits of buying sectional title property include that it is often more affordable compared to buying into freehold property, with a lower cost of living because the cost of upholding the common property is shared by all owners (Bartlett, 2012). Also, housing units in sectional title developments are supposed to be more secure; safety becomes increasingly important in a country like South Africa with a high crime rate (Bartlett, 2012, pp. 1–2; Lubbe, 2013, pp. 13–14). Other advantages of sectional title living are having a larger sense of communal living with a closer social life (Bartlett, 2012, pp. 1–2; Lubbe, 2013, pp. 13–14).

Certain perceived disadvantages of sectional title retirement villages are that the retirees need to obey management rules (Bartlett, 2012, pp. 1–2); comply with the rules as determined by the body corporate; owners of these units do not have the independence to renovate and improve their units without the approval of the body corporate (Bartlett, 2012, pp. 1–2). Owners are furthermore equally and individually liable for the debt of the body corporate (Bartlett, 2012, pp. 1–2). The owner is responsible for payment of levies as determined by the body corporate of the retirement scheme. This can be a significant monthly payment due to supplementary services such as frail care, medical care and security serviced related with retirement accommodation (Pienaar, 2010, p. 467).

2.1.2 Life Right Schemes – a brief overview

Where a developer of a retirement scheme decides not to sell the housing units themselves but the housing interest of those units, a legal structure that underlines this housing scheme option is called life right (Kilbourn, 2008, pp. 4–5). Housing schemes based on the life right concept are regulated by regulation 7-14 of the regulations to the HDSRPA (Kilbourn, 2008, p. 5). The right to occupancy of the housing interest is based on an agreement complying with the HDSRPA between the beneficiary and the grantor, normally the owner or management of the accommodation (Pienaar, 2010, p. 468; Torr, 2020). A developer who constructs a life right retirement scheme needs to make an endorsement against the title deeds of the scheme or the units to which the HDSRPA applied (Constas, 2011, p. 1). An architect's certificate

needs to be obtained stating that the building is fit for this purpose (Coertse, 2013, p. 36; Conostas, 2011, p. 1).

Signing a written agreement, a beneficiary aged 50 years or older commits to pay a fixed or determinable sum of money (interest - free loan) to the developer/grantor in one amount; or alternatively, a payment arrangement can be made (Pienaar, 2010, p. 469). In return, the developer/grantor will make a unit available to the beneficiary to occupy for the duration of his/her life and for the duration of the life of the surviving spouse, or until they leave the village (Conostas, 2011; G. Power & Wolmarans, 2017; N. Prinsloo, 2017). When the life right terminates, the agreement will make provision for a refund to the beneficiary; terms differ from development to development. (Conostas, 2011; G. Power & Wolmarans, 2017; Torr, 2020). Some schemes enclose a refund of your original investment plus a percentage of the profits on resale, while others offer for the repayment of a percentage of the purchase price (Torr, 2020). The scheme may reserve a percentage of the original purchase price or the new sale price, whichever is the greatest, plus a reasonable amount for fixing up the interior of the unit will also be deducted from the payment to the purchaser (Conostas, 2011; G. Power & Wolmarans, 2017). The beneficiary usually makes an interest-free loan to the grantor at the termination of the agreement until a new beneficiary has been obtained (Pienaar, 2010, p. 469). Termination of the occupancy right is normally on the death of the beneficiary; the spouse of the deceased is usually entitled to the occupancy right and it is not transferable to the heirs of the beneficiary (Pienaar, 2010, p. 469).

Potential advantages for a beneficiary to consider a life right proposition includes that it generally costs less to buy a life right in a unit than full ownership thereof. No transfer cost are involved, and Value Added Tax (VAT) payments or Capital Gains Tax (CGT) are not applicable (Coertse, 2013; G. Power & Wolmarans, 2017). Another major advantage is that there will be no hidden costs, for the developer needs to provide a clear budget levy for the next two or three years so that the beneficiary can plan accordingly (Coertse, 2013; G. Power & Wolmarans, 2017; Torr, 2020). An advantage to the developer of a life right scheme is the preservation of the original capital asset. A potential disadvantage of a life right scheme is that the beneficiary may forfeit the capital growth that they would generally enjoy in the case of a freehold or title scheme (G. Power & Wolmarans, 2017).

Specific consideration will be given in this chapter to the Act, Regulations, Sections and Rules applicable to the responsibilities and functions of different role players in life right and sectional title private retirement schemes. These are the body corporate, trustees, management agents, accounting and auditing practitioners.

2.2 Management of Sectional Title Schemes

2.2.1 Introduction

The sectional titles legislation contains, firstly, the new Sectional Titles Schemes Management Act No. 8 of 2011 (abbreviated as STSMA) which was gazetted and signed by the President in June 2011, covering all governance and management requirements regarding sectional titles. Secondly, technical registrations and survey provision are confined in the rest of the Sectional Titles Act No. 95 of 1986 (abbreviated as STA), as amended by the Sectional Titles Amendment Act No. 33 of 2013. Thirdly, the Community Schemes Ombud Service Act No. 9 of 2011 (abbreviated as CSOSA) provides a dispute resolution mechanism for sectional title and other community schemes.

A detailed analysis of all sectional titles legislative provisions falls outside the scope of this study, as the purpose is not to undertake a legal study.

2.2.2 The body corporate

As prescribed by the Acts (STA, STSMA and CSOSA) and mentioned by Pienaar (2010, p. 150) the functions of the body corporate are not voluntary but compulsory, as indicated by the wording “must perform”. Van der Merwe (2014, pp. 14–15) writes that the effective management of a sectional title scheme is extremely important, specifically to unit owners and the financial institutions with interest in the scheme.

Section 36 of the STA states that as soon as a unit is registered in the name of any person other than the developer, the body corporate is formed (Paddocks, 2017b, p. 36). The body corporate is made up of the developer, individual owners and any person who becomes an owner of a unit (Department of Human Settlements, 2016b). The body corporate is responsible for the application of the rules as well as the control,

administration and management of the common property for the advantage of all owners (Department of Human Settlements, 2016b; Hill, 2018, p. 3). The body corporate has perpetual succession and carries on to exist regardless of the fact that buying and selling of units and changes in ownership take place in the retirement scheme (Department of Human Settlements, 2011c; Lubbe, 2013, p. 41). It is a separate legal entity and is capable of suing and of being sued in its corporate name (Department of Human Settlements, 2011c; Steenkamp, 2017b). The provisions of the Companies Act 71 of 2008 does not apply to the body corporate (Department of Human Settlements, 2011c; Steenkamp, 2017b).

2.2.2.1 Functions and powers of body corporate

The most imperative functions of the body corporate are set out in section 2 and 3 of the STSMA, with supplementary prescribed management rules (abbreviated as PMR) as well as conduct rules confined in Annexures 1 and 2 of the STSMA Regulations. The main functions of the body corporate consist of establishment of funds (see section 2.2.6), levying contributions (see section 2.2.7), operating of accounts, maintaining the common property, obtaining insurance, keeping books of account, preparing annual financial statements (AFS) (see section 2.7) and ensuring the auditing of financial statements (see section 2.11) (Durham, 2016a; Steenkamp, 2017b).

Section 4 and 5 of the STSMA provided the powers and additional powers that the body corporate may exercise under this Act. Some powers include the appointment of agents and employees; to maintaining common property, borrowing money to perform functions; investing moneys and doing all things reasonably necessary for the enforcement of the rules, management and administration of the common property (Department of Human Settlements, 2011a). The body corporate is a juristic body without intelligence or a voice, and therefore has to execute these powers and functions through its principle organs, namely the members in the general meeting and the board of trustees (Durham, 2016a; Steenkamp, 2017b).

2.2.3 Trustees

The trustees form the supervisory and management structure of the body corporate. Section 7(1) of the STSMA prescribes the functions and powers of the body corporate, subject to the provisions of this Act. The rules and any restrictions imposed or direction given at a general meeting of the owners of sections are performed and exercised by the trustees of the body corporate holding office in terms of the rules (Department of Human Settlements, 2016b). Requirements, nomination, election, replacement, payment, general powers and duties as well as meetings of trustees are provided in section 7 and 8 of the STSMA and rules 5 to 12 in Annexure 1 of the STSMA Regulations. The applicable matters relating to trustees that fall within the scope of this study will be discussed below.

2.2.3.1 Legal status of trustees

Section 8(1) of the STSMA indicates that each trustee of a body corporate must stand in a fiduciary relationship to the body corporate (Department of Human Settlements, 2011c). This means that trustees must act honestly and in good faith, and must only act in the interests and for the benefit of the body corporate, whether the trustees are dealing with the body corporate directly, or bond the body corporate in agreements with third parties (Department of Human Settlements, 2011c; Durham, 2016a). There must not be any conflicts of material interest, and they cannot receive any personal economic benefit from the body corporate or from any other person (Department of Human Settlements, 2011c; Durham, 2016a, p. 19). Trustees are not in a contractual relationship, but rather in a relationship of trust with the body corporate, according to Durham (2016b, p. 84).

PMR 6(3) of Annexure 1 of the Regulations to the STSMA, provides that a trustee must not be present at, or take part in, the deliberation or decision of a matter in which the trustee has any direct or indirect personal interest (Department of Human Settlements, 2016b; Z. van der Merwe, 2017b). Trustees are liable according to section 8(3) of the STSMA to the body corporate for any loss suffered or any economic benefit received by the trustee in breach of his or her fiduciary relationship. Subsection (2)(a)(i) of section 8(4) stipulates that conduct of a trustee does not constitute a breach of a duty arising if such conduct was preceded or followed by the written approval of

all the members of the body corporate where such members were cognisant of all the material facts (Department of Human Settlements, 2011c; Steenkamp, 2017b). PMR 8(4) added that the body corporate must reimburse the trustee for all costs, losses, expenses and claims incurred in the performance of their functions, excluding cases of corruption or carelessness (Department of Human Settlements, 2016b; Durham, 2016a, p. 19).

Lubbe (2013, p. 19) mentioned that members are reluctant to be appointed as trustees and become involved in the leadership and management of schemes. According to Andre Schaefer, MD of national property management company Trafalgar, schemes are struggling to find enough people willing to act as trustees, which is a voluntary, after-hours and unpaid position, it has become an increasingly complicated, time-consuming and often thankless job (Press, 2017). Maree (2018a) has indicated that managing a scheme is a professional function, which require specialised knowledge and that legislation is supposed to make it easier for trustees - but that the opposite sometimes occur.

2.2.3.2 Nomination, election, replacement, chairperson and disqualification

All the members of the body corporate are trustees from establishing the body corporate until the end of the first general meeting, as indicated by PMR 5(1) of the STSMA Regulations. The first general meeting must be held 60 days after establishment of the body corporate (Department of Human Settlements, 2016b; Durham, 2016a, p. 36). The developer or his nominee must act as chairperson of the trustees from the date of establishing the body corporate. Thereafter, at the first AGM, he/she has to retire as trustee and chairperson, but is still entitled for re-election to these posts (PMR 12(2)) (Department of Human Settlements, 2016b; Durham, 2016a; Steenkamp, 2017b). If a body corporate has more than four members, PMR 5(3) recommends that the body corporate members determine from time to time the number of trustees to be elected at the AGM (Department of Human Settlements, 2016b). This rule itself does not require a body corporate to have at least two trustees, however PMR 10(1) concludes it (Department of Human Settlements, 2016b; Steenkamp, 2017b).

Durham (2016: 36) points out that a significant shortcoming of the South African legislation is that it does not require the trustees to hold certain abilities or qualifications to be elected to the office of trustee. According to PMR 7(1) and 7(2), any person may be nominated for office of trustee. This nomination must be in writing by a member and delivered at least 48 hours before the annual general meeting (AGM) to the body corporate service address (Department of Human Settlements, 2016b; Steenkamp, 2017b). PMR 7(4) stipulates that trustees must be elected at the first general meeting of the body corporate and at each subsequent AGM. PMR 7(6) indicates that trustees will hold office until the end of the next AGM, and may be re-elected if properly nominated (Department of Human Settlements, 2016b; Steenkamp, 2017b). At the start of the first meeting of trustees, after the AGM at which the trustees have been elected, the trustees must elect a chairperson from among their number who must hold office as such until the end of the next annual general meeting (PMR 12(3) and (4)) (Department of Human Settlements, 2016b; Steenkamp, 2017b).

PMR 6(1) and (2) of the STSMA Regulations, state that a trustee need not be a member of the body corporate; although, if a person is also acting as the managing agent of the body corporate, he may only be a trustee if he is a member of the body corporate (Department of Human Settlements, 2016b). Rule 6(4) further stipulates a number of measures and situations that result in a trustee ceasing to hold office. This includes, amongst others, being declared by a court to be of unsound mind; being convicted of theft or fraud involving dishonesty; is sentenced to imprisonment; or becomes disqualified to hold office as a director of a company in terms of the Companies Act No. 71 of 2008 (Department of Human Settlements, 2016b; Steenkamp, 2017b).

2.2.3.3 Trustee meetings

PMR 11 of the STSMA Regulations governs the calling of and attendance at trustee meetings. According to PMR 11(1), trustees may at any time call a meeting with at least seven days' written notice of the time, place and agenda for the meeting (Department of Human Settlements, 2016b). Other stakeholders such as members, registered bondholders (owners) and managing agents, may attend trustee meetings and speak on any matter on the agenda, but these stakeholders are not allowed to

vote (Department of Human Settlements, 2016b; Steenkamp, 2017b). PMR 11(2) states that the trustees may by written resolution set the dates as well as a standard agenda for their future meetings (Department of Human Settlements, 2016b). If dates for trustee meetings are set for the year in advance, then trustees will be better able to plan for these which should improve attendance and participation (Trafalgar Property, 2016). Meetings can be attended telephonically or by other means, provided that the participants are identifiable and a person is considered present in person at the meeting (Department of Human Settlements, 2016b; Trafalgar Property, 2016).

According to PMR 13(1), fifty per cent of the trustees by number, but no less than two, form a quorum. PMR 13(3) stipulates that if a quorum is not present within 30 minutes of the appointed time for the meeting, the trustees present, not less than two, must adopt an interim resolution (Department of Human Settlements, 2016b). The interim resolution only takes effect if confirmed at the next trustee meeting at which a quorum is present or by written resolution signed by all the trustees (Department of Human Settlements, 2016b). At the first meeting of trustees after the annual general meeting at which the trustees have been elected, the trustees must by majority vote elect a chairperson from among them (PMR 12(3)) (Department of Human Settlements, 2016b).

2.2.3.4 Remuneration and reimbursements

PMR 8(1) of the STSMA Regulations indicates that the body corporate must reimburse trustees for all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers (Department of Human Settlements, 2016b; Steenkamp, 2017b). Remuneration is guided by rules 8(2) and 8(3). It stipulates that, unless so determined by special resolution, trustees who are members are not entitled to any reward, whether monetary or otherwise, for their services as such, meaning that trustees who are members of the body corporate can only be remunerated if the remuneration is authorised by a special resolution of owners (De Klerk, 2018; Department of Human Settlements, 2016b; Steenkamp, 2017b). Trustees who are not members may be rewarded for their services as such, whether monetary or otherwise, and this remuneration must be approved by a resolution of the body corporate as part of the budget for the scheme's administrative fund (Department of Human Settlements, 2016b; Steenkamp, 2017b).

2.2.3.5 Functions, powers and duties

As mentioned in section 7(1) of the STSMA, the functions and powers of the body corporate must be performed and exercised by the trustees of the body corporate (Steenkamp, 2017b). According to Maree, wherever the Act or Rules stipulate the power and functions of the body corporate, it indicate the functions that should be performed by the trustees, except where the Act or Rules clearly specify that members' decisions are required (T. Maree, 2015a). No individual trustees have any decision-making powers; any functions allocated to the trustees need to be executed by the board of trustees (T. Maree, 2017c). PMR 10(1)(b) mentions that no document signed on behalf of the body corporate is valid and binding unless it is signed on the authority of a trustee resolution by two trustees or one trustee and the managing agent (Department of Human Settlements, 2016b). According to PMR 21(3)(g), the board of trustees, on the authority of a written trustee resolution, may delegate specific powers and duties to an individual trustee with all conditions related to powers and duties included in writing (Department of Human Settlements, 2016b; T. Maree, 2017c).

PMR 9(a) of the STSMA Regulations indicates that the trustees must meet to carry out the business of the body corporate as they see fit (Department of Human Settlements, 2016b). The STSMA Regulations allow for a number of additional powers, such as:

- exercise and delegation of duties (PMR 9(b));
- applying the funds of the body corporate in accordance with the approved budgets (PMR 9(c)) (see also section 2.7.1.2); and
- appointment of agents and employees (PMR 9(d)) in terms of section 4(a) of the STSMA (Department of Human Settlements, 2016b).

Another very important duty of trustees according to Regulation 14(1) of the CSOSA, is that a scheme executive must take reasonable steps to inform and educate himself about the community scheme (Department of Human Settlements, 2016a), and about the affairs, activities, legislation and governance documentation in terms of which the community scheme operates (Department of Human

Settlements, 2016a). The term “scheme executive”, according to the Ombud Act, includes trustees of sectional title schemes, management of homeowners association as well as retirement schemes (T. Maree, 2017b).

2.2.4 Owners

2.2.4.1 Owners Meetings

PMR 15 to 20 of the STSMA Regulations manage owner meetings. Notice, first general meetings, annual general meetings, special meetings, chairpersons, quorums, voting and representatives will be discussed below by focusing on the most important features.

2.2.4.2 Notice

According to PMR 15(1), at least 14 days’ written notice of a general meeting specifying the place, date and time of the meeting must be given to all members, all registered bondholders and managing agents (Department of Human Settlements, 2016b). A general meeting may be called on 7 days’ notice if the trustees have resolved that short notice is necessary due to urgency, as stipulated in PMR 15(7)(a) (Department of Human Settlements, 2016b). An agenda, a copy of any document that is to be considered or approved and a proxy appointment form must be accompanied by the notice (Department of Human Settlements, 2016b).

2.2.4.3 First general meeting

PMR 16(1) of the STSMA Regulations and section 2(8) of the STSMA indicate that the developer of a sectional title scheme is responsible for calling the first general meeting (see also section 2.2.3.2 and 2.2.3.3) (Department of Human Settlements, 2011c, 2016b). According to PMR 16(2), the agenda of the first general meeting must include matters such as:

- policies of insurance;
- financial statements from the date of establishment;
- an estimate of income and expenditure for the coming year;

- appointing an auditor to audit the evidence provided;
- determining the number as well as electing of trustees (Department of Human Settlements, 2016b; Steenkamp, 2017b); and
- Building plans and other relevant documents as prescribed by PMR 16(4), which should be provided to the members before the first general meeting.

2.2.4.4 Annual and special general meeting

PMR 17(1) and 17(2) of the STSMA Regulations indicate that the body corporate must hold an annual general meeting (AGM) every year within four months after the financial yearend (Department of Human Settlements, 2016b). This holds unless all members in writing waive the right to the meeting before or within one month of the end of a financial year. In the latter case, all members should consent in writing to motions that deal with all the items of business that must be transacted at the annual general meeting (Department of Human Settlements, 2016b). As per PMR 17(3), all general meetings other than the annual general meeting are special general meetings. The trustees may by resolution call a special general meeting whenever they think fit and whenever demanded to do so by the members, if the requirements as per PMR 17(4) are followed (Department of Human Settlements, 2016b).

The order of business at general meetings is governed by PMR 17(6) of the STSMA Regulations. The trustees conclude the agenda for a general meeting (Steenkamp, 2017b). The order of business includes items such as determining that there is a quorum; approving the agenda, receiving reports from trustees; approving schedules of insurance replacement value; approving the admin and reserving budgets; considering the AFS; appointing an auditor; and electing trustees (Department of Human Settlements, 2016b; Steenkamp, 2017b). PMR 17(6)(j)(vii) mentioned that the body corporate determine the number of trustees to be elected to serve during the next financial year (Department of Human Settlements, 2016b). The budgets (see also section 2.7.1.2) need to be approved by the trustees before being presented to owners at the AGM; if not, it will be difficult to get the owners' approval (Trafalgar Property, 2018a). The AFS need to be considered not approved, because the AFS need to be approved by the trustees before the auditor will issue the final set (Trafalgar Property,

2018a). PMR 17(10) makes provision for members to attend an annual general meeting or special general meeting by telephone or other method (Department of Human Settlements, 2016b).

2.2.4.5 Chairperson

The trustee chairperson (see also section 2.2.3.2) is the chairperson at every general meeting, as indicated by PMR 18(1) (Department of Human Settlements, 2016b). If there is no chairperson or the chairperson of the trustees is not present in 15 minutes, or is unwilling or unable to act, the members present must elect a chairperson for the meeting (Department of Human Settlements, 2016b). PMR 18(3) provides a number of obligations of a chairperson at a general meeting, such as maintaining order, giving opportunity for members to speak, making decisions on points of procedure and settling disputes (Department of Human Settlements, 2016b; Steenkamp, 2017b).

2.2.4.6 Quorum, Voting and Representatives

A quorum is the minimum number of members who should be present or represented at a general meeting before the meeting can officially start; PMR 19 deals with this matter (Trafalgar Property, 2018a). According to PMR 19(1), where there are less than four primary sections or less than four members, two-thirds of the value of the votes of members, who are entitled to vote will establish a quorum. For any other schemes, one-third of the value of the votes of members, who are entitled to vote will establish a quorum (Department of Human Settlements, 2016b). PMR 19(4) states that if within 30 minutes from the time appointed for the meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time (Department of Human Settlements, 2016b). If on the day to which the meeting is adjourned a quorum is not present within 30 minutes from the time appointed for the meeting, the members entitled to vote and present in person or by proxy shall form a quorum (Department of Human Settlements, 2016b; Trafalgar Property, 2018a).

Regulation 20 lists the procedures and requirements to confirm the voting practice. According to PMR 20(2) (a) and (b) of the STSMA Regulations,

- a member is not entitled to vote if a member is not up to date with levy payments;

- or refuses to pay the body corporate any amount due by that member after a court;
- or on adjudicator has given a judgment or order for payment of that amount;
- or if a member persists in the breach of any of the conduct rules of the scheme after a court;
- or an adjudicator has ordered that member to refrain from breaching such rule (Department of Human Settlements, 2016b).

This does not apply to special and unanimous resolutions (Department of Human Settlements, 2016b; Steenkamp, 2017b; Trafalgar Property, 2018a). Section 6(6) of the STSMA states that when votes are calculated in value, it will be according to owners' participation quotas (PQ). Each member's vote is calculated as the total PQ of the sections he owns or in accordance with a rule made in terms of section 10(2) of the STSMA (Department of Human Settlements, 2011c). That allows for a value other than the PQ to be used (see also section 2.2.7). Votes can also be calculated in number, meaning that each member has one vote, according to section 6(7) of the STSMA (Department of Human Settlements, 2011c).

An owner who cannot attend a meeting can appoint someone as their proxy to attend the meeting and vote on their behalf (Department of Human Settlements, 2016b; Trafalgar Property, 2018a). An additional provision was added in the STSMA, section 6(5) that a person must not act as a proxy for more than two members, with the emphasis on "member" – not "section" (Department of Human Settlements, 2011c; Trafalgar Property, 2018a). PMR 20(6) requires that a proxy need not be a member, but must not be the managing agent or an employee of the managing agent or the body corporate (Department of Human Settlements, 2016b; Steenkamp, 2017b).

2.2.5 Managing agents

According to section 6 of the HDSRPA, a developer needs to appoint a managing agent in terms of a management agreement, which shall specify the management fee and the manner in which the agent needs to manage the housing development scheme for retired persons (Department of Trade and Industry, 1988). This section is applicable to sectional title retirement schemes as well as life right retirement schemes

(Department of Trade and Industry, 1988), but not to regular residential sectional title schemes. With sectional title retirement schemes, the managing agent is appointed in terms of the STSMA Regulations and is bound to the body corporate in terms of a legal contract which must contain the terms, conditions, obligations, fees and duties of the managing agent (Trafalgar Property, 2018a). PMR 28(5)(b) stipulates that a managing agent be appointed to perform specified financial, secretarial, administrative or other management services under the supervision of the trustees (Department of Human Settlements, 2016b). According to Maree, a managing agent is also responsible for adjusting the insurance policy; registering the scheme with the Ombud service; and opening additional accounts for the required reserve funds (T. Maree, 2016b). PMR 28(7) indicates that a management agreement may not carry on for a period longer than three years and may be cancelled without liability or penalty, despite any provision of the management agreement or other agreement (Department of Human Settlements, 2016b). The body corporate or trustees may cancel the management agreement in accordance with its terms or refuse to renew the management agreement when it expires (Department of Human Settlements, 2016b).

As indicated by Steenkamp and Lubbe not all managing agents are always acting in the best interest of the body corporate; for example, not opening a separate bank account for the body corporate and that all levies be deposited in the bank account of the managing agent (Steenkamp & Lubbe, 2015). Just to mention a few of many cases, in 2019 an estate agent was sentenced to imprisonment; for failing to open a separate trust account for the deposit trust funds received on behalf of third parties as part of the fraud charges (Dano, 2019). In 2011, the Estate Agency Affairs Board (EAAB) introduced action against an estate agent, as R3 million seemed to be missing from the trust account (Campbell, 2011).

PMR 28(1) of the STSMA Regulations states that the body corporate may, by special resolution, appoint an executive managing agent to perform the functions and exercise the powers that would otherwise be performed and exercised by the trustees (Department of Human Settlements, 2016b; Steenkamp, 2017b, p. 125). According to Andrew Schaefer of Trafalgar property, this is a role that takes over the full function and responsibility of the board of trustees, and it is particularly suited to schemes

where there are no owners or residents willing and available to serve on the board of trustees (Trafalgar Property, 2018b). The executive managing agent carries the full obligation and managerial scope of a board of trustees. In other words finances, maintenance, preparing for general meetings and ensuring that the budget is prepared and approved and that the annual general meeting is arranged on a regular and reliable basis (Trafalgar Property, 2018b). PMR 28(3) shows that an executive managing agent is subject to all the duties and obligations of a trustee under the Act and the rules of the scheme with the required professional level of skill and care (Department of Human Settlements, 2016b).

PMR 2(1)(j) in Annexure 1 of the STSMA Regulations explains that a managing agent is any person who provides scheme management services to a body corporate for reward, whether monetary or otherwise, including any person who is employed to render such services (Department of Human Settlements, 2016b). Lubbe (2013, p. 217) and Van der Merwe (2014, pp. 5–15) express the view that two major problems surrounding managing agents in South Africa are a lack of knowledge and also the fact that no qualifications are required to enable a person to be appointed. Every estate agent must, by law, be registered with the Estate Agency Affairs Board (EAAB), the official regulating authority for the estate agency profession in South Africa, but not all managing agents are registered as estate agents (Steenkamp, 2017b). Managing agents can become a member of the National Association of Managing Agents (NAMA), voluntarily (NAMA, 2004).

Trust Account

Section 32 of the Estate Agency Affairs Act 112 of 1976 (EAAA) forces managing agents to open a trust current account or accounts with a bank (Jooste, 2007; National Real Estate, 2011). All monies received from clients must be deposited into this account; only then may the monies be transferred to a savings or interest-bearing account (Jooste, 2007). Commitments of body corporates are paid from the trust account, on instruction of the body corporate. Funds may not be used for anything else (National Real Estate, 2011; Z. van der Merwe, 2017c). The current account as well as the savings or interest-bearing account must be in the name of the estate agent and must reference to section 32(1) or (2) of the Act (Jooste, 2007). A estate agent

can open one trust account for all clients or separate trust accounts for each client, but must be in the name of the estate agent and reference to the Act (Jooste, 2007; Z. van der Merwe, 2017c). Every account must be reconciled every 30 days. Section 29 of the EAAA requires an estate agent to keep record of all trust money received and to ensure that an audit is done by an independent auditor (Jooste, 2007; National Real Estate, 2011). All trust monies, whether in an individual or collective account, must form part of the audit report to the EAAB (Jooste, 2007).

Different options exist for controlling funds of the body corporate (Addison, 2013):

- The scheme is self-managed, and trustees control the funds of the body corporate.
- The body corporate opens a bank account or accounts in its own name and hires a managing agent, but only the trustees have signing powers on the accounts.
- The body corporate opens bank accounts in its own name, but gives signing powers to the managing agent, completely or partly.
- The body corporate's funds are held in the managing agent's trust account.
- The body corporate's funds are held in the managing agent's trust account, but the body corporate is allocated a separate account within the trust account.
- The day-to-day running of the scheme are held in the managing agent's trust account, but excess funds are held in the name of the body corporate.

Interest on Trust Account

Section 32(2)(c) of the EAAA requires that estate agents pay the interest on trust accounts over to the Estate Agents Fidelity Fund (Bechard, 2015, p. 2; Estate Agency Affairs Board, 1976). The purpose of the fidelity fund is to enable people to be compensated if their money is stolen from a trust account (Bechard, 2015, p. 2). The fidelity fund will refund half of the interest to the estate agent. In effect, the agent is entitled to deduct and reserve half of the interest earned (Bechard, 2015, p. 2; Estate Agency Affairs Board, 1976). The EAAB Code of Conduct indicates in 9.3.2 that an agent shall pay the full amount of interest to the party entitled to such interest (as the

case may be), subject to any written agreement in this regard between the agent and such party (Bechard, 2015, p. 2; Estate Agency Affairs Board, 1993, p. 7).

2.2.6 Administrative and reserve funds

2.2.6.1 Administrative funds

The body corporate needs to have two separate funds, namely an administrative and a reserve fund (Durham, 2017). Section 3(1)(a) of the STSMA and PMR 24(1) of the STSMA Regulations state that a body corporate must establish and maintain an administrative fund, which must be used to fund the operating expenses of the body corporate for a specific financial year. The administrative fund needs to be reasonably sufficient for covering the estimated annual operating costs of the body corporate (Department of Human Settlements, 2016b). Operating costs include items such as repair, maintenance management and administration of the common property, payment of municipal charges and insurance premiums (See also Van der Merwe (2014, pp. 14–15) and Pienaar (2010, pp. 155–156))(Durham, 2017). PMR 24(4) instructs that money may be paid out of the administrative fund in accordance with trustee resolutions and the approved budget for the administrative fund.

2.2.6.2 Reserve funds

Section 3(1)(b) of the STSMA states that a reserve fund needs to be established and maintained to be reasonably sufficient to cover the cost of future maintenance and repair of common property (Department of Human Settlements, 2016b; Durham, 2017). That is, as required by the maintenance, repair and replacement plan of the body corporate as referred to in PMR 22, but not less than such amounts as may be prescribed by the Minister (Department of Human Settlements, 2011c; Steenkamp, 2017b). In terms of PMR 24(2), the reserve fund must be used for the implementation of the maintenance, repair and replacement plan of the body corporate referred to in PMR 22. As said by Costas, “This reserve fund aims to ensure that buildings do not fall into disrepair” and indicated that the body corporate from now on must prepare a written maintenance, repair and replacement plan which needs to set out all major capital expenses within the next 10 years (Writer, 2018). According to PMR 21(3)(d), the body corporate may, on the authority of a written trustee resolution, invest any

moneys in the reserve fund in a secure investment with an institution referred to in the definition of “financial institution” in section 1 of the Financial Services Board Act, 1990 (Act NO.97 of 1990) (Department of Human Settlements, 2016b).

In terms of PMR 22(2), the annual contribution to the reserve fund for maintenance, repair or replacement of each major capital item needs to be determined by estimated cost minus past contributions divided by expected life (Department of Human Settlements, 2016b). PMR 2 of the STSMA Regulations recommends a formula for calculating the minimum amount of the annual contribution to the reserve fund for a financial year according to the reserve budget. The formula is formed on the amount in the reserve fund at the end of a financial year and the total contributions collected in that year. The reserve fund must be determined as follows (Department of Human Settlements, 2016b; Steenkamp, 2017b):

- If, at the end of the financial year, the money in the reserve fund is less than 25% of the total contributions to the administrative fund for that year, then, in the following financial year the minimum allocation to the reserve must be 15% of the total contributions to the administrative fund.
- If, at the end of the financial year, the money in the reserve fund is equal to, or more than 100% of the total contributions to the administrative fund for that year, the body corporate does not have to top up its reserve fund.
- If, at the end of the financial year, the money in the reserve fund is more than 25% but less than 100% of the total contributions to the administrative fund for that year, the contribution to the reserve fund must at least equal the amount the body corporate budgeted to be spent from the administrative fund on repairs and maintenance in the following year.

This is certainly going to lead to bigger levy increases, especially in schemes with no reserve funds and this requirement might cause financial burden to Sectional Title schemes. In terms of PMR 21(3)(b), the body corporate may, on the authority of a written trustee resolution with consulting the owners, increase contributions by a maximum of 10% at the end of the financial year to take account of the estimated

increased liabilities (Community Schemes Ombud Service, 2017, p. 2; Department of Human Settlements, 2016b; Steynberg, 2017). According to Maree, the main reason for implementing this strict formulation of contribution to the reserve fund is to avoid insufficient maintenance, regular special levies and loans (T. Maree, 2015b).

PMR 24(3) indicates that the following amounts must be paid in the reserve fund namely:

- annual levies designated as being for the purpose of the reserve fund;
- amounts received from insurance policies regarding damage to property;
- interest earned on the investment of reserve fund, and
- other amounts as determined by the body corporate (Department of Human Settlements, 2016b).

All other body corporate income must be paid into the administrative fund (Durham, 2017, p. 2; T. Maree, 2018a). According to PMR 24(5), money may be paid out of the reserve fund of the body corporate at any time in accordance with trustee resolutions and the approved maintenance, repair and replacement plan (Department of Human Settlements, 2016b). Money may also be paid out of the reserve fund if the trustees resolve that such a payment is necessary for the purpose of an urgent maintenance, repair or replacement expense (Department of Human Settlements, 2016a). Sub-rules set out in PMR 24(5)(b)(i) to 5(b)(iv) provide the purposes and circumstances that establish 'urgency'. Urgent payments made under sub-rule 5(b) from the reserve fund of the body corporate are limited and restricted by sub-rule 6(a) and (b) as enforced by the body corporate members and must not exceed the amount necessary for the purpose for which it is expended (Department of Human Settlements, 2016b).

Owners were charged special levies for the cost of unexpected future maintenance and expenses concerning the common property (Dykes Van Heerden Group of Companies, 2016, p. 2). The reserve fund would decrease the charging of unexpectedly special levies. Only if the reserve fund is depleted can the trustees charge the sectional title owners with a special levy to meet these unforeseen expenses (Dykes Van Heerden Group of Companies, 2016, p. 2). The main purpose

of the reserve fund is to force community schemes to save on an continuing basis to avoid sudden implementations of special levies to pay for mayor expenses (Maingard, 2017, p. 2).

2.2.7 Contributions and charges

Contributions are raised to establish an administrative and reserve fund as discussed in the previous section. Section 3(1)(e) and 3(1)(f) of the STSMA indicate that another function of the body corporate is to determine the amounts to be raised for the purpose of the administrative and reserve funds by levying contributions (Department of Human Settlements, 2011c). This is also known as levies amongst owners in accordance with the participation quota (PQ) of each owner's section (Paddocks, 2018, p. 2). The trustees of the body corporate estimate the expected expenditure from the administrative and reserve funds (Paddocks, 2018, p. 1). These budgets are considered at the general meeting, and once approved by the trustees (see also section 2.2.4.4 and 2.7.1.2), determine the annual levies and in what instalments the levies will be paid (Paddocks, 2018, p. 1). The use of the PQ formula is not absolute, for section 11(2) of the STSMA makes it possible for the developer or the body corporate, by special resolution, to make rules by which the levy contributions can be altered (Department of Human Settlements, 2011c; Paddocks, 2018, p. 2). Written consent from the owner must be obtained for the adoption of a rule in this regard (Paddocks, 2018, p. 2).

In terms of section 3(2) and (3) of the STSMA, levies and special levies are due and payable when a resolution by the trustees of the body corporate has been passed and may be recovered from the persons who were owners of units at that time (Department of Human Settlements, 2011c; Paddocks, 2018, p. 2). PMR 25 of the STSMA Regulations contains a number of new instructions regarding notifications, specific charges, interest on arrear accounts and how non-payment of levies should be dealt with (Department of Human Settlements, 2016b; Steenkamp, 2017b). PMR 25(1) states the body corporate must as soon as possible give each member written notice of the levies due and payable by that member to the body corporate, but not later than 14 days after the approval of the body corporate budget by a general meeting (Department of Human Settlements, 2016b). This written notice must state that the

member has an obligation to pay the specified levies, the due date for each payment and, if appropriate, the interest rate on overdue levies according to rule 21(3)(c) (Department of Human Settlements, 2016b). Additionally, the notice must include details of the dispute resolution process that applies in respect of disputed levies (Department of Human Settlements, 2016b). Interest charged on any overdue amount by the member to the body corporate must not exceed the maximum rate of interest payable per annum under the National Credit Act No 34 of 2005, compounded monthly in arrears (Department of Human Settlements, 2016b). Levy collection is currently one of the greatest problems in body corporates (Steenkamp, 2017b).

PMR 25(2) stipulates that if money owing is not paid on the dates specified in the above-mentioned notice, a final notice must be sent to the member (Department of Human Settlements, 2016b), specifying the members obligation to pay overdue levies and any applicable interest, and if they do not pay, an application for a payment order from the Ombud will be required (Department of Human Settlements, 2016b; Paddocks, 2018, p. 4). The body corporate can take action to recover the amount due if not paid 14 days after the final notice (Department of Human Settlements, 2016b; Z. van der Merwe, 2018). A member is liable and must pay to the body corporate all reasonable legal cost in the collection of arrear levies according to PMR 25(4) of the STSMA Regulations (Department of Human Settlements, 2016b). If owners do not pay their annual levies despite a court or adjudicator's order, PMR 20 provides that the member will not be entitled to vote for an ordinary resolution (Paddocks, 2018, p. 4). This sanction is not really effective according to Paddocks (2018).

The body corporate must debit a member's account with lawful contributions, charges, interest, legal fees and special levies as authorised by the STSMA and in terms of the scheme rules. Any other type of charges would be unlawful, as is indicated in PMR 25(5) (Gladwin & Mathebula, 2018; Z. van der Merwe, 2018). Interest can be levied on overdue accounts; according to PMR 21(3)(c), the interest rate must not exceed the maximum rate on interest payable per annum under the National Credit Act (No 34 of 2005) (NCA), that being the rate for incidental credit agreements, compounded monthly in arear (Department of Human Settlements, 2016b). This is so, given that the trustees have approved the interest rate in writing and the rules of the body corporate

authorise the levying of interest (Gladwin & Mathebula, 2018). Interest can be charged at a maximum of 2% per month compounded, being an effective annual rate of 26.82%, but the interest charged must not exceed the capital debt or the capital amount (Gladwin & Mathebula, 2018; Steynberg, 2016). Legal cost can only be recovered for legal action taken for the recovering of money owed by a default owner, if such cost were reasonable and agreed by the owner or if the bill was 'taxed' (Gladwin & Mathebula, 2018). According to section 3(3) and 3(4) of the STSMA and PMR 21(3)(a), the trustees may raise special levies for unexpected expenses without consulting owners, which are needed but not budgeted for (Department of Human Settlements, 2011c, 2016b). This special levy cannot be raised when an expense exceeds the budgeted amount (Durham, 2018). Special levies can be payable in instalments as the trustees think appropriate, or in one lump sum (Paddocks, 2018).

A levy is also payable by a sectional title scheme to the Community Schemes Ombud Service (CSOS) according to section 29(1)(b) of the CSOSA (Department of Human Settlements, 2011a). According to the Community Schemes Ombud Service Regulations, the scheme must collect the prescribed levy from every unit within a community scheme and pay to the Ombud on a quarterly basis (Department of Human Settlements, 2011b). The Regulations do provide for certain discounts and waivers (Krige, 2017). The scheme has an obligation to pay the CSOS levy irrespective of whether the unit owner has paid the scheme (Department of Human Settlements, 2018). Practice directive 1 of 2018 from CSOS indicates that this levy need to be paid monthly in the administrative fund of the scheme; non-payment of these levies on the due date will attract interest calculated at a rate of 2% per month (Department of Human Settlements, 2018).

PMR 25(3) subject to rule 21(3)(a) and (b), indicate that members automatically become liable for levies in the same amounts and payable in the same instalments as were due and payable by them during the past financial year (Department of Human Settlements, 2016b). This will apply after the expiry of a financial year and until they become liable for levies in respect of the next financial year (Department of Human Settlements, 2016b; Z. van der Merwe, 2018).

2.2.8 Insurance

Trustees are responsible for the financial welfare and insurance of the sectional title schemes (Addison, 2017, p. 4). The CSOSA, STSMA and their regulations assist trustees in terms of the insurance in the sectional title scheme (Addison, 2017, p. 4). Addison indicated that sectional title schemes required three main categories of insurance, namely buildings cover, liability cover and fidelity cover (2017: 11).

Regulation 15 of the CSOSA relating to fidelity insurance needs to be read with PMR 23(7) of the STSMA Regulations (Addison, 2017, p. 5). According to PMR 23(7), a body corporate must take out insurance for an amount determined by members in a general meeting to cover the risk of loss of funds belonging to the body corporate or for which it is responsible (Department of Human Settlements, 2016b). For a loss of funds sustained as a result of any act of fraud or dishonesty committed by a trustee, managing agent, employee or other agent of the body corporate (Department of Human Settlements, 2016b). Regulation 15 of the CSOSA sets out the minimum amount of fidelity insurance required by all community schemes, including retirement villages; fidelity is now compulsory (Addison, 2017, p. 25; Steenkamp, 2017b, p. 111). A certain minimum amount of fidelity insurance need to be in place according to a formula that will include amounts of cash savings and liquid assets that the scheme has, plus 25% of its annual administrative budget (Department of Human Settlements, 2016a). During the AGM, a decision needs to be taken whether or not that minimum amount is satisfactory and this will guide the trustees accordingly (Addison, 2017, p. 26). Sub-regulation 4 under Regulation 15 means that the fidelity insurance must pay out without a criminal party to be proven guilty or having to wait for enough evidence to introduce criminal charges against the committer (Addison, 2017, p. 26; Steenkamp, 2017b, p. 111). Regulation 15(5) indicates that schemes are not obliged to take out fidelity insurance for an insurable person if such a person (a trustee, for example) can show that he or she has taken out cover that complies with the regulations (Department of Human Settlements, 2016a). According to Addison (2017, p. 26), sub-regulation 5 is an error in the regulation and should be ignored as an option, as this option exposes community schemes to great risk.

Section 3(1)(h-k) of the STSMA indicates that insurance regarding buildings, other risks as identified by owners with special resolution and payment of insurance premiums form part of the functions of the body corporate (see section 0 and 2.2.3.5) (Department of Human Settlements, 2011c). PMR 23 of the STSMA Regulations provides all the technical and legal requirements regarding insurance for the body corporate. According to PMR 23(3), the body corporate must obtain a replacement valuation of all buildings and improvements that it must insure at least every three years and such replacement valuations need to be presented in the form of a schedule of replacement values (SRV) at the annual general meeting (Department of Human Settlements, 2016a). Replacement value is the current cost to replace a building to its original state if completely destroyed, excluding the value of vacant land - whereas market value is the price at which a willing buyer and willing seller agree on; the replacement value is much lower than the market value (Addison, 2017, p. 27,35). The replacement value of buildings are usually determined by a valuer for the trustees based on the standard finish as handed over by the developer (Addison, 2017, p. 34).

Furthermore, PMR 23(6)(a-b) requires from the body corporate to take out public liability insurance to cover the risk of any liability it may incur to pay compensation concerning injury, death, loss or damage to property obtained in connection with common property of the body corporate (Department of Human Settlements, 2016b). It is also recommended that trustees' indemnity, losses occurring due to the errors and omissions of trustees covered by the liability insurance, and wordings used in the liability insurance need to be checked to ensure that trustees' indemnity is adequate and in place (Addison, 2017, p. 23). Furthermore; an injured person would surely include employees, and therefore it is recommended that employer's liability also be included in the liability insurance (Addison, 2017, p. 25). An owner may obtain an insurance policy for any damage to his/her section arising from risks not covered by the insurance policy of the body corporate (Department of Human Settlements, 2011c).

PMR 26(c)(v) of the STSMA Regulations stipulates that the financial statements of a body corporate must include analyses on the premiums and other amounts paid (Department of Human Settlements, 2016b). Also, payments received by the body corporate and any member, in terms of the insurance policies of the body corporate

and the expiry date of each insurance policy (see section 2.7.1.1) (Department of Human Settlements, 2016b; Steenkamp, 2017b, p. 112).

2.3 Management of Life Right Schemes

2.3.1 Introduction

Life right developments do not fall under the Sectional Titles Act, but under the Housing Development Schemes for Retired Persons Act 65 of 1988 (HDSRPA), which protects elderly people buying into villages (Constas, 2011). Within an email conversation with Professor Pienaar from North West University on 31 of January 2019, he explained life right in the following way, “Life right is not an entity but a contract between the body that provides life right on the one hand and the utilisation of life right on the other”. “If the body providing life right is a company, the reporting as prescribed by the Companies Act applies, throughout the HDSRPA and the CSOSA provisions apply”.

A Section 21 company may run the life right scheme. This Section 21 company falls under the new Companies Act and must have a memorandum of incorporation rather than a memorandum of articles, see section 2.3.2 (Constas, 2011). Housing schemes based on the life right concept are regulated by the provisions of the HDSRPA and regulation 6 -14 of the regulations to the Act (Kilbourn, 2008, p. 5; Pienaar, 2010, p. 474). Regulation 6 provides for the appointment of a managing agent and is applicable to all retirement schemes including life right schemes and sectional title schemes (see section 2.2.5) (Pienaar, 2010, p. 482). Regulation 7-14 regulates the establishment of a management association, its powers and duties and is not applicable to sectional title schemes (Pienaar, 2010, p. 482).

The CSOSA and the regulations of this Act will be applicable to life right retirement schemes, as this Act provides a dispute resolution mechanism for all community schemes. According to the CSOSA, a housing scheme for retired persons is included in the definition of a community scheme (Department of Human Settlements, 2011a). Specific considerations will be given regarding the applicable Acts, Regulations, Sections and Rules relevant to the responsibilities and functions of different role players in life right retirement schemes - being the management association,

management agents, accounting and auditing practitioners. A detailed analysis of all applicable legislative provisions falls outside the scope of this study.

2.3.2 Non-Profit Company vs Non-Profit Organisation

Non-profit organisations (NPOs) in South Africa can originate through three structures, namely voluntary associations, non-profit trusts, and non-profit companies (Department of Social Development, 1997; SAIBA, 2015, p. 7). According to the Non-Profit Organisation Act 71 of 1997 (NPOA), a non-profit organisation is established for a public purpose and the income and property are not distributable to its members or office-bearers, except as reasonable compensation for services rendered (Department of Social Development, 1997).

The voluntary association must meet three requirements to have legal personality; namely, have perpetual succession; be able to hold property distinct from its members; and specify that no member has any rights because of his membership to the property (SAIBA, 2015, p. 7; Wynaard, 2009). There is no office of registry for voluntary associations. The only condition to form a voluntary association is an agreement between three or more people to achieve a mutual object, mostly other than the making of profit (Wynaard, 2015, p. 2).

Non-profit Trusts are created in terms of the Trust Property Control Act of 1988 (Wynaard, 2015, p. 2). A trust is established when ownership of property is transferred to another party, to be administered for the advantage of certain persons or the success of a particular goal (SAIBA, 2015, p. 7; Wynaard, 2015, p. 2). The office of registry for non-profit trusts is the Master of the High Court, who administers the appointment of trustees and the appropriate performance of the trustees' duties with reference to the trust property.

The Act applicable to non-profit companies is the Companies Act 71 of 2008. The name of the non-profit company must end with NPC, and NPC is a juristic person in South Africa (Bissett, 2019). A Non-profit company is registered by the Companies and Intellectual Property Commission (CIPC) (Swiftreg, 2018). One major difference is the way they are registered, how they come into existence, but the goals of a non-profit trust and non-profit company are fairly similar (Bissett, 2019). Only a voluntary

association, non-profit trust or non-profit company can register as an NPO with the Department of Social Development (Wynaard, 2015, p. 3). It is beneficial to register an NPO, because it will improve credibility as well as funding opportunities (Bissett, 2019). A non-profit company can register as a non-profit organisation, but a non-profit organisation cannot be incorporated as a company (Bissett, 2019).

2.3.3 Developers' role in management

The developer plays the following role in the management of a life right retirement scheme. The developer shall with the first alienation of any housing interest appoint a managing agent with an agreement specifying the manner of management and the management fee as specify by Regulation 6(a) of the HDSRPA (Department of Trade and Industry, 1989). As indicated by Regulation 11 of the HDSRPA, from the establishment of the management association (see section 2.3.4) any rights and obligations of the developer arising from a management agreement shall be assigned to the association (Department of Trade and Industry, 1989).

Regulation 10 of the HDSRPA specifies that a developer shall arrange a meeting of the members within sixty days after establishment of the management association, providing a certificate that all rates and taxes due in respect of the land is paid in full until the establishment of the management association (Department of Trade and Industry, 1989; Pienaar, 2010, p. 485). For retirement schemes managed by the HDSRPA, the position of the developer is lacking in legislation, as a developer with significant proprietary interest in a scheme should have significant rights in the management of the scheme. This limitation in the HDSRPA and Regulations to the Act need to be addressed by the legislator (Van Rooyen, 2016, p. 17).

2.3.4 The management association

Regulation 7(a) of the HDSRPA indicates that from the date on which a developer alienates a housing interest to a purchaser, a management association is supposed to be established (Department of Trade and Industry, 1989). The developer and purchaser are members, and every person thereafter whom obtained a housing interest shall be a member of that management association (Department of Trade and Industry, 1989). Any purchaser becomes a member of the association automatically,

even without having the intention of such membership (Pienaar, 2010, p. 484). Furthermore, this association is created without any formal incorporation (Pienaar, 2010, p. 484). The management association shall be responsible to enforce rules, control, administrate and manage the housing development scheme for the benefit of all members, as specified by Regulation 7(b) of the HDSRPA (Department of Trade and Industry, 1989).

2.3.4.1 Legal status of the management association

According to Regulation 7(d)(i-iv) of the HDSRPA, the management association shall have perpetual succession and shall be capable of suing and being sued in its corporate name (Department of Trade and Industry, 1989), concerning any contract made by the association, any damage done to the land, the common property or facilities (Department of Trade and Industry, 1989). Furthermore, this also address the housing development scheme for which the management association is responsible and any matter arising out of the exercise of its powers, performance or non-performance of its functions (Department of Trade and Industry, 1989). The management association has the right to assign or cede any of its rights (see section 2.3.4.3) and duties (see section 2.3.4.2) in terms of the regulations of the HDSRPA to the managing agent (see section 2.3.6) (Department of Trade and Industry, 1989; Van Rooyen, 2016, p. 18).

2.3.4.2 Duties of the management association

Duties of the management association in terms of the Acts are not as highly regulated as in the case of a body corporate in a sectional title scheme (Pienaar, 2010, p. 486). According to Pienaar (2010: 486–487) it may be necessary with a large retirement scheme to expand the statutory duties of the management association with a resolution passed by the members.

Regulation 8(1)(a-k) of the HDSRPA stipulates the duties of the management association, subject to any restriction imposed or direction given at a general meeting of members (Department of Trade and Industry, 1989). The management association is responsible for a number of duties (Department of Trade and Industry, 1989). These include, amongst others, the following:

- to insure the building or buildings (see section 2.3.8), Regulation 8(1)(a-b)(i);
- to maintain the common property and all accommodation; to repair and maintain pipes, wires, cables and ducts subject to the rights of the local authority last but not least to service and maintain plant, machinery, fixtures and fittings used with the common property, Regulation 8(1)(c), (g) and (h);
- the association shall ensure compliance with any laws relating to the common property, Regulation 8(1)(e);
- the association must also control, manage and administrate the common property for the benefit of all members, Regulation 8(1)(f);
- the association also has the duty to enforce the rules referred to in Regulation 9(1)(o) (Department of Trade and Industry, 1989).

In addition, they must keep a register of members in a manner as the management association decides, Regulation 8(1)(k) (Department of Trade and Industry, 1989). Furthermore, prepare a detailed budget of expected income and expenditure of the association for each year (see section 2.8.1.2), Regulation 12(1) (Department of Trade and Industry, 1989).

According to Regulation 14(1) of the CSOSA, the executives of a retirement scheme have the responsibility to be educated about the affairs, legislation and governance documentation of the community scheme, to make reliable and informed decisions, and to attend all applicable meetings (Department of Human Settlements, 2016a). Regulation 14(2) of the CSOSA stipulates that the obligations of a community scheme executive in terms of sub-regulation (1) are in addition to and do not derogate from the fiduciary obligations of a scheme executive in terms of the common law or any applicable statute (Department of Human Settlements, 2016a).

2.3.4.3 Powers of Management association

The powers of the management association match up to a large extent with the powers of a body corporate (see section 0) (Pienaar, 2010, p. 489). The powers of the management association are provided in Regulation 9 of the HDSRPA. These powers are subject to any restriction imposed or direction given by a resolution passed at a

general meeting by members of the association and can be summarised as follows (Department of Trade and Industry, 1989). To establish and administer a fund for administrative expenses sufficient as established by the management association for the repair, upkeep, control, management and administration of the housing development scheme (see section 2.3.7), Regulation 9(1)(a) (Department of Trade and Industry, 1989).

In contrast to the requirements of sectional title schemes, there is no duty on the association to establish a levy fund (Pienaar, 2010, p. 489). Similar to sectional title schemes the association has the power to open and operate a current account and savings account with a banking institution or building society (Department of Trade and Industry, 1989). Furthermore to borrow and repay money required in the performance of its duties and invest any money of the levies collected (Department of Trade and Industry, 1989). The association has the power to conclude the following agreements: to appoint employees and; purchase or lease agreements in respect of movable property for the purposes of operations, Regulation 9(1)(f) and (g) (Department of Trade and Industry, 1989). Enter into an agreement with local authority or any other person for the provision of electric, water, fuel, sanitary and other services with members and occupiers for the provision of facilities or services in respect of the accommodation relating to the housing interest, Regulation 9(1)(l) and (m) (Pienaar, 2010, p. 491).

The management association makes rules for the conduct of members, which shall be reasonable and not in conflict with the HDSRP Act or Regulations (Department of Trade and Industry, 1989). Regulation 9(1)(o) indicates that these rules shall apply equally to all members in respect of accommodation placed to substantially the same use (Department of Trade and Industry, 1989). They have the power if necessary to enforce the rules to control, manage and administrate the common property, Regulation 9(1)(n) (Department of Trade and Industry, 1989). The association shall appoint a committee of the management association that may, subject to the rules and directions of the association, exercise all the power and perform all the functions conferred upon it by the association, in accordance with Regulation 9(1)(p) (Department of Trade and Industry, 1989). This committee shall meet and conduct its

affairs from time to time as decided by the committee (Department of Trade and Industry, 1989).

2.3.5 General meetings and voting right of members

According to Regulation 9(5) of the HDSRPA, all general meetings except for the annual general meeting of the management association shall be called special general meetings. The annual general meetings shall be held once a year, not more than fifteen months after the previous annual general meeting (Department of Trade and Industry, 1989). The management association shall determine the matters and proceedings at such meetings (Department of Trade and Industry, 1989). At least fourteen days' notice of every general meeting shall be given to all members, the developer and the managing agent indicating the place, the date, the time and the general nature in the case of special business, following Regulation 9(7)(i) (Department of Trade and Industry, 1989). Approval with or without amendment of the budget (see section 2.8.1.2), election of the committee (see section 2.3.4.3) and any special business of which notice has been given shall be performed at an annual general meeting (Department of Trade and Industry, 1989).

Regulation 9(7)(b) of the HDSRPA specifies that no business shall be concluded at a general meeting unless a quorum of members is present in person or by proxy (Department of Trade and Industry, 1989). A quorum shall be at least one member and one representative of the developer, or two members (Department of Trade and Industry, 1989). According to Pienaar (2010, p. 491) a rule should be adopted to determine what happens when a meeting does not have a quorum. At all meetings matters shall be resolved by a majority vote of those present or by proxy; a member shall by a show of hands have one vote (Department of Trade and Industry, 1989). On a poll a member has one vote for each housing interest alienated to such member (Department of Trade and Industry, 1989; Van Rooyen, 2016, p. 20). The Regulations do not stipulate the voting power of the developer at a general meeting (Van Rooyen, 2016, p. 20). Furthermore, the Regulations do not specify whether the developer as member of the management association has one vote per housing interest that has not yet been alienated, or whether the developer has only one vote even if he has alienated all housing interests in the scheme (Van Rooyen, 2016, p. 16). In contrast

to the requirements of sectional title schemes, if the developer did not keep for himself a right of extension of the scheme in terms of section 25(1) of the STA, he would no longer be a member of the body corporate (Van Rooyen, 2016, p. 16).

2.3.6 Managing agents

Regulation 6(a) of the HDSRPA specifies that the managing agent must be appointed by the developer prior to the sale of the first housing interest by entering into a written management agreement with the agent in which the fee and the manner of management must be specified (see section 2.3.4) (Department of Trade and Industry, 1989; Pienaar, 2010, p. 483). As shown by Regulation 9(4) and 11 of the HDSRPA, the managing agent is responsible to the developer until the management association is created; thereafter the agent is responsible to the association (Pienaar, 2010, p. 483). No specific duties and powers are prescribed by either the Act or the Regulations for the management agents; the powers and duties may be specified in the management agreement or assigned by the association to the agent (Pienaar, 2010, p. 483). A managing agent shall be appointed for a year at a time, unless the developer or the management association notifies the agent differently; such appointment will be automatically renewed for a year at a time (Department of Trade and Industry, 1989; Van Rooyen, 2016, p. 17).

2.3.7 Levies

As indicated in section 2.3.4.3, the management association has the power to establish a levy fund for the repair, upkeep, control, management and administration of accommodation, land, common property, buildings of the housing development scheme (Department of Trade and Industry, 1989). The levy fund must be sufficient to provide for reasonable provision of future maintenance and repairs as well as rates and taxes, services including any premiums of insurance (see section 2.3.8) and for the cost of the discharge of any obligation of the management association (Department of Trade and Industry, 1989; Pienaar, 2010, p. 489). Monthly levies and administration costs are normally lower, with developers being forced by law to provide a two-year cost estimate concerning the levies (Torr, 2020).

The management association shall determine and raise the contributions by members to the levy fund and enforce payment as indicated by Regulation 9(1)(c), (d) and (b) of the HDSRPA (Department of Trade and Industry, 1989; Pienaar, 2010, p. 490). A member's levy is determined as a percentage, expressed to four decimal places, and calculated by dividing the floor area of the members accommodation to the nearest square meter by the total floor area of all accommodation in the housing development scheme (Department of Trade and Industry, 1989; Pienaar, 2010, p. 490). Similar to the participation quota within sectional title schemes (see section 2.2.7.), Regulation 14(b) of the HDSRPA entitles the developer to make rules in terms of which liability of a member to pay the levies is changed, with certain provisions (Department of Trade and Industry, 1989). The developer must pay levies on the same basis as other members from the date of establishment of the association on all housing interests that are owned by the developer and have not yet been alienated by him (Department of Trade and Industry, 1989).

Levies shall be due and payable on the passing of a resolution by the management association as specified by Regulation 9(2) of the HDSRPA, and may be recovered by the association by action in court including any magistrate's court of competent jurisdiction (Department of Trade and Industry, 1989). The association has the power according to Regulation 9(1)(q) of the HDSRPA to prohibit the transfer or alienation of any housing interest (Department of Trade and Industry, 1989), unless any levy or other money due to the management association in respect of the housing interest has been paid or provision has been made to the satisfaction of the management association for the payment thereof (Department of Trade and Industry, 1989).

It is important to note that the remedy to deny a member access to accommodation due to outstanding levies will not be available in the case of retirement schemes, since the accommodation in respect of such a housing interest is protected by the Constitutional right to housing, section 26 of the Constitution (Department of Justice, 1996; Pienaar, 2010, p. 492). The association must on the application of a member or any person authorised by a member, certify in writing the amount determined as levy contribution by the member (Department of Trade and Industry, 1989). Also the manner in which such levy is payable, the extent to which such contribution has been

paid by the member and the amount of any rate paid by the association and not recovered by it, Regulation 9(3) (Department of Trade and Industry, 1989).

According to section 59 of the CSOSA, every community scheme must from the commencement date of the Act, pay a prescribed levy in each calendar year and at such times as prescribed (Department of Human Settlements, 2011a). The Regulations of the CSOSA specify that the scheme must collect the prescribed levy from every unit within a community scheme, and pay to the Ombud quarterly (Department of Human Settlements, 2016a). This levy applies to sectional title as well as life right retirement scheme as explained in section 2.2.7 and 2.3.1; both these schemes form part of a community scheme. The scheme also must pay the CSOS levy irrespective of whether the unit owner has paid the scheme (Department of Human Settlements, 2011b, 2018). The Regulations do provide for certain discounts and waivers (Krige, 2017).

2.3.8 Insurance

According to Regulation 9(1)(a) of the HDSRPA, the management association has the duty to insure a building or buildings relating to the housing development scheme against fire to its replacement value, and any other risks as members may determine by special resolution (Department of Trade and Industry, 1989). The association has an insurable interest in the replacement value of the building and any other property included in the accommodation in terms of the housing interest or used in respect of the common property (Department of Trade and Industry, 1989; Pienaar, 2010, p. 488). Although not obviously regulated, it is by implication the duty of the management association to use insurance money received in rebuilding, restoring or replacing the damaged buildings, movable or common property (Pienaar, 2010, p. 488). The association must supply the insurance policy or policies on written request of any member or mortgagee and the receipt or receipts for the payment of the last premium in respect thereof (Department of Trade and Industry, 1989).

Regulation 15 of the CSOSA indicates that every community scheme must have insurance against the risk of loss of money belonging to the community scheme as a result of any act of fraud or dishonesty committed by any scheme executive, employee, agent of a community scheme, managing agent, contractor or employee

employed by the managing agent, who has control over the money of a community scheme (see section 2.2.8) (Department of Human Settlements, 2016a).

2.4 Micro, small and medium-sized entities

A micro-entity is a very small entity with simple transactions that have the following characteristics: owner-managed with a few employees, has a low or moderated income and gross assets, and usually without investments in subsidiaries, complex financial instruments, and issuing of shares (IFRS Foundation, 2013, p. 6). The National Small Business Act 102 of 1996 is the only statute in South Africa that deals with the classification of small businesses (Department of Trade and Industry, 1996). This Act defines a small business as a business entity, managed by one owner or more, which is mainly carried on in any sector or subsector of the economy (Department of Trade and Industry, 1996). Businesses are classified into a sector and subsector according to the standard industrial classification (Department of Trade and Industry, 2003). Furthermore, a business can be classified as medium, small, very small and micro depending on fulltime employees, total turnover as well as gross asset value excluding fixed property (Department of Trade and Industry, 2003). Private retirement facilities will best suit under section L and division 6810 of the latest standard industrial classification of economic activities. This classification specifies real estate activities with own or lease property, including buying, selling, renting, and operating self-owned or leased real estate, such as apartment buildings and dwellings, provision of homes, furnished or unfurnished flats or apartments for more permanent use, on a monthly or annual basis (Stats SA, 2012, p. 200). In the fifth edition of the standard industrial classification of economic activities published by Stats SA in 1993, real estate activities fall under finance and business services, major division 8 (Stats SA, 1993).

Some retirement facilities may be considered as a micro, small, or medium business according to the guidelines provided in the National Small Business Amendment Act. According to the schedule of the National Small Business Amendment Act, for a private retirement facility to be classified as a medium-sized business entity require turnover of R26 million, 200 full-time employees and a gross asset value of R5 million excluding fixed assets (Department of Trade and Industry, 2003, p. 6). For a private

retirement facility to classify as a micro-size business entity, require a turnover of R200 000, 5 full-time employees, and a gross asset value of R100 000 excluding fixed assets (Department of Trade and Industry, 2003, p. 6).

2.5 Professional Accountants

Not one specific legislation governs professional accountants in South Africa, as the case may be for professional auditors see section 2.9 and 2.10 (IFAC, 2017). There is no general national supervision for professional accountants as the profession is largely self-regulated and relatively fragmented (IFAC, 2017). Several pieces of legislation govern the financial reporting requirements in South Africa. The Close Corporations Act, 1984 indicates an accounting officer in section 60(1) of the Act as a person who shall not be appointed as an accounting officer of a corporation unless he/she is a member of a recognised professional body (Republic of South Africa, 1984; SAICA, 2015, p. 35). Regulation 26(1)(d) of the Companies Act specifies that an “independent accounting professional”, means a person who is a registered auditor in terms of the Auditing Profession Act, or a member in good standing of a professional body, or qualified to be appointed as an accounting officer of a close corporation in terms of section 60(1) of the Close Corporations Act (Department of Trade and Industry, 2011). According to SAIPA, a professional accountant means an individual registered with the South African Institute of Professional Accountants (Ngwenya, 2017, p. 3). The Non-Profit Organisations Act 71 of 1997, defines an accounting officer as a person contemplated in section 60 of the Close Corporations Act, 1984 (Department of Social Development, 1997). The STA, STSMA as well as the applicable regulations do not contain any definition of or reference to accounting officers (Steenkamp, 2017b, p. 128).

The lists of professional bodies that are currently recognised in South Africa are the South African Institute of Chartered Accountant (SAICA); Independent Regulatory Board for Auditors (IRBA); Chartered Secretaries Southern Africa (CSSA); The Chartered Institute of Management Accountants (CIMA); The South African Institute of Professional Accountants (SAIPA); The Chartered Association of Certified Accountants (ACCA); Institute of Accounting and Commerce (IAC); The South African Institute of Business Accountants (SAIBA); The Members of the Chartered Institute for

Business Management (MCIBM) and The South African Institute of Registered Government Auditor (SAIGA) (SAICA, 2015, p. 68).

According to SAIPA and the Close Corporations Act of 1984, duties of the accounting officer is completion of the financial statements, to determine whether the annual financial statements are in agreement with the accounting records and to determine the appropriateness of the accounting policies (Republic of South Africa, 1984; SAIPA, 2018). Some companies must be audited (see section 2.9), some only require an independent review and some require nothing at all (Service, 2015, p. 26). Regulation 29(4)(b) of the Companies Act indicates that a person who is qualified to be appointed as an accounting officer in terms of section 60 of the Close Corporations Act can carry out an independent review of a company whose public interest score for the financial year was less than 100 (Department of Trade and Industry, 2011).

No requirements are provided in the HDSRPA, CSOSA, NPOA or the applicable regulations as to whom should prepare the annual financial statements of a life right retirement facility. PMR 17(6)(j)(vi) of the STSMA instructs that an auditor should be appointed to audit the financial statements unless all sections in the scheme are registered in the name of one person (Department of Human Settlements, 2016b). No requirements are provided in the STA, STSMA and, CSOSA or the applicable regulations as to who should prepare the annual financial statements of a sectional title retirement facility.

2.6 Accounting Standards

IFRSs and the IFRS for SMEs are the only formal financial reporting standards in South Africa (C. Rossouw, 2013, p. 461). IFRS is mainly designed for the reporting needs of large entities. IFRS set out cumbersome requirements for recognition, measurement, presentation, and disclosure for general purpose financial statements, which place an enormous burden on small and medium-sized entities (SME's) (IASB, 2015). The International Accounting Standard Board (IASB) recognised, developed and published a separate standard applicable to the needs of SMEs that often produce financial statements only for the use of owner-managers or tax authorities, and do not necessarily constitute general purpose financial statements (IASB, 2015: 7; Schutte & Buys, 2011: 189). South Africa became one of the first countries in 2007 to adopt IFRS

for SMEs while it was still in its introduction draft form (Lubbe, 2013: 120). IFRS and IFRS for SMEs are currently available for use by companies in South Africa (Kriel, 2014). Other types of entities such as partnerships, sole proprietors, trusts, and schools could also use these frameworks (Kriel, 2014). Entities may also apply entity-specific accounting policies, in certain circumstances (Kriel, 2014).

Despite the good intentions of the IFRS for SMEs, there is scepticism among accounting practitioners about whether the standard reduces the encumbrance of financial reporting for SMEs, and it was believed by some that IFRS for SMEs was too complex and costly for micro-entities (Lubbe, 2013: 103; Klink, 2016: ii). SAICA has for four years explored the development of a Framework for Non-Public Entities (FfNPE) or a so-called Micro GAAP / third tier financial reporting framework, because members request to do so (SAICA, 2012). In 2008, the Micro GAAP working group was formed to develop the FfNPE (SAICA, 2012). After debates, the Accounting Practices Committee, the Accounting Practices Board (APB), and the Financial Reporting Standards Council made a decision not to proceed with the issuing of the proposed FfNPE, either as a standard or a SAICA guide (SAICA, 2012).

Many requirements of the IFRS for SMEs do not apply to micro-entities. The IASB therefore developed a guide that extracts from the IFRS for SME's without modifying any of the principles for recognising and measuring assets, liabilities, income, and expenses only the requirements that are necessary for a typical micro-sized entity (Deloitte, 2013; IFRS Foundation, 2013: 6). This guide will help micro-sized entities to identify the requirements of the IFRS for SME's that are relevant to them. This guide is not a stand-alone standard for micro-entities; therefore, compliance with this guide will result in compliance with the IFRS for SMEs (Deloitte, 2013; IFRS Foundation, 2013: 6).

Some SME owners have no accounting knowledge. They use external accountants to prepare financial statements and they are often left confused by the difficulty of the information provided (Schutte & Buys, 2011: 191). Micro, small and medium entities provide financial statements to, owner-managers, tax authorities, and governmental authorities (IFRS Foundation, 2013: 6; IASB, 2015: 7; Schutte & Buys, 2011: 191). Financial statements provided solely for those purposes are not general-purpose financial statements (IASB, 2016).

2.7 Accounting and financial reporting of Sectional Title Schemes

2.7.1 Introduction

Functions that the body corporate are accountable for include preparing of budgets, keeping financial records, preparing annual financial statements, and ensuring that the financial statements are audited (Department of Human Settlements, 2016b). These functions are stipulated in PMR 26 of the STSMA Regulations and are often completed by accounting and auditing practitioners in practice for the body corporate, as is explained in Steenkamp (2017b, p. 114) and Lubbe (2013, p. 204) (Department of Human Settlements, 2016b). These functions will be discussed in section 2.7.1.1 to 2.7.1.3 and section 2.11 below.

2.7.1.1 Financial records

According to PMR 26(1)(a), a body corporate must keep proper books of account that record all its income, expenditure, assets and liabilities (PMR 26(1)(a)(i)) (Department of Human Settlements, 2016b). All amounts recovered from members by the body corporate or any managing agent or other service provider acting on its behalf need to be disclosed (PMR 26(1)(a)(ii)) (Department of Human Settlements, 2016b). The books of account must include individual accounts for each member (PMR 26(1)(a)(iii) see also PMR 25(7)). Members should be able to assess the body corporate's financial situation and their financial situation in regard to the body corporate from the information provided in the books of account (Department of Human Settlements, 2016b).

Section 3(1)(g) of the STSMA specifies that the body corporate must open and operate an account with any registered bank or any financial institution (Department of Human Settlements, 2011c). According to STSMA Regulation rule 21(4)(a) and (b), the body corporate must make sure that all money received is deposited to the credit of an interest-bearing bank account, in the name of the body corporate or deposited in a trust account opened in terms of either the Estate Agency Affairs Act, (Act No.112 of 1976) (EAAA), or the Attorneys Act, (Act No.53 of 1979) (Department of Human

Settlements, 2016b). See also section 2.2.5. Section 32(1) of the EAAA specifies that an estate agent shall (“must”) open and keep one or more separate trust accounts with a bank, and deposit trust money held or received by or on behalf of an estate agent (Z. van der Merwe, 2017c). Furthermore, the EAAA provides that the trust money will be held in these trust accounts until the estate agent becomes legally entitled to the trust money, or is instructed to make payment of the money to another party (Z. van der Merwe, 2017c). The money held in credit of the trust accounts shall not form part of the assets of the estate agent (Z. van der Merwe, 2017c). PMR 26(1)(b) indicates that separate books of account and bank accounts must be kept for the body corporate’s administrative and reserve funds (see also section 2.2.6) (Department of Human Settlements, 2016b; SAICA, 2017b, p. 5; Z. van der Merwe, 2017c).

PMR 26(2) stipulates that on the application of any member, registered bondholder or of the managing agent, the body corporate must make all or any of the books of account and records available for inspection and copying (Department of Human Settlements, 2016b). The body corporate must, as per PMR 26(3), ensure that all its books of account and financial records are retained for a period of six years after completion of the transactions, acts or operations to which they relate (Department of Human Settlements, 2016b). Furthermore, the body corporate must prepare a report, reviewing the affairs of the body corporate during the financial year and this report need to be adopted by the trustees for presentation at the general meeting (Department of Human Settlements, 2016b).

2.7.1.2 Budgets

PMR 26(1)(e) of the STSMA Regulations specifies that the body corporate must prepare budgets for the administrative (see also section 2.2.6) and reserve funds (see also section 2.2.6) comprising itemised estimates of the predicted income and expenses for the next financial year for presentation at the annual general meeting (Department of Human Settlements, 2016b). These budgets may include discounts not surpassing 10 per cent of members’ annual contributions applicable if all those contributions are paid on or before the due dates (PMR(1)(e)) (Department of Human Settlements, 2016b). The reserve budget needs to be prepared in accordance with the maintenance, repair and replacement plan (T. Maree, 2017a). PMR 17(6)(j)(iv) indicates that the administrative and reserve budgets for the next financial year need

to be approved during the annual general meeting (see also section 2.2.4.4) (Department of Human Settlements, 2016b; T. Maree, 2017c). According to Maree, a budget is nothing more than an estimate of uncertain events and variable costs. There is a risk for a conservative budget, which can lead to cash-flow problems (T. Maree, 2017d).

The maintenance, repair and replacement plan must be prepared by the body corporate in accordance to PMR 22 for presentation and approval at the annual general meeting (PMR 26(1)(d)), provided that on approval the members may lay down conditions for the payment of money from the reserve fund (PMR 22(3) (Department of Human Settlements, 2016b). This plan needs to set out the major capital items that may require maintenance, repair and replacement within the next 10 years (Department of Human Settlements, 2016b). The plan must also provide the present condition of the identified capital items; timeframe and estimated cost for the maintenance, repair and replacement as well as the expected life of those items or components once maintained, repaired or replaced (PMR 22(1)(a-f)) (Department of Human Settlements, 2016b). The trustees also have the responsibility to provide feedback during each annual general meeting about the approved and implemented maintenance, repair and replacement plan (PMR 22(4)) (Department of Human Settlements, 2016b). Maree mentioned that preparing this required plan may fall outside the capability of most trustees and even managing agents and that knowledgeable assistance may be needed (T. Maree, 2017a).

2.7.1.3 Annual financial statements

2.7.1.3.1 Financial reporting framework

As indicated by PMR 26(5)(b), any recognised financial reporting framework may be used to prepare the annual financial statements (Department of Human Settlements, 2016b). According to the Chief Ombud's circular no 1 of 2017, section 6.3 and 6.4 indicate that the body corporate may prepare its financial statements in accordance with any recognised financial reporting standards, or may use a basis of accounting as determined by the body corporate (Community Schemes Ombud Service, 2017). SAICA clarified that a body corporate may decide to prepare its financial statements

in one of two ways, firstly making use of a recognised financial reporting standard in South Africa, namely full IFRS and IFRS for SMEs (see section 2.6) or, secondly, the body corporate can use a basis of accounting, also called an entity-specific basis of accounting as determined by the body corporate (SAICA, 2017a, p. 3).

Irrespective of which financial framework being used by the body corporate, the concepts and basic principles of recognised accounting standards are applied, and the details thereof will be explained in the accounting policy notes of the financial statements. It is also important to note that IFRS for SMEs clearly states that an entity can use titles or wording in its financial statements other than those used in the accounting standards, as long as it is not misleading (IASB, 2015, p. 25). The wording used by the body corporate will usually be wording suitable and understandable for the users of its financial statements.

The auditor needs to determine whether the applied financial framework or basis of accounting is adequate (Community Schemes Ombud Service, 2017) (see section 2.11.3.1). Regardless of the chosen financial framework or basis of accounting, the financial statements need to comply with the additional financial reporting provisions in terms of PMR 26(1)(c) (Community Schemes Ombud Service, 2017).

2.7.1.3.2 Disclosure

According to PMR 26(1)(c) of the STSMA Regulations, the body corporate must prepare annual financial statements for presentation at the annual general meeting (see also section 2.2.4.4) (Department of Human Settlements, 2016b). The financial statements should include the following analysis as indicate in PMR 26(1)(c)(i – vi). Firstly, amounts due to the body corporate in respect of contributions (see also PMR 25(6)), special contributions and other charges, classified according to member and periods for which such amounts were owed, meaning that additional disclosure will be required (Department of Human Settlements, 2016b; Steenkamp, 2017b, p. 130). Secondly, disclosing amounts due to any public authority, local municipality or other entity for services including, without limitation, water, electricity, gas, sewerage and refuse removal, classified according to creditor and periods for which such amounts were owed, disclosure of all creditors required (Department of Human Settlements,

2016b). Thirdly, amounts advanced to the body corporate by way of levy finance, a loan, in terms of a guarantee insurance policy or otherwise (Department of Human Settlements, 2016b). Setting out the actual or contingent liability of the body corporate and the amounts paid by the body corporate and by any member in terms of such arrangement; this will form part of the disclosure of liabilities with supplementary notes (Department of Human Settlements, 2016b; Steenkamp, 2017b, p. 131).

Furthermore, amounts in the reserve fund showing the amount available for maintenance, repair and replacement of each major capital item as a percentage of the accrued estimated cost and the rand value of any shortfall (Department of Human Settlements, 2016b). This disclosure requirement will involve identification of individual capital items with estimates and calculations of variable difficulty depending on the body corporate (Steenkamp, 2017b, p. 131). It can therefore be expected that this requirement may bring an substantial amount of additional work for accounting practitioners and preparers of financial statements (Steenkamp, 2017b, p. 131). Analyses also need to be provided for the premiums and other amounts paid and payments received by the body corporate and any member relating to insurance policies of the body corporate and the expiry date of each policy (Department of Human Settlements, 2016b). Lastly, amounts due and payable to the Community Schemes Ombud Service also need to be disclosed (Department of Human Settlements, 2016b).

2.7.1.3.3 Timeframe

PMR 26(5) of the STSMA Regulations specifies that the body corporate must present audited financial statements to a general meeting within four months after the end of the financial year (Department of Human Settlements, 2016b). According to section 59(b)(ii) of CSOSA, a copy of the annual financial statements need to be filed with the Community Schemes Ombud Service and this document must be filed within four months after the end of the community scheme's financial year as indicated by Regulation 18(1) of the CSOSA (Department of Human Settlements, 2011a, 2016a).

2.8 Accounting and financial reporting of Life Right Schemes

2.8.1 Introduction

The type of institution offering life right will determine the reporting requirements. A company may offer life right, then the reporting requirements prescribed by the Companies Act 71 of 2008 will be applicable. If a non-profit organisation is offering life right, then the NPOA will be applicable to reporting requirements. The life right retirement facility selected in this study operates as a non-profit organisation (voluntary organisation, see section 2.3.2); for that purpose, the focus will be on the reporting requirements for a NPO. The other relevant legislation applicable to life right, namely HDSRPA, CSOSA along with the regulations, should also be considered in the discussion of accounting and financial reporting.

The HDSRPA along with the regulation does not provide any requirements in regard to financial reports. Regulation 9(1)(p) of the HDSRPA specifies that a committee under the instructions of the management association shall exercise all the powers and perform all the functions conferred upon it by the management association (Department of Trade and Industry, 1989). The regulations of the HDSRPA do provide limited guidelines concerning financial records and budgets that will be discussed in section 2.8.1.1 and 2.8.1.2.

2.8.1.1 Financial records

According to section 17(1)(a) of the NPOA, every registered NPO must keep accounting records of its income, expenditure, assets and liabilities including cash and credit transactions (Department of Social Development, 1997; SAIBA, 2015, p. 11). NPO as indicated by section 17(3) of the Act must maintain books of account, supporting vouchers, levies paid by its members, income and expenditure statements, balance sheets and accounting officer's reports, in an original or replicated form, for the prescribed period (Department of Social Development, 1997).

As discussed in section 2.3.4.3, the management association has the power to open and operate a current and a savings account as stipulated in regulation 9(10)(e) of the HDSRPA (Department of Trade and Industry, 1989). The management association

also has the power to borrow money in its performance of their duties as well as investing of money received (Department of Trade and Industry, 1989).

2.8.1.2 Budgets

Regulation 12 of the HDSRPA provides guidelines concerning the budget of a life right retirement facility. The management association shall prepare, or cause to be prepared, for each year a detailed budget of expected income and expenditure for the proper control and operation of the scheme (Department of Trade and Industry, 1989). The budget also needs to include for the following year a reasonable provision for future maintenance and repair costs (Department of Trade and Industry, 1989). The budget shall be approved at the annual general meeting of the management association. Regulation 12(2) stipulates that the budget for each fiscal year be made available to all members of housing interests at least fourteen days prior to the date of the annual general meeting of the management association (Department of Trade and Industry, 1989).

2.8.1.3 Annual financial statements

2.8.1.3.1 Financial reporting framework

Every registered NPO, according to section 17(1)(b) of the NPOA, must to the standards of generally accepted accounting practice, draw up financial statements at the end of the financial year (Department of Social Development, 1997). The NPOA does not define the meaning of generally accepted accounting practice (SAIBA, 2015, p. 11). There is currently no financial reporting framework that applies particularly to NPOs in South Africa (C. Rossouw, 2013, p. 460). NPOs do have specific accounting requirements and that specific accounting principles may be applicable (C. Rossouw, 2013, p. 460). NPOs generally prepare financial statements using the following standards: International Financial Reporting Standards (IFRS), International Financial Reporting Standards for Small and Medium Enterprises (IFRS for SMEs), modified cash basis of accounting or other basis suitable to the activities of the NPO (SAIBA, 2015, p. 11). IFRS and IFRS for SMEs as discussed in section 1.4 and 2.4 are the only formal financial reporting standards in South Africa (C. Rossouw, 2013, p. 461). These standards are designed for “for-profit” entities and are not exactly suitable for

NPOs (C. Rossouw, 2013, p. 461). A NPO should select a reporting standard by considering the following: legislative requirements applicable to the NPO, stipulations from donors or government grants and the nature and scope of the activities of the NPO (SAIBA, 2015, p. 11).

2.8.1.3.2 Disclosure

Limited disclosure is required from the NPOA, and no specific disclosure is required from the HDSRPA for life right retirement facilities - in contrast with sectional title retirement facilities, see section 2.7.1.3. The NPOA merely specifies that the financial statements must at least include a statement of income and expenditure for the financial year (Department of Social Development, 1997). Furthermore, a balance sheet showing its assets, liabilities and financial position as at the end of the financial year (Department of Social Development, 1997).

2.8.1.3.3 Timeframe

According to the NPOA, section 17(1)(b), a non-profit organisation needs to draw the financial statements six months after the end of its financial year (Department of Social Development, 1997). Section 17(2) of the NPOA requests that within two months after drawing up the financial statements, every registered non-profit organisation must organise for a written report to be compiled by an accounting officer (Department of Social Development, 1997). This written report by the accounting officer will be discussed in more detail in section 2.12.2.

2.9 Auditing and assurance

According to section 1 of the Auditing Profession Act (No 26 of 2005) (APA), audit means “the examination of”, following prescribed or applicable auditing standards (South African Government, 2005). Examination of financial statements to express an opinion as to their fairness or compliance with an identified financial reporting framework and any applicable statutory requirements (Hendrikse & Hefer, 2019, p. 537; South African Government, 2005). Or else an examination of financial and other information, prepared by suitable criteria, to express an opinion on the financial and other information (Hendrikse & Hefer, 2019, p. 537; South African Government, 2005). The purpose of an audit is to improve the degree of confidence of intended users of

financial statements (IAASB, 2018a, p. 77). The most important characteristic of auditing is independence, in the sense that the person performing the audit need to be independent of the entity being audited (Jackson & Stent, 2016, p. 1/3).

The International Framework for Assurance Engagements mentions assurance engagements and non-assurance engagements (IAASB, 2018c; Penning et al., 2018, p. 16). Assurance engagement is to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the measurement or evaluation of an underlying subject matter against criteria (IAASB, 2018c, p. 70; Jackson & Stent, 2016, pp. 1/5-6; Penning et al., 2018, p. 16). Assurance engagement includes audit, and independent review (Jackson & Stent, 2016, p. 1/7; SAIBA, 2015). Non-assurance engagements are engagements which do not meet the definition of an assurance engagement (Jackson & Stent, 2016, p. 1/7). Non-assurance engagements include engagements covered by the International Standards on Related Services, such as agreed-upon procedures and compilation engagements as well as the preparation of tax returns where no assurance conclusion is expressed (IAASB, 2018c, p. 72).

Auditors need to assure that financial information produced is reliable (Jackson & Stent, 2016, p. 1/5). There are two levels of assurance, that an auditor can give (IAASB, 2018c, p. 69; Jackson & Stent, 2016, p. 1/8). Firstly; reasonable assurance (ISA 200), which can be defined as a “high but not complete” level of assurance; the auditor carries out comprehensive procedures during the audit of financial statements to gather evidence to express and opinion that the financial statements are fairly presented in a positive form (IAASB, 2018c, p. 69,72, 2018a, p. 79; Jackson & Stent, 2016, p. 1/8; Penning et al., 2018, p. 17). Secondly, limited assurance (ISRE 2400), which is lower than reasonable assurance but still meaningful. The reviewers carry out sufficient procedures during the review of financial statements to gather evidence to express a conclusion in a negative form whether anything has come to the attention of the practitioners which may cause to believe that the financial statements are not fairly presented (IAASB, 2018b, p. 4; Jackson & Stent, 2016, p. 1/8; Penning et al., 2018, p. 17).

Audit and review obligations rise out of public interest scores for companies, close corporations as well as owner-managed companies (Jackson & Stent, 2016, p. 1/7).

Regulation 26(2) of the Companies Act provides guidelines on how to calculate the public interest score (Department of Trade and Industry, 2011). Certain companies need to have their annual financial statements audited regardless of their public interest score (Department of Trade and Industry, 2011; Jackson & Stent, 2016, p. 1/14; Penning et al., 2018, p. 89). These are public companies, state-owned companies and profit or non-profit companies that hold assets exceeding R5m in the ordinary course of its primary activities in a fiduciary capacity for persons not related to the company (Department of Trade and Industry, 2011; Jackson & Stent, 2016, p. 1/14; Penning et al., 2018, p. 90).

Non-profit companies may offer life right retirement facilities as discussed in section 2.3.2. Regulation 28(2)(b) of the Companies Act provides clear guidelines on which non-profit companies may be audited (Department of Trade and Industry, 2011). Non-profit company audit requirements fall outside the scope of this study, as the selected life right retirement facility in this study is a non-profit organisation (see section 2.3.2). The audit requirements of non-profit organisations are discussed in detail in section 2.12. Sectional title retirement facilities are not companies, and the above-mentioned requirements will not be applicable. Instead, the STSMA requires that sectional titles be audited, as further explained in section 2.11.

The relevant audit standards as prescribed by the APA are the International Standards on Auditing (ISAs) (IAASB, 2018a, p. 77). The ISAs provide the standards that the auditor must accomplish and direction on how an audit should be done (IAASB, 2018a, p. 77; Jackson & Stent, 2016, p. 1/17). ISA 315 (revised) requires auditors to recognise and assess the risks of material misstatement, whether through fraud or error in the financial statements, through understanding the entity and its environment, including the entity's internal control (IAASB, 2018a, p. 95, 2019; Jackson & Stent, 2016, p. 1/17). Understanding the business risks that entities face increases the possibility of identifying risks of material misstatement, since most business risks will ultimately have financial effects (IAASB, 2019, p. 264). Business risk is wider than the risk of material misstatement of the financial statements, but the auditor does not have a responsibility to identify or assess all business risks (IAASB, 2019, p. 280). If the auditor can recognise the sources of business risk and ensure that the client has

suitable systems to monitor and manage that risk, then there may be little value in extensive substantive testing (Steenkamp, 2017a, p. 150).

Auditors of small and medium-sized entities often face an audit environment that is very challenging because many of these entities often do not have formal entity-level controls for assessing business risks (Van Buuren, Koch, Van Nieuw Amerongen, & Wright, 2014). Furthermore, the expectation gap in auditing is a mismatch in terms of auditor and user satisfaction with procedures and outcomes of the audit process. Probably most audit related issues attributed from the audit expectation gap (Steenkamp, 2017b, p. 4; Toumeh, Yahya, & Siam, 2018, p. 83). The audit expectation gap may be defined as the difference between society's expectations of auditors and perceived responsibilities of auditors (Boterenbrood, 2017, p. 1125). Users of financial statements believe that auditors are accountable to expose all the fundamental errors and fraud and are responsible for the continuousness and success of the entity (Toumeh et al., 2018, p. 103). Private retirement facilities may be classified into the category of small and medium-sized entities as discussed in section 2.4. It is therefore important for the auditors of such schemes to understand several risks relating to the sector. The following section will give a brief discussion on auditors.

2.10 Auditors

The APA defines a registered auditor as an individual or firm registered as an auditor with the Regulatory Board (South African Government, 2005). The Independent Regulatory Board of Auditors (IRBA) is the statutory body controlling that part of the accountancy profession involved with public accountancy in South Africa (IRBA, 2006; Jackson & Stent, 2016, p. 11/1; Penning et al., 2018, p. 28). IRBA ensures that only properly qualified individuals are admitted to the auditing profession and that registered auditors provide services of the highest quality and follow high ethical standards that focus on protecting the financial interests of the public (IRBA, 2006; Penning et al., 2018, p. 28).

A registered auditor must conduct an assurance engagement (Jackson & Stent, 2016, p. 1/16). According to ISA 200, the objective of the auditor is to acquire reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error (IAASB, 2018a, p. 79; Jackson & Stent,

2016, p. 1/15; Penning et al., 2018, p. 15). Permitting the auditor to express an opinion on whether the financial statements are prepared according to an applicable financial reporting framework, see section 2.6 (IAASB, 2018c, p. 79; Jackson & Stent, 2016, p. 1/15). It is not an objective of the auditor to discover or prevent fraud or to ensure compliance with the law, these are management responsibilities (Jackson & Stent, 2016, p. 1/15). An auditor does not verify the complete correctness of financial information, but rather an opinion on its fair presentation (Jackson & Stent, 2016, p. 1/8).

2.11 Auditing and assurance of Sectional Title Schemes

2.11.1 Introduction

Sectional title retirement facilities are statutory assurance engagements; these engagements must be conducted because an Act of parliament requires them, namely the Regulations to the STSMA (Jackson & Stent, 2016, p. 1/9). At the annual general meeting (see section 2.2.4.4) according to PMR 17(6)(j)(iv), the body corporate needs to appoint an auditor to audit the annual financial statement (Department of Human Settlements, 2016b), unless all the sections in the scheme are registered in the name of one person (Department of Human Settlements, 2016b). These audit requirements are stipulated in PMR 26 of the STSMA Regulations and are completed by auditing practitioners in practice for the body corporate and will be further discussed in section 2.11.2 and 2.11.3 (Department of Human Settlements, 2016b).

2.11.2 Auditing

PMR 26(5)(a) indicates that the audit of the annual financial statements of the body corporate must be carried out by an independent auditor who has not participated in the preparation of the annual financial statements or advised on any aspects of the accounts during the period being reported on (Department of Human Settlements, 2016b). The STSMA Regulations require segregation of duties. Under the Sectional Titles Act 95 of 1986, no audit was required in a scheme of less than 10 units, but now, under the STSMA, according to PMR 17(6)(j)(vi), it is a requirement to have an audit conducted annually, unless all the sections in the scheme are registered in the name

of one person (Department of Human Settlements, 2016b; SAICA, 2017b, p. 2; Z. van der Merwe, 2017a).

The term “independent auditor” used in the STSMA Regulations, PMR 26(5)(a), has not been defined in the Regulations but the term “registered auditor” has been defined but not used in the Regulations (SAICA, 2017b, p. 4). PMR 2(1)(n) defines “registered auditor” as a person defined in terms of the APA whereas PMR 2(1)(c) defines “auditor” as a person accredited to perform an audit in terms of the APA (Department of Human Settlements, 2016b). The “independent auditor” refers to the individual registered auditor that is responsible for the audit (SAICA, 2017b, p. 5). The auditor cannot compile the annual financial statements and perform the audit of the said financial statements. Section 290.165 of the Code of Professional Conduct states that providing an audit client with accounting and bookkeeping services will create a self-review threat if the auditor simultaneously audits the financial statements (SAICA, 2017b, p. 3). As mentioned in the beginning of this section, the auditor who audits the financial statements may not be involved in the preparation of the financial statements according to the STSMA Regulations (Department of Human Settlements, 2016b). The compiler of the financial statements of a body corporate and the auditor of those statements can be two qualifying professionals from the same firm (SAICA, 2017b, p. 5).

2.11.3 Opinions

According to PMR 26(5)(c), the audit of a body corporate’s annual financial statements must include certain opinions (Department of Human Settlements, 2016b). Firstly, as to whether or not the annual financial statements accurately reflect the financial position of the body corporate for the financial year under review, with such qualifications and reservations as the auditor considers necessary (PMR26(5)(c)(i)) (Department of Human Settlements, 2016a). Secondly, that the body corporate has complied with the accounting requirements set out in rules 21, 24 and 26, with a specific description of any failure to comply with such requirements (PMR26(5)(c)(ii)) (Department of Human Settlements, 2016a). Thirdly, the books of account of the body corporate has been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud (PMR26(5)(c)(iii)) (Department of

Human Settlements, 2016b). Lastly, the financial affairs of the body corporate appears to be effectively managed (PMR26(5)(c)(iv)) (Department of Human Settlements, 2016a).

The various auditor opinions that are required by the STSMA Regulations create vital challenges in terms of what engagement the auditor would be able to perform and the opinion(s) the auditor would be able to voice. The “opinions” referred to are not wholly consistent with, and in certain instances fall outside the scope of an audit as provided for in accordance with International Standards on Auditing (ISAs) that have been adopted and prescribed for use by registered auditors in South Africa (SAICA, 2017a, p. 2). The intention of Rule 26(5), requiring an audit of the financial statements of a body corporate, was not to impose more burdensome requirements on a body corporate beyond the audit of the financial statements (SAICA, 2017a, p. 4). The additional “opinions” that are required are referred to within the framework of an audit of financial statements, with some additional reporting responsibilities (SAICA, 2017a, p. 4). The Chief Ombud agreed after engagement with the Independent Regulatory Board of Auditors (IRBA) and the South African Institute of Chartered Accountants (SAICA) to the approach that will be outlined below. The first and second audit opinion as required by PMR 26(5)(c)(i) and PMR 26(5)(c)(ii) will be further discussed in section 2.11.3.1 and 2.11.3.2. The third and fourth audit opinion as prescribed by PMR 26(5)(c)(iii) and PMR 26(5)(c)(vi) will be discussed in section 2.11.3.3.

2.11.3.1 The audited financial statements of the body corporate as considered in PMR 26(5)(c)(i)

Body corporates are required to prepare annual financial statements as specified in PMR 26(1)(c) read together with PMR 26(5), and instigate that the financial statements to be audited by an auditor (Department of Human Settlements, 2016b; SAICA, 2017a, p. 2). PMR 26(5)(c)(i) of the STSMA requires an opinion as to whether the annual financial statements accurately reflect the financial position of the body corporate for the financial year under review, with such qualifications and reservations as the auditor considers necessary (Department of Human Settlements, 2016b). PMR 26(5)(b), according to the Chief Ombud Circular No: 1 of 2017 requires that the audit of a body corporate’s annual financial statements need to be carried out in agreement with any

recognised financial reporting framework of guidelines for financial accounting (Community Schemes Ombud Service, 2017, p. 4). This rule must be read in the context of the entire PMR 26(5) that involves the performance of the audit by an independent auditor within the meaning of the APA (Community Schemes Ombud Service, 2017, p. 4).

According to section 1 of the APA, an audit includes an audit of financial statements with the objective of expressing an opinion as to their fairness or compliance with an identified financial reporting framework and any applicable statutory requirements (SAICA, 2017a, p. 2). The registered auditor must comply with those standards, practice statements, guidelines and circulars developed, adopted, issued or prescribed by IRBA in the performance of an audit (SAICA, 2017a, p. 2). PMR 26(5)(c)(i) is interpreted as requiring an audit of financial statements as contemplated in the APA and therefore the registered auditor will form an opinion and report on the financial statements of the body corporate in accordance with International Standards of Auditing (ISA) 700 (Revised) (SAICA, 2017a, p. 2).

The body corporate may prepare its financial statements in accordance with any recognised financial reporting framework or may use an entity-specific basis of accounting (SAICA, 2017a, p. 3). The registered auditor needs to determine if the applied financial reporting framework is acceptable in the preparation of the body corporate's financial statements (SAICA, 2017a, p. 3). According to SAICA and IRBA, auditors should refer to the South African Auditing Practice Statements (SAAPS) 2 (revised 2018) for additional guidance to decide whether the financial reporting framework used is acceptable. SAICA and IRBA provided the following illustrative wording to use concerning an unmodified auditor's opinion in accordance with a **recognised financial reporting framework** (a fair presentation framework) (SAICA, 2017a, p. 3):

"In our opinion, the financial statements present fairly, in all material respects, the financial position ofBody Corporate as at, and its financial performance and cash flows for the year then ended in accordance with the **International Financial Reporting Standard for Small and Medium-sized Entities**

and the requirements of the Sectional Titles Schemes Management Act, 2011, the Sectional Titles Schemes Management Regulations, 2016 and the Management Rules of the body corporate established in terms thereof.”

Illustrative wording to use regarding an unmodified auditor’s opinion on the financial statements of a body corporate that has been prepared in accordance with an **entity-specific basis of accounting** (a compliance framework) (SAICA, 2017a, p. 3):

“In our opinion, the financial statements for the year ended are prepared, in all material respects, in accordance with **the basis of accounting** as disclosed in note (note number) to the financial statements and the requirements of the Sectional Titles Schemes Management Act, 2011, the Sectional Titles Schemes Management Regulations, 2016 and the Management Rules of the body corporate established in terms thereof.”

Paragraph 8 of the SAAPS 2 (revised 2018) indicates that the term ‘basis of accounting’ is used in the context of the basis of preparation of a set of financial statements adopted by the management of an entity for certain special purpose frameworks (IRBA, 2018b, p. 7). In order for the auditor to determine the acceptability of the financial reporting framework, the auditor needs to determine whether the financial statements are prepared to meet the common financial information needs (general purpose) or the needs of specific users (special purpose) (IRBA, 2018b, p. 10). General purpose financial statements are prepared in accordance with a general purpose framework (follow the guidance in ISA 700 (Revised)) and special purpose financial statements are prepared in accordance with a special purpose framework (follow the guidance in ISA 800 (Revised)) (IRBA, 2018b, p. 10). General purpose framework is a financial reporting framework designed to meet the common financial information needs of a wide range of users (IRBA, 2018b, p. 19). Special purpose framework is a financial framework designed to meet financial information needs of specific users (IRBA, 2018b, p. 19). The financial reporting framework used by an entity such as a body corporate may be a requisite of law or regulation, an agreement or a stipulation in the founding document (IRBA, 2018b, p. 13). The specified basis of

accounting may be a fair presentation framework or a compliance framework (IRBA, 2018b, p. 13).

2.11.3.2 Compliance by the body corporate with certain accounting requirements in terms of PMR 26(5)(c)(ii)

PMR 26(5)(c)(ii) requests for an opinion on whether the body corporate has complied with the accounting requirements set out in PMR 21 (dealing with financial management, financial year, functions and powers), PMR 24 (dealing with administrative and reserve funds) and PMR 26 (dealing with financial records, budgets, reports and audits) with a specific description of any failure to comply with such requirements (Department of Human Settlements, 2016b; Steenkamp, 2017b, p. 138). According to Lubbe (2013: 212), the cost pressures and time constraint already make it difficult for audit practitioners to perform all the procedures as required by the auditing standards. SAICA and IRBA agreed that the information needs as intended by the Regulations would be satisfied if the registered auditor in the auditor's report of the financial statement report on any occurrences of non-compliance with the specific requirements that come to the attention of the auditor during the course of the audit (SAICA, 2017a, p. 5).

The trustees of the body corporate are not required to make any statement regarding the body corporate's compliance with PMR 21, 24 and 26 (SAICA, 2017a, p. 5). The assurance engagement that would be required is a direct engagement and could be performed in accordance with the International Standards on Assurance Engagements (ISAE) 3000 (Revised), adapted and supplemented as necessary in the engagement circumstances (ISAE 3000 (Revised), par 2) (SAICA, 2017a, p. 5). The appropriate section to include such findings is under the separate heading "Report on Other and Regulatory Requirements" (SAICA, 2017a, p. 5). This approach does not override the auditors' responsibility to comply in all material respects with the requirement of the ISA's in conducting the audit of the body corporate financial statements, including ISA 250, considerations of laws and regulations in an audit of financial statements (SAICA, 2017a, p. 5). If the audit brings occurrences of non-compliance or suspected non-compliance of ISA 250 or any other aspect, the auditor shall gain an understanding of the nature of the act and assess the effect on the

financial statements (SAICA, 2017a, p. 5). If the identified or suspected non-compliance has a material effect on the financial statements, and has not been adequately reflected in the financial statements, the auditor shall consider the effect on the auditor's opinion in accordance with in ISA 705 (Revised) (SAICA, 2017a, p. 5). In such occasions, the auditor may be required to express a qualified opinion or an adverse opinion or a disclaimer of opinion (as appropriate) (SAICA, 2017a, p. 5). Therefore, the reporting of a finding in the auditor's report regarding non-compliance by the body corporate with the accounting requirements set out in PMR 21, 24 and 26 is not a standby for modifying the auditor's opinion in accordance with ISA 705 (Revised), in those instances where non-compliance has or may have a material effect on the financial statements (SAICA, 2017a, p. 5).

2.11.3.3 Auditor opinions as contemplated in terms of PMR 26(5)(c)(iii) and (iv)

PMR 26(5)(c)(iii) requires an audit opinion whether or not the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud (Department of Human Settlements, 2016b). Furthermore, PMR 26(5)(c)(iv) requires an opinion whether or not the financial affairs of the body corporate appear to be effectively managed (Department of Human Settlements, 2016b). An assurance engagement is required for the registered auditor to express an opinion or conclusion on any particular subject matter or subject matter information (SAICA, 2017a, p. 6). Engagements can provide either reasonable assurance or limited assurance in accordance with ISAs, International Standards on Review Engagements (ISREs) or ISAEs, as applicable (SAICA, 2017a).

The registered auditor can only accept an engagement if the preconditions for an audit are met. Two of these preconditions are that the underlying subject matter is appropriate and that the criteria that the auditor anticipate to apply in the preparation of the subject matter information display all the characteristics of a suitable criteria (SAICA, 2017a, p. 6). The audit as contemplated in PMR 26(5)(c)(iii) and (iv) would not meet the above preconditions for an assurance engagement and therefore the auditor would have to decline the engagement (SAICA, 2017a, p. 6). Managing funds

in a manner to provide a reasonable level of protection against fraud or theft, and the effective management of financial affairs of an entity are not generally identifiable and would not be able to be evaluated or measured against identified criteria (SAICA, 2017a, p. 6). There is no dependable way to measure “reasonable level of protection against fraud or theft” and to measure whether financial affairs “appear to be effectively managed” (SAICA, 2017a, p. 6).

Since there are no suitable criteria for evaluation or measurement, it is not possible to express the auditor opinions as contemplated in PMR 26(5)(c)(iii) and (iv) (SAICA, 2017a, p. 6). The appropriate section in the auditor’s report to inform the users about the auditor’s lack of ability to perform an assurance engagement and express separate auditor opinions in this regard is under the separate heading “Report on Other Legal and Regulatory Requirements” (SAICA, 2017a, p. 7). As required in terms of ISA 700 (Revised) and in applying the guidance in SAAPS 3 (Revised November 2015) (SAICA, 2017a, p. 6). SAICA and IRBA (2017a: 7) provided the following illustrative wording to use in the auditor’s report relating to PMR 26(5)(c)(iii) and (iv):

“In terms of relevant International Standards applicable to audit, review and other assurance engagements we were unable to conduct an engagement relating to whether the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud, and whether the financial affairs of the body corporate appear to be effectively managed, as required by Rules 26(5)(c)(iii) and (iv). We have not performed any audit, review or other assurance engagement in relation to these matters and accordingly we do not express any assurance opinion or conclusion thereon.”

2.12 Auditing and assurance of Life Right Schemes

2.12.1 Introduction

The type of institution offering life right will determine the auditing requirements. If a company may offer life right, then the auditing requirements prescribed by the Companies Act 71 of 2008 will be applicable, see section 2.9. If a non-profit organisation is offering life right, then the NPOA will be applicable to the auditing

requirements. The life right retirement facility selected in this study operates as a non-profit organisation (voluntary organisation, see section 2.3.2), for that purpose the focus will be on the auditing requirements for a NPO.

The HDSRPA along with the regulation does not provide any requirements relating to auditing of financial statements of life right retirement facilities. Regulations 9(1)(p) of the HDSRPA specify that a committee under the instructions of the management association shall exercise all the powers and perform all the functions conferred upon it by the management association (Department of Trade and Industry, 1989).

2.12.2 Auditing

The NPOA requires that a written report compiled by an accounting officer must be submitted within eight months of the financial year end to the organisation as well as the directorate (Department of Social Development, 1997; SAIBA, 2015, p. 12). This report needs to state whether or not the financial statements of the organisation are consistent with the accounting records (Department of Social Development, 1997). Furthermore, that the accounting policies of the organisation are appropriate and have been applied appropriately in the preparation of the financial statements (Department of Social Development, 1997). The report also need to indicate whether the organisation has complied with the provisions of the NPOA and of its constitution that relate to financial matters (Department of Social Development, 2010b).

It is important to note that the NPOA does not request auditing of financial statements; does not specify the procedures that the accounting officer should follow before issuing the accounting officer report and does not place any restriction on whether the accounting officer may also prepare the financial statements (SAIBA, 2015, p. 13,21). Life right retirement facilities offered by NPOs can be a non-statutory assurance engagement, meaning that audits may arise out of other obligations or requirements not in terms of an Act (Jackson & Stent, 2016, p. 1/10). An accounting officer engagement performed for an NPO does not meet the definition of assurance engagement as explained in section 2.9 and thus does not provide any form of assurance related to financial statements (SAIBA, 2015, p. 28). An accounting officer will not perform an audit or review of the financial statements and, accordingly, will not express an assurance opinion (SAIBA, 2015, p. 28). Registered auditors may issue

an audit on financial statements. According to SAIPA and SAIBA, an accounting officer may consult agreed-upon-procedures as provided by the International Standards on related Services (ISRS 440) to assist with determination of the procedures to be followed for providing the written report as required from the NPOA (Ngwenya, 2017, p. 19; SAIBA, 2015, p. 15). The report requested by the NPOA from the accounting officer relate to a non-assurance engagement, as explained in section 2.9.

2.12.3 Report

As discussed in section 2.12.2, the NPOA requires specific statements in the written report from the accounting officer. SAIBA indicates that the accounting officer needs to apply ISRS 4400 to confirm whether the financial statements are consistent with its accounting records and complied with the provisions of the NPOA and its constitution, which relate to financial matters (SAIBA, 2015). Professional judgement applies when the accounting officer verifies whether the accounting policies used by the NPO are suitable and have been applied appropriately in the preparation of the financial statements (SAIBA, 2015, p. 21).

SAIBA in concurrence with ISRS 4400 provides an illustrative framework on the written report to be issued by the accounting officer of the NPO:

Part 1 of the report

Report, as required in terms of section 17(2) of the NPOA that:

- The financial statements of the organisation are [consistent / non consistent] with its accounting records;
- The accounting policies of the organisation are [appropriate / not appropriate] and [have been appropriately / have not been appropriately] applied in the preparation of the financial statements; and
- The organisation [has complied / has not complied] with the provisions of the NPOA and of its constitution which relate to financial matters (SAIBA, 2015, p. 33).

Part 2 of the report

Provide a list of the agreed-upon procedures that were undertaken for the NPO in accordance with ISRS 4400 (IAASB, 2018b, pp. 385–389; SAIBA, 2015, p. 33).

Findings

Report on the findings out of the listed agreed-upon-procedures set out in part 2 (SAIBA, 2015, p. 34).

Emphasis of matter - Select or delete the matter that applies / does not apply (SAIBA, 2015, pp. 35–36).

- [We wish to draw attention to the fact that the annual financial statements are not in agreement with the accounting records as required by section 17 of the NPOA.]
- [We wish to draw attention to a matter relating to the appropriateness of the accounting policies applied. As stated in note 1 to the financial statements, the organisation applies [note the appropriate accounting framework for example IFRS or IFRS for SME or modified cash basis of accounting].
- [We wish to draw attention to a contravention(s) of the NPOA, which came to our knowledge during the performance of our duties as accounting officer. We are not required to perform specific procedures to identify contraventions of the Act. [Refer to the relevant section(s) contravened and explain the nature of the contravention].
- [We wish to draw attention to the fact that a member/partner/employee of our firm is also a member of the organisation and all the members have consented in writing to our appointment as accounting officer under these circumstances.]

2.13 Summary

The chapter started with a brief discussion of sectional title as well as life right legislation. Throughout the chapter, attention was given to subjects relating to management, accounting, and auditing relating to sectional title and life right retirement facilities with specific reference to applicable legislation. It also provides the

foundation for the features that will be empirically tested in the study. In Chapter 3, governance aspects relating to private retirement facilities will be discussed. The purpose of Chapter 3 is to determine the applicability of King IV principles on sectional title as well as life right retirement facilities.

Chapter 3

GOVERNANCE ASPECTS RELATING TO PRIVATE RETIREMENT FACILITIES

3.1 Introduction

In Chapter 2, information was provided concerning management, financial reporting and auditing of sectional title as well as life right retirement facilities. This chapter will focus on corporate governance and the applicability of corporate governance in sectional title as well as life right retirement facilities. The chapter aims to answer the following research question:

(RQ2) Which corporate governance principles according to King IV are applicable to the governing of two types of private retirement facilities?

Corporate governance is a concept for which many definitions have been proposed over the years (Kretschmar et al., 2019, p. 125). Some of the proposed definitions include that corporate governance is about seeing that the organisation is run properly; it is the system by which organisations are directed and control and corporate governance regulates the exercise of power to ensure that the organisation achieve its purpose (Kretschmar et al., 2019, p. 125; D. Rossouw & Van Vuuren, 2017, p. 210; Tricker, 2015, p. 4).

The most important corporate governance guidance document in the South African context, the King IV Report (see section 3.4), defines corporate governance as follows: The exercise of ethical and effective leadership by the governing body to achieve governance outcomes of ethical culture, good performance, effective control and legitimacy, meaning that good governance does not exist separately from the law (see section 1.5) (IoDSA, 2016; Kretschmar et al., 2019, p. 126; PwC, 2016). Corporate governance deals with the structuring of the relationship between the governing body, management and its stakeholders in order to make it more likely that management will serve the interest of the scheme rather than their own interest (Kretschmar et al., 2019, p. 127).

Sound governance practices should make governing bodies more thoughtful and accessible to the diverse needs of its stakeholders and should make an organisation less likely to fail (Kretschmar et al., 2019, p. 128). Corporate governance will make leadership aware of the importance of making sound decisions and of making the business responsible and accountable with integrity from top to bottom (Hendrikse & Hefer-Hendrikse, 2012, p. 105). The capital of a country without a reputation for strong corporate governance practices will flow elsewhere and it helps a country to facilitate market confidence and business integrity (Kretschmar et al., 2019, p. 129). Corporate failure caused by corporate fraud, accounting wrongdoings and fraudulent management is a global reality though (Hendrikse & Hefer-Hendrikse, 2012, p. 104).

Corporate governance is relevant to many entities including public and private, large and small, for profit and non-profit, thus in King IV it talks of organisations and governing bodies instead of companies and board of directors (see section 1.5) (IoDSA, 2016, p. 6; Tricker, 2015, p. 4). King IV shows that corporate governance is not only applicable to companies and directors of companies, but also retirement facilities together with their governing bodies. In this chapter, it will be argued that these facilities should apply the principles and applicable practices of good governance as contained in the King IV Code as indicated in section 1.5.2 (Werksmans Attorneys, 2016, p. 7). Private retirement facilities do not come without challenges, as seen in section 1.5.1 and 1.5.2 above.

Detail discussion of the global growth and history of corporate governance falls outside the scope of this study. This section aims to provide a brief overview on corporate governance. Furthermore, this section focuses on different governance theories that impact the development of corporate governance, in addition to a discussion of the King IV Code to provide an overview of the possible principles applicable to private retirement facilities (Mallin, 2016, p. 16).

3.2 Corporate governance – a brief historical overview

Problems and disputes related to governance have been around since the first companies were found in the 17th century (Afolabi, 2015; M. King, 2006, p. 5). Very little attention was given to the governance of companies until the 1980s (Kretschmar et al., 2019, p. 130). Two main reasons increase the focus on corporate governance

since the 1980s; firstly separation between ownership and management, managers who make self-absorbed decisions and secondly the number of large corporate failures or near failures in the last 30 or more years, many as a result of mismanagement (Kretschmar et al., 2019, pp. 130–131; Walker & Meiring, 2010, p. 1).

The first governance codes were drafted in the early 1990s, specifically the United Kingdom's Cadbury Report (1992), on the financial features of corporate governance (Tricker, 2015, p. 12) and South Africa's first King Report (1995) (Kretschmar et al., 2019, p. 129). Other countries followed with reports on corporate governance, namely France with the Viénot Report in 1995, Canada with the Toronto Stock Exchange recommendations in 1995. The Netherlands with the Netherlands Report in 1997 and the Hong Kong Society of Accountants with the report on corporate governance in 1996 (Tricker, 2015, p. 14). All these reports were very much concerned about the misuse of corporate power (Tricker, 2015, p. 14). In the early 2000s, the downfall of corporations such as Enron, WorldCom and other collapses made shareholders and governments develop an interest in corporate governance and led to the US Sarbanes-Oxley Act (Afolabi, 2015, p. 10; Tricker, 2015, p. 21). Furthermore, international organisations, such as the Organisation for Economic Co-operation and Development (OECD) published principles of corporate governance to assist countries in developing their own governance codes (Afolabi, 2015, p. 10; Tricker, 2015, p. 21).

Corporate governance has always been demanded by South African company directors. There were no clear guidelines, no formal code of corporate governance, on how to apply corporate governance principles before 1994; these principles were found in the common law (Walker & Meiring, 2010, p. 1). The Institute of Directors in South Africa lay the foundation of corporate governance in South Africa, by setting up the first official committee on corporate governance and asking the retired Supreme Court of South Africa Judge Mervyn King to chair the committee (Afolabi, 2015, p. 12). The King Committee on corporate governance was initiated in 1992 (Afolabi, 2015, p. 15). The aim of the King Committee in South Africa was to promote the highest standards of corporate governance (Dartnall, 2016). King I was published by the Committee in 1994, focusing on integrating a code of corporate practices and conduct to advocate openness, integrity and accountability (Dartnall, 2016; Jackson & Stent,

2016, p. 4/3; Walker & Meiring, 2010, p. 1). This report was tailor-made in relation to the UK Cadbury Report of 1992 (Afolabi, 2015, p. 15). In 2002, the King II Report was one of the first codes of corporate governance to move toward the concept of “triple bottom line” reporting, focusing on the economic, environmental and social impact as opposed to the traditional single bottom line of profitability (Dartnall, 2016). In 2009, King III was compiled by the King Committee assisted by the King subcommittees, because of the highly anticipated new Companies Act no. 71 of 2008, focusing on the importance of conducting annual business reporting in an integrated manner as well as changes in the international governance trends (Dartnall, 2016; IoDSA, 2009, p. 5; Walker & Meiring, 2010, p. 1). The King III report on governance as well as the two previous publications (King I (1994); King II (2002)) has become an internationally recognised brand (IoDSA, 2009, p. 5).

The King III Report contained a code of governance, which is a set of 75 principles, and should be read together with the report, which comprises the best practice recommendations for each principle (IoDSA, 2016, p. 7; Muwandi, 2010, p. 1; Walker & Meiring, 2010, p. 1). The viewpoint of the King III Report focus on three principles, namely ethical leadership, sustainability and corporate citizenship (IoDSA, 2009, p. 10). Leaders need to have ethical values with characteristics of transparency, responsibility, accountability and fairness, based on moral duties (IoDSA, 2009, p. 10). For organisations to be sustainable, they need to understand their position in society and nature to operate in a sustainable manner (IoDSA, 2009, p. 11). King III changes from a “comply or explain” approach to an “apply or explain” approach, which means that proper compliance will require an explanation of how the principles and recommendations were applied, or if not applied, the reasons for not doing so (Walker & Meiring, 2010, p. 1).

Since the King III Report has been issued, non-profit organisations, private companies and entities in the public sector endured challenges in understanding and applying the recommendations outlined in King III, meaning a more inclusive document was needed (Dartnall, 2016, p. 1). King IV does not represent a major difference in the viewpoint from King III; the new code is more practical and simpler with a vigorous method to ethical governance (Dartnall, 2016, p. 2; PwC, 2016, p. 2). King IV is the fourth report that sets out the philosophy, principles, practices and outcomes as

benchmark for corporate governance in South Africa (IoDSA, 2016, p. 20). Disclosure and application of King IV is effective for the financial years starting on or after 1 November 2016 (PwC, 2016, p. 2). A brief overview of King IV and the applicable principles to retirement facilities will be discussed in section 3.5.

3.3 Governance theories

Corporate governance is grounded in a number of organisational theories. The most important developments in terms of corporate governance are reasonable in nature as an answer to corporate failures, fraud, scandals, and powerful individuals (Crous, 2017, p. 55). The development of governance principles occurred in the development of mainly seven governance theories; namely, agency theory, stewardship theory, resource dependency theory, network theory, class hegemony theory, enlightened shareholder theory and stakeholder theory (Crous, 2017, pp. 55–56). A brief overview of each theory will be discussed below.

Fundamental differences apply to the field of corporate governance. Firstly, the dissimilarity between internal and external corporate governance (D. Rossouw & Van Vuuren, 2017, p. 210). If the control resides within the organisation, the system is one of internal corporate governance; when the control of the organisation is outside, it is a situation of external corporate governance (D. Rossouw & Van Vuuren, 2017, p. 210). Secondly, the difference between the shareholder and stakeholder approach to corporate governance (D. Rossouw & Van Vuuren, 2017, p. 212). If the focus is on the interest of shareholders only, this approach is referred to as the exclusive approach to corporate governance; this shareholder model progressively became related with the agency theory (D. Rossouw & Van Vuuren, 2017, p. 212). An inclusive approach to corporate governance, when the focus is on the interest of shareholders and also other stakeholders, this approach is related to stakeholders theory (IoDSA, 2016, p. 25; D. Rossouw & Van Vuuren, 2017, p. 213). Lastly, the difference between mandatory and voluntary corporate governance (D. Rossouw & Van Vuuren, 2017, pp. 213–214). Mandatory is often referred to as a “comply or else” whereas voluntary corporate governance is often referred to as “comply or explain” or “apply or explain” (IoDSA, 2009, p. 7; D. Rossouw & Van Vuuren, 2017, pp. 213–214). This means that

organisations need to provide explanations if specific corporate governance practices are not being followed.

The subsections that follow will give a brief overview of various governance theories, being agency theory, stewardship theory, resource dependency theory, network theory, class hegemony theory, enlightened stakeholder theory and stakeholder theory.

3.3.1 Agency Theory

According to Jensen and Meckling (1976, p. 308) an agency can be defined as, “a contract under which one or more persons [the principal(s)] engage another person (the agent) to perform some services on their behalf that involves delegating some decision-making authority to the agent”. Agency theory identifies the governance relationship between two parties (principle and agent) as a contract, and was launched in economics by Jensen and Meckling in 1976 (Lopes, 2016, p. 350; Tricker, 2015, p. 60; Yusoff & Alhaji, 2012, p. 53). This theory applies where the principal (owner) appoints an agent (manager) with the hope that the agent will create value (Boss & Phillips, 2016, p. 278). The principal delegates functions and decision-making authority to the agent that can affect the organisation (Lopes, 2016, p. 350). Agents are the managers and owners are the principals with the governing body as the observing instrument; the agency role of the governing body is serving the shareholders by monitoring the managers (Yusoff & Alhaji, 2012, pp. 53–54). Risk exists that the principal and the agent have conflicting interests; this fundamental agency problem creates the possibility that the agent will not act in the best interest of the principal (Boss & Phillips, 2016, p. 278; Yusoff & Alhaji, 2012, p. 53).

3.3.2 Stewardship theory

Stewardship theory recognises a form of agency very similarly to agency theory (see section on agency theory). With stewardship theory, a form of agency exist; it differs from agency theory because the agency (manager/governing body) acts as stewards, but will not be troubled about promoting their own interests (Keay, 2017, p. 1293). The theory encourages that managers/governing body need to recognise interest of customers, employees, suppliers and other stakeholders, but their first obligation is

to shareholders, to protect and to make profits for shareholders (Abdullah & Valentine, 2009, p. 90; Tricker, 2015, p. 65). Governing bodies have a duty to shareholders - not to themselves - and stewardship theory promotes that managers/governing bodies can be trusted and are loyal to the organisation (Keay, 2017, p. 1297; Tricker, 2015, p. 65). With stewardship theory, the governing body work towards organisational ends, meaning that the managers/governing bodies are aligned with the organisation interest and incorporating their goals as part of the organisation (Abdullah & Valentine, 2009, p. 90; Keay, 2017, p. 1293). This theory reveals the characteristics of corporate governance (Tricker, 2015, p. 65).

3.3.3 Resource dependency theory

The resource dependency theory is the connection between the governing body of a corporate entity and the resources the organisation need to achieve the business objectives, meaning that the governing body is the connection/provider of resources (Christopher, 2010, p. 688; Tricker, 2015, p. 67). This connection between the governing body and the business objectives is grounded on the organisation's reliance on resources from outside the organisation, such as potential customers, access to capital, political and social networks (Viader & Espina, 2014, p. 4). This theory suggests that organisations can manage their environmental (business environment) interdependence in a market and reduce uncertainty in corporate decisions by the quality and effectiveness of the governing body (Christopher, 2010, p. 688; Tricker, 2015, p. 67). According to Crous (2017: 63), the resource dependency theory does not contemplate the associations between an organisation and its shareholders nor the association or accountability of the governing body in terms of stakeholders other than shareholders.

3.3.4 Network theory

Network Theory identifies the need for social networks and the governance processes depending on these networks (Tricker, 2012, p. 57). The social networks created by the governing body should be used to guarantee that the organisation acquires the essential resources to achieve the organisational objectives (Crous, 2017, p. 63). Social networks are created when an actor is part of two or more governing bodies, meaning persons with external contacts make planned choices (Fernando, 2001, p.

16). According to Crous, a breach of confidentiality and independence requirements concerning legislation and corporate governance principles can occur if one person serves on more than one governing body (Crous, 2017, p. 63).

3.3.5 Class hegemony theory

According to the class hegemony theory, the governing bodies recognise themselves as an elite group and this awareness inspires them to behave in an elite way (Tricker, 2015, p. 68). This cannot be the form of dominating the appointment of management to ensure that recruits fit into that elite image, with the implication that power is held by upper class only (Fernando, 2001, pp. 16–17; Tricker, 2015, p. 68). This theory indicates that governing bodies act mainly in their own interest, excluding the interest of other stakeholder and only protecting the interest of the one and only group (Crous, 2012, p. 64; Fernando, 2001, p. 17). Class hegemony theory is not appropriate for applying the corporate governance principles in the corporate governance codes (Crous, 2012, p. 64).

3.3.6 The enlightened shareholder theory

Enlightened shareholder theory go past the shareholder versus stakeholder dispute by indicating that directors cannot serve two masters, namely shareholders and stakeholders (Tricker, 2015, p. 74). According to Queen, satisfying stakeholders and shareholders interest at the same time is likely (Queen, 2015, p. 683). The enlightened shareholder theory indicates that the satisfaction of the needs and interest of stakeholders is essential for the success and furthermore to generate long-term wealth for the organisation (Queen, 2015, p. 683; Tricker, 2015, p. 74). The basis of this theory is an ongoing shareholder primacy with the requirement that the board take the interest of a wider scope of stakeholders into account. By satisfying stakeholders' needs, the organisation will increase shareholders prosperity because shareholders are primary stakeholders (Ajibo, 2014, p. 50; Tricker, 2015, p. 74). Stakeholders' interest need to be taken into account by directors as long as the activities encourage the success of the organisation to benefit members as a whole (Ajibo, 2014, p. 51). If shareholders and stakeholders' interest are addressed effectively, with the organisation maintaining their financial goals and serving the interest of all

stakeholders, the enlightened shareholders theory is successfully implemented (Queen, 2015, p. 486).

3.3.7 Stakeholder theory

Stakeholder theory was rooted in the management discipline in 1970 and further established by Freeman (1984), by way of incorporating accountability to a wide variety of stakeholders (Abdullah & Valentine, 2009, p. 91; Mainardes, Alves, & Raposo, 2011, p. 226). Many different definitions exist for the stakeholder's theory concept, but to an extent all definitions reflects the same principle (Abdullah & Valentine, 2009, p. 91; Mainardes et al., 2011, p. 228; Tricker, 2015, p. 70). Specifically that the organisation need to consider the needs, interests and influences of peoples and groups who influence or may be impacted by the policies and operations of the organisation (Abdullah & Valentine, 2009, p. 91; Mainardes et al., 2011, p. 228; Tricker, 2015, p. 70). This means that stakeholder theory recognises the interest of all those affected by decisions of organisations (Abdullah & Valentine, 2009, p. 91; Mainardes et al., 2011, p. 228; Tricker, 2015, p. 70). In agency theory (see section on agency theory) managers are working and serving the shareholders. Stakeholder theory proposes that managers in the organisations serve a network of stakeholders' namely, employees, managers, shareholders, the local community, interest for the environment and the state (Abdullah & Valentine, 2009, p. 91; Tricker, 2015, p. 70). Stakeholder theorists believe that organisations have an obligation to shareholders and other stakeholders because business and society are interdependent; therefore, actions of managers influence owners and larger stakeholder groups (Queen, 2015, p. 683).

A dependent relationship exists between the organisation and its stakeholders, in the sense that for an organisation to create value for itself rests on the capability to create value for others (IoDSA, 2016, p. 25). King IV promotes a stakeholder-inclusive approach, focusing on the interest of shareholders and stakeholders that can be categorised as stakeholders oriented or an inclusive approach of corporate governance (IoDSA, 2016, p. 25; D. Rossouw & Van Vuuren, 2017, p. 213). Governing bodies perform their duties in the best interest of the organisation taking into account the desires, interest, and prospects of all material stakeholders (IoDSA, 2016, p. 25).

Not just focusing on the interests of financial capital providers, the governing body gives uniformity to all bases of value creation (IoDSA, 2016, p. 25). King IV provides principles and practices that deal with relationships in unity with the stakeholders-inclusive approach (IoDSA, 2016, p. 25).

In conclusion, there are a number of theories informing corporate governance. The two theories that directly influenced the development of the King IV Code is agency theory and stakeholder theory. This will also be discussed in more detail in the sections below.

3.4 The King IV Code on Corporate Governance – a brief overview

In April 2017, the King IV Report on Corporate Governance in South Africa replaced King III in totality (PwC, 2016, p. 2). King IV Report includes a code that is principle based and follows an outcomes-based approach, not a tick-box or compliance approach (Deloitte, 2016, p. 1; KPMG, 2016, p. 3; Werksmans Attorneys, 2016, p. 7). The King IV Code contains principles and practices aimed at achieving governance outcomes; the focus is on applying the principles to achieve the outcomes of ethical culture, good performance, effective control, and legitimacy (IoDSA, 2016, p. 36; KPMG, 2016, p. 3). Practices may be scaled in agreement with proportionality concerns (PwC, 2016, p. 4). Proportionality means that practices can be scaled according to the size, nature, and complexity of the organisation (IoDSA, 2016, p. 37; KPMG, 2016, p. 5). The practices provided by King IV indicate the leading practices and may not be appropriate for all organisations (IoDSA, 2016, p. 37). The aim of King IV is a qualitative approach to achieve the principles and accomplish the governance outcomes; it is not about mindless compliances of all practices (IoDSA, 2016, p. 37). This report is voluntary and applicable to all entities regardless of their form (Harduth, 2016, p. 1; KPMG, 2016, p. 3; PwC, 2016, p. 2; Werksmans Attorneys, 2016, p. 6).

The main governance role and responsibilities of a governing body are to navigate and set planned directions; approve policies and planning; direct and observe as well as certify accountability (IoDSA, 2016, p. 21). The combined context of financial gain, society, and the environment, as well as the six capitals of financial, manufactured,

intellectual, human, social relationships and natural capitals, are concepts that are used in King IV (IoDSA, 2016, p. 24; PwC, 2016, p. 3). These concepts are the path to integrated thinking and sustainable development (IoDSA, 2016, p. 24). A choice exists in King IV to use the combined context to represent the combined external environment or use the six capitals when a more detailed viewpoint is required (IoDSA, 2016, p. 24). The concept used in King IV does not differ significantly from the philosophical underpinnings of King III (IoDSA, 2016, p. 23). King IV promotes integrated thinking, which supports the following; that the organisation is part of the society and for that reason a corporate citizen, a stakeholder-inclusive approach (see section 3.3.7), sustainable development, and integrated reporting (IoDSA, 2016, p. 23; PwC, 2016, p. 2). These concepts are relevant to three paradigm shifts in the corporate world; firstly, from financial capitalism to inclusive capitalism; secondly, from a short-term capital market to a sustainable capital market, and lastly from silo reporting to integrated reporting (Deloitte, 2016, p. 5; IoDSA, 2016, p. 6).

The application system in King III of “apply or explain” is replaced by “apply and explain” in King IV (Deloitte, 2016, p. 2; IoDSA, 2016, p. 37; PwC, 2016, p. 3). The 75 recommended principles in King III have been reduced to 17 fundamental principles in King IV; 16 of these principles are all essential to validate a claim to good governance, whereas one principle applies to institutional investors (IoDSA, 2016, p. 7). The organisations should strive to apply the principles as provided by the King IV Code because these principles are basic and fundamental to good governance (IoDSA, 2016, p. 37; PwC, 2016, p. 4). An organisation should explain the practices that have been applied and how these practices will accomplish or give effect to the principles (Deloitte, 2016, p. 2; IoDSA, 2016, p. 37). An explanation should be given in the form of a narrative account, about practices that prove application of the principle, detail of information provided should be conducted by materiality (Deloitte, 2016, p. 2; IoDSA, 2016, p. 37).

Disclosure is not required against each practice or governance outcome, yet disclosure allows stakeholders to make a knowledgeable assessment of the organisation’s short-, medium- and long-term governance prospects. (IoDSA, 2016, p. 37; PwC, 2016, p. 4). The governing body has the choice to disclose the King IV application in the integrated report, sustainable report, social and ethics committee

report, online or printed reports (IoDSA, 2016, p. 38). Integrated reporting is recommended as a practice in achieving principle 5. Private retirement facilities may not follow the practice of integrated reporting due to size, nature, and simplicity (proportionality basis). Duplication of King IV disclosure should be avoided. Disclosure should be updated at least annually, approved by the governing body and available to the public (IoDSA, 2016, p. 38; PwC, 2016, p. 4).

As mentioned in section 3.1, the King Committee drafted the King IV in such a manner as to make it more effortless and applicable to all organisations, public, private, large, small, profit, and non-profit (IoDSA, 2016, p. 6). Different sector supplements have been presented by King IV with the determination of providing guidance and directions on how the King IV Code needs to be applied by different organisation types (PwC, 2016, p. 2). In the next section, an overview of the principles as provided in the King IV Code applicable to retirement facilities will be discussed focusing on the supplements for SMEs and non-profit organisations. The only difference between the King IV Code principles and the principles provided in the supplement is the change in terminology; the same governance outcomes apply as per King IV Code (PwC, 2016, p. 5). Although in the sector supplement of King IV for SMEs the terminology used is, company for SME, board, and directors. The terminology more relevant to sectional title retirement facilities are governing body, organisation, and members of the governing body, and because the focus is on the King IV principles of retirement facilities, these relevant terminologies will be used in the discussion of the King IV principles. According to King IV, an SME is defined as a private, for-profit company with a public interest score of at least 350, calculated according to regulation 26(2) of the companies act (IoDSA, 2016, p. 103). Although King IV is specific in the definition of an SME, those SMEs falling outside the scope should still align with the principles and consider the practices in the King IV Code and supplement (IoDSA, 2016, p. 103).

The possibility that private retirement facilities may not follow the practice of integrated reporting, as well as disclosure of the application of King IV principles, does not mean that they are released from good governance practices. Good corporate governance adds to the success of an organisation, as it improves the working of its leadership structures and helps the governing body to direct in such a way that the organisation

achieves its strategic objectives (IoDSA, 2016, p. 103). King IV is the “how-to” and legislation is the “what to” or “what not to” (Schoeman-Louw, 2017).

3.5 Overview of the King IV principles and its applicability to retirement facilities

In the following sections, a brief overview will be given of each principle as provided by the King IV Code as well as the applicability of the principle to sectional title and life right ownership in retirement facilities. Below is a summary of the King IV principles that contribute to a specific governance outcome.

| Principles | Governance outcomes |
|---|---|
| Embody good corporate governance. | Realised these benefits through good governance |
| Leadership, ethics and corporate citizenship | |
| Principles 1 to 3 | Ethical culture |
| Strategy, performance and reporting | |
| Principle 4 and 5 | Good performance |
| Governing structures and delegation | |
| Principle 6 to 10 | Effective and adequate control |
| Governance the functional areas | |
| Principle 11 and 15 | Effective and adequate control |
| Stakeholder relationships | |
| Principle 16 and 17 | Legitimacy |

Figure 3.1 King IV principles and governance outcomes.

Source: (IoDSA, 2016)

3.5.1 Leadership, ethics and corporate citizenship

King IV contains three principles relating specifically to leadership, ethics and corporate citizenship (IoDSA, 2016, pp. 43–46). These three principles will contribute in achieving the governance outcome of ethical culture (Werksmans Attorneys, 2016, p. 17). These principles will be discussed below.

3.5.1.1 Principle 1 (Ethical and effective leadership)

The first principle deals with leading ethically and effectively (IoDSA, 2016, p. 104). King IV explains that organisational leadership should act with integrity, competence, responsibly in a fair and transparent manner with necessary accountability (IoDSA, 2016, p. 104). When the governing body represents these characteristics, it can then offer effective leadership (IoDSA, 2016, p. 44).

Sectional title retirement facilities: The board of trustees is the management structure of the body corporate. According to the STSMA, trustees must act honestly, in good faith for the benefit of the body corporate, when dealing with the body corporate directly or in agreements with third parties (Department of Human Settlements, 2011c; Durham, 2016b). This section in the Act requires trustees to lead ethically. There must be no conflict of material interest and they cannot receive any personal economic benefit (Department of Human Settlements, 2011c; Durham, 2016b). Trustees of the body corporate stand in a fiduciary relationship to the body corporate as stipulated by section 8(1) of the STSMA (Department of Human Settlements, 2011c). Trustees must take reasonable steps to educate themselves in terms of the affairs and activities of the community scheme, legislation, and governance as indicated by regulation 14(1) of the CSOSA and also highlighted by Maree (2016a) to lead effectively (Department of Human Settlements, 2016a, p. 109).

Life right retirement facilities: According to the HDSRPA regulations, life right retirement facilities should establish a management association committee and chairperson through a management association (Department of Trade and Industry, 1989). The association has perpetual succession and shall be capable of suing and being sued (see section 2.3.4.1). According to regulation 7(d) of the HDSRPA, indirectly if the association does not lead ethically and effectively as requested by

principle 1 of the King IV Code there may be consequences for the association (Department of Trade and Industry, 1989). Regulation 8(1)(f) requires that the management association must control, manage and administer the common property for the benefit of all members (Department of Trade and Industry, 1989). Furthermore, regulation 14(1) of the CSOSA, applicable to life right retirement facilities, stipulates that scheme executives must inform and educate themselves about the scheme together with legislation and governance (Department of Human Settlements, 2016a, p. 109).

3.5.1.2 Principle 2 (Organisational ethics)

The governing body should govern ethics of the organisation in a way that supports an ethical culture, meaning that the governing body must lead by example and approve codes of conduct and ethical policies (IoDSA, 2016, p. 104; KPMG, 2016, p. 12). Management should take responsibility for the governance of ethics (Esser & Delport, 2018, p. 10). Business ethics is recognising and applying good values and standards that will guide the business to guarantee that the stakeholders' interest are valued (D. Rossouw & Van Vuuren, 2017, pp. 5–6). Ethical culture is described by Rossouw and Van Vuuren (2017: 126) as “the way we do things around here even when no one is watching”.

Sectional title: Sectional title retirement facilities need to have a code of conduct that provides the rights and obligations to help residents and management to maintain a respectful and dynamic relationship (Government of Australia, 2018). This code of conduct needs to provide information about what is expected from management concerning their duties and responsibility as indicated by legislation, and what is expected from residents; for example, the need to comply with residence rules as provided by legislation (Government of Australia, 2018). The sectional title retirement scheme must be regulated and managed by a set of management and conduct rules, as indicated by section 10 of the STSMA from the date of establishment (Department of Human Settlements, 2011c). These rules need to be reasonable and apply equally to all owners of units (Department of Human Settlements, 2011c). These rules need to be submitted to the chief Ombud with any adjustments for approval; the body corporate need to keep a copy and the rules must be available for owners and trustees (Department of Human Settlements, 2011c, p. 22).

Life right: Regulation 9(1)(o) of the HDSRPA indicates that the management association needs to make rules for the conduct of members; these rules must not conflict with the Act or the Regulations (Department of Trade and Industry, 1988). These rules shall be reasonable and shall apply equally to all members (Department of Trade and Industry, 1989). The HDSRPA does not mention that any changes to rules need approval and the regulations of CSOSA only indicate that approval is required for rule change of sectional title retirement facilities (Department of Human Settlements, 2016a, p. 103).

3.5.1.3 Principle 3 (Corporate citizenship)

The governing body should guarantee that the organisation is a responsible corporate citizen (IoDSA, 2016, p. 105). The governing body should confirm that the organisation comply with applicable legislation, the law, leading standards and obey to its own codes of conduct and policies (IoDSA, 2016, p. 45). Organisations, including retirement facilities, is part of the broader society in which it operates (IoDSA, 2016, p. 11). Retirement facilities stand as a juristic person in the society with rights but also with responsibilities and obligations towards society, the economy as well as the environment (IoDSA, 2016, p. 11).

Sectional title: The following sections of the STSMA indicate the requirement for compliance. Section 2(7), the body corporate has perpetual succession and is capable of suing and being sued; this makes the body corporate a juristic person (Department of Human Settlements, 2011c). Section 3(1)(p) of the STSMA requires from the body corporate to ensure compliance with any law relating to the common property (Department of Human Settlements, 2011c, p. 12). PMR 3(2) of the STSMA indicates that members must take all reasonable steps to ensure compliance with the conduct rules (Department of Human Settlements, 2016b). Regulation 14(2) of the CSOSA specifies that scheme executives have a fiduciary obligation in terms of common law and any applicable statute; this too is applicable to life right retirement facilities (Department of Human Settlements, 2016a). When owners move into a sectional title retirement facility, they need to except the responsibility of complying with the rules of the scheme and giving up a degree of freedom (T. Maree, 2018b).

Life right: According to regulation, 8(1)(e) of the HDSRPA the management association shall ensure compliance with any laws relating to common property (regulation 8(1)(e)) (Department of Trade and Industry, 1989).

3.5.2 Strategy, performance and reporting

King IV contains two principles relating to strategy, performance and reporting (IoDSA, 2016, pp. 47–48). These two principles will add in achieving the governance outcome of good performance and value creation (Werksmans Attorneys, 2016, p. 17). The principles will be discussed below.

3.5.2.1 Principle 4 (Strategy and performance)

The core purpose of the organisation, risks, opportunities, strategy, business model, performance and sustainable development are attached elements for the value creation process, which should be appreciated by the governing body (IoDSA, 2016, p. 105). The governing body needs to spend adequate time on developing, approving and implementing strategies, organisational performance and business performance to identify areas for development, including corporate governance principles (Content, 2017, p. 1; IoDSA, 2016, p. 105). This principle emphasise survival and growth (IoDSA, 2016, p. 90).

Sectional title: This principle requires from the body corporate of retirement facilities to have strategic planning meetings with the purpose of deliberations about opportunities, performance and sustainability development. The STSMA as well as the regulations of this Act provide no specific requirements concerning strategic planning sessions. The Regulations of the STSMA provide clear guidelines for the different type of meetings necessary to sectional title retirement facilities, the how as well as the order of business at these meetings (see section 2.2.3.3 and 2.2.4.4). PMR 9(a) requests trustees to meet to carry out the body corporate's business, regulate their meetings as they think fit, subject to the provisions of the Act, the management rules and the common law of meetings (Department of Human Settlements, 2016b, p. 28).

To ensure growth and survival of the sectional title retirement facilities, PMR 26(e) requires the body corporate to prepare budgets for the administrative and reserve funds, see section 2.7.1.2 (Department of Human Settlements, 2016b). PMR 9(c)

requests that trustees apply body corporate funds in accordance with the approved budgets (Department of Human Settlements, 2016b).

Life right: The HDSRPA as well as the regulations of the Act provide no specific requirements concerning strategic planning sessions. The Regulations of the HDSRPA provide guidelines of the meetings to be held by life right retirement facilities (see section 2.3.5). Regulation 9(7)(a) indicates that the management association shall decide on matters relating to meetings of members and proceedings at such meetings (Department of Trade and Industry, 1989). Regulation 9(7)(a)(ii) of the HDSRPA provides a list of business that shall be handled at an AGM (Department of Trade and Industry, 1989).

To ensure growth and survival of the life right retirement facilities, Regulation 12(1) of the HDSRPA requires that the management association to prepare for each fiscal year a detailed budget, see section 2.8.1.2 (Department of Trade and Industry, 1989).

3.5.2.2 Principle 5 (Reports)

The body corporate should guarantee that the reports supplied for the organisation would allow stakeholders to make knowledgeable assessments of the performance as well as short, medium and long-term predictions (IoDSA, 2016, p. 105). Reports represent an effective way of informing stakeholders about the performance of the organisation (IoDSA, 2016, p. 105). The governing body should oversee that reports such as annual financial statements or other online or printed reports are issued as is essential to comply with legal requirements and stakeholders' information needs (IoDSA, 2016, p. 48). King IV required integrated reporting as a practice, but due to workforce, resources and complexity, it may not be suitable and appropriate for all organisations (IoDSA, 2016, p. 37).

Sectional title: According to PMR 26(1)(c) of the STSMA, the body corporate must prepare annual financial statements to represent at the annual general meeting for consideration (see section 0) (Department of Human Settlements, 2016b, p. 56). Annual financial statements need to be audited by an independent auditor as selected at the annual general meeting and who has not participated in the preparations of the financial statements (PMR 26(5) of STSMA) (Department of Human Settlements, 2016b, p. 58). The CSOSA specifies in section 59 (b)(ii) that every community scheme

in each calendar year and as may be prescribed, file with the service a copy of the annual financial statements of the retirement facility; this too is applicable to life right retirement facilities (Department of Human Settlements, 2011a, p. 44).

Life right: According to section 17(1) of the NPOA, life right retirement facilities after the end of its financial year must draw up financial statements which must include a statement of income and expenditure and the balance sheet showing assets, liabilities and financial position, see section 2.8.1.3 (Department of Social Development, 2010a). The Act also requires that the registered non-profit organisation provide the financial statements, accounting officer's report (see section 2.12.3), and a narrative report to the directorate (Department of Social Development, 1997).

3.5.3 Governing structures and delegation

King IV contains five principles relating to governing structures and delegation of the governing body (IoDSA, 2016, pp. 49–60). These five principles including the principles relating to governance functional areas, principle 11 to 15, will contribute in achieving the governance outcome of adequate and effective control (Werksmans Attorneys, 2016, p. 17). These will be discussed below.

3.5.3.1 Principle 6 (Role and responsibilities of the governing body)

This principle is about the primary role and responsibilities of the governing body. The governing body should serve as the central point and upholder of corporate governance in the organisation (IoDSA, 2016, p. 106). The governing body needs to document their role, responsibilities, membership requirements and routine conduct in an agreement. Number of meetings held during a reporting year, attendance thereof and whether the governing body is pleased that it has satisfied its tasks according to the agreement, need to be disclosed (IoDSA, 2016, p. 48; KPMG, 2016, p. 16).

Sectional title: Section 3 of the STSMA provides clear guidelines about the functions of the body corporate, whereas section 4 indicates the powers of the body corporate (see section 0) (Department of Human Settlements, 2011c, pp. 10–14). Neither the Act nor the Regulations provide any guidance on the number of meetings to be held during the reporting period. Section 6(1) of the STSMA indicate that meetings of the body corporate must take place at such time and in such form as may be resolute by

the body corporate (Department of Human Settlements, 2011c, p. 16). In terms of PMR 17 of the STSMA, the body corporate must hold an annual general meeting within four months after the end of each financial year. All other general meetings are called special general meetings (Department of Human Settlements, 2016b, p. 38). According to PMR 17(6)(j)(i), at the annual general meeting, the trustees must provide reports of their activities and decisions since the previous general meeting, including reports of committees (Department of Human Settlements, 2016b, p. 39). PMR 27(2)(a) requires from the body corporate to update and prepare the minutes of all meetings, including the names and role of the persons present (Department of Human Settlements, 2016b, p. 59). Regulation 14(1)(c)(i) of CSOSA specify that scheme executives must attend all meetings of the scheme executives including meetings held annually by the community schemes; this will also be applicable to life right retirement facilities (Department of Human Settlements, 2016a, p. 109).

Life right: Regulation 9 of the HDSRPA provides the powers of the management association (see section 2.3.4.3), subject to restriction or directions given at a general meeting by members (Department of Trade and Industry, 1989). Regulation 8 of the Act provides the duties of the management association (see section 2.3.4.2), subject to restriction or direction at a general meeting by members (Department of Trade and Industry, 1989). Regulation 9(5) of the HDSRPA requires that the management association shall hold an annual general meeting (see section 2.3.5) once a year; all other meetings shall be called special general meetings. Neither the HDSRPA nor the Regulations to the Act provide any provision concerning the number of meetings to be held, keeping minutes or a register of attendance. Although, for an organisation to register as an NPO, the organisation must conduct meetings and keep minutes of the meeting (Department of Social Development, 1997).

3.5.3.2 Principle 7 (Composition of the governing body)

The governing body should contain the appropriate knowledge, skills, experience, variety and objectivity for it to provide its governance role and responsibilities accurately and efficiently (IoDSA, 2016, p. 107). This principle is about the composition of the governing body as well as the independency of the chair (IoDSA, 2016, p. 107). The principle relates to the number of members required on the body corporate, to insure things like regulatory requirements, to secure a quorum at meetings and the

nomination, election and appointment of a knowledgeable, skilled and experienced executive and non-executive. (IoDSA, 2016, p. 50). King IV indicates that to ensure balance of power, periodic rotation is required, but may not be practical or feasible with SMEs (IoDSA, 2016, p. 108).

Sectional title: Knowledge, skills, experience, diversity, and independence as required by the King IV principles may depend on the body corporate of a sectional title retirement facility which is determined by the person who become an owner of a unit in the retirement facility, as explained in section 2(1) of the STSMA (Department of Human Settlements, 2011c, p. 8). This will contribute to limited composition possibilities for the governing body in sectional title retirement facilities. A trustee need to be a member or the legally recognised representative of a member of the body corporate, PMR 6(1) of the STSMA (Department of Human Settlements, 2016b, p. 25). PMR 7(1) specifies that a member of the body corporate may nominate any person for the office of trustee (Department of Human Settlements, 2016b, p. 26). An elected trustee holds office until the end of the next annual general meeting and is entitled to re-election, if nominated (Department of Human Settlements, 2016b, p. 26). In the regulations of the STSMA, it is advised that if a body corporate consists of more than four members who are owners, they must from time to time determine the number of trustees required (Department of Human Settlements, 2016b, p. 24). At the first meeting of trustees after an annual general meeting at which trustees have been elected, the trustees must by majority vote elect a chairperson (Department of Human Settlements, 2016b, p. 23).

STSMA including the regulations of the Act insure independency of the body corporate, trustees as well as the chairperson. Section 6(6) and 6(7) of the STSMA clearly make provision about who can vote, the value of the votes of members during meetings of the body corporate, and giving each member an equal opportunity (Department of Human Settlements, 2011c, p. 16). A trustee will not be allowed to vote to any planned or current contract or dispute with the body corporate to which the trustee is part (Department of Human Settlements, 2016b, p. 33). A trustee will not be allowed voting to any matter in which the trustee has any direct or indirect personal interest (Department of Human Settlements, 2016b, p. 33). A very important requirement by PMR 18(4) of the STSMA to contribute to independency is that the

chairperson must not attempt to influence members' views on any item of business or disclose how the chairperson intends to vote on any item of business (Department of Human Settlements, 2016b, pp. 42–43).

Life right: Knowledge, skills, experience, diversity, and independence as required by the King IV principles may depend on the management association of a life right retirement facility which is determined by the person to whom a housing interest is alienated, as stipulated in Regulation 7(a) of the HDSRPA (Department of Trade and Industry, 1989). This will contribute to limited composition possibilities for the governing body in life right retirement facilities. A committee will be elected by the management association at the annual general meeting; the committee shall exercise all the powers and perform all the functions granted upon it by the management association (Department of Trade and Industry, 1989). Neither the HDSRPA nor the Regulations provide any requirements for the nomination, election, or responsibilities of the chairperson. Regulation 9(7)(c) only requires the chairperson to chair at every general meeting of the management association (Department of Trade and Industry, 1989). At all management association meetings, matters shall be determined by a majority vote of those present and no business shall be transacted unless a quorum of members is present (Department of Trade and Industry, 1989).

3.5.3.3 Principle 8 (Committees of the governing body)

The governing body should ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with balance of power and the effective discharge of its duties (IoDSA, 2016, p. 108). This principle is about the required committees of the governing body and their roles and responsibilities. King IV Code recommends that the following committees be established; namely, audit committee, committee responsible for nomination of members of the governing body, committee responsible for risk governance and remuneration and lastly social and ethics committee (IoDSA, 2016, p. 57). It may not be possible for SMEs or non-profit organisations to have all the sub-committees as required from the King IV Code due to capacity and resource constraints (IoDSA, 2016, p. 109). The governing body needs to ensure that issues of audit, risk and ethics have been addressed (IoDSA, 2016, p. 108).

Sectional title: It may not be suitable and appropriate for a sectional title retirement facility to have sub-committees due to size, workforce, complexity or resources. The trustees of the retirement facility still have the responsibility to address audit, risk and ethics of the facility as required by legislation.

Life right: It may not be suitable and appropriate for a life right retirement facility to have sub-committees due to size, workforce, complexity or resources. The committee of the management association of the retirement facility still have the responsibility to address audit, risk and ethics of the facility as required by legislation.

3.5.3.4 Principle 9 (Performance evaluation)

Principle 9 focuses on the evaluation of the governing body (IoDSA, 2016, p. 58). The governing body should support continued improvement in its performance and effectiveness with evaluation of its performance, the performance of its committees, as well as the chairperson and its individual members (IoDSA, 2016, p. 108).

Sectional title: It may not be suitable for a sectional title retirement facility to formally evaluate the performance of trustees due to size, complexity as well as resources. Section 2(7) of the STSMA indicates the body corporate is capable of being sued if any matter arising out of the performance or non-performance of any of its duties under this Act or any rule (Department of Human Settlements, 2011c, p. 8). Without evaluation of performance, the trustees still have a responsibility to perform certain duties as required by law. Section 8(3) stipulates that a trustee of a body corporate who acts in breach of his or her fiduciary relationship, is liable to the body corporate (Department of Human Settlements, 2016b, p. 18). PMR 17(6)(j)(i) specifies that each trustee need to report on activities and decisions of trustees since the previous general meeting, including reporting of committees to the members of the body corporate (Department of Human Settlements, 2016b, p. 39).

Life right: It may not be suitable for a life right retirement facility to formally evaluate the performance of the management association committee due to size, complexity or resources. Regulation 7(d) of the HDSRPA specifies that the management association shall have perpetual succession and shall be capable of being sued in its corporate name (Department of Trade and Industry, 1989). The management association may be sued in respect of any matter arising out of non-performance of its functions under

the HDSRPA or any rules referred to in Regulation 9(1)(o). Without evaluation of performance, the committee still has a responsibility to perform certain duties as required by law.

3.5.3.5 Principle 10 (Management responsibilities)

The governing body should ensure role clearness, the effective exercise of power and responsibilities with the appointment of, and delegation to, management (IoDSA, 2016, p. 108). This principle deals with the appointment and role of the chair, delegation of powers to the governing body and those of management via the chair (IoDSA, 2016, pp. 58–59). This principle is to reach clarity on the respective roles of the governing body and management (IoDSA, 2016, p. 109). The governing body should ensure that it has access to professional and independent guidance on corporate governance (IoDSA, 2016, p. 109).

Sectional title: Section 7(1) stipulates that trustees of the body corporate must perform and exercise the functions and powers of the body corporate (Department of Human Settlements, 2011c, p. 18). Section 8(2)(a)(i) indicates that a trustee must exercise his or her powers in terms of the STSMA in the interest and for the benefit of the body corporate (Department of Human Settlements, 2011c, p. 18). The general powers and duties of trustees are stipulated in PMR 9 of the STSMA (Department of Human Settlements, 2016b, p. 28). PMR 12 states that a chairperson must be elected out of the board of trustees by majority vote (Department of Human Settlements, 2016b). PMR 12 also provides guidelines to the period of a chairperson to hold office and removing chairperson from office (Department of Human Settlements, 2016b). PMR 18 of the STSMA provides guidelines on the duties and responsibilities of the chairperson during general meetings (Department of Human Settlements, 2016b, p. 41). Appointment of professional corporate governance services to sectional title retirement facilities as requested by King IV principles will be difficult to apply due to size, resources and complexity.

Life right: Regulation 9(1)(p) of the HDSRPA specifies that a committee of the management association must perform and exercise the functions and powers of the management association (Department of Trade and Industry, 1989). The only requirement of the chairperson according to Regulation 9(1)(c) of the HDSRPA is that

the chairperson of the committee shall chair at every general meeting of the housing association (Department of Trade and Industry, 1989). No other guidelines concerning the duties, responsibilities, or election of the chairperson are provided in the Act. Appointment of professional corporate governance services to life right retirement facilities as requested by King IV principles will be difficult to apply due to size, resources and complexity.

3.5.4 Governance functional areas

King IV contains five principles relating to the governance of the functional areas (IoDSA, 2016, pp. 61–70). These five principles including the principles relating to governing structures and delegation, principle 6 to 10, will contribute in achieving the governance outcome of adequate and effective control (Werksmans Attorneys, 2016, p. 17). Principle 11 -15 should be clarified and applied in line with industry, applicable legislation and proportionality considerations (IoDSA, 2016, p. 110). These will be discussed below.

3.5.4.1 Principle 11 (Risk)

The governing body should govern risk in such a way to support the setting and achieving of strategic objectives (IoDSA, 2016, p. 109). Principle 11 deals with identifying potential risk and to determine the risk tolerance level (IoDSA, 2016, pp. 61–62). Further, to evaluate risks and develop strategies to mitigate and manage risk (IoDSA, 2016, pp. 61–62).

Sectional title: Sectional title retirement facilities may find it difficult to identify risk and to determine the tolerance level of risk due to the nature of the organisation. As discussed in section 2.2.8, the STSMA as well the Regulation of the Act mentioned many times how to manage certain possible risks within sectional title retirement facilities through insurance.

Life right: Life right retirement facilities may find it difficult to identify risk and to determine the tolerance level of risk due to the nature of the organisation. As discussed in section 2.3.8, the Regulation of the HDSRPA mentions how to manage certain possible risks within life right retirement facilities through insurance.

3.5.4.2 Principle 12 (Technology and information)

The governing body should govern technology and information in such a way to support the setting and achieving of strategic objectives (IoDSA, 2016, p. 109). Management of the organisation has the responsibility to implement and perform effective technology and information management (IoDSA, 2016, p. 62). Information management according to King IV is about ethical and responsible use, which include confidentiality, integrity, availability of information and compliance with relevant laws. (IoDSA, 2016, pp. 62–63). Furthermore, the management of technology focuses on value creation through investment in technology, risk management concerning the use of technology and the integration of people, technology and information (IoDSA, 2016, pp. 62–63).

Sectional title: The STSMA as well as CSOSA provide detail of which information and documents need to be maintained. PMR 27 of the STSMA clearly explains the governance of certain documents and information (Department of Human Settlements, 2016b, pp. 59–62). Furthermore, this regulation requires that records referred to in this rule must be in writing or in a form that can be easily converted in writing (Department of Human Settlements, 2016b, p. 62). Section 59 and regulation 18(1) of CSOS require from every community scheme, including life right retirement facilities, to file with the service an annual return, annual financial statements and any other prescribed document or information (Department of Human Settlements, 2011a, p. 42, 2016a, p. 113). Section 34 of CSOSA stipulates that any person who fails to provide access to any books, accounts, documents or assets when required to do so under this Act is guilty of an offense and is liable to a fine or imprisonment; this is also relevant to life right retirement facilities (Department of Human Settlements, 2011a, p. 28). No guidelines were provided in the STSMA or CSOSA concerning governance and managing of technology. The regulations of the STSMA have been updated frequently, but only one of those updates was about the ability of IT to facilitate the management, by way of using emails to send the AGM pack (Kelly, 2014a, p. 1).

Life right: No guidelines were provided in the HDSRPA or Regulations concerning governance and managing of technology as well as information. Section 8(1)(k) only requests that the management association needs to keep a register of members in such manner as decided (Department of Trade and Industry, 1989). Section 17(3) of

the NPOA requires from a non-profit organisation to preserve documents and information in an original or reproduced form for a prescribed period (Department of Social Development, 1997).

3.5.4.3 Principle 13 (Compliance)

The governing body should comply with applicable laws and adopted, non-binding rules, codes and standards in such a way to support the organisation in being ethical and a good corporate citizen (IoDSA, 2016, p. 109). The governing body should delegate the responsibility to management to implement and execute effective compliance management, through approving policies that direct compliance (IoDSA, 2016, pp. 63–64). The governing body should oversee compliance management so that it is understood, relates to one another, is responsive to change and development through monitoring of the regulatory environment (KPMG, 2016, p. 29).

Sectional title: Section 2(5) as well as section 4(i) in the STSMA specify that the body corporate is responsible for the enforcement of the rules and for the control, administration and management of the common property for the benefit of all owners (Department of Human Settlements, 2011c, p. 8). PMR 30 forces the body corporate to take reasonable steps to guarantee that a member or any other occupier does not breach the provisions of the STSM Act (Department of Human Settlements, 2016b, p. 66).

Life right: Section 9(1)(n) of the HDSRPA requires from the management association to do all things reasonable for the enforcement of the rules and the control, management and administration of the common property (Department of Trade and Industry, 1989). Section 8(1)(k) of the Act requests the management association to enforce the rules referred to in regulation 9(1)(o) (Department of Trade and Industry, 1989).

3.5.4.4 Principle 14 (Remuneration policy)

The governing body should ensure that the organisation remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term (IoDSA, 2016, p. 109). The governing body should approve a remuneration policy that is fair, responsible and

transparent (KPMG, 2016, p. 30). The remuneration policy need to promote achievement of strategic objectives, attract positive outcomes, an ethical culture and responsible corporate citizenship (KPMG, 2016, p. 30).

Sectional title: Sectional title retirement facilities may find it difficult to ensure the provision of a remuneration policy due to size, complicity and resources of the facility as requested from King IV. PMR (8) of the STSMA provides guidelines on payment and indemnity of trustees. In terms of PMR 8(1), the body corporate must refund trustees for all disbursements and expenses incurred by them in carrying out their duties (Department of Human Settlements, 2016b, p. 27). In terms of PMR 8(2), trustees who are members of the body corporate are not entitled to any reward for their services (Department of Human Settlements, 2016b, p. 27). According to PMR 8(3), trustees who are not members may be rewarded for their services; but this must be approved by a resolution of the body corporate as part of the budget for the administrative fund (Department of Human Settlements, 2016b, p. 27). Section 4(a) of the STSMA stipulates that the body corporate may exercise the powers under this Act or the prescribed rules, and such powers include appointing of agents and employees as the body corporate may see fit (Department of Human Settlements, 2011c, p. 14).

Life right: Life right retirement facilities may find it difficult to ensure the provision of a remuneration policy due to size, complicity and resources of the facility as requested from King IV. The HDSRPA and the Regulation make no provision for remuneration of the management association, committee or chairperson. Section 9(1)(f) only stipulates that the management association has the power to appoint employees as it may deem fit (Department of Trade and Industry, 1989).

3.5.4.5 Principle 15 (Assurance of external reports)

The governing body should guarantee that assurance services and functions allow an effective control environment, and support the integrity of information for internal decision-making and of the organisation external reports (IoDSA, 2016, p. 109). The governing body should apply a combined assurance model with various assurance services to enable an effective control environment (IoDSA, 2016, p. 68). This model need to cover risk and material matters through the organisation's internal auditors, fraud examiners, safety assessors, actuaries, external auditor, other assurance

providers and regulatory inspectors (KPMG, 2016, p. 32). The governing body is responsible for the integrity of external reports, taking in consideration legal requirements (IoDSA, 2016, p. 69).

Sectional title: PMR 17(6)(j)(vi) and PMR 26(4) of the STSMA indicate that at the AGM, an auditor needs to be appointed to audit (see section 2.11.2) the annual financial statements, unless all the sections are registered in the name of one person (Department of Human Settlements, 2016b, p. 40,58). The audit of a body corporate annual financial statements must be carried out by an independent auditor as stipulated by PMR 26(5)(a) (Department of Human Settlements, 2016b, p. 58). PMR 26(5)(c) requires certain opinions (see section 2.11.3) from the auditor (Department of Human Settlements, 2016b, p. 58). IRBA classified audits are required by the STSMA as category A, high-risk assurance work. This refers to audits that are required in terms of legislation or regulation (IRBA, 2018a, pp. 1–2).

Life right: The HDSRPA and Regulation of this Act do not provide any guidelines concerning assurance of external reports. Section 17(2) of the NPOA of a non-profit organisation requests that an accounting officer needs to compile a written report (see section 2.12.3) on the financial statements (Department of Social Development, 1997). The Act requires certain statements in the report, according to section 17(2)(a-c) (Department of Social Development, 1997).

3.5.5 Stakeholder relationships

King IV contains two principles relating to the governance of stakeholder relationships (IoDSA, 2016, pp. 71–73). These two principles will contribute in achieving the governance outcome of trust, good standing and legitimacy (Werksmans Attorneys, 2016, p. 17). Principles 16 and 17 will be discussed below.

3.5.5.1 Principle 16 (Stakeholder relationship)

The governing body should embrace a stakeholder-inclusive approach when performing its governance role and responsibilities, to balance the needs, interests and expectations of material stakeholders in the best interests of the organisation over time (IoDSA, 2016, p. 110). This principle relates to stakeholder relationships due to the casual nature of relationships at a SME, where shareholders may be more involved

(IoDSA, 2016, p. 110). Due to this informal nature of stakeholders, relationships thought should be given to establish a formal forum in which shareholders may raise questions (IoDSA, 2016, p. 110).

Sectional title: Within a sectional title retirement facility, each owner of a unit is a member of the body corporate, and therefore each owner is a stakeholder. The STSM Act as well as the prescribed management rules provide clear guidelines on possible meetings for stakeholders' attendance to fulfil their needs, interest and expectations. PMR 11(3) of the STSMA says that members, registered bondholders, holders of future development rights and the managing agent may attend trustee meetings, may speak on any matter on the agenda, but they are not permitted to recommend any motion or to vote (Department of Human Settlements, 2016b, p. 29). Section 6(2) and PMR 15(1) of the STSMA request that written notice of a general meeting must be given to all members; all registered bondholders; all holders of future development rights; and the managing agent (Department of Human Settlements, 2011c, p. 16, 2016b, p. 33). According to PMR 9(e), trustees must compile minutes of all trustee and general meetings in accordance with PMR 27(2)(a) and distribute these as soon as possible to the persons entitled to the minutes (Department of Human Settlements, 2016b, p. 28). PMR 18(3)(e) requests from the chairperson to ensure that all members and other persons allowed to speak are able to express their views without disturbance or interruption (Department of Human Settlements, 2016b, p. 42). One purpose of CSOSA is to provide a dispute resolution mechanism in community schemes, giving members the opportunity to an alternative mechanism if not satisfied with trustee decisions (Department of Human Settlements, 2011a, p. 8).

Life right: Within life right retirement facilities, each person to whom a housing interest is alienated shall be a member of the management association and therefore each member is a stakeholder, Regulation 7(a) of the HDSRPA (Department of Trade and Industry, 1989). The HDSRPA as well as the Regulations mention that the control, administration and management of the facilities must be for the benefit of all members. Regulation 9(7) of the HDSRPA states that the management association shall determine the matters relating to meetings of members and proceedings of such meetings (Department of Trade and Industry, 1989). The assumption can be made that all members can attend meetings because matters shall be determined by a

majority vote of those present (Department of Trade and Industry, 1989). One purpose of CSOSA is to provide a dispute resolution mechanism in community schemes, giving members the opportunity to an alternative mechanism if not satisfied with management committee decisions (Department of Human Settlements, 2011a, p. 8).

3.5.5.2 Principle 17 (Responsible investment)

The governing body of an institutional investor organisation needs to practice responsible investment by the organisation to support the good governance and the creation of value by the companies in which it invests (IoDSA, 2016, p. 73). According to King IV, principle 17 does not apply to SMEs (IoDSA, 2016, p. 110).

Sectional title: The sectional title retirement facilities may not be an institutional investor organisation. The body corporate still has the function according to section 3(1)(b) of the STSMA to establish and maintain a reserve fund in such amounts as are adequate to cover the cost of future maintenance and repair (Department of Human Settlements, 2011c, p. 10). Furthermore, PMR 21(3)(d) indicates that the body corporate may invest moneys in the reserve fund referred to in section 3(1)(b) in a secure investment with any institution referred to in the definition of "financial institution" in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990) (Department of Human Settlements, 2016b, p. 47). The STSM Act, including the regulations of the Act, require from the body corporate of sectional title retirement facilities to practice responsible investments.

Life right: The life right retirement facilities may not be an institutional investor organisation. The management association still has the power according to Regulation 9(1)(a) of the HDSRPA to establish and maintain a levy fund sufficient in the opinion of the management association for repair and upkeep (Department of Trade and Industry, 1989). Furthermore, Regulation 9(1)(k) indicates that management associations may invest money of the fund referred to in Regulation 9(1)(a) (Department of Trade and Industry, 1989). The HDSRPA and the Regulations do not provide where the funds should be invested.

3.6 Summary

The chapter commenced with a historical overview of corporate governance and further discussions of different governance theories. Attention was given to the history of the King codes as well as the applicability of the King IV principles on sectional title and life right retirement facilities. In the next chapter, the research methodology will be discussed.

Chapter 4

Research methodology

4.1 Introduction

Research is a scientific process of gathering, analysing, and interpreting relevant information in a quest to expand new knowledge (Goddard & Melville, 2001, p. 1). With research, the unknown is investigated to gather useful insights in a planned and systematic way (Goddard & Melville, 2001, p. 1). Business research is rooted in the ideas and intellectual traditions of social sciences and is an inquiry that provides information to guide business decision making (Bryman & Bell, 2015, p. 5; Cooper & William, 1995, p. 11).

The main objective of the study is to give an overview of private retirement facilities in the Mangaung district with sectional and life right ownership, specifically from a risk, governance and control perspective.

More specifically, the subsidiary objectives are:

- (O1) To explore and comment on the current legislative frameworks relating to the management, governance and control of sectional title and life right private retirement facilities.
- (O2) To identify and gain an in-depth understanding of corporate governance principles, as contained in King IV, applicable to the governing of sectional title and life right private retirement facilities.
- (O3) To identify and describe risks associated with governing sectional title and life right private retirement villages.
- (O4) To identify challenges and problems experienced by South African auditors in performing statutory assurance engagements on sectional title and life right private retirement facilities.
- (O5) To describe accounting- and bookkeeping-specific problems relating to sectional title and life right private retirement facilities.

- (O6) To identify and describe problems faced by those in charge of governance, specifically relating to the day-to-day management of sectional title and life right private retirement facilities.
- (O7) To develop recommendations for various role players in the private retirement facility industry on how to address governance challenges and problems in the industry.

This chapter describes the research philosophy, research approach, design, population, and data gathering instrument as well as the data-collection procedure. The chapter will also detail the analysis procedure and ethical considerations applicable to the study.

4.2 Research philosophy

Researchers need to adopt a specific paradigm or worldview, which entails a set of beliefs or assumptions that will guide their inquiries (De Vos, Strydom, Fouche, & Delport, 2011, p. 298). A paradigm is the researcher's point of view for observing life or understanding reality (De Vos et al., 2011, p. 297). The paradigm describes a researcher's philosophical framework that contains the ontological and epistemological beliefs (Kivunja & Kuyini, 2017, p. 26; Mouton, 1996, p. 27; Ritchie, Lewis, McNaughton Nicholls, & Ormston, 2014, p. 4).

Ontology is the study of the nature of being, what exists, and what constitutes reality (Gray, 2014, p. 19). There are three types of ontological orientations namely objectivism, pragmatism, and constructivism (De Vos et al., 2011, p. 311). Objectivism explains that there is an external reality that refers to the ability to know things as they really are (De Vos et al., 2011, p. 309). For pragmatism, a system is true only if it works and generates practical significances for society (Gray, 2014, p. 28). Constructivism holds that there is no real truth, only a narrative reality (De Vos et al., 2011, p. 310). Reality can only be socially and personally constructed (Gray, 2014, p. 20). Due to the aims and scope of the study, the ontological perspective of constructivism applies. This means the researcher believes that multiple realities exist and individuals construct meaning through their constant interactions with each other (De Vos et al., 2011, p. 310).

Epistemology is used to define how reality (truth) is known and can be explained as the theory of knowledge (Bryman et al., 2014, p. 12; Kivunja & Kuyini, 2017, p. 27). Epistemology helps to establish faith in data and affects how knowledge is uncovered in the social context (Kivunja & Kuyini, 2017, p. 27). Bryman *et al.*, (2014: 12) identified three primary epistemological positions, namely positivism, realism, and interpretivism. Positivists argue that the social world exists externally to the researcher; there is a separation of the knower from the known (Gray, 2014, p. 21). Realism regard reality as something that exists individually of those who observe it, but is only available through the perceptions and explanations of individuals (Ritchie et al., 2014, p. 21). Interpretivism implies that reality should be interpreted through the meaning that research participants give to their lifeworld (De Vos et al., 2011, p. 310; Ritchie et al., 2014, p. 11). The researcher believes that knowledge does not exist outside individuals, but is constructed through lived experiences; thus, the applicability of interpretivism to the study.

The researcher's ontological and epistemological beliefs are related, both perspectives discard the idea of 'value-neutral' observations and universal laws and both focus on understanding lived experiences from the view of those who hold it (Ritchie et al., 2014, p. 13).

4.3 Research approach

The two renowned and recognised research approaches are qualitative and quantitative (De Vos et al., 2011, p. 63). Researchers should familiarise themselves with the differences between these approaches or whether a mixed-method approach might be suitable (De Vos *et al.*, 2011). The mixed-method approach merges both qualitative and quantitative approaches (De Vos et al., 2011, p. 63). Quantitative research is an inquiry into a social or human problem, explaining the relationship between variables and/or specific questions (De Vos et al., 2011, p. 64). Quantitative research usually relates to large sample sizes, numerical data, using statistical analysis (Babbie, 2010, p. 25). Quantitative researchers rely more on deductive reasoning, moving from general to specific understandings (Babbie, 2010, p. 22; De Vos et al., 2011, p. 63; Gray, 2014, p. 16), whereas qualitative researchers rely more on inductive reasoning, moving from particular to general (De Vos et al., 2011, p. 64).

A qualitative approach is suitable where problems need to be explored (Creswell, 2014, p. 186). A detailed understanding of the problems which may be created only by interacting directly with participants is necessary, allowing them to tell their stories (Creswell, 2014, p. 186). Based on the philosophical position of interpretivism, the study followed a qualitative research approach.

4.4 Research design

Research designs focus on data collection, analysis and indicate which research methods are suitable for the study (Creswell, 2014, p. 187). It is recommended that qualitative researchers need to choose between different research designs that are popular across social sciences (Creswell, 2014, p. 187; De Vos et al., 2011, pp. 312–313; Gray, 2014, p. 164). Possible research designs to choose from are narrative biography (interrelationship between a social and cultural world), phenomenology (describes the lived experiences for several individuals), ethnography (describes and interpret cultural behaviour), grounded theory (development of a substantive theory grounded in data) and, case study (investigate a phenomenon in-depth with its real-life context) (De Vos et al., 2011, pp. 312–323; Gray, 2014, pp. 162–167).

A case study is an examination of a case providing in-depth descriptions of some social real-life experience in order to generate an understanding about the particular phenomena (Babbie, 2010, p. 338; De Vos et al., 2011, p. 321; Rule & Vaughn, 2011, p. 4; Yin, 2009, p. 4). The purpose of this study was to gain an understanding of issues in sectional title and life right retirement facilities, specifically from accounting, auditing, and governance perspectives. Therefore, a case study is the appropriate research design for this study.

The two prominent types of case study are descriptive and instrumental case studies (De Vos et al., 2011, pp. 321–322; Gray, 2014, p. 274; K. Maree, 2016, p. 82). A descriptive case study describes, analyses, and interprets a specific phenomenon (De Vos et al., 2011, p. 321). The case itself is of interest, and not theory building (Ridder, 2017, p. 288). Descriptive case studies produce detailed descriptions of the case by asking “what “ questions (De Vos et al., 2011, p. 321; Gray, 2014, p. 274; Rule & Vaughn, 2011, p. 9). An instrumental case study explores and describes a specific issue, with the aim of gaining new knowledge, which may inform theory building (De

Vos et al., 2011, p. 321; Gray, 2014, p. 274; Ridder, 2017, p. 288; Rule & Vaughn, 2011).

The case study for this study mirrors the characteristics of a descriptive case study. (De Vos et al., 2011, p. 322). The objective of the study was to identify and describe problems and challenges concerning risk, governance and control perspectives of private retirement facilities in the Mangaung district with sectional or life right ownership. Each case includes management, accounting, and auditing as well as corporate governance aspects of the selected retirement facilities.

4.4.1 Population

The Population represents the people, organisations, objects, or occurrences from which a sample is drawn (Gray, 2014, p. 688). The two types of sampling techniques in research are probability sampling and non-probability sampling (Babbie, 2010, p. 127; De Vos et al., 2011, p. 391; Gray, 2014, p. 208). Probability sampling techniques are for selecting a relatively large number of units from the population in a random manner (Gray, 2014, p. 208). Results can be generalised to the larger population (Gray, 2014, p. 208). With non-probability sampling, cases are selected intentionally to reflect the features of the sampled population (Ritchie et al., 2014: 113). Non-probability sampling is the appropriate sampling technique for this study, because the cases were selected due to particular features, such as location, ownership type and a retirement facility.

Selecting the case

A type of non-probability sampling technique is purposive sampling (De Vos et al., 2011, p. 392; K. Maree, 2016, p. 85). Purposive sampling means that the cases for the study are selected because they are the holders of information-rich data needed for the specific study (Gray, 2014, p. 217; K. Maree, 2016, p. 85). The researcher exercises a degree of judgment about who will provide the best viewpoints on the phenomenon under investigation (Gray, 2014, p. 217). According to Patton (2002: 244), no rules exist for sample size in qualitative research. The sample size depends on the purpose of the study as well as considering the time constraints and resources available to the researcher (Patton, 2002, p. 244).

The population for this study was private retirement facilities, within the Mangaung area, specifically sectional title ownership or life right retirement facilities. Private retirement facilities with a combination of different ownership options, meaning private retirement facilities offering sectional title and life right ownership, were not included in the study. Private retirement facilities were categorised according to ownership and management type to distinguish between principles that are based on the legal context of a facility, as was explained in the literature review. The researcher conducted a desktop search of private retirement facilities in the Mangaung area. The search yielded nineteen facilities. After telephonic conversations with each facility, the researcher determined that thirteen were sectional title facilities, five were life right retirement facilities and one was a rental only retirement facility.

Of the five life right retirement facilities, two were facilities offering combination ownership (life right and sectional title ownership) and were for that reason excluded from the study. As one of the facilities was part of a national group that centralises their accounting and auditing services, it was excluded from the study. Of the remaining life right facilities, one opted not to be part of the study. Only one remaining life right retirement facility was willing to participate in this study.

After the first interview with a sectional title retirement facility, it was established that some facilities have in-house management structures and others make use of managing agents. For this reason, the researcher selected two cases of sectional title facilities with in-house management (six interviews were conducted) and two facilities using managing agents (seven interviews were conducted) as indicated in table 4.1.

Selecting the unit of analysis

According to Patton (2002: 228), an important factor in selecting and making decisions about the unit of analysis is to decide which unit the researcher wants to say something about at the end of the study. Participants were selected based on their roles and positions in their respective schemes – ranging from chairperson, manager/managing agent, and accountant/auditor. In tables and where abbreviations are required, Case 1 will also be abbreviated as C1, Case 2 as C2, Participant 1 as P1, Participant 2 as P2 and so on. This is displayed in Table 4.1 below.

Table 4.1: Sample of the study

| SELECTED CASE (Purposive sampling) | UNIT OF ANALYSIS | SELECTED PARTICIPANT (Intensity sampling) |
|---|---|--|
| <p>Two sectional title retirement facilities with in-house management (Also abbreviated as "<i>ST self-managed</i>" in the text going forward)</p> <p>(Case 1 [C1] and Case 2 [C2])</p> | <ul style="list-style-type: none"> • Management (and accounting) • Corporate Governance • Auditing | <p><u>Participant 1 [P1]</u>: Chairperson [C1P1 and C2P1]</p> <p><u>Participant 2 [P2]</u>: Manager [C1P2 and C2P2]</p> <p><u>Participant 3 [P3]</u>: Auditing professionals [C1P3 and C2P3]</p> |
| <p>Two sectional title retirement facilities with managing agent (Also abbreviated as "<i>ST MA-managed</i>" in the text going forward)</p> <p>(Case 3 [C3] and Case 4 [C4])</p> | <ul style="list-style-type: none"> • Management • Corporate Governance • Accounting and Auditing | <p><u>Participant 1 [P1]</u>: Chairperson [C3P1 and C4P1]</p> <p><u>Participant 2 [P2]</u>: Managing Agent [C3P2 and C4P2]</p> <p><u>Participant 3 [P3]</u>: Accounting professional [C3/4P3]</p> <p>Auditing professionals [C3P3 and C4P3]</p> |
| <p>One life right retirement facility with in-house management (Also abbreviated as "<i>LR self-managed</i>" in the text going forward)</p> <p>(Case 5 [C5])</p> | <ul style="list-style-type: none"> • Management (and accounting) • Corporate Governance • Auditing | <p><u>Participant 1 [P1]</u>: Chairperson [C5P1]</p> <p><u>Participant 2 [P2]</u>: Manager [C5P2]</p> <p><u>Participant 3 [P3]</u>: Auditing professionals [C5P3]</p> |

4.4.2 Data gathering instrument

Data was gathered using semi-structured interviews and documentary data. The advantage of using interviews is the direct focus on the topic at hand and gathering original and informative data (Gray, 2014, p. 278). An interview is a one-on-one interaction in which the researcher asks the participant questions to collect data and to learn about the problems, opinions, and behaviours from the participant's perspective (Goddard & Melville, 2001, p. 49; K. Maree, 2016, p. 93). The researcher compiled six interview schedules (Annexure C-N); three for sectional title ownership facilities, and three for life right ownership facilities. The interview schedules are divided into themes under each unit, one set for each selected participant (De Vos et al., 2011, p. 352). Available literature (Chapter 1 to 3), as well as interview schedules of a researcher from a previous study (Steenkamp, 2017b), were used as guidelines to develop and formulate the interview questions.

There is value in combining data from different methods. For example it could be used to certify and enhance the understanding of the research findings; this may involve looking for issues not been revealed through in-depth interviews (Lewis & McNaughton Nicholls, 2014, p. 58). Secondary data was also analysed in this study, in the form of financial statements, agendas and meeting minutes (Spencer, Ritchie, O'Connor, Morrell, & Ormston, 2014, p. 342). Secondary documentary data is already arranged around key topics (Spencer, Ritchie, O'Connor, et al., 2014, p. 342). Documentary data is mostly written for specific purposes with a targeted audience in mind, and needs to be analysed as communicative tools rather than holders of contents (Spencer, Ritchie, O'Connor, et al., 2014, p. 342). As such, they present a specific account of certainty of the cases being researched (Spencer, Ritchie, O'Connor, et al., 2014, p. 342).

4.4.3 Data collection procedure

The participant information sheet as well as the interview schedule were emailed to selected participants beforehand (See Annexures A and B). The information sheet served as a cover letter and explained the purpose of the study, potential benefits, confidentiality of the study, and format of the interview. The researcher requested consent to participate in this study as well as permission to document the interview by

way of taking notes and by making a voice recording. This allowed the researcher to recall the observations made during the interview. The researcher also obtained permission from the chairperson of the retirement facility to interview the managing agent or manager as well as the accounting and auditing professionals relevant to the selected case.

Interviews were scheduled with willing participants, finding a suitable date, time, and place for the interview (De Vos et al., 2011, p. 350). Participants were ensured of the confidentiality of their responses, voluntary nature of the participants in the study and their anonymity as participants (De Vos et al., 2011, p. 350; Gray, 2014, p. 392; Ritchie et al., 2014, p. 187). All participants were requested to sign a consent form before the commencement of the interviews. The interview concluded with the researcher asking the participants if they had any questions or additional information to share. After the interview, the researcher thanked the participants for their contribution (Ritchie et al., 2014, p. 189).

Ensuring validity and reliability of qualitative research

One of the criticisms against qualitative research is that it can be unscientific, based on independent impressions and lack reproducibility as well as generalisability (Gray, 2014, p. 181). As the validity and reliability (the trustworthiness) of qualitative research is substantial, four tests of quality and trustworthiness must be established by qualitative researchers; namely, credibility, dependability, transferability, and confirmability (De Vos et al., 2011, p. 419; Gray, 2014, p. 185). The four tests are also relevant to case studies (Yin, 2009, p. 40). These recommendations will increase the quality of the case study and will overcome criticism of case study research.

4.4.4 Credibility

Credibility is the qualitative alternative for internal validity in quantitative research. The question to ask is whether there is a match between the views of the participants and what the researcher reconstructed and represents of the participants (De Vos et al., 2011, p. 420). Credibility is to validate the truth of the research findings. The two most important techniques to establish credibility are triangulation and member checking (Spencer, Ritchie, Ormston, O'Connor, & Barnard, 2014, p. 358). In this study,

triangulation involved comparing data from two different qualitative methods such as interviews as well as inspection of documentary data from various participants (Spencer, Ritchie, Ormston, et al., 2014, p. 358). Regular peer debriefing conducted with the researcher's supervisors to provide an external check on the research process, findings, and difficulties encountered increases the credibility of this study (De Vos et al., 2011, p. 420). Credibility was further enhanced through the research process that allows for collecting suitable and truthful data from participants.

4.4.5 Transferability

Transferability is the qualitative alternative for external validity. The question to ask whether the findings of the research can be generalised from a case to another (De Vos et al., 2011, p. 420). Generalisation may occur with replication of findings in a second or third case (Yin, 2009, p. 41). Multiple case studies used in this investigation improve the possibility of generalising by replicating using the same methods, techniques, and instruments of data collection and analysis as in other cases (Bhattacharjee, 2012, p. 40; Rule & Vaughn, 2011, p. 21). The investigation ensured transferability through thick description, and by relating the findings from multiple cases back to the literature showing that the results are feasible (Gray, 2014, p. 280).

4.4.6 Dependability

Dependability is the alternative to reliability. The question to ask whether the research process is consistent, well documented, and reviewed (De Vos et al., 2011, p. 420). Dependability was ensured by following the same data collection procedure for each case and using a consistent set of questions within each interview. Dependability was enhanced through a coherent research methodology and by accurately documenting and transcribing all interviews. All interviews were recorded, and written notes were kept during and after interviews.

4.4.7 Confirmability

Confirmability is the alternative to objectivity. It implies that findings can be confirmed by other researchers (De Vos et al., 2011, p. 421). Confirmability of qualitative inquiry is reached through an audit trail, reflexive journal, and triangulation (Lincoln & Guba, 1985). An audit trail provides visible evidence, from process to end-product as proof

that the researcher did not simply find what was set out to find (Bowen, 2009). Conformability was established by using interview questions that relate to the research question, research objectives, and the literature review.

4.5 Data analysis

Data analysis implies answering the research questions, and the aim is to interpret and make sense of what is in the data to produce findings (De Vos et al., 2011, p. 397; K. Maree, 2016, p. 126). Data analysis is the process of creating order, structure, and meaning to the collected data (De Vos et al., 2011, p. 397). Whatever approaches are used must meet at least two important criteria: it must be reliable and dependable (K. Maree, 2016).

In this study, the researcher used thematic content analysis for each selected case. Thematic content analyses give the researcher flexibility and can be adapted for different studies (Braun & Clarke, 2006; L. S. Nowell, Norris, White, & Moules, 2017, p. 2). The thematic analysis identifies and analyses themes. Such themes recognised in the data relate to the research question and represent meaning within the data (Gray, 2014, p. 609; Spencer, Ritchie, Ormston, et al., 2014, p. 271). Thematic content analysis is a suitable method for studying the perceptions of participants; to identify similarities and differences to produce unexpected understandings (Braun & Clarke, 2006; L. Nowell, Norris, White, & Moules, 2017, p. 2). The thematic content analysis consists of six phases (Braun & Clarke, 2006; Gray, 2014, pp. 609–610).

Phase 1: The researcher needs to familiarise herself with the data. The researcher reviewed the recordings and transcripts numerous times, to be familiar with the collected data.

Phase 2: Code interesting features of the data systematically across the entire data set. The data was structured in a meaningful and orderly manner.

Phase 3: Search for themes. The researcher search for potential themes during the literature review, with the development of the interview schedule, and during coding of the data.

Phase 4: Review the themes. The themes identified in phase three were reviewed and adjusted. Adjustment of themes can be that some themes do not have enough data to support them or the data is too different (Braun & Clarke, 2006). After this phase, the researcher will have a good indication how the different themes will fit together, as well as the total story they tell about the data (Braun & Clarke, 2006; L. Nowell et al., 2017, p. 10).

Phase 5: Define and name the themes. In this phase each theme needs to be clearly defined and named. It is important to identify the story that each theme tells (Gray, 2014, p. 610).

Phase 6: Produce the report. The researcher used direct quotes from participants. Direct quotes are a vital element of the final report; this will provide an in-depth descriptive account (N. King, 2004; L. Nowell et al., 2017, p. 11).

4.6 Ethical consideration

Ethics instruct the researcher to do the right thing (De Vos et al., 2011, p. 127). Motivation to work in an ethical manner should be driven by value and norms (De Vos et al., 2011, p. 127). Ethical principles that lead social research are no harm to the participants, voluntary participation, ensuring anonymity and confidentiality (Babbie, 2010, pp. 31–38). Furthermore, the participants should not be deceived, because deceiving people is unethical (Babbie, 2010, pp. 31–38; De Vos et al., 2011, p. 128).

A participant information sheet (Annexures A and B) outlining the purpose and benefits of the study and the interview schedule providing the questions which would be asked were sent to participants prior to the interviews. Within the information sheet as well as interview schedule for the participant, the following principles in regard to ethics were highlighted:

- Their willingness to participate in the study.
- Participation is voluntary and that they can withdraw at any time.
- Any information and answer that the participant provides will be treated as strictly confidential.
- Findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.

The participants were informed of the purpose and possible benefits of the study as well as the interview questions to ensure no participant was deceived.

4.7 Summary

This chapter discussed the research methodology in this study. The researcher adopted constructivism and interpretivism as her research philosophical view. Different research approaches were reviewed, namely the quantitative and qualitative research approach. The approach implemented in this study was qualitative. Furthermore, the research design was discussed, which was a descriptive case study design. The data-gathering instrument used in this study was semi-structured one-on-one interviews. The thematic content analysis allowed the researcher to analyse and examine the data collected. The chapter also explained the population of the study, validity, and reliability issues relating to qualitative research, as well as the ethical considerations. The following chapter will focus on data analysis along with the findings of the study.

Chapter 5

ANALYSIS AND DISCUSSION OF THE RESEARCH FINDINGS

5.1 Introduction

The purpose of this chapter is to provide an analysis and discussion of the research findings. As indicated before, the research questions as well as the literature review directed the researcher in the creation of the interview schedules (Annexure C to N). These schedules were used during the semi-structured interviews to explore the responses of the participants. Five cases were selected, consisting of two sectional title retirement facilities with own management (Case C1 and C2), two sectional title retirement facilities with managing agents (Case C3 and C4) (totalling four sectional title schemes) and one life right retirement facility with own management (Case C5). Sixteen (16) participants; namely, five chairpersons (one for each selected case) (C1P1, C2P1, C3P1, C4P1 and C5P1), five managers, three being own managers (C1P2, C2P2 and C5P2) and two managing agents (also referred to as "portfolio managers" (C3P2 and C4P2) (one for each selected case), one accountant (C3/4P3) (the same accountant doing the work for two of the selected cases) and five auditors (C1P3, C2P3, C3P3, C4P3, C5P3) (one for each selected case) were interviewed to identify problems and challenges relating to management, accounting and auditing as well as corporate governance. (Also refer to Table 4.1 in Chapter 4.) Table 5.1 below summarises the selected cases and participants, with abbreviated codes for ease of reference throughout the rest of this chapter.

Table 5.1 Summary of case codes and participant codes

| Classification of case | Case code | Selected participant | Participant code | List of chairpersons | List of managers/ portfolio managers | List of accountants | List of auditors |
|--|-----------|---|--|----------------------|---|---------------------|------------------|
| Sectional title (ST) self-managed | C1 | - | | | | | |
| | C2 | - <u>Participant 1 [P1]</u> : Chairperson <u>Participant 2 [P2]</u> : Manager <u>Participant 3 [P3]</u> : Auditing professionals | C1P1 C2P1 C1P2 C2P2 C1P3 C2P3 | C1P1 C2P1 | C1P2 C2P2 | | C1P3 C2P3 |
| Sectional title (ST) with managing agent | C3 | - | | | | | |
| | C4 | - <u>Participant 1 [P1]</u> : Chairperson <u>Participant 2 [P2]</u> : Managing Agent <u>Participant 3 [P3]</u> : Accounting professional Auditing professionals | C3P1 C4P1 C3P2 C4P2 C3/4P3 C3P3 C4P3 | C3P1 C4P1 | C3P2 C4P2 | C3/4P3 | C3P3 C4P3 |
| Life right self-managed | C5 | - <u>Participant 1 [P1]</u> : Chairperson <u>Participant 2 [P2]</u> : Manager <u>Participant 3 [P3]</u> : Auditing professionals | C5P1 C5P2 C5P3 | C5P1 | C5P2 | | C5P3 |
| Count of codes | 5 | | 16 | 5 | 5 | 1 | 5 |

The chapter will start with discussing the results from participants relating to a set of specific background interview questions per selected case and unit of analysis (management, accounting and auditing, corporate governance). It will be followed by a summary and discussion of the opinions and viewpoints of the chairpersons, managers/managing agents as well as accountants and/or auditors of the sectional title retirement facilities. The same structure will then be followed for the analysis of research finding of life-right facilities. Thereafter, corporate governance matters as per the interview schedules will be discussed. The participant responses will in every section be discussed in narrative format, where necessary.

5.2 Research findings: Sectional title retirement facilities

Section A: Background information and administrative matters

Question one of section A provide background information of the participant involved with the selected case.

The information below summarises questions asked to the **chairperson (P1)** of the retirement facility to determine background information of the facility and the participant.

Table 5.2 Responses of chairpersons of sectional title retirement facilities on background questions

| Question | C1P1 (ST self-managed) | C2P1 (ST self-managed) | C3P1 (ST with MA) | C4P1 (ST with MA) |
|---|---------------------------|---------------------------|----------------------|----------------------|
| How many units are in your retirement facility? | 149 units. | 235 units. | 88 units. | 130 units. |
| How long have you been staying in the | Almost sixteen years. | Nineteen years. | Six years. | Two years. |

| | | | | |
|--|--------------------------------------|--|--|--------------------------------------|
| retirement facility? | | | | |
| For how many years have you been serving on the board of trustees of the retirement facility? | Sixteen years. | Eighteen years. | Six years. | One year. |
| How many people are serving on the board of trustees? | Six trustees, including chairperson. | Eight trustees, including chairperson. | Eight trustees, including chairperson. | Six trustees, including chairperson. |
| For how many years have you been the trustee chairperson? | Five years. | Eight years. | Five years. | Ten months. |

The four chairpersons (C1P1, C2P1, C3P1, C4P1) interviewed had varying numbers of units in their retirement facility. All chairpersons interviewed resided in the retirement facility and served on the board of trustees of the facility. Two of the four chairpersons served on the board of trustees for more than ten years and two for a period less than ten years. All four participants served as chairpersons on the board of trustees for a period less than ten years. Two of the four said that their boards consisted of six trustees and two chairpersons stated that the board consisted of eight trustees. All operated within legal parameters, as the minimum number of trustees required according to law is two, as discussed in section 2.2.3.2 (no further guidelines are provided on the optimal number that would ensure a well-functioning board of trustees depending on the size of the facility). The number of trustees to be elected to serve on the board of trustees are determined by the body corporate at the AGM, see section 2.2.4.4.

The information below summarises questions asked to the **manager or managing agent (P2)** of the retirement facility to determine background information on the manager or managing agency.

Table 5.3 Responses of managers and managing agents of sectional title retirement facilities on background questions

| Question | C1P2 (ST self-managed) | C2P2 (ST self-managed) | C3P2 (ST with MA) | C4P2 (ST with MA) |
|--|---|---|---|---|
| How many sectional title retirement facilities are being managed by managing agency? (Question only applicable to MA facilities.) | Question not applicable, own manager on payroll. | Question not applicable, own manager on payroll. | About four. | About four. |
| For how many years have you been managing the retirement facilities? | Twelve years and six months. | Five years. | Eight years. | About one and a half years. |
| Which service do you provide to the sectional title retirement facilities? | Day-to-day management. All administrative tasks. | Day-to-day management. All administrative tasks. | Administrative task. Compiling budgets with trustee involvement. | Administrative task. Compiling budgets with trustee involvement. |

| | | | | |
|---|--|--|--|--|
| | <p>Compiling of all budgets.</p> <p>Collection of levies and outstanding debt.</p> <p>Handle all meetings, agendas, minutes and reports.</p> | <p>Compiling of all budgets.</p> <p>Handle all meetings, agendas, minutes and reports.</p> | <p>Collection of levies and outstanding debt.</p> | <p>Collection of levies and outstanding debt.</p> |
| <p>What factors are considered in the calculation of your management fee?</p> <p>(Question only applicable to MA facilities.)</p> | <p>Paid official, receives monthly salary.</p> | <p>Paid official, receives monthly salary.</p> | <p>If the agency takes over a complex currently, they charge R75 per unit excluding VAT.</p> | <p>The complexity of the complex.</p> <p>How much work there is.</p> |

Two resident “Non-agent” managers (C1P2 and C2P2) were interviewed; one managed the retirement facility for more than ten years, and one for less than ten years. Both of the managers are paid officials receiving a monthly salary. The managers provided a range of services to the facility such as day-to-day management, administrative tasks, compiling of all budgets, handling all meetings, agendas and reports. One of the two managers is also involved in the collection of levies and outstanding debt.

Two different portfolio managers (managing agents) (C3P2 and C4P2) involved in the selected cases working for the same managing agent were interviewed. Both

participants indicated that the managing agent managed four sectional title retirement facilities. The managing agent provided a range of services to the facilities such as administrative tasks, compiling budgets with trustees' involvement and collection of levies and, outstanding debt. Participant C4P2 indicated that complexity and the amount of work of the scheme or facility were the factors taken into consideration in the calculation of the management fees. Participant C3P2 indicated the standard rate at which work is done, and did not provide other factors that are considered in the calculation of the fees. The appointment of a managing agent for the selected retirement facilities was correct and in line with the legislative requirements that were discussed in section 2.1.1 of Chapter 2. The responsibilities of the managing agents as required by legislation were discussed in section 2.2.5 of Chapter 2.

As part of the interviews, several questions were asked to the **accounting and auditing practitioners (P3)** of the retirement facilities to determine background information on their practices. For C1P3 and C2P3, different staff members in the same accounting and auditing practice are involved in the compilation and auditing of the financial statements. In C3P3 and C4P3, an accounting practitioner (indicated as C3/4P3) other than the auditing practitioner (C3P3 and C4P3) compiles the financial statements, and for that reason, the answer to the questions for Case C3/4P3 consists of two answers.

Table 5.4 Responses of the accountant and auditor of sectional title retirement facilities

| Question | C1P3 (ST self-managed) | C2P3 (ST self-managed) | C3/4P3 (Accountant and C3P3 Auditor) (ST with MA) | C3/4P3 (Accountant and C4P3 Auditor) (ST with MA) |
|---|---------------------------|---------------------------|---|---|
| How many sectional title retirement facilities are | Approximately five. | Two. | Auditing practice: Three Accounting practice: Five | Auditing practice: approximately five. |

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| clients of yours? | | | | Accounting practice: Five |
| For how many years have your practice been operating as a sectional title accounting and auditing practitioner for the retirement facilities? | Ten years. | Twenty-five years since they opened. | Auditing practice: First year for doing the audit of this retirement facility. Accounting practice: Three years. | Auditing practice: Ten years. Accounting practice: Three years. |
| Which service do you provide to sectional title retirement facilities? | Compiling financial statements. Auditing of the financial statements. Different people in same practice. | Compiling financial statements after receiving trial balance from the bookkeeper. Auditing of the financial statements. | Auditing practice: Only the auditing of financial statements. Accounting practice: Compilation of the financial statements | Auditing practice: Only the auditing of financial statements. Accounting practice: Compilation of the financial statements. |
| What factors are considered in the calculation of your accounting and auditing fees? | Size of complex, number of units. The bigger the complex the more time will be spend. | Hours spent; it is only time that is considered. Auditor indicated that the practice is not making any profit on the audits of schools, | Auditing practice: It is based on the units in the scheme. If the previous audit fee is known, it will be | Auditing practice: Size of complex, number of units. Whether there is frail care facilities in the scheme. That |

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| | | <p>churches and retirement facilities, due to time spend on these engagements.</p> | <p>taken into consideration.</p> <p>They can ask a smaller fee because the accountant compiling the financial statements is doing good work.</p> <p>Accounting practice: Size of the complex is taken into consideration. However, the schemes do not want to pay for compilation of financial statements if there is an accountant doing the books.</p> | <p>will increase the work and fee.</p> <p>When the complex reads own water and electricity it will decrease fee.</p> <p>Accounting practice: Size of the complex.</p> |
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The auditors were asked how many sectional title retirement facilities they have as clients, the auditor C1P3 and C4P3 as well as the accountant C3/4P3 said approximately five, the auditor C2P3 indicated two, and the auditor C3P3 mentioned three. According to the auditors C1P3 and C4P3, they have been operating a sectional title accounting and auditing practice for the retirement facilities for ten years. The auditor C2P3 said twenty-five years, as from the retirement facility opened their doors, auditor C3P3 indicated this was the first year that they did the audit for the retirement

facility. The accountant of C3/4P3 mentioned that they compiled the financial statements for the retirement facilities for the last three years.

Three of the auditors, C1P3, C3P3 and C4P3, including the accountant C3/4P3 mentioned the factors that are considered in the calculation of the audit and accounting fee were the size of the complex, the number of units in the complex. The auditor C2P3 indicated they used the hours spent on the audit in the calculation of the audit fee. According to the auditor C3P3, if the fee of the previous auditor was known, that would be taken in consideration. The auditor C4P3 also mentioned two other factors in determining the fee, namely whether there was a frail care facility in the scheme and whether the complex did readings on their own water and electricity meters.

5.2.1 Legislation matters

Question two of section A on the interview schedules asked questions that relates to legislative frameworks as identified in the literature review applicable to sectional title retirement facilities. The purpose behind these questions is to partially answer the following research question:

(RQ1) What are the current legislative frameworks in place relating to the management, governance and control of private retirement facilities?

5.2.2 Legislative framework

In this section, the results of the information from the questions asked about the legislative frameworks will be discussed to obtain the views and understanding of the participants on legislative matters. The concept of legislative frameworks applicable to the management of sectional title retirement facilities was discussed in section 1.3.1.1 of Chapter 1 and section 2.1.1 of Chapter 2.

The chairpersons interviewed mentioned the Sectional Title Act (STA), the Sectional Title Schemes Management Act (STSMA), the Community Scheme Ombud Service Act (CSOSA) and laws on retirement facilities. Some of the chairpersons interviewed said that they were up to date with the stipulations of the STA. One chairperson said that *“the knowledge of the law comes from the manager”* (C1P1), and one chairperson said, *“I have knowledgeable people like the managing agent”* (C4P1).

The managers and managing agents interviewed mentioned the Sectional Title Act (STA), the Sectional Title Schemes Management Act (STMA) and the Community Scheme Ombud Service Act (CSOSA). The managers (C1P2 and C2P2) highlighted the importance of the management rules/regulations. One of the managing agents interviewed clearly said that they are “*Not legal experts*” (C4P2) and would advise trustees to get legal opinions if something is not contained in their manual.

The accountant (C3/4P3) interviewed mentioned the Sectional Title Schemes Management Act (STMA) and the regulations as well as the Community Scheme Ombud Service Act (CSOSA). Some auditors (C1P3, C2P3 and C4P3) mentioned the Sectional Title Act (STA), and some (C2P3 and C3P3) also mentioned the Sectional Title Schemes Management Act (STMA) and the Regulations. One Auditor clearly said that they “*have absolutely nothing to do with the management*” (C1P3) of the retirement facility.

Shortcomings with the legislative frameworks

Some chairpersons (C2P1 and C3P1) interviewed did not identify any shortcomings in the legislative framework and some chairpersons said that they cannot identify any shortcomings due to lack of knowledge, “*I don't know the law, so I can't tell you*” (C4P1).

The managers and managing agents interviewed identified the following shortcomings in the legislative framework:

- No remuneration for trustees
“*You get a guy from the outside to become a trustee I can pay him, but I may not pay a trustee who is an owner*” (C1P2).

The concept of remuneration payable to trustees that are not members of the body corporate was discussed in section 2.2.3.4.

- Appointment of an accountant
“*Nowhere does the body corporate have to appoint the accountant*” (C1P2).
- Timeframe

“The requirement in terms of documentation is immediately higher than the previous legislation” (C4P2).

One manager interviewed said that it is new legislation and *“still in the growing stage, there are going to be a lot of rounding off work in the future due to many grey areas” (C2P2).*

The accountant and auditors interviewed identified the following shortcomings in the legislative framework:

- The maintenance repair and replacement plan
“It's hard it's still very grey because it's a new thing, no one knows how to interpret it. Auditors handle it differently” (C3/4P3).

“Especially with the replacement reserve, the plan. It was quite a challenge for us; we did not know what it should look like” (C2P3).

The required maintenance, repair, and replacement plan for sectional title retirement facilities was discussed in section 2.7.1.2.

- Auditing requirement of all sectional title schemes
“Previous legislation said if you were less than 10 units, you do not need to be audited. Now they need to be audited all of a sudden” (C3/4P3).

“I am also not convinced that it really needs to be audited; they have now brought it in that everyone needs to be audited. They do not want to pay for it, nor can they understand why they must pay for it. They do not see the value of an audit” (C3P3).

The auditing requirements of sectional title retirement facilities was discussed in section 2.11.1.

- New disclosure requirements without guidelines on the layout of the financial statements
“No one knew what to do then and each person found his own path. How they want the financial statements, each took his own path and did what he wanted” (C2P3).

Disclosure requirements in the annual financial statements of sectional title retirement facilities were discussed in section 2.7.1.3.2 2.

- Timeframe

“Time is a problem because they are not necessarily going to be done with it; I do not think it is necessary that it have to be that time, so it is definitely a problem” (C3P3).

The concept of the required timeframe within which the audited financial statements must be presented was discussed in section 2.7.1.3.3.

Some auditors interviewed did not identify any shortcomings in the legislative framework and indicated that the legislation framework is *“well comprehensive”* (C1P3) and *“support the stuff they changed the law with”* (C4P3).

Training

All chairpersons interviewed stated that they attended sectional title training in the past, and that the training was offered by NAMA (National association of Managing Agents). Some chairpersons (C2P1 and C3P1) interviewed said that the training attended were informative. One said that *“the topics was too big to do in one day”* (C1P1) and, one struggled a bit because *“everything was in English”* (C4P1). All chairpersons interviewed said that there is a need for sectional title training courses. One chairperson questioned the popularity of attendance, *“I do not know, this is after all your time”* (C2P1).

One manager and two managing agents interviewed said that there is a need for sectional title training courses, *“always a need for training. I know how important training is”* (C2P2) and, *“always”* (C3P2).

The accountant interviewed said that there is a need for training; she stated *“this is a specialist area this is not a company. It is actually a thing the auditors need to know”* (C3/4P3). Some auditors interviewed mentioned that training is needed for the trustees and some owners, *“the trustees also do not necessarily know what to do”* (C3/4P3). Follow-up training is required so that the regulator or ombudsman can indicate correctness of execution (C2P3) and that training is needed for accountants, *“it is much more important for accountants to be able to do this. You can only compile the*

statements if you have knowledge of the law, because it has such specific rules” (C3P3).

Keeping up with changes in legislation

The chairpersons interviewed said that trustees keep up with changes in legislation by attending training sessions, discuss legal issues at the day management monthly meeting, they buy and study publications and rely on the knowledge of the managing agent. One chairperson (C1P1) mentioned that the manager compiled a book for each trustee on the applicable laws. As discussed in section 2.2.3.5, a very important duty of trustees is to inform and educate themselves about the affairs, activities, and legislation and governance documentation in terms of the scheme.

One manager (C2P2) and both managing agents (C3P2 and C4P2) interviewed said that they keep up with changes in legislation by attending NAMA training sessions. The managing agent of C3 want all the trustees to attend training sessions and he also directed that lack of knowledge is not the problem but the practical application of legislation. Both managers (C1P2 and C2P2) interviewed said that they read articles published by Tertius Maree and Graham Paddock. One managing agent indicated attending courses offered by Paddocks.

Accountant and Auditors interviewed said that they keep up with changes in legislation by attending NAMA training sessions, monthly webinars for CPD, ProBeta training sessions, FASSET training, SAICA training and communications.

5.2.2.1 Community Scheme Ombud Service (CSOS)

In this section, the results of the information from the questions asked about the Community Scheme Ombud Service will be de discussed.

All chairpersons interviewed were familiar with CSOS. One chairperson said in *“broad terms”* (C1P1) and one chairperson said, *“I know you can use them, I don’t know for what exactly”* (C4P1). All managers and managing agents interviewed were familiar with CSOS. The accountant (C3/4P3) interviewed was familiar with CSOS. Three of the auditors interviewed had not dealt with CSOS, but they were aware of the services offered. Two of the auditors (C1P3 and C3P3) mentioned the levies payable to CSOS and, one auditor (C2P3) asked the question *“where’s that lot of money?”* One auditor

(C4P3) interviewed dealt with CSOS before; he experienced it positively but according to him for the owner, it was not a positive experience. The applicability of the CSOS Act in sectional title retirement facilities was discussed in section 2.1.1.

Services offered by CSOS

The chairperson C3P1 interviewed used the services offered by CSOS for a dispute. *“One resident took the trustees to the Ombud service”* and the chairperson C4P1 interviewed was aware of a dispute *“Two residents took the developer to the Ombud service”*. Chairperson C1P1 said *“No, I specifically haven’t dealt with them yet”*.

Chairpersons interviewed indicated the submission of the following to CSOS:

- Payment of quarterly levies (C2P1 and C3P1)
- Approval of change in rules of conduct (C2P1 and C4P1)
- Submission of yearly statements (C2P1)

The managing agent C3P2 interviewed used the services offered by CSOS for a dispute, *“an owner declared a dispute with CSOS”*. The managing agent also said, *“it cost the body corporate R18 000 to prove the case and the resident walked away scot free without paying any of it”*. Managers C1P2 and C2P2 said they had not referred or needed the Community Scheme Ombud services for any disputes. The managers and managing agent indicated the submission of the following to CSOS:

- Payment of quarterly levies (C1P2)
- Approval of change in rules of conduct (C1P2, C2P2 and C4P2)
- Submission of yearly statements (C1P2 and C2P2).

The concept of paying levies and submission of specific documents to CSOS was discussed in Section 2.2.7 of Chapter 2 and 3.5.2.2 of Chapter 3. The concept of the main function of CSOS was discussed in section 2.2.1 of Chapter 2.

Problems with CSOS

The following problems were identified by the chairpersons, managers, and managing agent with CSOS:

- Poor response (C1P1, C1P2 and C2P2)
- No acknowledgement of receipts (C2P1 and C2P2)
- Location (C3P1, C4P1 and C2P2)
- Time-consuming process (C3P1, C4P1 and C4P2).

Manager C1P2 and managing agents C3P2 and C4P2 interviewed said that the effectiveness of CSOS service to the retirement facilities is not good; there are shortcomings and their mechanisms are not in place.

The accountant (C3/4P3) indicated that levies payable to CSOS were collected from the residents but not yet paid to CSOS for the following reasons: they do not provide statements showing the amounts due and payable, and they do not acknowledge receipt of levies. The question to ask according to the accountant is: what do they do with that money? The accountant believed that their systems and financial systems are not in place.

5.2.3 Management matters

Section B: Management of sectional title retirement facilities

The questions in section B of the interview schedules apply to the people involved in the management of the sectional title retirement facilities. The purpose behind these questions is to partially answer the following research question:

(RQ6) What problems do those in charge of governance experience relating to the day-to-day management of sectional title retirement facilities?

5.2.3.1 Manager and Managing Agent

In this section, the results of the information from the questions asked about the managers and managing agents will be discussed.

The concept of appointing a managing agent or manager for a sectional title retirement facility was discussed in section 1.3.2 of Chapter 1, section 2.1.1 and section 2.2.5 of Chapter 2. The law (HDSRPA and STSMA) clearly stated that a managing agent or manager need to be appointed by the body corporate of the sectional title retirement facility. A managing agent is any person who provides scheme management services, including a manager who is employed to render such services. A managing agent is obliged to the body corporate in terms of a legal contract indicating terms, conditions, obligations, fees, and duties.

Appointment of manager or managing agent

Two chairpersons (C1P1 and C2P1) stated that their retirement facility made use of the service of a manager, employed by the retirement facility, and appointed by the board of trustees. Two chairpersons (C3P1 and C4P1) stated that their retirement facility made use of the services of a managing agent. Chairperson C3P1 said that the trustees were responsible for the appointment of the managing agent and it is determined every year. Chairperson C4P1 said, *“Since I'm here, it's just the managing agent. I did not get a letter or a thing about it being done annually or every two years. It is still them”*. The concept of the appointment of the managing agent or manager was also discussed in section 0 and 2.2.3.5 of Chapter 2.

Chairperson C1P1 said, “*We thought a manager would be more effective than a managing agent would*” and chairperson C2P1 indicated, “*It is better to have your own management; there is no doubt about it*”. The following factors were identified by the chairpersons that play the most important role in the decision about the appointment of the manager or managing agent:

- Approachability (C1P1)
- Kindness and commitment (C2P1)
- Reliability (C3P1)
- Service delivery and cost. This chairperson mentioned, “*I’m willing to pay more if your service is just right*” (C4P1).

Characteristics of a good manager or managing agent

The following characteristics of a good manager or managing agent were mentioned by most of the interviewed chairpersons, managers, managing agents, accountant, and auditors:

- Involvement (C1P1, C1P2 and C3/4P3)
- Commitment / Hands-on (C2P1,C3P1, C1P2 and C2P2)
- Competency/knowledgeable (C1P1, C2P1, C4P1, C1P2, C2P2, C3P2 and C4P2)
- Compassionate (C1P2, C2P2 and C2P3)
- Capability (C1P3,C3P3, and C4P3).

Services and challenges

Three of the chairpersons (C1P1, C2P1 and C3P1) interviewed were very satisfied with the services received from the managers and managing agent. Chairperson C4P1 said, “*I am not happy, no*”. Chairperson C4P1 was the only chairperson that provided problems or challenges experienced with the managing agent, namely being timely, punctuality, overtime payment for meetings extended after five.

In terms of the general management of sectional title retirement facilities the managers mentioned their biggest challenges as compliance with rules (C1P2), to keep the levies as low as possible as explained by manager C2P2, *“To keep the levies in line with the inflation rate. People who had to sell because they could not afford it due to high levies”*, and handling many complaints, *“You know you work with the elderly; you get many complaints”*. The managing agents identified the following challenges with the general management of sectional title retirement facilities, collection of overdue levies (C3P2) and the managing agent C4P2 said unknowledgeable trustees in regard to legislation and furthermore disputes between owners and trustees remain problematic.

All the auditors (C1P3, C2P3, C3P3 and C4P3) interviewed were very satisfied with the services received from the managers and managing agents. Auditor C2P3 mentioned the following, *“We are many times also proactive. So, we say this is how we want goods, it also has an impact on cost.”* Auditor C4P3 indicated that *“the managing agent is doing the reserve very well”*. The accountant (C3/4P3) interviewed said that the person dealing with the bookkeeping at the managing agent had no accounting background and that was a problem. The services provided by the managers and managing agents were discussed in section 5.2 of this chapter.

5.2.3.2. Board of Trustees

In this section, the results of the information from the questions asked about the board of trustees will be de discussed. The concept of trustees in sectional title retirement facility was discussed in section 2.2.3 of Chapter 2. Specific elements were reviewed, namely the legal status of trustees (section 2.2.3.1), election and nomination (section 2.2.3.2), trustee meetings (section 2.2.3.3), remuneration of trustees (section 2.2.3.4), and the functions, powers, and duties of trustees (section 2.2.3.5).

Composition of the board

All chairpersons remarked that the trustees are appointed for a specific portfolio. All chairpersons of the retirement facilities interviewed had the following portfolios: finance, security, and maintenance/building and grounds. Other portfolios not identified by all chairpersons were garden services (C1P1 and C3P1), general (C1P1 and C3P1), social affairs (C1P1 and C4P1), secretary (C3P1 and C4P1), frail care

(C2P1), and internal audit (C3P1). The number of trustees on the board was mentioned in section 5.2. An observation that was made regarding the election of trustees, is that all trustees that serve on the board of the interviewed retirement facilities are members of the body corporate. The concept of election and nomination of trustees was also discussed in section 2.2.3.2 of Chapter 2.

Challenges with the board of trustees

The chairpersons interviewed said that they had no challenges with the board of trustees. Chairperson C1P1 mentioned, *“Most trustees have been in service for over 10 years”*. Chairperson C4P1 remarked, *“One of the trustees was involved with residents who went to the Ombud. I told him he had to make a choice”*.

Manager C1P2 identified no challenges with the board of trustees, *“It is about working with the board of trustees and complementing each other. They are always willing”*. Manager C2P2 mentioned working with retired people can be a challenge, as for many of them, *“tomorrow is another day”*. The one managing agent (C3P2) did not identify any challenges. Managing agent C4P2 indicated that trustees requested information quickly and that it is not always possible to provide the information quickly and that can lead to frustrations.

The accountant (C3/4P3) identified no challenges, *“It is very little that I work with the trustees, but actually I prefer it.”* One auditor (C1P3) interviewed said no cooperation is the biggest challenge. Auditor C2P3 and C3P3 identified no challenges with the board of trustees. The one auditor mentioned, *“I do not work directly with them”*. One auditor (C4P3) remarked that *“The retirement facilities are better than many because the people are involved”*.

Operations

The board of trustees according to all chairpersons interviewed had monthly trustee meetings. The concept of trustee meetings was discussed in section 2.2.3.3 of Chapter 2. All the chairpersons interviewed said that the residents are not willing to serve on the board of trustees. Some of the comments by the chairpersons interviewed, *“Unwilling, I'm actually talking about knowledgeable people. The knowledgeable people are not in the mood”* (C1P1); *“We struggle; the existing trustees*

are willing to stand again" (C2P1). This problem was also discussed in section 2.2.3.1 of Chapter 2. The accountant (C3/4P3) also mentioned that owners are afraid to serve as trustees due to their responsibilities. The problem according to the accountant is that owners are under the impression that trustees make the decisions but according to the law it is the body corporate, and the body corporate is every owner as discussed in section 0 of Chapter 2. The functions of the body corporate of retirement facilities are performed by trustees; this concept was discussed in section 2.2.3.5 of Chapter 2.

All the managers and managing agents interviewed mentioned that the trustees are adequately involved. Manager C1P2 said, *"I do not think it is always that easy with a managing agent. Ordinary sectional titles are not involved. Remember this is a voluntary work"*. Managing agent C4P2 mentioned that, *"I think this is just the case, at the retirement facilities the trustees have a little more time on their hands, they are no longer employed full time with work obligations"*. An observation that was made regarding the involvement of trustees was that in retirement facilities that use managing agents, the trustees are much more involved in complaints and inquiries from residents. In retirement facilities with in-house managers, the trustees are less involved with the day-to-day complaints and inquiries by the residents, because it is managed by the managers.

One of the managers (C1P2) interviewed and one of the managing agents (C4P2) interviewed said that trustees of the retirement facility have the competence to act as such within the required portfolio. The manager C2P2 said that about two of the trustees know the law, *"I give them guidance; they rely heavily on my knowledge and my background. If there is only one person who knows the law, then you may be missing something"*. The manager C3P2 indicated that not all know the law, *"they rely on the managing agent's legal knowledge. I'd say it's with all the complexes"*.

The accountant interviewed (C3/4P3) said that some trustees are competent but, *"I think there is a big expectations gap there as well"*. The auditors C1P3, C2P3, and C4P3 interviewed remarked that the trustees are competent since it is older people, *"They take it very seriously"* (C1P3) and *"I experience that there are guys with a lot of knowledge who live there"* (C4P3). One auditor (C2P3) indicated that the problem is to get the right people and to keep them, *"This is an ungrateful job"*. According to

auditor C3P3, the trustees are inexperienced concerning specific regulations and rules, such as the different reserves required, transfer to the reserves, and the requirement of different bank accounts. This problem concerning knowledge about the law was also discussed in section 5.2.2. Further in section 2.2.3.2, it was mentioned that to be elected as a trustee does not require certain abilities or qualifications. On the other hand, in section 2.2.3.1, Maree (2018a) mentioned that to act as a trustee required specialised knowledge and that legislation is supposed to make it easier for trustees.

5.2.3.2 Chairperson

In this section, the results of the information from the questions asked concerning the functions and responsibilities of the chairperson of trustees will be de discussed. The concept of the election of chairpersons for the board of trustees was discussed in section 2.2.3.3 of Chapter 2.

The chairpersons interviewed identified the following as their role and functions, to facilitate meetings (C1P1 and C2P1) and the daily management of the facility including finances (C3P1 and C4P1). An observation that was made concerning the role and functions of the chairpersons are that the facilities making use of managing agents the chairpersons are much more involved in the day-to-day management with more functions and responsibilities. This issue was also discussed in section 5.2.3.2. The concept of responsibilities of chairpersons was discussed in section 2.2.4.5 of Chapter 2.

All the chairpersons interviewed indicated that they received no remuneration for the services provided by them to the body corporate. Chairperson C2P1 said, *"It takes a lot of my time; I'm here a lot, not to check the manager. I want to be up to date"*. Chairperson C3P1 remarked, *"It would have been very pleasant, but a trustee member may not receive compensation"*. The concept of remuneration was also discussed in section 2.2.3.4 of Chapter 2. As indicated by Lubbe (2013, p. 199) trustees and chairpersons would take their roles and functions more seriously if they were remunerated.

Challenges as chairperson

The interviewed chairpersons mentioned the following as their main frustrations: working with elderly people who misunderstand (C1P1), be bothered untimely and unnecessarily after hours (C2P1 and C3P1), and the attitude of the people (C4P1). The following responsibilities were identified by the chairpersons that they do not enjoy, elderly people that do thoughtless things (C1P1), available continuously (C3P1), all the rage by the people who are ungrateful and rude (C4P1).

Knowledge and skills required

The managers and managing agents interviewed all said that chairpersons must know the legislation, the ability to facilitate a meeting as well as good people skills. According to accountant C3/4P3, chairpersons must know the legislation and should not rely on the knowledge of the managing agents. All the auditors interviewed mentioned the different knowledge and skills required from the chairpersons of the board of trustees. Auditor C1P3 said communication skills and leadership, auditor C2P3 indicated the capability to manage the finances of the facility because he mentioned, *“Most of the money when you look at the budgets and expenses it is a huge amount of money. This is a business”*. Furthermore, auditor C3P3 stated the knowledge to compile a budget. Auditor C4P3 said knowledge of legislation and the skill to manage people, *“to create a happy environment, you need to realise you are part of a community”*. The mentioning of knowledge required by trustees, which include the chairpersons, was discussed in several sections, namely 2.2.3.1, 2.2.3.2, 2.2.3.5, and 5.2.1.

5.2.3.3 Annual general meeting

In this section, the results of the information from the questions asked concerning the annual general meeting will be discussed.

According to the chairpersons interviewed, the attendance of the AGMs is well and they do not have a quorum problem. The managers and managing agent interviewed indicated that the facilities do get a quorum. Manager C2P2 did mention that, *“We had to pull out all the tricks to reach our quorum”*. The accountant (C3/4P3) said that at the meetings attended by her there was always a quorum. She noted, *“Retirement*

facilities attendance at AGM is also better than other sectional titles". Three of the four auditors (C1P3, C2P3, and C4P3) interviewed also confirmed that the AGMs are well attended. The auditor of C3 had not attended any meetings. The auditors (C2P3 and C4P3) remarked that attendance at retirement facilities is much better than other sectional title complexes. The concept of quorum, voting, and representations at the AGM was discussed in section 2.2.4.6 of Chapter 2.

The order of business during the AGMs was discussed in section 2.2.4.4. The chairpersons mentioned that all matters as indicated by law are presented or approved during the AGM. The agenda or minutes of the latest AGMs of all selected cases were inspected to determine matters presented and approved at the meeting.

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|--|--|
| <p>C1 (ST self-managed)</p> | <p>This retirement facility presented and approved matters as prescribed by legislation with the following exceptions:</p> <p>PMR 17(6)(e) and (f) not on agenda (approval of agenda and minutes of the previous meeting).</p> <p>PMR 17(6)(j)(iii) not on agenda (determine the extent of the insurance cover by body corporate in terms of public liability, risk of loss of funds, and any additional insurable interest).</p> <p>PMR 17(6)(j)(iv) requires the approval of the administrative and reserve budget. Agenda indicated approval of estimated income and expenditure no mentioning of the MRR plan.</p> <p>PMR 17(6)(j)(v) requires consideration of the annual financial statements; agenda indicate approval.</p> |
| <p>C2 (ST self-managed)</p> | <p>This retirement facility presented and approved matters as prescribed by legislation with the following exceptions:</p> <p>PMR 17(6)(j)(v) requires consideration of the annual financial statements; the agenda indicated consideration and approval.</p> |
| <p>C3 (ST with MA)</p> | <p>This retirement facility presented and approved matters as prescribed by legislation with the following exceptions:</p> |

| | |
|-----------------------------------|---|
| | <p>PMR 17(6)(j)(v) requires consideration of the annual financial statements; minutes indicate discussed and generally approved.</p> <p>PMR 17(6)(j)(vi) requires the appointment of an auditor; the agenda indicates the appointment of an auditor to compile and auditor to audit.</p> |
| <p>C4 (ST with MA)</p> | <p>This retirement facility presented and approved matters as prescribed by legislation with the following exceptions:</p> <p>PMR 17(6)(j)(v) requires consideration of the annual financial statements; minutes indicate discussed and approved.</p> <p>PMR 17(6)(j)(vi) requires the appointment of an auditor; minutes indicate appointment of an auditor to compile and auditor to audit.</p> |

Problems during the AGM

Two of the chairpersons interviewed said that they did not have problems during the AGM, except for senseless things like dogs and cats. Chairperson C1P1 identified no submission of questions beforehand as a problem, *“People ask a question, for which one cannot immediately give him the answer, and then there is often unpleasantness”*. Chairperson C4P1 mentioned that the managing agent arrived late and that lead to an unorganised meeting.

The manager C2P2 mentioned that a lot of owners are younger than 50 and the units are occupied by tenants; the interest of these owners is not very high, and they do not always provide a proxy. Both managing agents (C3P2 and C4P2) did not identify any problems or challenges during the AGM. According to manager C1P2, the biggest challenge was to ensure the completeness of documents, financial reports to be punctual and correct information.

According to the accountant C3/4P3, the retirement facilities are well organised with no problems because they are involved even if they used a managing agent. Two of the auditors (C3P3 and C4P3) did not identify any problems with or during the AGM. The auditor C1P3 said, *“It is better to have the questions before. What they have been setting up lately is, if you have any questions, you must submit your questions 48 hours*

in advance. Then you cannot come up with a new question during the AGM". The auditor C2P3 remarked that the biggest question during the AGM usually is about the increase of levies.

Role of stakeholders concerning the AGM

The managers and managing agents provided the following as their responsibilities regarding meetings: distribution and compiling of notifications, agendas, and information packs (C1P2, C2P2, C3P2, and C4P2), keeping of minutes (C1P2, C2P2, C3P2), registering the attendance (C4P2), lead the chair on legislative aspects (C2P2), assist with the presentation of the financial statements (C3P2). The concept of the notice to the owners concerning meetings was discussed in section 2.2.4.2.

The accountant (C3/4P3) interviewed did not attend the AGM. She mentioned that *"The retirement facilities want someone who has audited or done the financial statements to be there. They do not want anyone internally to present the financial statements"*. The auditor of C1P3 said that they did not present the annual financial statements; they were only there to answer questions concerning the financial statements. One auditor (C2P3) only presented the financial statements and was then excused from the meeting. Two auditors (C3P3 and C4P3) did not attend the AGM, but the auditor of C3 remarked the following, *"I also think anyway what value is the auditor going to have at the meeting you should rather have the compiler of the financial statements or the managing agent there"*.

The managers of the interviewed facilities mentioned that they attended all the meetings. The managing agent C3P2 said he attended special meetings, trustee meetings, and the AGM, whereas the managing agent C4P2 only attended the trustee meetings and the AGM. The auditors C1P3 and C4P3 only attended the AGM, not the trustee meetings. The auditor C2P3 attended the AGM, but also met with the finance committee after the audit of the financial statements to discuss the statements. An observation that was made concerning the attendance of the AGM by stakeholders occurs at the request of trustees.

5.2.3.4 Risk for managers, managing agents, board of trustees and chairperson

This section aims to partially answer the following research question:

(RQ3) What are the risks associated with sectional title retirement facilities?

In this section, the results of the information from the questions asked concerning the associated risk for the people involved in the management of sectional title retirement facilities will be discussed.

As explained in section 2.2.2, a body corporate is a separate legal entity and is capable of suing and of being sued. In section 2.2.3.1, it was revealed that trustees are liable to the body corporate for any loss suffered or any economic benefit received by the trustee in breach of his or her fiduciary relationship.

Managers and Managing agents

The managers and managing agents interviewed varied in opinion concerning the risk involved in being a manager or managing agent. The manager C1P2 said the biggest risk is to act inconsistently with the application of rules and regulations. According to the second manager (C2P2), the biggest risk is neglecting maintenance, which may lead to special levies. The managing agent C3P2 indicated the risk lays with the trustees because they are in control; for the managing agent the risk is financial. The managing agent C4P2 mentioned that providing incorrect information to the trustees is a significant risk.

Board of Trustees

The chairperson C1P1 revealed the following as risks to serve on the board of trustees, incorrect decisions that may disadvantage the people, and if fraud occurs, the board of trustees can be held responsible. The chairperson C2P1 also mentioned that the board of trustees are responsible. Chairperson C4P1 said that the trustees can be held accountable for certain things. According to the chairperson C3P1, to be on the board of trustees carry no risk, but that it is uncomfortable to serve as trustees because people who came to retire now have to work.

Chairperson

The chairpersons C1P1 and C2P1 mentioned that the risk for the chairperson is the same as for the other trustees. One chairperson further said, “Chairperson is the face of the facility, and it should not be”. One chairperson (C3P1) revealed that the chairperson must take responsibility for claims and there are certain risks if decisions were made that the people dislike. Chairperson C4P1 indicated the following, *“I’m just a bit cautious by this. Because I do not know the law, I am careful”*.

5.2.4 Accounting and Auditing matters

Section C: Accounting and auditing of sectional title retirement facilities

The questions in section C of the interview schedules apply to accounting and auditing requirements as indicated by the legislation framework of the sectional title retirement facilities. The purpose behind these questions is to partially answer the following research question:

(RQ4) What are the current accounting and bookkeeping challenges relating to sectional title retirement facilities?

5.2.4.1 Bookkeeping functions

In this section, the results of the information from the questions asked about the bookkeeping functions will be discussed.

As discussed in section 2.7.1.1, one of the functions of the body corporate is to keep proper books of account. Furthermore, as per section 2.11.3 the auditors need to give an opinion as to whether the books of account of the body corporate have been kept and its funds have been managed to provide a reasonable level of protection against theft or fraud.

Summary of persons responsible for day-to-day bookkeeping function including their responsibilities and the payment process followed

| | C1 | C2 | C3 | C4 |
|---------------------------|--------------------------------------|------------------------------|---|---------------------------------------|
| Responsible person | Administrative lady (paid employee). | Bookkeeper (contract basis). | Trustee finance and Managing agent (Trustee finance review everything). | Managing agent (accounts department). |
| Responsibilities | • All admin work | • Admin work | • Recording. • Reconciles the quote | • All daily processing. |

| | | | | |
|------------------------|---|--|---|--|
| | <ul style="list-style-type: none"> • All pastel processing. • Bank reconciliations. | <ul style="list-style-type: none"> • All pastel processing. • Payroll and monthly SARS payments. • Bank reconciliations. | <ul style="list-style-type: none"> with the final bill. • Submit to the managing agent for payment. | <ul style="list-style-type: none"> • Collection of levies. • Payment of invoices. |
| Payment process | <ul style="list-style-type: none"> • The manager will provide approval for payment. • Admin person load the payment using online banking. • Manager and one trustee release payment. • Following trustees have authority to release payments: trustee finance, trustee garden service, and chairperson. | <ul style="list-style-type: none"> • The manager will provide approval for payment. • Bookkeeper load the payment using online banking. • Manager and one trustee release payment. • Following trustees have authority to release payments: the three-day management trustees. | <ul style="list-style-type: none"> • Trustees submit a quote and wait for the final bill. • Trustee reconcile quota and bill. • Payment is made by the managing agent after the signature of two trustees. • Monthly owners' statement with paid invoice checked by trustees. | <ul style="list-style-type: none"> • Maintenance manager gives instruction. • Trustees approve large payments. • Chairperson gives instructions for payment to the managing agent by email. • Monthly owners' statement with paid invoice checked by trustees. |

The accountant (C3/4P3) interviewed indicated the following with the question concerning the level of satisfaction regarding the completeness of accounting work provided by the managing agent, the system of the managing agent is cash basis whereas with IFRS for SME's the accrual principle is applicable. The program used by the managing agent does not have a trial balance, meaning the accountant needs to compile a trial balance first and it is very time-consuming. The current account and investment account of each complex are not processed; it only indicates the inflow and outflow of cash. In regard to source documents the accountant mentioned that the source documents are uploaded electronically by the managing agent and she as well as the auditor have permission to access them, *"It makes it easier and faster, you do not have to wait for someone"*.

The auditor, C1P3, said the accounting work is organised and if any evidence was requested it was provided on the same day. According to the auditor C2P3, the bookkeeper provided them with Pastel and the source documents, and he indicated that the accounting work is *"very good"*. The auditor C3P3 remarked that they are satisfied, but if a problem does occur, it is easy to get the information from the managing agent by loading a query on FixFlow.

Challenges experienced

All chairpersons interviewed remarked that no challenges were experienced with the day-to-day bookkeeping function of the retirement facility. All managers and managing agents mentioned that they did not experience any challenges with the bookkeeping function of the retirement facility. Some indicated, *"the administrative assistant can do everything"* (C1P2), and *"No, there really isn't anything, it works well with the systems we have. We use Pastel"* (C2P2).

The chairpersons identified the following as challenged experienced regarding the municipal accounts, incorrect reading (C2P1), and municipal accounts not received on time (C3P1), and no reading only estimates (C4P1). The managers and managing agents mentioned the following as challenges concerning municipal accounts, no reading only estimates (C1P2), timing issue with the reading of meters between facility and municipality (C2P2), municipal accounts late and misrepresented (C4P2). The trustees of C3 read their electricity and water meters and send them through to the

managing agent. According to chairperson C4P1, the water is read by the trustees and processed by the maintenance manager, because the managing agent charges an additional cost to read the meters. The manager C2P2 and bookkeeper mentioned that they do the monthly reading and processing of the water and electricity usage of the retirement facility.

5.2.4.2 Levy income

In this section, the results of the information from the questions asked about the levy income will be discussed. The concept of administrative funds as well as reserve funds of sectional title retirement facilities was discussed under section 2.2.6 of Chapter 2. In section 2.1.1 of Chapter 2, it was mentioned that the owner does have the responsibility for the payment of levies.

In section 2.7.1.1, it was mentioned that separate bank accounts must be kept for the body corporate's administrative and reserve funds. The results from the question relating to bank accounts were discussed in section 5.2.4.3. According to all the chairpersons interviewed, the administrative funds for the retirement facilities are kept in a separate bank account than the reserve fund. The one chairperson (C2P1) also indicated that the Ombud's levy (see section 2.2.7) is kept in a separate bank account. All managers and managing agents confirmed that the funds are kept in separate bank accounts. The manager C1P2 said, "*Management regulations determine minimum amounts for reserve funds; we work according to that requirement*". The formula for calculating the minimum amount of the annual contribution to the reserve fund for a financial year according to the reserve budget was discussed in section 2.2.6.2.

Three chairpersons (C2P1, C3P1, and C4P1) said that the levies are calculated based on an approved annual budget according to the participation quota. The chairpersons C2P1 and C3P1 also mentioned that they try to keep the levies as low as possible, since residents are retired and not in jobs anymore. All the managers and managing agents believed the levies are calculated based on the approved annual budget according to the participation quota. The concept of the participation quota was discussed in section 2.2.7 of Chapter 2. The discussion about the findings relating to the annual budget was in section 5.2.4.4.

Arrear levies

All chairpersons interviewed confirmed that interest on arrear accounts was charged. Chairpersons (C1P1, C3P1, and C4P1) mentioned that there were very few people in arrears. According to chairperson C4P1, the percentage of interest charged was determined by the managing agent. All managers and managing agents mentioned that interest is charged on arrear accounts. The following interest rate is charged by the retirement facility on arrear accounts, C1 – 5%, C2 – 9%, C3 – 2% per month. The manager C2P2 said, *“Your legislation says your prime lending rate plus 3 and a half percent. We are not here to rob the people”*. According to the managing agents C3P2 and C4P2, the percentage is decided at the AGM. The concept of allowable interest percentage charged on arrear accounts was discussed in section 2.2.7.

The chairperson C1P1 said that arrear levies were indicated on the accounts of the residents; according to him many people are tenants. The chairperson C2P1 indicated that they did not have many overdue levies, they will first call, write a letter and then hand them over; and the retirement facility will not lose money because *“you are not going to get the place sold until the levies have been paid”*. Two chairpersons (C3P1 and C4P1) mentioned that the managing agent handles the collection of arrear accounts. The manager C1P2 said they collected the arrear levies by way of sending an angry letter or email, otherwise, they will call. One manager (C2P2) remarked that the collection of arrear levies was done by the bookkeeper; the retirement facility has a policy that arrear levies over 60 days will be handed over to attorneys. Both managing agents (C3P2 and C4P2) said they have a collection department that handles the arrear levies. As discussed in section 2.2.7, the body corporate can take action to recover the amount due, and the member must pay to the body corporate all reasonable legal costs in the collection of arrear levies.

According to the accountant (C3/4P3), provisions for bad debts is not necessary because to obtain a clearance certificate when a unit is sold requires that all levies must be paid. The accountant said, *“It’s not really bad debt in that sense, but it does affect cash flow, and that is making it difficult”*. All auditors indicated that they did not provide provision for bad debt, because all arrear levies will be collectible with the sale of a unit.

5.2.4.3 Bank Account

In this section, the results of the information from the questions asked about the bank accounts will be discussed. The concept of the different options for controlling funds of the body corporate was discussed in section 2.2.5 of Chapter 2.

The chairpersons, managers, and auditors interviewed (C1P1, C1P2, C1P3, C2P1, C2P2 and C2P3) said the monthly contributions are paid into bank accounts in the name of the retirement facility. The chairpersons C3P1 and C4P1 who use managing agents emphasized that the monthly contributions are paid into the bank account of the managing agent. The managing agent C3P2 mentioned that the contributions are paid into a trust account as required by law. The managing agent C4P2 was not sure if the contribution is paid into a trust account, but he indicated that the contributions are paid into a principal account of the managing agent. The accountant interviewed (C3/4P3) and the auditor C4P3 confirmed that the contributions are paid into one big trust account of the managing agent. The auditor C3P3 said, *“It does not seem to me that they have a trust account, so they have call accounts. They have their own MRR account, which is perfect. There may be a trust account”*. In section 2.7.1.1 of Chapter 2, it was mentioned that money needs to be deposited in a bank account in the name of the body corporate or a trust account in the name of the managing agent.

As discussed in section 5.2.4.1, the following people have authorisation to make payments from the bank account as confirmed by the chairperson, managers, and managing agents.

| | |
|-----------|---|
| C1 | Manager, two trustees, and chairperson. |
| C2 | Manager, and three-day management trustees of which one is the chairperson. |
| C3 | Trustee gives instruction. Managing agent executes. |
| C4 | Trustee gives instructions. Managing agent executes. |

In section 2.2.3.5, it was mentioned that no document is valid or binding unless signed by more than two trustees or one trustee and the managing agent.

Bank reconciliation

The chairperson C1P1 said the bank reconciliation is done monthly; the manager and auditor indicated weekly. The chairperson, manager, and auditor (C2P1, C2P2, and C2P3) stated that the bank reconciliation is done monthly. The chairperson and accountant (C3P1, C3/4P3) confirmed that the reconciliation is done monthly, but the managing agent said regularly. Only the accountant C3/4P3 mentioned that the reconciliation is done monthly. The chairperson indicated that the managing agent is responsible for the reconciliation. The managing agent (C4P2) said the bank reconciliation is done monthly, although the managing agent was not sure, *“I don't know, but I would suggest that it should be done at least once a month”*.

The following people are responsible for doing the bank reconciliation, C1 – administrative assistant, C2 – bookkeeper, C3 and C4 the accounting ladies of the managing agents.

The manager C1P2 said the reconciliation is reviewed by the auditor, *“it is not reviewed here because the stuff here runs like an oiled machine”*. The chairperson C2P1 mentioned that the reconciliation is reviewed by the manager and one trustee; on the other hand, the manager said the following, *“it's supposed to be reviewed, but we don't. The risk is very low; I am not saying it is nothing. If something is fictitious, it is going to stand out immediately”*. According to the auditor the finance committee is looking at the reconciliation. The chairperson C3P1 confirmed that the monthly statements received from the managing agent are reviewed by the trustees.

Managing of funds

The funds of C3 and C4 are paid into the trust account of the managing agent. The managing of the funds were described as follows by the managing agent C3P2, accountant C3/4P3, and auditor C4P3. The levies are paid into a trust account in the name of the managing agent; the managing agents pay the expenses out of the trust account and the remaining balance after paying the expenses is transferred to the current account of each complex. The trust account balance at the end of each month

is supposed to be zero. All invoices are attached to the owner statement; it is then reviewed by the responsible trustee. The concept of trust accounts used by managing agents was discussed in section 2.2.5.

Interest on bank accounts

The following participants interviewed confirmed that the interest received on bank accounts are capitalised, C1P1, C1P2 and C1P3, and C2P1, C2P2, C2P3. The following participants, C3P1, C3P2 and C3P3, said the retirement facility does receive interest on the bank account. The auditor (C3P3) further mentioned, *“all money must be paid into an interest-bearing bank account. If they do not receive interest on a bank account, then we also tell them”*. The concept of money deposited in an interest-bearing account was discussed in section 2.7.1.1 of Chapter 2. The accountant C3/4P3 explained that the interest must go to the other bank accounts, because the trust account must be zero; if there is trust interest 50% of the interest is going to the complex and 50% is going to the managing agent. Interest in trust accounts was discussed in section 2.2.5 of Chapter 2. During the inspection of the latest annual financial statements, the researcher identified recognition of interest received as follows:

| | |
|----|--|
| C1 | Interest received from debtors, investments, and SARS. |
| C2 | Interest received from the bank. |
| C3 | Interest received from the bank. |
| C4 | Interest received from debtors and bank. |

Problems experienced

According to the managers and managing agents, no problems was experienced regarding the management of administrative funds. The managing agent C4P2 mentioned, *“I think it is just in terms of making sure invoices paid are reflected on the owner statements for that month”*.

5.2.4.4 Annual Budget

In this section, the results of the information from the questions asked about the annual budget will be discussed. As discussed in section 2.7.1.2, sectional title retirement facilities need to compile two budgets (reserve and administration), yearly. In section 2.2.4.4 and 2.7.1.2, the concept of approving the annual budget was discussed, indicating that the budget needs to be approved by the members at the AGM. It was mentioned that trustees need to approve the budget first, otherwise the members will not approve. The budgets are required to determine the yearly levies as discussed in section 2.2.7 and 5.2.4.2. Trustees can apply funds out of the administration fund under the approved budget, see section 2.2.6.1.

According to the chairpersons, managers, and managing agents, the following people is responsible for setting up the annual budget of the sectional title retirement facility:

| C1 | C2 | C3 | C4 |
|------------------------------|------------------------------------|-----------------|------------------|
| Manager. | Manager. | Managing agent. | Managing agent. |
| Trustee finance. | Trustee finance. | Two trustees. | Trustee finance. |
| Trustee maintenance. | Day management trustees – approve. | | AGM – approve. |
| Board of trustees – approve. | | | |

The chairperson C1P1 and manager C1P2 said that if the budget increase is less than 10%, the trustees can approve and implement; if the increase is more than 10% it must go to the AGM. As discussed in section 5.2.3.3, all selected cases indicated approval of budgets on their agenda or minutes of the AGM. The accountant C3/4P3 indicated no involvement with setting up the budget, but she mentioned that she would like to be involved. All the auditors interviewed stated that they are not involved in the budgeting process. The auditor C2P3 said that the trustees do call him from time to time concerning any queries regarding the budget or principles.

Problems experienced

The following problems experienced during the budgeting process were identified by the participants. The one chairperson (C1P1) stated, *“it’s just consensus”*. The chairperson C2P1 mentioned that budgeting for water and lights may cause problems, because the facility budgets a certain percentage increase, then the municipal increase is much more. The manager C1P2 remarked that one year they budgeted conservatively and that put them in a very difficult position. The managing agent C4P2 said during the last AGM, the budget was not yet completed for proper discussion or implementation. The accountant C3/4P3 indicated that the budget needs to be implemented at the beginning of the new financial year, but the financial statements are not yet completed, which may require adjustments to the budget after the audit and that makes it difficult. None of the auditors identified any problems with the budgeting process; one auditor (C1P3) mentioned that they look at the budget during the auditing process.

Resistance from members

The participants were asked if they do experience any resistance from members of the body corporate relating to an increase in budgets and resulting levies. Two chairpersons (C1P1 and C2P1) remarked that the members do complain and are certainly not happy with an increase, but there is no resistance about the increase. Two chairpersons (C3P1 and C4P1) indicated no resistance concerning the yearly increase in levies. The manager C1P2 and managing agent C3P2 said there was no resistance to the increase in levies due to the following reasons: the facility is well managed (C1P2) and the increase rate is small (C3P2). According to the manager C2P2, the members always ask the question, why? but there is not any resistance. The managing agent C4P2 indicated the increase of levies as challenging. He mentioned the following, *“We always try to explain to the trustees that the levies are the lifeblood of the complex, without those funds absolutely nothing can be done”*. An observation that was made regarding the resistance to increase in levies was that the members were not happy about the increase, but due to conservative yearly increases

and proper management of the facility, there was no resistance, although one needs to be careful to be too conservative with levy increases.

5.2.4.5 Maintenance repair and replacement plan (MRRP)

In this section, the results of the information from the questions asked about the maintenance, repair, and replacement plan will be discussed. The concept of the maintenance, repair, and replacement (MRR) plan (or MRRP) was discussed in section 2.2.6.2 of Chapter 2. The MRR plan is a written 10-year plan on repair and maintenance of major capital items; this plan leads to the rise of the reserve fund.

The chairperson (C1P1) and the manager (C1P2) of the facility said they do not have an MRR plan; the manager remarked that maintenance is done daily. The auditor C1P3 confirmed that the facility does not have an MRR plan, but that they do have the funds. The chairperson C2P1 and manager C2P2 indicated that the compiling of this plan is the responsibility of the manager. The chairpersons (C3P1 and C4P1) and managing agents (C3P2 and C4P2) all mentioned that this plan is the responsibility of the managing agent in collaboration with the trustees. According to the accountant C3/4P3, this plan is the responsibility of the trustees, but currently, the managing agents were compiling the plan. The accountant mentioned that "*The managing agent has one template*". All the auditors interviewed (C1P3, C2P3, C3P3, and C4P3) indicated that they were not involved in compiling the MRR plan.

Problems experienced

None of the chairpersons interviewed identified any problems experienced during this process of compiling the MRR plan. The following participants interviewed, C1P2 and C2P2, mentioned that the pricing of the items was a problem; manager C2P2 indicated that the law is not clear concerning present or future costs. The managing agent C3P2 said they have a lot of experience and did not identify any problems during the compilation of the plan. The managing agent C4P2 also referred to the pricing of the plan and the fact that it is a 10-year plan; according to him inflation is a factor and that is the way the plan should be updated yearly.

The accountant C3/4P3 said the timing is a problem, this process needs to be completed annually because it impacts the levy of the facility, and the auditors needed

to report on this plan, see section 5.2.4.7. The auditor C2P3 mentioned the following issues: the reserve account is difficult, they did not take all scenarios into account, you cannot foresee what is going to happen in the future and according to him if you sell the unit and you did contribute to the reserve account, is the owner not supposed to get something back? For example, adding the contribution to the reserve fund to the selling price. According to the auditor C3P3, this MRR plan is difficult, people do not always understand, and the legislation is badly written without clear guidelines. The auditor C4P3 indicated that the transition years are half over. The accountant and auditor also identify the MMR plan in section 5.2.2 as a shortcoming in the legislation.

Sufficient reserve funds

All chairpersons, managers and managing agents interviewed confirmed that the retirement facilities have sufficient reserve funds to cover future repairs and maintenance cost. The accountant (C3/4P3) said that the retirement facilities had investments that they just earmarked as the reserve fund. All auditors indicated that the retirement facilities do have sufficient reserves with the following comments, *“the legislation now also stipulates the minimum reserves that you must have, they comply with it”* (C1P3), and *“They contributed more to the reserve fund than what the minimum required”* (C3P3). Section 2.2.6.2 of Chapter 2 indicated how to determine the annual contribution to the reserve fund, and furthermore the concept on how to calculate the minimum annual contribution to the reserve fund. The concept of payments out of the reserve fund according to the MRR plan was discussed in section 2.2.6.2. The legislation provided no guideline on the “how” of the MRR plan.

5.2.4.6 Financial statements

In this section, the results of the information from the questions asked about the financial statements will be discussed. Section 0, 2.7.1.1, and 2.7.1.3 of Chapter 2 mentioned that the compilation of the financial statements forms part of the functions of the body corporate.

The people responsible for compiling the financial statements of the retirement facility were as follows:

C1: Professional Accountant

C2: Bookkeeper up to trial balance, then compiled by a clerk in the auditing practice

C3: Chartered Accountant

C4: Chartered Accountant.

No requirements are provided in the STA, STSMA and, CSOSA or applicable regulations as to who should prepare the annual financial statements of a sectional title retirement facility.

Three chairpersons (C1P1, C3P1, and C4P1) said that it was the responsibility of the body corporate to appoint the accountant. The chairperson (C2P1) and the manager (C2P2) referred to the bookkeeper and indicated that it was the responsibility of the trustees. The managing agents (C3P2 and C4P2) mentioned that the responsibility concerning the appointment of the accountant lays with the body corporate. The manager C1P2 said that the appointment is done informally by the board of trustees. This manager also identifies the non-mentioning of the appointment of the accountant in legislation as a shortcoming in the legislative framework, see section 5.2.2. The concept of professional accountants was discussed in section 1.4 of Chapter 1 and section 2.5 of Chapter 2.

The chairperson (C1P1) and manager (C1P2) said the appointment of the accountant was done on the recommendation of the auditor. The chairperson C4P1 mentioned the accountant was suggested by the managing agent. For chairperson C2P1 and manager C2P2, the factors that play an important role in the decision about the appointment of the bookkeeper was the background, practical as well as retirement facility experience.

Understandability of the financial statements by the residents

The chairperson C1P1 interviewed said that the average resident of the retirement facility understands the content in the financial statements. Three of the chairpersons (C2P1, C3P1, and C4P1) indicated that the average resident does not understand the financial statements with the following comments, *“it costs explanation over and over”*

(C3P1) and *“I generally don't think the residents understand; it's Greek. If you look at what the financial statements look like, that is bad”* (C4P1).

The manager and managing agent interviewed of C1 and C4 mentioned that the average resident of a retirement facility understands the financial statements. According to the manager C2P2, the average resident will understand because they get exposure every year about the layout and the description. The managing agent C3P2 said the residents do not understand and that during the AGM the financial statements are simplified.

Problems experienced

The accountant and auditors were asked the question of what the problems are experienced with compiling the financial statements of the retirement facilities. Three of the auditors (C1P3, C2P3, and C3P3) indicated that they experienced no problems with the compilation. The accountant C3/4P3 mentioned that the timeframe of four months is a problem, because the managing agent does not provide for creditors and the draft can only start a month after year-end. The accountant said that it is not worth the money for the time spent on the compilation. The accountant also indicated that companies have six months. The concept of the timeframe for preparing the financial statements was discussed in section 2.7.1.3.3 of Chapter 2.

Accounting standard

In section 1.4 of Chapter 1, section 2.6 and 2.7.1.3.1 of Chapter 2, the concept of accounting standards was discussed. The opinion of the accountant interviewed (C3/4P3) concerning the most applicable accounting standard for sectional title retirement facilities was that not IFRS nor IFRS for SMEs was applicable, there must be a specific framework. The accountant mentioned that IFRS for SMEs may be the closest, but the users will not get value out of all the additional disclosure. All the auditors interviewed said that the accounting standard for sectional title retirement facilities needs to be entity specific. The auditor C2P3 indicated that the facility does have an accounting policy and the financial statements as well as the auditing were completed according to the policy. As indicated in section 2.7.1.3.1, regardless of the chosen financial framework, the financial statements of a sectional title retirement facility need to comply with the additional financial reporting provisions as indicated by

legislation. The auditors also need to provide an opinion on the accounting standard/framework used by the sectional title retirement facility; this concept was discussed in section 2.11.3 of Chapter 2 as well as the viewpoint of the auditors in section 5.2.4.10.

Legislation-related problems

The accountant C3/4P3 said the legislation concerning the four months’ timeframe creates problems with compiling the financial statements. The accountant also mentioned the timeframe in section 5.2.2 as a shortcoming in legislation; this viewpoint of the accountant was shared by the managing agent C4P2. The auditor C2P3 said the following concerning legislation create problems with compilation, that the maintenance plan might be a challenge as well as the additional disclosure, the auditor also indicated the additional disclosure without clear guidelines as a shortcoming in the legislative framework in section 5.2.2. The accountant C3/4P3 as well as the auditor C2P3 also stated the maintenance repair and replacement plan in section 5.2.2 as a shortcoming in legislation. The auditor C3P3 shared the opinion of the auditor C2P3 concerning the additional disclosure required in the financial statements according to legislation. It was also mentioned that the financial statements cannot be compiled for the money people are willing to pay. According to the auditor C4P3, there is a cost implication because one person needs to compile the financial statements and one person needs to audit the financial statements. The auditor was of the opinion that this adds no value and it is a duplication of work in the end.

Qualification of staff compiling financial statements

The following is a summary of the average post level or qualification of staff members who compiled the financial statements of the selected sectional title retirement facility as provided by the interviewed accountant and auditors.

| | C1 | C2 | C3 | C4 |
|------------|----|----|-------------------------|-------------------------|
| Accountant | | | Professional Accountant | Professional Accountant |

| | | | | |
|---------|---|-----------------------------------|--|--|
| | | | (SAIPA registered). | (SAIPA registered). |
| Auditor | Professional Accountant (SAIPA registered). | 3 rd Year SAICA clerk. | Chartered Accountant (SAICA registered). | Chartered Accountant (SAICA registered). |

5.2.4.7 Disclosure requirements

According to PMR 26(1) of the STSMA Regulations, see the discussion in sections 2.7.1.3, certain analyses need to be included in the annual financial statements of the sectional title retirement facilities. The researcher listed the requirements as provided in the STSMA and inspected the financial statements of the selected cases to determine compliance with these requirements.

| | Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
|--|------------------------------------|------------------------------------|-------------------------------|-------------------------------|
| Theme: Analysis | | | | |
| PMR 26(1)(c) of the STSMA requires annual financial statements must include analyses of: | | | | |
| (i) amounts due to the body corporate in respect of contribution, classified by member and the periods. | | | | |
| By member: | YES. | YES. | YES. | YES. |
| Period | YES. | YES. | YES. | YES. |
| (ii) amounts due by the body corporate to its creditors, classified by creditor and the periods. | | | | |
| By creditor: | YES. | YES. | YES. | YES. |
| Period: | NO. | NO. | NO. Note: Periods only for | NO. |

| | | | | |
|---|--|--|---|--|
| | | | <p>1. Levy received in advance.</p> <p>2. Water and electricity received in advance.</p> <p>(Note: No analysis attached, just a note to the AFS.)</p> | <p>(Note: No analysis attached, just a note to the AFS.)</p> |
| <p>(iii) amounts advanced to the body corporate (levy finance, loan), setting out the actual liability of the body corporate and the amounts paid by the body corporate and by any member.</p> | | | | |
| <p>Amounts:</p> <p>By member:</p> | <p>Levy received in advance.</p> <p>YES.</p> <p>YES.</p> | <p>AFS: Debtors Levy.</p> <p>YES.</p> <p>NO.</p> <p>(Note: NO analysis, just a note to the AFS.)</p> | <p>Levy received in advance.</p> <p>YES.</p> <p>YES.</p> <ul style="list-style-type: none"> • Water and electricity received in advance. | <p>Levy received in advance.</p> <p>YES.</p> <p>YES.</p> <ul style="list-style-type: none"> • Water and electricity received in advance. • Insurance claims received in advance. <p>(Note: No analysis, just a note to the AFS.)</p> |

| (iv) amounts in the reserve fund showing the amount available for maintenance, repair and replacement (MRR) of each major capital item as a percentage of the accrued estimated cost and the rand value of any shortfall. | | | | |
|--|------------------------------------|--|---|-----------------------------|
| • Amount available for MRR: | YES (Capital expenditure reserve). | YES (Contingency reserve and reserve fund). | YES (Maintenance reserve fund). | YES (Maintenance reserves). |
| • For each major capital item: | NO. | YES. | YES. | NO. |
| • % of accrued estimated cost: | NO. | YES. | NO. | NO. |
| • Rand Value of any shortfall: | NO. | YES. (Note: Only indicated the capital items for repair, maintenance and replacement for the current year.) | NO. (Note: Disclose in the AFS what should be contained in the maintenance, repair and replacement plan in accordance with PMR 22 of the STSMA regulations.) | NO. |
| (v) premiums and other amounts paid, and payments received by the body corporate and any member in terms of the insurance policies of the body corporate and the expiry date of each policy. | | | | |
| • Premiums paid: | YES. | YES. | YES. | YES. |
| • Payments received: | YES. | YES. | NO. | NO. |

| | | | | |
|--|--|-------------|--|--|
| <p>• Expiry date of the policy:</p> | <p>YES. (Note: No analysis attached, just a note to the AFS.)</p> | <p>YES.</p> | <p>YES . (Note: No analysis attached, just a note to the AFS. Payments received but not included in notes.)</p> | <p>YES. (Note: No analysis attached, just a note to the AFS. Payment received but not included in notes.)</p> |
| <p>(vi) amounts due and payable to the Community Schemes Ombud Service.</p> | | | | |
| <p>• Amounts due/payable:</p> | <p>NO. (Note: See no payments to Ombud.)</p> | <p>YES.</p> | <p>YES.</p> | <p>YES.</p> |

5.2.4.8 Auditing

In this section, the results of the information from the questions asked about the audit of the financial statements will be de discussed to be able to obtain an answer to the research question:

(RQ4) What are the current auditing and assurance-related problems experienced by South African auditors performing statutory engagements for sectional title retirement facilities?

Section 2.11.1 of Chapter 2 mentioned that the appointment of the auditor was the responsibility of the body corporate. According to section 2.11.1 sectional title retirement facilities are a statutory assurance engagement, because an Act requires the auditing of the financial statements. In section 2.11.2, it was mentioned that the audit of the annual financial statements of the sectional title retirement facilities must be carried out by an independent auditor. According to the participants, the people responsible for the auditing of the financial statements of the sectional retirement facility was as follows:

- C1: Registered audit practice, the accountant, and auditor practicing in the same building but for different practices.
- C2: Registered audit practice, the clerk compiling the financial statements and the auditor practicing in the same practice, Bookkeeper up to trial balance then compiled by an auditing practice.
- C3: Registered audit practice, the accountant, and auditor practicing in different practices.
- C4: Registered audit practice, the accountant, and auditor practicing in different practices.

All the participants interviewed except the auditor C2P3 indicated that the person who performed the audit of the financial statements is independent from the compiler of the financial statements. According to the auditor C2P3, this is a grey area; the auditor mentioned that some practices separated the functions using different names. The auditor was also of the opinion that to compile and audit the statements would give

you a much better knowledge of the facility. The chairperson C1P1 said that this in-between step costs money and it takes time. In section 2.11.2, it was mentioned that the compiler of the financial statements of a body corporate and the auditor of those statements can be two qualifying professionals from the same firm.

The researcher asked the chairpersons how long the auditor had been in the services of the retirement facility. Chairperson C1P1 indicated six, seven, eight years, chairperson C2P1 said twelve years, the chairperson C3P1 mentioned this is the first year, *“We moved from auditor, simply not wanting to be with the same one every year”*. The chairperson C4P1 said perhaps four years, at least. All the managers and managing agents confirmed that the average audit firm remains in the employment of the retirement facility for a lengthy period. The chairperson C3P1 said they changed auditors because *“The person involved in the complaint against the trustees had a close relationship with the previous auditor”*. The manager C2P2 mentioned that they would rather pay more for reassurance of properly audited financial statements.

One manager (C1P2) said that he was aware of three audit firms that specialise in these types of audits. The manager C2P2 and C4P2 mentioned they cannot provide the number of audit firms that specialise in these audits. The managing agent C4P2 confirmed that there are a limited number of auditors that specialise in these audits; he mentioned that it is not profitable for most and the auditors must work on volume to make it profitable. This viewpoint was shared by the auditor C4P3.

According to the chairpersons, managers and managing agents interviewed, the following factors played the most important role in the decision about the appointment of the auditor:

- Continuity (C1P1, C1P2 and C2P2)
- Availability (C1P1 and C2P1)
- Competency (C1P1 and C4P1)
- Exposure to sectional title retirement facility audits (C1P1, C1P2 and C2P2)
- Service delivery (C2P1 and C4P1)

- Fair fee (C2P1)
- Quality (C2P2 and C3P2)
- Timeliness (C4P2).

Problems experienced

All chairpersons interviewed (C1P1, C2P1, C3P1, and C4P1) experienced no problems with the audit of the financial statements. The manager C1P2 and the managing agent C4P2 did not experience any problems with the audit. The manager C2P2 said that for them, the biggest problem was to ensure that the financial statements are audited within the timeframe of four months provided by legislation. The viewpoint of the manager was shared by the managing agent C4P2, who mentioned, *“There are so few auditors with so many complexes. They struggle to do the setup and audit within four months. Last year, it took about six, seven months on average”*. The auditor C1P3 said that the legislation is sufficient and very specific concerning the audit of the financial statements. Two auditors interviewed (C2P3 and C4P3) experienced no problems with the audit of financial statements; the auditor C2P3 mentioned that there were no grey areas with the audit work. The viewpoint of the managing agent C4P2 was shared by the auditor C3P3, the auditor indicated they want more fee and cannot see why they should take a write-off.

None of the auditors interviewed identified significant problems with service providers concerning the audits of sectional title retirement facilities. Most of them indicated that if they require any information they work directly with the managers, managing agents, and trustees. The auditor C3P3 mentioned that sometimes it is difficult to determine the real creditor for municipal accounts, due to faulty meters. Furthermore, the auditor C3P3 also mentioned that the developer opens the original municipal account in his name; the deposits are paid; it is transferred or it is not transferred to the name of the body corporate, to whom the deposit belongs at the end.

Audit assurance

Two of the auditors (C1P3 and C2P3) confirmed they do a complete audit to provide assurance concerning the financial statements of the sectional title retirement facility. The auditor C3P3 said that the agreed-upon procedure would be better; agree

beforehand what needs to be checked, and then just check that. According to the auditor C4P3, an auditor should retain his freedom to be able to decide what he wants to look at, otherwise the value of the report will vanish. The concept of assurance engagements was discussed in section 2.9 of Chapter 2. Two of the auditors (C1P3 and C3P3) interviewed did not consider the audit of sectional title retirement facilities to be high risk audits. The auditors C2P3 and C4P3 considered the audit of sectional title retirement facilities as high-risk audits, because *“it’s not for nothing on that list”* (C2P3) and *“You work with other people’s money”* (C4P3).

IRBA classification

Three of the four auditors (C2P3, C3P3, and C4P3) interviewed were aware that IRBA classified sectional title audits into the high-risk audit category. Two of the auditors (C2P3 and C3P3) mentioned that IRBA was unreasonable for adding sectional title audits into the high-risk audit category. The auditor C2P3 said they list sectional title audit next to listed companies, and that this places a big responsibility on him. The auditor C3P3 asked the question is there public interest or is it just the members. It was the responsibility of the members to appoint the trustees and all members had the right to attend meetings.

Three of the auditors (C1P3, C2P3, and C4P3) indicated the reason for IRBA to add sectional title into the high-risk audit category was the fact that they work with other people’s money. The auditor C4P3 said it is like a lawyer’s trust account and the auditor C2P3 mentioned there must have been reasonable fraud before. For the auditor C3P3, the reason for adding this audit into a high-risk audit category by IRBA was because legislation required the audit of sectional title retirement facilities.

Two of the auditors interviewed (C1P3 and C4P3) indicate that IRBA’s decision had no impact on the audit of sectional title retirement facilities. The auditor C2P3 believed the fact that sectional title retirement facilities were on the list will not change how the audit will be conducted, although with large companies identified as high-risk audits, a lot of additional audit procedures need to be conducted; putting sectional title retirement facilities in that category is out of proportion. According to the auditor C3P3, a higher fee needs to be paid to IRBA if it was a high-risk audit. The auditor felt they took a write off on time and they need to pay a higher fee to IRBA.

The auditors C1P3 and C4P3 said that the IRBA action will have no impact on their decision to continue with sectional title audits. For the auditor C3P3, it is about profitability, just because it is a high or low risk you still need to do the audit and meet the standards. The auditor C2P3 mentioned that they are a small audit practice, and this put them at high risk, *“if it were not for the years-long relationship we would not have done the audit”*. The auditor C4P3 was the only auditor that indicated the audit fees will not be affected by the IRBA action. According to the auditor C1P3, the audit fee did increase due to more work required as per legislation and it is riskier. The auditor C2P3 mentioned that the IRBA action can have an impact on the audit fee. This viewpoint of the auditor was shared by the auditor C3P3.

Value adding of the audit

According to the auditor C1P3, the auditing of financial statements added the following values to the retirement facility, assure of compliance with legislation. The auditor C2P3 said it has value for the elderly people that the financial statements have been audited, the auditor motion, and *“It should take a bit of fear out of them”*. The auditor C3P3 indicated with a very good managing agent and a very good accountant to compile the financial statement, she does not think that auditing then adds value. For the auditor C4P3, auditing of the sectional title retirement facility adds the following values, reassurance that the finances are being looked after, everything was in place within legislation and the financial health of the facility is linked to its marketability.

Legislation-related problems

Three of the four auditors (C1P3, C2P3, and C4P3) said that no part of legislation that relates to sectional title retirement facilities creates problems with auditing of the financial statements. The auditor C3P3 mentioned, *“the law required an opinion which I cannot provide”*, PMR 26(5)(iii) and (iv), *“you cannot give an opinion on that”* and according to the auditor, *“they can just as well delete that requirement”*. The concept of audit opinions required by legislation was discussed in section 2.11.3 of Chapter 2. The accountant C3/4P3 as well as the auditor C3P3 also mentioned in section 5.2.2 that the auditing requirements for all sectional titles to be audited was a shortcoming in the legislation.

Qualification of staff auditing financial statements

The following is a summary of the average post level or qualification of staff members who are responsible for auditing the financial statements of the selected sectional title retirement facility as provided by the interviewed auditors.

| | C1 | C2 | C3 | C4 |
|---------|--|--|---|---|
| Auditor | Clerk with Degree. (SAIPA member) Strictly reviewed. | 3 rd -year clerk. B Accounting degree. | Clerk. (audit clerk on SAICA articles) Reviewed and signed off by CA. | Clerk. (SAIPA or SAICA clerk) Overlooked by manager. Signed off by CA. |

5.2.4.9 Risk

In this section, the results of the information from the questions asked about the associated risk concerning the misappropriation of funds and the risk attached to the auditing of financial statements of sectional title retirement facilities will be discussed. The following research question will be answered in the section:

(RQ3) What are the risks associated with sectional title retirement facilities?

Misappropriation of funds

The participants interviewed provided the following as measures in place to prevent misappropriation of funds. The managers C1P2 and C2P2 as well as the chairperson C2P1 mentioned that more than one person was involved in the payment of funds. The payment process was also discussed in section 5.2.4.1 and the authorisation concerning payments as mentioned in section 5.2.4.3. According to the manager C1P2 and the chairperson C3P1, monthly spending was presented to the board of trustees. Chairpersons C3P1 and C4P1 said that the monthly statements received from the managing agent were checked monthly by a trustee for payment approval.

The managing agent C3P2 mentioned that it is a large managing agent firm with separation of duties. He indicated the following, *“Like the English term “check and balance”, there are many.* The chairperson C4P1 said the annual audit, and trustees look at the funds regularly. The managing agent C4P2 mentioned that all payments need to be in line with the budget to ensure unnecessary spending. The concept of segregation of duties was discussed in section 2.11.2 of Chapter 2.

The managers provided the following measures in regard to cash received. Manager C1P2 said cash received was indicated on the petty cash as receipts and payments that need to balance, the petty cash was locked. The manager C2P2 indicated that cash is handled by two people and banked by the bookkeeper or sometimes the cash is used to supplement the petty cash and levies must be paid into the bank account. The observation that was made regarding the above was that segregation of duties may be a challenge for the smaller sectional title retirement facilities. Another observation is that individuals involved in the facility have been working together for many years and become comfortable with each other, which may limit the identification concerning misappropriation of funds.

Audit risk

The auditor C1P3 said the greatest audit risk attached to the auditing of sectional title retirement facilities was ensuring that there were no irregularities in management and compliance with legislation. For the auditor C2P3, the biggest risk was a type of fraud that was not identified by the auditor; the auditor said that the environment is small with limited division of duties. According to the auditor C3P3 completeness, and accuracy of the accounting records can be a possible risk. The auditor C4P3 mentioned that there will always be a cash risk where there is cash. The concept of risk assessment was discussed in section 2.9 of Chapter 2; it was also mentioned that small entities do not have formal entity-level controls in place.

5.2.4.10 Audit opinion

According to PMR 26(5)(c) of the STSMA Regulations, see the discussion in sections 2.11.3, certain audit opinions need to be included in the annual financial statements of the sectional title retirement facilities. The researcher listed the requirements as provided in the STSMA Regulations and inspected the financial statements of the selected cases to determine compliance with these requirements.

| |
|--|
| Theme: Audit opinions |
| PMR 26(5)(c) requires that the audit of a body corporate's annual financial statements must include opinions as to whether or not: |
| <p>PMR 26(5)(c)(i)</p> <p>the annual financial statements accurately reflect the financial position of the body corporate for the financial year under review, with such qualifications and reservations as the auditor considers necessary.</p> |
| <p>SAICA and IRBA suggest (2017a, p. 3)</p> <p>Opinion in accordance with a <i>recognised financial reporting framework</i>.</p> <p><i>“In our opinion, the financial statements present fairly, in all material respects, the financial position of the Body Corporate as at, and its financial performance and cash flows for the year then ended in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities and the requirements of the Sectional Titles Schemes Management</i></p> |

Act, 2011, the Sectional Titles Schemes Management Regulations, 2016 and the Management Rules of the body corporate established in terms thereof.”

SAICA and IRBA suggest (2017a, p. 3)

Opinion on the financial statements of a body corporate that has been prepared in accordance with and **entity-specific basis of accounting.**

*“In our opinion, the financial statements for the year ended Are prepared, in all material respects, in accordance with **the basis of accounting** as disclosed in note (note number) to the financial statements and the requirements of the Sectional Titles Schemes Management Act, 2011, the Sectional Titles Schemes Management Regulations, 2016 and the Management Rules of the body corporate established in terms thereof.”*

Case 1 (ST self-managed) Opinion as required by PMR 26(5)(c)(i)

*“In our opinion, the financial statements present fairly, in all material respects, the financial position of the retirement village body corporate as at 28 February 2019 and its financial performance and cash flow for the year ended **in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities** and the requirements of the Sectional Titles Scheme Management Act, 2011, the Sectional Title Schemes Management Regulations, 2016 and the Management Rules of the body corporate established in terms thereof.”*

Case 2 (ST self-managed) Opinion as required by PMR 26(5)(c)(i)

*“In our opinion, the financial statements present fairly, in all material respect, the financial position of the body corporate as at 31 January 2019, and its financial performance and cash flows for the year then ended, **in accordance with the basis of accounting described in***

note 1 of the annual financial statements and the requirements of the Sectional Titles Scheme Management Act, 2011, the Sectional Title Schemes Management Regulations, 2016 and the Management Rules of the body corporate establishment in terms thereof.”

“**Note 1**, The financial statements are not prepared in accordance with reasonable financial reporting framework.”

“**Other matter**, the financial statements and our auditor’s report may not be suitable for any other purpose.”

Case 3 (ST with MA) Opinion as required by PMR 26(5)(c)(i)

“In our opinion, the financial statements represent fairly, in all material respects, the financial position of the retirement village body corporate as at 31 July 2019 and its financial performance and cash flows for the year then ended in accordance with the requirements of the Sectional Titles Scheme Management Act, 2001 (Act No. 8 of 2011).”

Emphasis of matter

“We draw attention to Note 1 of the financial statements which indicate the basis of accounting. The financial statements are prepared in accordance with the body corporate’s own accounting policies to satisfy the financial information needs of its members. As a result, the financial statements may not be suitable for another purpose. Our opinion is not modified in respect of this matter.”

“**Note 1**, The financial statements have been prepared in accordance with the disclosure requirements of the Sectional Titles Schemes Management Act, 2011 (Act No 8 of 2011) and The Sectional Title Schemes Management Regulations, 2016.”

Case 4 (ST with MA) Opinion as required by PMT 26(5)(c)(i)

The independent auditors report was not part of the financial statements but provided as a separate document namely; Audit report 2019.

“We confirm that the financial statements fairly present, in all material respects, the state of affairs and results of the operations of the body corporate in accordance with the manner required by the Sectional Titles Act 95 of 1986.”

*“**Note 1**, The financial statements have been prepared in accordance with the disclosure requirements of the Sectional Titles Schemes Management Act, 2011 (Act No 8 of 2011) and The Sectional Title Schemes Management Regulations, 2016.”*

PMR 26(5)(c)(ii)

the body corporate has complied with the accounting requirements set out in rules 21, 24 and this rule 26, with a specific description of (d)(iii)(iv) any failure to comply with such requirements.

SAICA and IRBA suggest (2017a, p. 5)

Information needs as intended by the regulations would be satisfied if the registered auditor in the auditor’s report of the financial statement report on any occurrences of non-compliance with the specific requirements that come to the attention of the auditor during the course of the audit.

Appropriate section to include such findings under the heading **“Report on Other Legal and Regulatory requirements.”**

Case 1: (ST self-managed) Opinion as required by PMR 26(5)(c)(ii)

Report on Other Legal and Regulatory Requirements

“If during the course of our audit of the financial statements of the body corporate we become aware of any instance of non-compliance with the accounting requirements set out in management rules 21, 24 and 26, we are required to report our findings. We have nothing to report.”

Case 2: Opinion required by PMR 26(5)(c)(ii)

Report on Other Legal and Regulatory Requirements

“If during the course of our audit of the financial statements of the body corporate we become aware of any instance of non-compliance with the accounting requirements set out in management rules 21, 24 and 26, we are required to report our findings. We have nothing to report in this regard.”

Case 3: Opinion as required by PMR 26(5)(c)(ii)

Report on Other Legal and Regulatory Requirements

“If during the course of our audit of the financial statements of the body corporate we become aware of any instance of non-compliance with the accounting requirements set out in management rules 21, 24 and 26, we are required to report our findings. We have the following to report in the regards:

The body corporate did not present the 2018 audited financial statements to a general meeting for consideration within four months after the end of that financial year as stipulated in Rule 26(4) of the Regulations.”

Case 4: Opinion as required by PMR 26(5)(c)(ii)

The independent auditors report was not part of the financial statements but provided as a separate document namely; Audit report 2019.

Laws and regulations

“We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.”

PMR 26(5)(c)(iii)

the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud.

PMR 26(5)(c)(iv)

the financial affairs of the body corporate appear to be effectively managed.

SAICA and IRBA (2017a, p. 7)

The following illustrative wording may be use in the auditor’s report relating to PMR 26(5)(c)(iii) and (iv):

“In terms of relevant International Standards applicable to audit, review and other assurance engagements we were unable to conduct an engagement relating to whether the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud, and whether the financial affairs of the body corporate appear to be effectively managed, as required by Rules 26(5)(c)(iii) and (iv). We have not performed any audit, review or other assurance engagement in relation to these matters and accordingly we do not express any assurance opinion or conclusion thereon.”

Appropriate section to include such findings under the heading “**Report on Other Legal and Regulatory requirements.**”

Case 1: Opinion as required by PMR 26(5)(c)(iii) and PMR 26(5)(c)(iv)

Report on Other Legal and Regulatory Requirements

“In terms of relevant International Standards applicable to audit, review and other assurance engagements we were unable to conduct an engagement relating to whether the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud, and whether the financial affairs of the body corporate appear to be effectively managed, as required by Rules 26(5)(c)(iii) and (iv). We have not performed any audit, review or other assurance engagement in relation to these matters and accordingly we do not express any assurance opinion or conclusion thereon.”

Case 2: Opinion as required by PMR 26(5)(c)(iii) and PMR 26(5)(c)(iv)

Report on Other Legal and Regulatory Requirements

“In terms of relevant International Standards applicable to audit, review and other assurance engagements we were unable to conduct an engagement relating to whether the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud, and whether the financial affairs of the body corporate appear to be effectively managed, as required by Rules 26(5)(c)(iii) and (iv). We have not performed any audit, review or other assurance engagement in relation to these matters and accordingly we do not express any assurance opinion or conclusion thereon.”

Case 3: Opinion as required by PMR 26(5)(c)(iii) and PMR 26(5)(c)(iv)

Report on Other Legal and Regulatory Requirements

“In terms of relevant International Standards on Auditing we were unable to conduct an engagement relating to whether the financial records of the body corporate have been kept and its funds have been managed as to provide a reasonable level of protection against theft or fraud, and whether the financial affairs of the body corporate appear to be effectively managed, as required by Rules 26(5)(c)(iii) and (iv). We have not gathered evidence to express any assurance opinion or conclusion thereon.”

Case 4: Opinion as required by PMR 26(5)(c)(iii) and PMR 26(5)(c)(iv)

The independent auditors report was not part of the financial statements but provided as a separate document namely; Audit report 2019.

No opinion provided.

5.3 Overview of sectional title empirical findings and recommendations

In this section, a summary will be given on the main findings from the interviews with the participants in the sectional title retirement facilities.

Legislation matters

Not all chairpersons of sectional title retirement facilities have the necessary knowledge about the legislative frameworks and rely on the knowledge of managers or managing agents. The participants identified the following as shortcomings in the legislative framework, no remuneration for trustees who are also members of the body corporate; not mentioning the appointment of an accountant; the four-month timeframe concerning the completion of the audited financial statements; no guidelines on the maintenance, repair, and replacement plan; the fact that all sectional title retirement facilities need to be audited; and no guidelines provided concerning the layout of the new disclosure requirements in the financial statements of sectional title retirement facilities. The participants also indicated that there is a need for sectional title training for trustees.

Concerning the Community Scheme Ombud service, the participants of the sectional title retirement facility complained that the approval of rules is very time-consuming, no acknowledgement of receipts, and poor response to inquiries. The participants who made use of the dispute services provided by CSOS had logistical issues. Participants were also concerned about what the required levies paid to CSOS are used for.

Management matters

The trustees within sectional title retirement facilities are highly involved in the day-to-day management of the facility. The participants mentioned that residents are not willing to serve on the board of trustees. A possible solution to this problem is to implement remuneration for time spent on the responsibilities as trustees, based on the fact that serving on the board of trustees of retirement facilities are very time-consuming. The trustees of the sectional title retirement facilities that use managing agents are much more involved in complaints and inquiries from residents. At the retirement facilities with in-house managers, the trustees are less involved in the day-

to-day complaints and inquiries by the residents, because it is managed by the managers. The opinion of the researcher is that the managing of sectional title retirement facilities requires daily, intense management to meet the needs of the older residents and that an in-house manager will add much more value to the retirement facility than a managing agent.

Accounting and Auditing matters

No challenges were experienced with the day-to-day bookkeeping function of the retirement facilities. Collection of levies within the sectional title retirement facilities was not a major concern. No provision on bad debts was provided by the accountants, since arrear levies are not a concern and any arrear levies will be collected with the sale of a unit. The retirement facilities comply with the prerequisite law that the administrative and reserve funds must be kept in separate bank accounts. All payments out of a bank account of the sectional title retirement facility require the approval of two or more people.

Approval of the annual budget was a concern, due to the fact the budget needs to be implemented at the beginning of the year, but the financial statements are not yet completed - which may lead to adjustments to the annual budget. Residents of the retirement facilities were not always happy about the increase, but due to conservative yearly increases and proper management of the facility, there was no resistance, although one needs to be careful to be too conservative with levy increases.

The participants mentioned the following as problems concerning the maintenance, repair, and replacement plan: which cost to use, timing is a problem, the reserve account is difficult, the plan is difficult, and the legislation is badly written without clear guidelines. All the sectional title retirement facilities have sufficient reserve funds to cover repairs and maintenance costs.

The biggest problem with the compilation of the financial statements was the timeframe of four months. It was also indicated by the accountant that to compile the financial statements is very time-consuming, because of the additional disclosure requirements and not worth the money. The participants agreed that IFRS and IFRS for SMEs will not be applicable as accounting standards and that the accounting standards for sectional title retirement facilities need to be entity-specific. Regardless

of the chosen framework, the financial statements of the sectional title retirement facility need to comply with the financial reporting provisions as provided by legislation.

The participants believed that a full audit will be the best option for sectional title retirement facilities. The participants mentioned that segregation of duties is a major concern within the sectional title retirement facility. The participants also indicated that the part of legislation that required the auditing of the financial statements to be conducted independently for the compiler is unnecessary and make the process more time-consuming with an additional cost implication. The auditors did mention that legislation requires audit opinions on certain aspects on which the auditors could not express an opinion. Some participants believed that the audit of financial statements of the retirement facility does add value and assurance.

5.4 Research findings: Life Right retirement facilities

Section A: Background information and administrative matters

Question one of section A provides background information of the participant involved in the selected case.

The information below summarises the questions asked to the **chairperson (C5P1)** of the retirement facility to determine background information of the facility and the participant.

Table 5.5 Response of the chairperson of life right retirement facilities on background questions

| Question | Case 5 (LR self-managed) |
|--|--|
| How many units are in your retirement facility? | 177 units. |
| How long have you been staying in the retirement facility? | "I live in the retirement resort; it is not a requirement that I have to live in." |

| | |
|---|--|
| For how many years have you been serving on the management committee of the retirement facility? | 8 years. |
| How many people are serving on the management committee? | A total of 11, 6 from the church, 5 residents as required by our constitution. |
| For how many years have you been the chairperson of the committee? | 8 years. |
| What other committees are operating in your retirement facility? | “Finance and Property Committee. Residents committee it is determined by law. Do you know which act? It is the Old Persons Act of 2006.” |

Opinion of the chairperson of the life right retirement facility

The chairperson (C5P1) interviewed indicated that there are 177 units in the retirement facility. The chairperson resides within the retirement facility, although it is not a requirement. The chairperson served for eight years on the management committee as chairperson of the committee. The chairperson mentioned that eleven people served on the management committee; six from the churches involved, and five residents (owners), as required by their constitution. Legislation applicable to life right does not provide any guidelines regarding the number of people to serve on the management committee. The chairperson said that the finance and property committee as well as the residents’ committee are operating in the retirement facility. According to the chairperson, the Older Persons Act of 2006 requested the need for a residents committee. The concept of the Older Persons Act was discussed in section 1.1 of Chapter 1.

The information below summarises the question asked to the **manager (C5P2)** of the retirement facility to determine background information on the manager.

Table 5.6 Response of the manager of life right retirement facilities on background questions

| Question | Case 5 (LR self-managed) |
|--|---|
| How many life right retirement facilities are being managed by the manager? | Question not applicable, own manager on payroll. |
| For how many years have you been managing the retirement facilities? | 18 years. |
| Which service do you provide to the life right retirement facilities? | "I do everything from security, maintenance, social service, care, kitchen, meals, meal planning, gardens, finance, budget, human resources, everything." |
| What factors are considered in the calculation of your management fee? | Paid official, receive monthly salary. |

Opinion of the manager of the life right retirement facility

The manager (C5P2) interviewed is a paid official receiving a monthly salary and has managed the life right facility for 18 years. The manager indicated that she is doing everything. Section 2.3.1 and 2.3.6 of Chapter 2 indicated that all retirement schemes need to appoint a managing agent. One of the powers provided to the management association as discussed in section 2.3.4 was the appointment of employees. The management association has the right to assign any duties to the managing agent as mentioned in section 2.3.4.1 of Chapter 2.

As part of the interviews, several questions were asked to the **auditing practitioner (P3)** of the retirement facilities to determine background information on their practice. Different staff members in the same practice are involved in the compilation and auditing of the financial statements.

Table 5.7 Response of the auditor of life right retirement facilities on background questions

| Question | Case 5 (LR self-managed) |
|---|--|
| How many life right retirement facilities are clients of yours? | “In our central region, there are two that we do specifically.” |
| For how many years have your practice been operating as a life right accounting and auditing practitioner for the retirement facilities? | “We have been involved with them since 2007 from what I could see on the system, then it is about 13 years.” |
| Which service do you provide to life right retirement facilities? | “We prepare their financial statements and then we also do the financial audit every year. Along with that, there are tax services as well. We are not directly involved in the budget process at all.” |
| What factors are considered in the calculation of your accounting and auditing fees? | “If one has to take the handbook answer, one only calculates what is the time and the risk associated with it and how many resources do we need to complete the audit. We also deal with this client as part of corporate social responsibility, the costs we incur to do the process is not what we ask them to do in the end. We have an hourly rate.” |

Opinion of the auditor of the life right retirement facility

According to the auditor (C5P3) interviewed, they have two life right retirement facilities as clients. The auditor practice operated for thirteen years as the accounting and auditing practice for the facility. The practice compiles the financial statements, conducts the audit of the financial statements as well as tax services. The factors that are considered in the calculation of accounting and auditing fees according to the auditor were time spent, associated risk, and the required resources to complete the

audit. The auditors have an hourly rate; the auditor said for this client they take a write-off because this client is part of their corporate social responsibility.

5.4.1 Legislation matters

Question two of section A on the interview schedules asked questions that relate to legislative frameworks as identified in the literature review applicable to life right retirement facilities. The purpose behind these questions is to partially answer the following research question:

(RQ1) What are the current legislative frameworks in place relating to the management, governance and control of private retirement facilities?

5.4.1.1 Legislative framework

In this section, the results of the information from the questions asked about the legislative frameworks will be discussed to obtain possible answers to the research question as stated above.

The chairperson (C5P1) as well as the manager (C5P2) mentioned the Older Persons Act and the Housing Development Scheme for Retired Persons Act (HDSRPA) as the legislative framework applicable to life right retirement facilities of which they know about. The manager (C5P2) mentioned that the retirement facility is a non-profit organisation. The auditor (C5P3) interviewed mentioned that they did not go into detail concerning the legislation that governs the life right facility, but they rather look at the guidelines set by the accounting and auditing standards. The auditor (C5P3) said they do not conduct a compliance audit; it was more about the financial side. An observation that was made about the above was that not any of the participants mentioned the NPOA applicable to non-profit organisations as explained in section 2.3 of Chapter 2. The concept of the legislative framework was discussed in section 1.3.1.2 of Chapter 1 and section 2.3.1 of Chapter 2.

The chairperson (C5P1) and the manager (C5P2) indicated that they had not attended any legislative training courses, because there were no such courses available according to the manager. The chairperson (C5P1) said that the retirement facility set the example due to the feedback received from the yearly inspections done by the

Department of Social Development. The chairperson (C5P1) and manager (C5P2) did not identify any shortcomings in the legislative frameworks. The auditor (C5P3) mentioned that they focus on the accounting and auditing standards and this question lies with management.

The chairperson (C5P1) and the manager C5P2) indicated no need exists for training relating to life right retirement facility legislation, because the Act is very old. The question was asked how they keep up with changes. The chairperson (C5P1) indicated that the Act is very old with no changes. The manager (C5P2) said that if they do not know something, they will consult with their lawyer. The auditor (C5P3) interviewed said that they have a technical department that will inform them about changes in legislation. Again, the auditor (C5P3) indicated that they sign off the audit report but not in terms of an Act as the case may be with a school audit.

5.4.1.2 Community Scheme Ombud Service (CSOS)

In this section, the results of the information from the questions asked about the Community Scheme Ombud Service will be de discussed.

Services offered by CSOS

The chairperson (C5P1) and the manager (C5P2) were familiar with CSOS and the services they offered. The auditor (C5P3) was aware of CSOS, but not sure about all the services offered by them. The applicability of the CSOS Act on life right retirement facilities was discussed in section 2.3.1 of Chapter 2. The chairperson (C5P1) said that the retirement facility had never used the services of CSOS, and the reason was that CSOS did not respond to their request. The manager (C5P2) said the facility did not pay the levies as requested by CSOS, since no service was provided to them. According to the manager (C5P1), another Non-Profit retirement facility did also not pay the levies after obtaining legal advice. The concept of paying levies to CSOS was discussed in Section 2.3.7 of Chapter 2. The concept of the main function of CSOS was discussed in section 2.3.1 of Chapter 2.

Problems with CSOS

The chairperson (C5P1) provided the following problem that they experienced with CSOS, there was no service. According to the chairperson (C5P1) and the manager

(C5P2), the facility does not need an ombudsman because the retirement facility does have its structures in place. The manager (C5P2) indicated the following as problems with CSOS, they did not respond to the registration documents and there was no service. The manager (C5P2) believed that the ombudsman of the state does not exist.

5.4.2 Management matters

Section B: Management of life right retirement facilities

The questions in section B of the interview schedules apply to the people involved in the management of the life right retirement facilities. The purpose behind these questions is to partially answer the following research question:

(RQ6) What problems do those in charge of governance experience relating to the day-to-day management of life right retirement facilities?

5.4.2.1 Manager

In this section, the results of the information from the questions asked about the manager will be de discussed.

The concept of appointing a managing agent for the life right retirement facility was discussed in section 2.3.1 and 2.3.6 of Chapter 2. An observation that was made concerning the above was that no provision has been made in the HDSRPA for the appointment of a manager. However, the Act did indicate that the management association has the power to appoint employees as discussed in section 2.3.4.3. In section 2.3.4.1, it was also discussed that the management association can assign some rights and duties to the managing agent.

Appointment of manager

According to the chairperson (C5P1), it was the responsibility of the management committee to appoint the manager. The chairperson (C5P1) could not answer the question concerning the factors that played the most important role in the decision about the appointment, since the manager has managed the facility for 18 years, as was indicated in section 5.4 and the chairperson was only for the last eight years involved in the management committee.

Characteristics of a good manager

The following characteristics of a good manager for a retirement facility were considered by the chairperson, manager, and auditor:

- Knowledgeable (C5P1)
- Compassionate (C5P1, C5P2, C5P3)
- Communicator (C5P2)
- Strong leader C5P2, C5P3)
- Budget managing skills (C5P3).

Services and challenges

The chairperson (C5P1) was very satisfied with the services provided by the manager. The chairperson mentioned that “*The day when she walks here then we have a problem*”. According to the auditor (C5P3), they have a very good relationship with the manager. Neither the chairperson (C5P1) nor the auditor (C5P3) identified any problems or challenges experienced with the manager. The auditor (C5P3) mentioned that with these types of entities, the challenges are the separation of duties and a lack of knowledge concerning debits and credits. For the manager (C5P2), the biggest challenges in terms of the general management of the retirement facility was human resources, the challenges with staff.

5.4.2.2 Management committee

In this section, the results of the information from the questions asked about the management committee will be discussed. The management association as discussed in section 2.3.4.3 has the power to appoint a committee to exercise all the powers and functions of the management association. The concepts concerning the duties and powers of the management association were discussed in section 2.3.4.2 and 2.3.4.3 of Chapter 2.

Composition of the management committee

The chairperson (C5P1) said that the composition of the management committee was determined by the constitution of the retirement facility. The management committee consists of six representatives from different congregations and five residents, each with a specific portfolio.

Challenges with the management committee

The chairperson (C5P1) and the manager (C5P2) did not identify any challenges with the management committee. The chairperson (C5P1) mentioned the following, *“they are always available, and the outside representatives make incredible input and contribution, no one derives a financial benefit from the story”*. According to the auditor (C5P3), the only challenge concerning the management committee was limited knowledge in terms of the finances. The opinion of the auditor (C5P3) was based on the observation that during the discussion of the financial statements, only one or two members of the management committee understood how a set of financial statements work.

Operations

The chairperson (C5P1) and the manager (C5P2) confirmed that the management committee did meet four times, once a quarter, during the year. The manager (C5P2) indicated that that is what the constitution stipulates. The manager (C5P2) mentioned that with any emergencies, the day management was available, which consists of the chairperson, vice-chairperson, two other management committee members, and the manager. The chairperson (C5P1) said that the residents are willing to serve on the management committee. The manager (C5P2) specified that the management committee was always available.

The manager (C5P2) said that the members serving on the management committee for the retirement facility did have the necessary competence to act as such. According to the auditor (C5P3), the management committee had the necessary competency to act as such, he also mentioned that different aspects needed to be managed and they were only looking at it from a financial point of view.

5.4.2.3 Chairperson

In this section, the results of the information from the questions asked about the chairperson will be discussed.

The chairperson (C5P1) said that he was highly involved in the management of the retirement facility. According to the chairperson (C5P1), he did not receive any remuneration and indicated *“It's an act of love”*.

Challenges as chairperson

The chairperson (C5P1) mentioned that the main challenge in the role of chairperson was to handle sensitive issues. He said that there was not one responsibility that he did not enjoy.

Knowledge and skills required

The chairperson (C5P1) indicated that the knowledge and skills required to act as a management committee chairperson were the ability to work with people and to be compassionate. According to the auditor (C5P3) interviewed, the chairperson needs to be a Jack of All Trades; the chairperson must know about what is going on in the different aspects of the facility. A remark concerning the chairperson; the chairperson was mentioned once only in the Regulations of the HDSRPA that applies to the management of life right retirement facilities. The Regulation specifies that the chairperson of the committee shall preside at every general meeting of the management association (Department of Trade and Industry, 1989).

5.4.2.4 Annual general meeting

In this section, the results of the information from the questions asked about the annual general meeting will be de discussed.

All participants interviewed said the yearly AGM was well attended. The chairperson (C5P1) mentioned that no problems were experienced during the AGM; according to him most problems were dealt with at the residents' meeting. According to the manager (C5P2), the retirement facility has an agenda and they stick to the agenda. The auditor (C5P3) also confirmed that from their side, they did not experience any challenges - just that the residents were more comfortable asking the manager

questions concerning the financial statements rather than using the forum. The concept of quorum and voting at the AGM was discussed in section 2.3.5 of Chapter 2.

Order of the business

The chairperson (C5P1) indicated that the AGM was to pass on points, for delivery of the annual report, budget, and approval of the financial statements. The order of business during the AGMs was discussed in section 2.3.5. The agenda of the latest AGM of the life right retirement facility was inspected to determine matters presented and approved at the meeting. This retirement facility presented and approved the following matters as prescribed by legislation:

- Election of the management committee
- Budget approval; the budget was not approved during the AGM. The following was indicated: the concept budget will be available in the office for recommendations; the budget will then be discussed at the next residents meeting; the budget will then be approved by the management committee during the next management committee meeting.

The following matters were presented and approved during the AGM that are not required by legislation applicable to the life right retirement facility:

- Annual report
- Approval of the annual financial statements
- Appointment of the auditor.

The manager (C5P2) indicated the following as her responsibilities concerning the meetings, compiling the agenda; taking the minutes during the meetings; answering all the queries; and policy formulation. The concept of the notice to the owners concerning meetings was discussed in section 2.3.5. According to the auditor (C5P3), their responsibilities concerning meetings was to answer questions related to the annual financial statements. The manager (C5P2) attended the following meetings of the retirement facility, AGM, residents committee, financial and real estate committee, management committee, and residents' meeting. Two meetings were attended each

year according to the auditor (C5P3), the management committee meeting and the AGM.

5.4.2.5 Risk for manager, management committee and chairperson

In this section, the results of the information from the questions asked concerning the associated risk for the people involved in the management of life right retirement facilities will be discussed. The aim of this section is to partially answer the following research question:

(RQ3) What are the risks associated with life right retirement facilities?

As explained in section 2.3.4.1, a management association has perpetual succession and shall be capable of suing and of being sued. The chairperson (C5P1) indicated there was no risk involved in being a member of the management committee of a life right retirement facility. The chairperson (C5P1) said if there was a risk of being the chairperson of the management committee, then you must not make yourself available. The manager (C5P2) interviewed mentioned the greatest risk is to manage the finances effectively.

5.4.3 Accounting and Auditing matters

Section C: Accounting and auditing of life right retirement facilities

The questions in section C of the interview schedules apply to accounting and auditing requirements as indicated by the legislation framework of the life right retirement facilities. The purpose behind these questions is to partially answer the following research question.

(RQ5) What are the current accounting and bookkeeping challenges relating to life right retirement facilities?

5.4.3.1 Bookkeeping functions

In this section, the results of the information from the questions asked about the bookkeeping functions will be discussed. As discussed in section 2.8.1.1, a registered NPO must keep accounting records and maintain proper books of account.

The chairperson (C5P1) and the manager (C5P2) interviewed mentioned that the administrative person was responsible for the day-to-day bookkeeping functions. The duties of the administrative person consist of office duties, secretarial duties, accounts, and Pastel processing. The auditor (C5P3) only said that the manager took the lead on the responsibilities of the day-to-day bookkeeping function and the auditor was under the impression that one person was working under the manager.

According to the chairperson (C5P1) and manager (C5P2), payments were uploaded on the electronic banking system by the administrative person. The payments were then approved by two different people, namely the manager and the chairperson of finance. The chairperson (C5P1) mentioned that three people have the power to approve payments and it includes the manager.

Challenges experienced

Neither the chairperson (C5P1) nor the manager (C5P2) identified any challenges concerning the day-to-day bookkeeping function. The manager (C5P2) explained that the electricity and water meter of each unit is read monthly, then they used the total consumption provided on the municipal accounts to calculate the cost per unit. The electricity and water account from the municipality is estimated, then they use the estimation to calculate a unit cost, otherwise, no significant challenges were experienced with the municipal accounts. The manager (C5P2) also indicated that they did not make additional money on the municipality accounts.

According to the auditor (C5P3), the accounting work was about 90% complete; the auditor indicated that a couple of entries were done by the compiler of the financial statements, like shifts between equity funds and interest on the investments. The auditor (C5P3) also mentioned that before conducting the annual audit, they provided the manager with a list of documents that were needed during the audit upfront, those information were filed by the facility before arrival. The auditor (C5P3) said that the

manager had been through so many audits, that she knows by now what will be needed every year.

5.4.3.2 Levy income

In this section, the results of the information from the questions asked about the levy income will be discussed. The concept of administrative funds of life right retirement facilities was discussed under section 2.3.7 of Chapter 2. As discussed in section 2.3.4.3 of Chapter 2, the life right retirement facility had no duty to establish a levy fund.

The chairperson (C5P1) and the manager (C5P2) said that the funds collected by the retirement facility consisted out of the levies, electricity, and water charges as well as meals. The manager (C5P2) mentioned that the residents need to take a minimum of twelve meals per month to cover the overheads of the kitchen. According to the chairperson (C5P1) and manager (C5P2), the levies were calculated according to the annual budget (see section 5.4.3.4 and 2.8.1.2) and the participation quotas. The manager (C5P2) said that the levies of the life right facility are low, because residents do not pay for maintenance. According to the manager (C5P2), 50% of the interest income received from the retirement facility may be used to subsidise the levies.

Arrear levies

Both the chairperson (C5P1) and the manager (C5P2) mentioned that interest was charged on arrear accounts at the prime interest rate plus 1 %. The HDSRPA does not provide any guidelines concerning interest charged on overdue accounts. The chairperson (C5P1) indicated that the manager phone the residents to collect arrear levies. The manager (C5P2) said she only once handed a resident over to an attorney; she mentioned that "*handover happens minimally*". The auditor (C5P3) said that there were no bad debts and it is about the entity-specific basis of accounting; furthermore, they had not been in the position where it was needed to determine provision for bad debts. According to the auditor (C5P3), the accounting policy of the retirement facility indicated that no provision for bad debts must be recognised. The financial reporting standards was discussed in section 2.8.1.3.1 of Chapter 2 and in section 5.4.3.6.

5.4.3.3 Bank Account

In this section, the results of the information from the questions asked about the bank accounts will be discussed. As discussed in section 2.3.4.3, the management association does have the power to open and operate a current and savings account.

According to the chairperson (C5P1) and manager (C5P2) interviewed, the monthly contributions were paid into the bank account in the name of the retirement facility. The auditor (C5P3) also confirmed that the bank account is in the name of the facility and that the monthly levies are paid into the account. As also indicated in section 5.4.3.1, the chairperson (C5P1) and the manager (C5P2) indicated three people have the authorisation to release payments, namely two management committee members and the manager. According to the auditor (C5P3), only the manager received authorisation to make payments.

Bank reconciliation

The chairperson (C5P1) and manager (C5P2) mentioned that the bank reconciliation was done by the administrative person and signed off by the manager. According to the manager (C5P2), the auditors also checked the balances during the annual audit. The auditor (C5P3) provided a different opinion; according to the auditor, the manager was responsible for the bank reconciliation and that it creates an issue of separation of duties, since there was no one above the manager to review the reconciliations. The auditor (C5P3) said that the bank reconciliations were done monthly and were also checked by them during the annual audit.

Managing funds

The chairperson (C5P1) as well as the manager (C5P2) said that the interest was monthly capitalised. The manager (C5P2) mentioned that the facility tries to have as little money as possible in the cheque account. The manager further indicated that the money was on two money market funds. The manager did mention (in section 5.4.3.2) that 50% of the levies were subsidized by the yearly rental income and that the rental income was also used to complete maintenance work. The concept of an investment of funds was discussed in section 2.3.4.3 of Chapter 2. The auditor (C5P3) indicated that the compiler of the financial statements used bank statements and investment

statements to recognise the interest for the year as income. The manager (C5P2) was asked what the major problems were regarding the management of funds. The manager said to manage limited funds effectively, and she used the example of providing food to the elderly.

5.4.3.4 Annual Budget

In this section, the results of the information from the questions asked about the annual budget will be discussed. The concept concerning the annual budget was discussed in section 2.8.1.2 of Chapter 2. In sections 2.3.5 and 2.8.1.2, the concept of approving the annual budget was discussed, indicating that the budget needs to be approved by at the AGM.

The chairperson (C5P1) and the manager(C5P2) said that the budget was compiled by the manager with inputs from the residents and approved by the management committee. The approval of the annual budget was also discussed in section 5.4.2.4. The auditor (C5P3) only mentioned that management was responsible for setting up the annual budget.

Problems experienced

According to the chairperson (C5P1), no problems were experienced during the budgeting process. The manager (C5P2) indicated that the residents find it difficult to understand that the budget cannot just increase yearly with the inflation rate, and that was the problem experienced during the budget.

Resistance from members

Both the chairperson (C5P1) and the manager (C5P2) mentioned that they experienced some resistance from the residents concerning the increase in the budget that result in levy increases. The manager (C5P2) did mention that the yearly increase is usually between 6% and 8%. The auditor (C5P3) indicated that they were not involved in setting up the yearly budget.

5.4.3.5 Maintenance repair and replacement plan (MRRP)

In this section, the results of the information from the questions asked about the maintenance, repair and replacement plan will be discussed. The HDSRPA does not

request a maintenance, repair, and replacement plan, but the Act did require that the budget needs to include for the following year a reasonable provision for future maintenance and repair costs, as discussed in section 2.8.1.2.

The chairperson (C5P1) confirmed that the life right retirement facility does have a maintenance, repair and replacement plan. According to the manager (C5P2), it was the responsibility of the manager and the management committee to compile the plan. The manager (C5P2) indicated that the plan was for five years and that it is not compiled every year. The auditor (C5P3) had no idea about the maintenance, repair and replacement plan. Neither the chairperson nor the manager identified any problems experienced during the compilation process. The chairperson (C5P1), manager (C5P2), and auditor (C5P3) said that the retirement facility does have sufficient funds to cover future repairs and maintenance costs. The manager (C5P2) mentioned that part of the funds comes from the interest income.

5.4.3.6 Financial statements

In this section, the results of the information from the questions asked about the financial statements will be discussed. The concept of financial statements was discussed in section 2.8.1.3 of Chapter 2.

The chairperson (C5P1) and the manager (C5P2) said that a registered accounting and auditing practice was responsible for compiling the annual financial statements. According to the auditor (C5P3) interviewed, the financial statements were compiled by the practice; the auditor indicated that the practice does have different sections. The auditor (C5P3) confirmed that the financial statements were compiled by a person in the accounting department and approved by a partner in the accounting department. The chairperson (C5P1) mentioned that the accountant was appointed during the annual general meeting, see section 5.2.3.3. According to the manager (C5P2), the retirement facility had been clients of the accounting and auditing practice for twenty years. The chairperson (C5P1) said that good service was the factor that plays the most important role in the decision about the appointment of the accountant. According to the manager (C5P2), if the financial statements are prepared by a well-known auditing practice to help the facility to maintain its NPO registration, no questions are asked about the financial statements. It also helps to obtain funding. The manager

(C5P2) also mentioned that the accounting and auditing practice knows their systems and structures that are in place at the retirement facility.

Understandability of financial statements by the residents

The chairperson (C5P1) and manager (C5P2) both indicated that the average resident of the retirement facility did understand the content of the financial statement after explained to them in lay language. The manager (C5P2) said that the practice adds a three-page appendix for the residents to explain the financial statements in a more understandable language since the financial statements are complicated.

Problems experienced

According to the auditor (C5P3), no problems were experienced concerning the compilation of the financial statements. The auditor (C5P3) confirmed that the only additional transactions done by the compiler were the interest and equity funds using a standard template year after year.

Accounting standard

The auditor (C5P3) said that the entity-specific accounting standards were the most applicable in the compiling of the financial statements for the life right retirement facility. The concept of accounting standards was discussed in section 2.6 and 2.8.1.3.1 of Chapter 2.

Legislation-related problems

According to the auditor (C5P3), no part of legislation that relates to retirement facilities creates problems with compiling the annual financial statements.

Qualification of staff compiling financial statements

The auditor (C5P3) indicated that the average qualification or post level of staff who are responsible for compiling the financial statements was a first-or second-year SAIPA article clerk with a B Accounting or B Com degree. The concept of professional accountants was discussed in section 2.5 of Chapter 2.

5.4.3.7 Purchase and termination of life right

In this section, the results of the information from the questions asked about the purchase and sales transaction of life right will be discussed. The concept of purchase and termination of the life right option were discussed in section 2.1.2.

| Theme: Purchase and termination of life right | |
|--|--|
| | How is the purchase transaction recorded in the accounting records for the provider of the life right? |
| <i>Participant 2 (C5P2):</i> | (Question asked to the chairperson but answer by the manager) "This is actually a loan agreement. Actually, at the beginning when we do the bookkeeping, say for example you pay R500 000, then we put R495 000 against your account and R5 000 goes immediately to your service centre account. If we pay out, then it is only the R495 000 that we then pay out and then the account is clean again." |
| <i>Participant 3 (C5P3): (Auditor)</i> | "If you buy it, you are actually buying the right to stay in the property. You are going to have to buy at a fixed amount. The facility will issue a loan from them, a housing loan to you to be able to afford it now. You are going to credit your loan account because you are giving the person a loan and then your other leg then lies as an investment. You then usually have the investment which is then the cottage's portion and then you have the loan in the credit side your liabilities portion. For any money that flows, you will use the bank account as part of the transactions. If there is money coming in from the person you are going to debit the bank account and credit the loan account." |
| | What is the purchase amount use for during the occupation of the housing interest? |
| <i>Participant 2 (C5P2):</i> | (Question asked to the chairperson but answer by the manager) "It does not go to the cheque account, we immediately put it on investment." |

| | |
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| <p>Participant 3 (C5P3): (Auditor)</p> | <p>“It lies on the investment account.”</p> |
| | <p>If interest is applicable, how is interest on the purchase amount handled?</p> |
| <p>Participant 2 (C5P2):</p> | <p>(Question asked to the chairperson but answer by the manager) “After all, it's actually a loan agreement you have, an interest-free loan agreement you have. The buyers do not get interest on the loan amount.”</p> |
| <p>Participant 3 (C5P3): (Auditor)</p> | <p>“No, no interest. No interest is charged on those loans given then there is also no interest received by them.”</p> |
| | <p>When the life right terminates explain the refund of the original purchase price?</p> |
| <p>Participant 2 (C5P2):</p> | <p>(Question asked to the chairperson but answer by the manager) “We pay the full amount that person paid minus R5 000. The R5 000 is admin costs and what they actually say is to be a member of the service centre. It is stated in our constitution that R5 000 is withheld to be a member of our service centre.”</p> |
| <p>Participant 3 (C5P3): (Auditor)</p> | <p>“The full amount is paid back to the relevant person.”</p> |
| | <p>How is the sales transaction recorded in the accounting records for the provider of the life right?</p> |
| <p>Participant 2 (C5P2):</p> | <p>(Question asked to the chairperson but answer by the manager) “If we pay out then it is only the R495 000 that we then pay out and then the account is clean again.” Value determination of the unit: “It is per square meter, it is a formula we have per square meter multiplied by an amount we have at that time that has been approved plus R5000 plus the capitalisation, if there are capitalisations. It is per square meter times the present value of the building not the land.”</p> |

| | |
|--|--|
| <p><i>Participant 3</i> <i>(C5P3): (Auditor)</i></p> | <p>“The investment is then simply transferred to another person upon sale. The transaction then just swings around.”</p> |
|--|--|

According to the manager (C5P2) and auditor (C5P3), when life right is purchased by a resident from the retirement facility, the purchase transaction will be recorded as follows: the bank account will be debited with the full amount received from the resident and an interest free-loan account in the name of the resident will be credited. According to the manager (C5P2), a fixed amount will be deducted from the purchase amount and allocated to the service centre account. The money received from the resident will be transferred from the cheque account to an investment account of the life right retirement facility. In conclusion, the purchase transaction was recognised as an investment under non-current assets and as a loan under non-current liabilities. According to the manager (C5P2) and auditor (C5P3), the purchase amount paid by the resident will stay in the investment account for the duration of the occupation of the housing interest. Both the manager (C5P2) and auditor (C5P3) mentioned that the loan provided to the resident is an interest-free loan, meaning that the resident will not receive interest with the sale of the housing interest. As explained by the manager in section 5.4.3.2, the levies may be subsidised by the interest income received from the investments of the retirement facility.

The manager (C5P2) said the full purchase price is paid back with the termination of the life right, except for the small fixed amount withheld for the use of the service centre of the facility. The auditor (C5P3) just confirmed that the full purchase amount is paid back to the relevant resident with termination. The sales transaction with termination according to the manager (C5P2) and auditor (C5P3) of the life right facility will be recorded as a credit to the bank account after transferring the original investment amount to the cheque account and debiting the interest-free non-current loan account. In conclusion, the sales transaction was recognised as a decrease of investments under non-current assets and a decrease of an interest-free loan under non-current liabilities. The only income recognised during the purchase and sale of life right was the interest received on the investments. An observation that was made from the above was that the asset growth was shown under investments and not under investment properties. No guidelines are provided by legislation or the accounting

standards on how to recognise the purchases and sales of life right retirement facilities in the financial statements.

5.4.3.8 Auditing

In this section, the results of the information from the questions asked about the audit of the financial statements will be discussed to be able to obtain a partial answer to the research question:

(RQ4) What are the current auditing and assurance-related problems experienced by South African auditors performing statutory engagements for life right retirement facilities?

The concept of the auditing requirements for an NPO was discussed in section 2.12.2 of Chapter 2. The NPOA does not request auditing of annual financial statements, but rather agreed-upon-procedures by an accounting officer. Life right retirement facilities offered by NPOs can be a non-statutory assurance engagement, meaning that audits may arise out of other obligations or requirements - not in terms of an Act. Registered auditors may issue an audit report on financial statements, as discussed in section 2.10 of Chapter 2.

According to the chairperson (C5P1), manager (C5P2), and auditor (C5P3), the annual financial statements were audited by a registered accounting and auditing practice. This practice was also responsible for the compilation of the financial statements as discussed in section 5.4.3.6. The auditor (C5P3) interviewed mentioned that the accounting and auditing practice does have an accounting and auditing department and that the financial statements were audited by the auditing department who is separated from the compiler of the financial statements. The factors that play the most important role in the decision about the appointment of the auditor were the same factors mentioned by the chairperson (C5P1) and manager (C5P2) concerning the appointment of the accountant in section 5.4.3.6.

Problems experienced

The chairperson (C5P1) and manager (C5P2) did not identify any problems experienced with the audit or assurance work of the financial statements of the retirement facility. According to the auditor (C5P3), no problems were experienced

during the audit, and there was no complexity attached to the balance and transactions. The auditor (C5P3) also confirmed that the manager knows what is going on in the facility. The auditor (C5P3) did not identify any significant problems concerning service providers during the audit of the financial statements. According to the auditor (C5P3), the retirement facility itself experienced problems with the municipality concerning accounts.

Audit assurance

The auditor (C5P3) indicated that a complete audit was the most applicable manner to provide assurance concerning the financial statements of the life right retirement facility. According to the auditor (C5P3), the objective was to provide an opinion of the financial statements and a complete audit would provide the highest form of assurance.

Value adding of the audit

The auditor was asked the question what value the auditing of the financial statements adds to the retirement facility. According to the auditor (C5P3), for the management committee and the residents, the audit does add value. The auditor (C5P3) said that the audit provides a level of reassurance to the managing committee for the reason that the manager handles everything. From the residents' point of view, they have resident loans with the facility and want confirmation that someone is looking at things.

Legislation-related problems

The auditor (C5P3) indicated that no part of legislation that relates to the retirement facility creates problems with the auditing of the financial statements.

Qualification of staff auditing financial statements

According to the auditor (C5P3), a whole team was involved in conducting the audit. All the clerks have a B Accounting Honours degree or busy with the degree, and busy with their SAICA articles. The auditor (C5P3) interviewed mentioned that a manager accompanied the clerks who conducted the audit and the manager was already a CA or SAIPA accredited. The partner who signed off on the audit is a CA registered with IRBA.

5.4.3.9 Risk

In this section, the results of the information from the questions asked about the associated risk concerning the misappropriation of funds and the risk attached to the auditing of financial statements of life right retirement facilities will be discussed. In this section, the following research question will be answered:

(RQ3) What are the risks associated with life right retirement facilities?

Misappropriation of funds

The chairperson (C5P1) and the manager (C5P2) said the following measures were in place to prevent misappropriation of funds, some residents still pay cash, but the cash was banked regularly and the cash needs to balance every end of the month. According to the chairperson (C5P1), the retirement facility makes use of petty cash, but the petty cash needs to be balanced each month. The manager (C5P2) also mentioned that authorisation of more than one person was required to make payments from the bank account, as was discussed in section 5.4.3.3 The payment process applied by the life right retirement facility was discussed in section 5.4.3.1. An observation is that individuals involved in the facility have been working together for many years and become comfortable with each other, which may limit the identification concerning misappropriation of funds.

Audit risk

The auditor (C5P3) interviewed indicated that the greatest risk attached to the auditing of the life right facility was cash, *"it's always a risk where cash is involved"*. Another risk was the passing of adjustment journals since adjustments are a way for management to bypass controls. According to the auditor (C5P3), it is required to find the reason behind adjustment journals and to make sure there was sufficient supporting documentation. The last risk as mentioned by the auditor was the separation of duties; the manager does most of the work and so holds the risk of mistakes. The observation that was made regarding the above was that segregation of duties may be a challenge for the smaller life right retirement facilities. The concept

of risk assessment was discussed in section 2.9 of Chapter 2; it was also mentioned that small entities do not have entity-level controls in place.

5.4.3.10 Audit opinion

As discussed in section 2.12.3, the NPOA requires specific statements in a written report executed by an accounting officer. The concept of auditing requirements of an NPO was discussed in section 2.12.3. The life right retirement facility was audited as explained in section 5.4.3.8 and therefore the report as required by the NPOA was not issued by an accounting officer, but rather an audit report was provided by an auditor. The following highlights were mentioned under specific headings in the report issued by the auditor,

Emphasis on the matter - accounting basis and reservation on distribution and use

“We confirm the attention on note 1 to the financial statements describing the accounting basis. The financial statements have been prepared in accordance with the entity’s own accounting policies to meet the financial information needs of the organisation’s management. Consequently, the financial statements may not be appropriate again for another purpose. Our report is intended solely for the facility and should not be distributed to any other parties. Our opinion is not qualified in this regard.”

Other information

“Management is responsible for the other information. The other information consists of the information included in the facility’s financial statements for the year ended xxx. Other information does not include the financial statements and our audit report thereon.

Our opinion on the financial statements does not cover the other information and does not express any audit opinion or any form of reassurance about it.

In connection with our audit of financial statements, it is our responsibility to read the other information identified herein, and thereby consider whether the other information

is materially inconsistent with the financial statements or knowledge acquired during the audit, or otherwise appears to be desirable misrepresented.

If based on the work we have performed, we conclude that there is a material misstatement of this information, we are required to report those facts. We have nothing to report in this regard.”

Responsibilities of managing for the financial statements

“The organisation’s management is responsible for preparing the financial statements in accordance with the accounting basis described in note 1 to the financial statements and for determining that the accounting basis is acceptable in the circumstances and for such internal control as the management considered necessary for the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.”

Auditor's responsibilities for the audit of the financial statements

“Our goal is to obtain reasonable assurance as to whether the financial statements are free from material misstatement, whether due to fraud or error and to issue an auditor’s report containing our opinion. Reasonable reassurance is a high level of reassurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect material misstatement if it exists. Misrepresentation may exist as a result of fraud or error and is deemed material or individually material if it is reasonable to expect that such misrepresentation will influence the economic decisions of the users made on the basis of these financial statements.”

A comparison between the written report as requested by the NPOA and the audit report as issued by the auditor:

| Requirements by the NPOA concerning the report | Audit report cover the requirements (Yes/No) |
|---|--|
| Part 1 of the report, as required in terms of section 17(2) of the NPOA that: | |

| | |
|---|---|
| The financial statements of the organisation are [consistent / non consistent] with its accounting records. | No. |
| The accounting policies of the organisation are [appropriate / not appropriate] and [have been appropriately / have not been appropriately] applied in the preparation of the financial statements. | Yes. |
| The organisation [has complied / has not complied] with the provisions of the NPOA and of its constitution which relate to financial matters. | No. |
| Part 2 of the report | |
| Provide a list of the agreed-upon procedures that were undertaken for the NPO in accordance with ISRS 4400. | Not applicable full audit was conducted. |
| Report on the findings out of the listed agreed-upon-procedures listed in part 2. | Report was issued on the audit conducted. |
| Emphasis of matter , Select or delete the matter that applies / does not apply. | |
| [We wish to draw attention to the fact that the annual financial statements are not in agreement with the accounting records as required by section 17 of the NPOA.] | No. |
| [We wish to draw attention to a matter relating to the appropriateness of the accounting policies applied. As stated in note 1 to the financial statements, the organisation applies [note the appropriate accounting framework for example IFRS or IFRS for SME or modified cash basis of accounting]. | Yes. |
| [We wish to draw attention to a contravention(s) of the NPOA, which came to our knowledge during the performance of our duties as accounting officer. We are not required to perform specific procedures to identify | No. |

| | |
|--|------------|
| <p>contraventions of the Act. [Refer to the relevant section(s) contravened and explain the nature of the contravention.]</p> | |
| <p>[We wish to draw attention to the fact that a member/partner/employee of our firm is also a member of the organisation and all the members have consented in writing to our appointment as accounting officer under these circumstances.]</p> | <p>No.</p> |

5.5 Overview of life right empirical findings and recommendations

In this section, a summary will be given on the main findings from the interviews with the participants in the life right retirement facilities.

Legislation matters

The chairperson and manager did not identify any shortcomings in the legislative framework. The participants also indicated that there is no need for training concerning the legislative framework. Concerning the Community Scheme Ombud service, the participants of the life right retirement facility complained about no acknowledgement of receipts, and poor response to inquiries. The participants also confirmed that levies were not paid to CSOS after obtaining legal advice. Participants were also concerned about what the required levies paid to CSOS are used for.

Management matters

The participants mentioned that residents are willing to serve on the management committee. The participants believed that the management committee was involved and did have the competency to act as such. The chairperson and manager did not provide any challenges experienced with the management committee, but the auditor mentioned a limitation of knowledge regarding finances.

Accounting and Auditing matters

No challenges were experienced with the day-to-day bookkeeping function of the retirement facility. Collection of levies within the life right retirement facility was not a major concern. No provision on bad debts was provided by the accountants since the accounting policy of the facility did not allow provision for bad debts. All payments out of a bank account of the life right retirement facility require the approval of two or more people.

The only problem concerning the annual budget was that people want the budget increase to agree with the inflation rate. Residents of the retirement facilities were not always happy about the increase, but there was no resistance.

The Act applicable to life right retirement facilities did not require a maintenance, repair and replacement plan but the chairperson, as well as the manager, confirmed that the facility did have a maintenance, repair and replacement plan in place. No challenges were experienced during the compilation process. The life right retirement facility has sufficient reserve funds to cover repairs and maintenance costs.

No problems were experienced with the accounting work or the compilation of the annual financial statement. The participants agreed that IFRS and IFRS for SMEs will not be applicable as accounting standards and that the accounting standards for life right retirement facilities need to be entity-specific.

The participants believed that a complete audit will be the best option for life right retirement facilities, because a complete audit will provide the highest form of assurance. The auditor mentioned that segregation of duties is a major concern within the life right retirement facility. The auditor believed that the audit of financial statements of the retirement facility does add value and assurance.

5.6 Corporate governance matters for retirement facilities

Section D: Governance of the retirement facility

In Chapter 3, the applicability of King IV principles on the sectional title and life right, retirement facilities were discussed. One question per principle was developed by the researcher to determine possible practices that may be appropriate for the retirement

facility to apply for achieving governance outcomes as explained in section 3.4 . These questions were asked to Participant 1 and Participant 2 of each case. Participant 3 and 4 were asked for any suggestions on how retirement facilities can incorporate principles of good governance in their scheme. The purpose behind these questions is to partially answer the following research questions.

(RQ2) Which corporate governance principles and practices according to King IV are applicable to the governing of retirement facilities?

Sectional title retirement facility

All chairpersons, two managers and one managing agent interviewed were not familiar with the concept of corporate governance and the researcher provided them with a short explanation of the meaning of corporate governance of the King IV Code. Only the managing agent C4P2 indicated that he was familiar with the concept of corporate governance.

The auditor C1P3 said that the financial statements and audit report are sufficient and contained what the law required; the incorporation of the King IV principles will not add any value. According to the auditor C2P3, King IV can never be separated and can be applied to good management practices. The auditor C2P3 also mentioned that disclosure will have a cost implication, a possibility according to the auditor is that if the turnover or numbers are above a specific amount then you need to comply with King IV. The auditor C2P3 indicated that the people they deal with do not apply the King IV principles. The auditor C3P3 believed be careful of too many rules and regulations as all have a cost implication. The auditor C4P3 mentioned that sectional title is industry-specific whereas King IV governance is general and completely too broad.

Life right retirement facility

The chairperson (C5P1) as well as manager (C5P2) interviewed were not familiar with the concept of corporate governance and the researcher provided them with a short explanation of the meaning of corporate governance of the King IV Code.

The auditor (C5P3) interviewed said that some of those principles can be applied by management, but it is important according to the auditor to determine what value it will

add to the facility and residents and also to evaluate the economy of scale, because there will be a cost implication. According to the auditor, it is important to provide feedback to the members about an important decision taken by management and the impact of the decision on the residents.

5.6.1 Possible practices for applicable King IV principles

In this section, possible recommended practices provided by the IoDSA (IoDSA, 2016) that may be applied by retirement facilities based on the proportional application as well as answers provided by the participants will be discussed. The concept of King IV principles applicable to retirement facilities was discussed in section 3.5 of Chapter 3.

Principle 1: Leadership, (see section 3.5.1.1).

| | | | |
|---|---|--|---|
| In your opinion, what leadership qualities should members of the board of trustees have? (principle 1) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “They must be socially acceptable. They must have an insight into the functioning of the resort. Fellow humanity.”</p> <p>C1P2: “Acceptability, compassion and empathy with the residents. Knowing what is going on with sectional title</p> | <p>C2P1: “You need someone who can think on his feet. He must be responsible.”</p> <p>C2P2: “They must have initiative. They need to be able to organise, problem solving. He must be willing. I will tell you they also do an unpleasant job without compensation,</p> | <p>C3P1: “They must be able to take lead and responsibility. Able to process criticism.”</p> <p>C3P2: “They need to be able to make decisions and at the same time they need to be able to work with the owners. In addition, do not become dictates.”</p> | <p>C4P1: “People knowledge is important. To be decent, kindness. Knowledgeable about everything. Now I say it and I'm not knowledgeable about everything.”</p> <p>C4P2: “They are responsible in terms of the legislation for managing the finances; they are responsible for</p> |

| | | | |
|---|--|--|---|
| management, we rely on each other.” | ungrateful. They must be able to take the lead.” | | decision making. Execution of duties the law speaks, they have to act in good faith, in terms of their duties to the owners and the complex.” |
| Life right retirement facility | | | |
| Case 5 (ST self-managed) | | | |
| <p>C5P1: “A person who has the knowledge to get along with other people. Empathy and sympathy.”</p> <p>C5P2: “Be good communicators. Be strong leaders. Must be able to act with sympathy and empathy.”</p> | | | |

Possible recommended practices

1. The board of trustees/management committee must act in good faith and in the best interest of the retirement facility and the residents.
2. The board of trustees/management committee should take steps to ensure that they have sufficient working knowledge of the retirement facility including knowledge about the applicable legislative frameworks.
3. The board of trustees/management committee should assume responsibility in terms of legislation, managing finances, and decision making.
4. The board of trustees/management committee should attend meetings and devote sufficient time and effort to prepare for those meetings.
5. The board of trustees/management committee should be willing to answer for the execution of their responsibilities.
6. The board of trustees/management committee should be transparent in the manner in which they exercise compliance with conduct rules.

Principle 2: Organisational ethics, (see section 3.5.1.2).

| How does the board of trustees/management committee monitor compliance with the rules of the retirement facility? (principle 2) | | | |
|--|---|---|---|
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “This is done through observation and we are informed about it.”</p> <p>C1P2: “Some violations you see. They monitor it through daily facility management and site management.”</p> | <p>C2P1 “People call and say they see this and that. Complaints you get from residents about another resident. Trustees will see if someone has erected something, they may not. Of course your site manager and our workers. If you do something wrong, it will come out soon. We will write them a letter with non-compliance. All the letters are signed by the chairperson and a trustee.”</p> <p>C2P2: “We have a monthly inspection; they have to complete an</p> | <p>C3P1: “Residents will come to complain very soon, to one of the trustees. And then it comes to me.”</p> <p>C3P2: “On a practical basis, day-to-day. They all complain if something is not done right.”</p> | <p>C4P1: “We try to maintain it; we write letters to the people. You get complaints from the people. Then the trustees are attentive. If we see problems or errors, we deal with them.”</p> <p>C4P2: “It is applied by the board of trustees. They are going to send it to us and say listen we have problems with the following residents because this has happened. If we communicate with the resident, we send him a letter then we should be able to tell him on this date, this happened and in violation of article so</p> |

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|--|--|--|---|
| | <p>inspection report monthly which is discussed at the trustee meeting. This is a good monitoring principle. You will hear quickly. In case of non-compliance they are addressed verbally, if it is oral it is immediately followed up with a letter placed on their files. In addition, if it is a type of thing that should go to a fine, then it is the executive or the trustees.”</p> | | <p>and so of the rules of conduct. The law is very prescriptive, you cannot just fine an old man, and we must give him a warning. Moreover, if we give him a fine, then we must give him a fine in terms of what the rules of conduct dictate.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (ST self-managed)</p> | | | |
| <p>C5P1: “New residents sign for the rules, constitution and the agreement. These three are read together. We are informed by the residents.”</p> <p>C5P2: “New residents sign for the rules that they have received, along with the constitution and the agreement. The residents communicate it with management if someone does not comply. Then we first talk to the person and if he does not then we have further steps we take. No fines, we'll get it right when we've finished talking.</p> | | | |

It is also put in writing, because we have an open communication policy before we have to take terrible steps, problems have been solved because the people have the courage to come and talk to us. They do not have to make an appointment to see one of us.”

Possible recommended practices

1. The body corporate/management association should approve the proposed conduct rules and management rules that give effect to a properly managed facility.
2. The board of trustees/management committee should ensure that the conduct rules are familiar to all the residents.
3. The board of trustees/management committee should take responsibility for the implementation and execution of the conduct rules as well as management rules.
4. The board of trustees/management committee should exercise ongoing oversight of the conduct rules.

Principle 3: Responsible corporate citizenship, (see section 3.5.1.3).

| What initiatives have been put in place in your retirement facility relating to sustainability? (principle 3) | | | |
|--|--|---|---|
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “We have water savings plan. Individual units have solar energy.”</p> <p>C1P2: “Have water saving measures in place and that's what many fights are all about. Good service</p> | <p>C2P1: “We have our own water, borehole; we give twice a week to the resort that they can irrigate. We had recycling and then the business went bankrupt. We are going to start it again in January.”</p> | <p>C3P1: “We are trying to save power, are currently installing solar panels We installed prepaid electricity meters as well.”</p> <p>C3P2: “We are now installing solar energy. And also</p> | <p>C4P1: “Have these solar panels mounted, we share in the power. We do not get direct benefit; it is so little, but it goes on our levy as credits. Has prepaid electricity. Residents can put up water tanks.”</p> |

| | | | |
|--|--|-------------------------------------|---|
| <p>is provided to residents.”</p> | <p>C2P2: “We have a borehole. I think if one can say it broadly then one can say upgrade the body corporate facilities. We are constantly looking at things to upgrade. Especially in terms of people's safety.”</p> | <p>prepaid electricity meters.”</p> | <p>C4P2: “They have solar panels installed on the roofs of all the units. And in terms of the water, the irrigation of the gardens the owners cannot water the garden at all unless we water the garden.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LT self-managed)</p> | | | |
| <p>C5P1: “Boreholes and water tanks.”</p> <p>C5P2: “We have a borehole; we have water tanks. We are going to start doing recycling next year, we have had recycling, but it did not work well. We give the residents a gardener. You get an hour a week a gardener who you can instruct to do things in the garden.”</p> | | | |

Possible recommended practices

1. The board of trustees/management committee should ensure that the retirement facility’s responsible corporate citizenship includes compliance with the Constitution of South Africa, the law, leading standards, and adherence to its own conduct rules.
2. The board of trustees/management committee should oversee and monitor the following areas:
 - Workplace (including fair remuneration, safety, and health of the employees).
 - Economy (including detection, prevention, and response to fraud and corruption).

- Society (including health and safety for the residents, community development, and protection of human rights).
- Environment (include responsibilities in respect of sustainability).

Principle 4: Strategy and performance, (see section 3.5.2.1).

| Do the trustees/management committee ever have strategic planning sessions? (principle 4) | | | |
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| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “It just comes up at the trustee meetings. No specific long-term session is held.”</p> <p>C1P2: “No, what we do with the new board of trustees they are informed about their responsibilities. This board of trustees has been around for so long and is ingrained with the things in the facility.”</p> | <p>C2P1: “Yes, the day management but not set. Manager will say what about this and that; we need to plan for that.”</p> <p>C2P2: “No, if we plan something, we will build it into the budget. We talk about it early and then we build it into the budget. We do not want the levies to get too high, so you consider it, you look at it, and you do a cost calculation.”</p> | <p>C3P1: “If any planning is done, we do so at the trustee meetings.”</p> <p>C3P2: “I think they do, yes.”</p> | <p>C4P1: “No. This is one of my frustrations, I want to be of service to the residents and take the facility forward. We still only do damage control.”</p> <p>C4P2: “Think their month-to-month trustee meetings they have certain things they identify, by saying with the next year we want to do the following and as they get closer than the planning becomes more specific until that time to put the plan in place, by saying how it should</p> |

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| | | | then be implemented.” |
| Life right retirement facility | | | |
| Case 5 (LR self-managed) | | | |
| C5P1: “No.” | | | |
| C5P2: “No, we're going to have one in January next year, for the first time. We have a new management that we want to show the way.” | | | |

Possible recommended practices

1. The board of trustees/ management committee should take responsibility for the performance of the retirement facility by setting the direction for the fulfilment of the core purpose of the retirement facility through a plan.
2. The board of trustees/management committee should ensure that services are meeting residents’ needs.
3. The board of trustees/management committee should ensure the establishment of a reliable and sustainable support base.
4. The board of trustees /management committee should put procedures (budgets) in place to ensure careful and accountable handling of all the resources of the retirement facility.

Principle 5: Reporting, (see section 3.5.2.2).

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| Do all members of the retirement facility receive their AGM pack well in advance of the meeting? (principle 5) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| C1P1: “Yes, they get a newsletter in | C2P1: “By law, it must be two weeks in | C3P1: “Sure, it has to be done. AGM agenda, | C4P1: “Yes, on time. This was by registered |

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| <p>advance about the date and then the agenda goes out.”</p> <p>C1P2: ‘Yes, a newsletter is sent in advance stating when the AGM is. Then the agenda that goes out ahead of time. It should go out 14 days in advance.’</p> | <p>advance. It is delivered in the mailboxes of the owners in the facility. The other, the places rented out, are emailed to the owner.”</p> <p>C2P2: “Yes, by law definitive.”</p> | <p>managing agent sets it up. Then they contact us, we go and fetch it. Except for those who do not live in the facility, managing agent send them by registered mail. The others we hand out personally.”</p> <p>C3P2: “Yes, by law. At least 14 days ahead but we give it out a few days before that.”</p> | <p>mail and some of them by email. Those who do not have email we deliver to them.”</p> <p>C4P2: “The law states that two weeks before the meeting, they must receive the information. We naturally try to send it out as early as possible but no later than two weeks before the meeting.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “Yes.”</p> <p>C5P2: “They must, 3 weeks ahead of time. We put it in their mailboxes, and it is communicated through WhatsApp that it is available.”</p> | | | |

Possible recommended practices

1. The body corporate/management committee should assume responsibility for the retirement facilities’ reporting by setting the direction for how it should be approached and conducted as guided by legislation.
2. The body corporate/management association should approve the board of trustees/management committee determination of the reporting framework including the reporting standards.

3. The board of trustees/management committee should oversee that the annual financial statements, as well as the trustee reports/management committee report, are issued, as is necessary to comply with legal requirements to meet the information need of the residents.
4. The board of trustees/management committee should oversee that the annual financial statements are published in the AGM information pack for access by all residents.

Principle 6: Primary role and responsibilities of the board of trustees/management committee, (see section 3.5.3.1).

| What agenda points are usually discussed at trustee meetings? (principle 6) | | | |
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| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “Trustees report on portfolio. Then together we decide on question pieces, if any. We have fixed points.”</p> <p>C1P2: “Consideration and approval of previous minutes. Discussions of matters from minutes of previous meeting. Water restrictions are a fixed point. New matters, Trustee reports, general and closing.”</p> | <p>C2P1: “Trustees report on portfolio.”</p> <p>C3P2: Manager provided researcher with copy of trustee meeting agenda. After inspection: Establishment of agenda. Approval of minutes of previous trustee meeting. Matters arising from the previous minutes. Reports on trustee portfolios, other matters of interest and closure.</p> | <p>C3P1: “Trustees report on portfolio.”</p> <p>C3P2: “The existing stuff. There is very little extra that comes with it.”</p> | <p>C4P1: “Trustees report on portfolio. Standing stuff, which is irritating, like water it stays on the agenda. Then we have a supplementary agenda, someone who adds something. He sends it to me in advance. ”</p> <p>C4P1: “They have certain points they want to discuss. Every trustee member has a responsibility; there is a certain</p> |

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| | | | <p>point he has to discuss. If there are certain points of the management agent that I need to discuss, then it is added. The points are usually set up in advance. The trustees set the agenda.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “Finance and the residents committee's minutes are also attached. It is not approved but management is looking into it.”</p> <p>C5P2: “Finances, there are different aspects of finance for example, such as selling units, cash flow control statement, investments.”</p> <p>Note: other agenda points not mentioned by the participants but identified on the minutes of a management meeting held, constitution, minutes of previous management meeting, correspondence and minutes of the residents' meeting.</p> | | | |

Possible recommended practices

1. The board of trustees/management committee should exercise its leadership role by ensuring that all responsibilities as required by legislation are accomplished.
2. The board of trustees/management committee should ensure that its role and responsibilities and procedural conduct are documented.
3. The board of trustees/ management committee must obtain professional advice on matters within the scope of their duties if needed.
4. The board of trustees/management committee should follow the protocol for setting up meetings as well as keeping minutes of the meetings.

Principle 7: Composition of the board of trustees/management committee, (see section 3.5.3.2).

| Please advise on the selection criteria used for electing trustees. (principle 7) | | | |
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| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “We don't have any criteria; it's just about how the general impression is.”</p> <p>C1P2: “Trustee is nominated from the members of the body corporate, and then they vote. The board of trustees elect a chairperson from the board and then they choose a trustee for each portfolio based on background knowledge of portfolio.”</p> | <p>C2P1: “You are nominated by a member of the body corporate, someone nominates you. You must accept the nomination, with a signature. If there is many then it goes into a vote.”</p> <p>C2P2: “Say now there is a post becoming vacant, then it will be nominated during the AGM. We have two trustees too many, actually. However, we just said, some of the people are starting to get older; they need to be replaced so get some of the people who are a little</p> | <p>C3P1: “The only criteria, of course, is that they should not owe money, they should not have outstanding levies. We welcome anyone who would like to help. Must have background knowledge of the portfolio.”</p> <p>C3P2: “It's not just about willingness. There is always politics about the trustee election. However, we do not get involved. They give us nomination forms, which are filled out where people have been nominated and where they have signed acceptance.”</p> | <p>C4P1: “Someone must have some background as well and be interested in it. And then knowledgeable.”</p> <p>C4P2: “This is a difficult question. Naturally, you are only trying to get people who are willing to serve on the board. And who has reasonable knowledge, but usually in that case the residents decide in terms of the meeting, they nominate the trustees.”</p> |

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| | <p>younger. So let us get the exposure, so when these people go out, they know what it entails.”</p> | | |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “The residents nominate the management and then vote. The representatives from outside are appointed by the church.”</p> <p>C5P2: “The management is nominated by the residents. And then the residents vote. The congregation representatives from outside are appointed by the church council.”</p> | | | |

Possible recommended practices

1. The body corporate/management association should assume responsibility for the board of trustee/management committee composition to attain the appropriate balance of knowledge, skills, and experience to objectively discharge its responsibilities.
2. When determining the requisite number of trustees/management committee the following factors should be considered.
 - The appropriate mix of knowledge, skills, and experience.
 - The need for a sufficient number of trustees to execute the responsibilities of the body corporate.
 - The need to secure a quorum at trustee/management committee meetings.
 - Regulatory requirements.
3. The nomination of candidates for election of trustees/management committee should be approved by the body corporate/management association as a whole.
4. The process for nominations and elections should be formal and transparent.
5. Before nomination, the body corporates/management association should consider the knowledge, skills, and expertise required by the body corporate/management association.

6. Nomination for re-elections should be considered by the body corporate/management association based on of that trustee's/management committee's performance, including attendance at meetings.
7. A brief professional profile of each candidate standing for elections should accompany the notice of the AGM.
8. The board of trustees/management committee should ensure that incoming members are informed about their responsibilities.
9. Regular briefings on legal developments should be provided by the board of trustees/management committee.

Principle 8: Committees of the body corporate, management association, (see section 3.5.3.3).

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| Do any of the service providers (managing agent, accountant, auditor, etc.) attend the trustee/management committee meetings or AGM? (principle 8) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: "Yes, the auditor attends the annual general meeting; the insurance broker attends it, every year."</p> <p>C1P2: "No, accountant and auditor only attend when we discuss the financial statements. We invite service providers to meetings as we need."</p> | <p>C2P1: "The auditor comes to do the submission of the financial statements, but only once a year when he does the audit. Anyone is welcome. They just need to ask permission to state their case."</p> <p>C2P2: "Only on request. We get service providers to come and make a</p> | <p>C3P1: "Just the managing agent. He attends trustee meetings and the AGM."</p> <p>C3P2: "No, that happened once, the auditor when the problem arose with the resident's dispute. But not normally."</p> | <p>C4P1: "Just the managing agent."</p> <p>C4P2: "Management agent attends it. Not the auditor."</p> |

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| | <p>presentation for us about things we want to do or install. And then the auditor.”</p> | | |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “Yes, the auditor.”</p> <p>C5P2: “The auditor attends the annual general meeting. And he explains the financial statements.”</p> | | | |

Possible recommended practices

Due to capacity and resource constraint, it may not be possible for the retirement facilities to have all the committees as recommended in the King IV Code (IoDSA, 2016, p. 108).

1. If the body corporate/management association does not delegate the responsibilities dealt with in this Code to a specific committee, the body corporate/management association should ensure that it fulfils those responsibilities itself.
2. The body corporate/management association should appoint an independent auditor to issue the audited financial statements as required by legislation.
3. The body corporate/management association has the responsibility to approve the annual financial statements.
4. The board of trustees/management committee should oversee the management of financial and other risks that affect the integrity of the financial statements issued by the retirement facility.
5. Any external advisers or invitees attending meetings should be minuted in the meetings.

Principle 9: Evaluation of the performance of the board of trustees/management committee, (see section 3.5.3.4).

| Does the board of trustees ever evaluate their own performance? (principle 9) | | | |
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| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “No, we don't have an official thing; I think we automatically evaluate it during the meetings.”</p> <p>C1P2: “Consciously or unconsciously they evaluate their own actions, I think around this table. The residents will not choose or re-elect those trustees every year if they are not satisfied with them.”</p> | <p>C2P1: “No, here and there you will get a thank you, behind will of course be gossiping. Re-election of trustees also indicates satisfaction.”</p> <p>C2P2: “No, we get quite a few letters to say thank you very much I see you guys did it. However, it is not specifically aimed only at the trustees. It is more about management.”</p> | <p>C3P1: “Every now and then we get letters, for recognition of work. But we don't do it ourselves; we don't have our own evaluation process.”</p> <p>C3P2: “I do not believe so.”</p> | <p>C4P1: “No. Never get a thank you for appreciation.”</p> <p>C4P2: “No, not for the retirement villages in terms of evaluating themselves. Part of this is that each trustee has his duties in terms of what his portfolio is in the complex.”</p> |
| Life right retirement facility | | | |
| Case 5 (LR self-managed) | | | |
| <p>C5P1: “No.”</p> <p>C5P2: “No, they just tell you straight. You hear when you have done something wrong. At least you get a thank you but much less than criticism.”</p> | | | |

Possible recommended practices

Sectional title retirement facility

No practice as recommended by the King IV Code will be applicable since the practice requires a formal evaluation process. All the chairpersons (C1P1, C2P1, C3P1 and C1P4), one of the managers (C2P2), and two of the managing agents (C3P2 and C4P3) interviewed, confirmed that no formal evaluation to evaluate the performance of the trustees were in place. Chairperson C2P1 as well as the manager C1P2 mentioned the re-election of trustees was significant proof of good performance. According to the manager C2P2 and chairperson C3P1, the residents send letters of recognition for the work done by trustees. The board of trustees also needs to provide a report at the AGM concerning the performance of the trustees' responsibilities in terms of each portfolio.

Life right retirement facility

The practices as recommended by the King IV Code will not be applicable since the practice required a formal evaluation process. The chairperson (C5P1) and the manager (C5P2) said the management committee did not evaluate their performance - but according to the manager, the residents will inform you when something wrong was done by management. The appreciation is much less than the criticism.

Principle 10: Appointment and delegation to the board of trustees/management committee, (see section 3.5.3.5).

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| Are all trustee/management committee members fully aware of their individual responsibilities? (principle 10) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| C1P1: "Yes, your responsibility comes very quickly when you attend | C2P1: "Yes, I think so because we each have a portfolio. It is not in writing, but it is being | C3P1: "Sure, after the AGM I immediately had a trustee meeting, and then confirm their responsibilities." | C4P1: "I think so; yes, Everybody currently there, were there when I came." |

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| <p>the first or second meeting.”</p> <p>C1P2: “Yes, very conscious, they know. He knows his portfolio.”</p> | <p>discussed with them, we say this is what we want them to look at.”</p> <p>C2P2: “Yes, they are. They take over from other trustees, but this is always recorded in a trustee meeting.”</p> | <p>C3P2: “Yes, each trustee portfolio reports orally at the trustee meetings.”</p> | <p>C4P2: “That point is debatable. A guy finds that most of the trustees do not realize how serious, how important the duty they are performing is. Not all the trustees realise the seriousness of a matter in terms of mismanagement and that they are held accountable by the law in their personal capacity.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “For sure.”</p> <p>C5P2: “Yes, everyone has a portfolio, and then we explain it to them.”</p> | | | |

Possible recommended practices

1. The board of trustees should elect the chairperson.
2. The chairperson should be responsible for leading the execution of the roles and responsibilities of the board of trustees/management committee as prescribed by legislation and should serve as the link between the board of trustees/management committee and the body corporate/management association.
3. The board of trustees/management committee should be accountable and report to the body corporate/management association.

4. The board of trustees/management association should oversee that key management functions are executed by an individual with the necessary competence and authority.
5. The board of trustees/management committee should set the responsibilities of each portfolio that need to be delegated to the trustees/management committee.

Principle 11: Risk governance, (see section 3.5.4.1).

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| Give an overview of how risk is managed (e.g. insurance, security, funds, etc.). (principle 11) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “Security incident is handled by management and trustee security and the security company. Have monthly meeting with the security company. Manager gets the contractor with a report on what has happened, refer it to the insurance, then the claim is registered the insurance paid to the facility the money out or to the contractor.”</p> <p>C1P2:</p> | <p>C2P1: “The risk of security is of course crucial. We discuss security at each trustee meeting. The trustee involved and the manager holds separate weekly meetings with our security. We have two systems; we have people at the gate. Then we have a security company, patrolling the facility and every home has a panic button. Insurance, we have an insurance agent with a very big managing agent, we got a specialist in who went through the</p> | <p>C3P1: “Insurance has covered us very well. We have bard wire everywhere as a safety measure and we have CCTV cameras at the gate. Entrance and exit are controlled by remote control and by telephone. We deal with any problems immediately.”</p> <p>C3P2: “We are not involved in security, not at all. The trustees handle it. Insurance, the</p> | <p>C4P1: “We handle the stuff as it comes up and as soon as possible, it is important. The facility has one security guard controlling the gate during the day, Security company patrol facilities during night-time and every home.”</p> <p>C4P2: “We always try to make recommendations to the board of trustees in terms of security management. The board of trustees has the</p> |

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| <p>“Risk management, through immediate action. Convening meetings to reassure residents.”</p> | <p>whole resort, and gave us the new values for the buildings. Our insurance is brand new.”</p> <p>C2P2:</p> <p>“We do not take stock of everything, but of certain goods which are a great risk in terms of theft. It is never 100%, but the controls are good. We upgraded the electric fence again. If an alarm goes off in the evening, then they immediately call the security firm, and they are very quickly. We now have cameras at the gate, the scanner system works at the gate. Our gates are closed in the evening. Each resident gets a disk. The houses, each has a panic button. In addition, the security firm does patrols in the resort twice a night. Insurance risk, a person manages it in</p> | <p>insurance office (broker) is here with us, this is one of our departments, so they handle everything. The retirement resort's insurance is as required by law.”</p> | <p>responsibility to create a safe environment. The electric fence is in service, there is guard monitoring, but then also each owner has his own responsibility. Very specifically the management agent's insurance department looks at the insurance. They usually look, every three years we do a valuation, we have an in-house valuer to do valuation and then it is passed on to the insurers accordingly. In terms of public liability, the law stipulates there must be 1 million minimum insurance and the 25% in terms of CSOS must be in place. We are very attentive that is so should be specified.”</p> |
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| | <p>terms of your insurance you take out. Our insurance is in line with legislation; in fact we have added a lot of additional goods.”</p> | | |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “We have our own security; panic buttons and we make use of a security company. We are fully insured as required by law.”</p> <p>C5P2: “We have our own security. We have panic buttons in every cottage. We have electric fencing. Gate access, visitors must sign in and residents and children must have a disk. We are fully insured. We have a broker who handles the insurance. You must have it; our auditors audit us on it as well. The state also audits us on that.”</p> | | | |

Possible recommended practices

1. The board of trustees/management committee should assume responsibility for the governance of risk by setting the directions for how risk should be approached and addressed in the retirement facility as set out by legislation.
2. The body corporate/management committee should approve policies that speak and give effect to its risk.
3. The board of trustees/management committee should delegate to management the responsibility to implement and execute effective risk management.
4. The board of trustees/management committee should exercise ongoing oversight of risk management by design and implement appropriate risk responses.

Principle 12: Technology and information governance, (see section 3.5.4.2).

| How to ensure proper retention and safeguarding of information? (principle 12) | | | |
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| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P2: “Lock the office, everything is with me in the office, it is not lying around. My computer occasionally gets a backup. Files of units locked in closets in the office.”</p> | <p>C2P1: “It is all in a separate room which is next to the manager, which is locked.”</p> <p>C2P2: “We have a small area behind the reception where all the house hosts are filed. All the latest stuff and the personal files of all the staff are filed with the accountant, she has two different cabinets. In addition, we do backups on a regular basis, definitely after month end, and then we do a proper backup on a stick, locked in a fireproof thing. The accountant also does a backup</p> | <p>C3P1: “All the documentation is stored with the managing agent. Has office at the hall where documents are closed.”</p> <p>C3P2: “Much of the information is on our system, electronically. We also have paper, which we store in boxes; we have a store where we store it for 5 years. Minutes keep us forever, you must by law.”</p> | <p>C4P1: “With me and with the secretary (trustee), most with her. This is also a problem for me. The ground manager has a space, but it is small. We do not have space, which is an abyss for me.”</p> <p>C4P2: “Most are electronic media if I may put it that way. Instruction sent by email. Each complex has its own army where our information sits. There are backups for the electronic media. I know they recently moved the server to the cloud server facilities. I believe they have their backups in place should anything happen.”</p> |

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| | about twice a month.” | | |
| Life right retirement facility | | | |
| Case 5 (LR self-managed) | | | |
| <p>C5P1: “Information is locked in the manager’s office.”</p> <p>C5P2: “Every resident has a file; it is locked in the manager's office. Pastel backup and it's on the cloud at the auditors.”</p> | | | |

Possible recommended practices

1. The board of trustees/management committee should assume responsibility for the governance of technology and information as required by legislation.
2. The board of trustees/management committee should delegate to management the responsibility to implement and execute effective technology and information management.
3. The board of trustees/management committee should exercise ethical and responsible use of technology and information.
4. The board of trustees/management committee should exercise compliance with relevant laws.
5. The board of trustees/management committee should exercise confidentiality, integrity, availability of information, protection of privacy of personal information, and security of information.
6. The board of trustees/management committee should exercise the management of the risk of sourcing technology.

Principle 13: Compliance governance, (see section 3.5.4.3).

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| In your opinion, does your retirement facility comply with all relevant legislative frameworks? (principle 13) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| C1P1: "Yes." C1P2: "Yes." | C2P1: "Yes." C2P2: "Yes, I think so." | C3P1: "Sure, I think we should comply with everything." C3P2: "It's not 100%, with all the new legislation, they could not suddenly switch, it was impossible. It takes time. Let's take the long-term maintenance fund; it takes time to build up the funds." | C4P1: "Yes, we do, we try it but I'm not going to tell you this is a 100%." C4P2: "In terms of sectional title management, I believe we are complying with the law." |
| Life right retirement facility | | | |
| Case 5 (LR self-managed) | | | |
| C5P1: "Yes." | | | |
| C5P2: "Yes, we must." | | | |

Possible recommended practices

1. The body corporate/management association should assume responsibility for the governance of compliance with applicable laws, management rules, conduct rules, and regulations.

2. The board of trustees/management committee should delegate to the management the responsibility for the implementation and execution of effective compliance management.
3. The board of trustees/management committee should exercise ongoing oversight of compliance and, in particular, oversee that compliance is understood not only for the obligations it creates but also for the rights and protections it affords.

Principle 14: Remuneration governance, (see section 3.5.4.4)

| Do the members receive any remuneration for their tasks as trustees/management committee? (principle 14) | | | |
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| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “No, we may go out once a year for dinner with our wives. It was approved at the annual meeting.”</p> <p>C1P2: “No, they don't get compensation, nothing.”</p> | <p>C2P1: “No”</p> <p>C2P2: “Trustee, no not at all, nothing.”</p> | <p>C3P1: “No trustees receive no compensation except if they have claims in the interests of the facility. It also became difficult, which is why I have now set up a card system.”</p> <p>C3P2: “If they incur any costs then they are reimbursed but then they have to submit receipts and goods. There is no salary.”</p> | <p>C4P1: “One trustee called me; he wanted to give something to the secretary who is also a trustee. We have approved that the trustee will receive compensation, and will remain a trustee. I do not know if the trustee can get it. The other trustees receive nothing.”</p> <p>C4P2: “No, not as far as I know. It is a decision that the board of trustees</p> |

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| | | | <p>makes. They can decide, but then they also have to present it to the owner, and the owners have to say if it may be done. It cannot be decided internally, because then they can do it as a swindle.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “No.”</p> <p>C5P2: “The management committee members receive no remuneration. The manager of the resort is the official on the committee.”</p> | | | |

Possible recommended practice

Due to the size and nature of the retirement facility, it may not be possible for the facility to have a remuneration policy as recommended in the King IV Code. All participants interviewed indicated that the board of trustee members as well as the members of the management committee received no remuneration for their tasks. The chairperson C3P1 and manager C3P2, sectional title retirement facility, said that the trustees may be reimbursed for costs incurred on behalf of the retirement facility with the necessary receipts and goods.

Principle 15: Assurance, (see section 3.5.4.5).

| | | | |
|---|--|---|--|
| Do you familiarise yourself with the contents of the audit report before the AGM? (principle 15) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| <p>C1P1: “Yes, the auditor comes, he talks to some of the trustees then the report goes to trust meeting, the report is checked double then it goes to the annual general meeting.”</p> <p>C1P2: “Yes, I discuss the financial statements with the accountant and auditor.”</p> | <p>C2P1: “Yes, the auditor comes beforehand.”</p> <p>C2P2: “Yes, I usually get it first. Then I go through it first then I distribute it.”</p> | <p>C3P1: “Yes, we have to see it first. We first go through it ourselves.”</p> <p>C3P2: “Yes, I do outline the statements to the owners.”</p> | <p>C4P1: “We deal with it at the trustee meeting then it goes to the AGM.”</p> <p>C4P2: “Yes, if I prepare then I go through the statements, it always happens that an owner asks you a question. For us, the most important thing is to determine if the balance sheet shows a solvent position. And if, for example, there is a shortfall on income and expenses that I can explain it.”</p> |
| Life right retirement facility | | | |
| Case 5 (LR self-managed) | | | |
| <p>C5P1: “Yes.”</p> <p>C5P2:</p> | | | |

“Yes, the draft financial statements are first submitted to management. Then management discusses it.”

Possible recommended practices

1. The board of trustees/management committee should assume responsibility for the integrity of external reports issued by the retirement facility by setting the direction for how assurance of these should be approached and addressed.
2. The board of trustees/management committee's direction in this regard should consider legal requirements concerning assurance, with the following additional considerations:
 - Assurance should be applied to the underlying data used to prepare a report.
 - The nature, scope, and extent of assurance are suited to the intended audience and purpose of the report.
3. The board of trustees/management committee should satisfy itself that the assurance model is effective and sufficiently robust for the board of trustees to be able to place reliance on assurance underlying the statements that the board of trustees/ management committee makes concerning the integrity of the retirement facilities external reports.

Principle 16: Stakeholder relationship, see (section 3.5.5.1).

| | | | |
|--|--|--|--|
| Do you communicate with the members of the body corporate/ (over and above the AGM)? Please elaborate. (principle 16) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| C1P1: “Yes, this is a common thing. We have newsletters, a mass sms system, which we now want to switch to WhatsApp. We have | C2P1: “Yes, newsletters and bulk sms.” C2P2: “We have a memorandum system here, and | C3P1: “We use so-called Blitz news. In addition, we also have a notice board in the facility where daily activities are posted.” | C4P1: “Yes, on a daily basis. We have a whatsapp system. There are some who do not have WhatsApp, we send them sms.” |

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| <p>a newspaper that comes out quarterly.”</p> <p>C1P2: “We communicate through newsletters. Through functions. We have a newspaper, once a term. Mass SMS system.”</p> | <p>we send out on a regular basis.”</p> | <p>C3P2: “Most of the cases the communication takes place through the trustees. But we do get inquiries from owners and then we handle it ourselves.”</p> | <p>C4P2: “We prefer to work through the trustees; it can be a big problem for you if you talk to an owner where he should actually talk to the board of trustees. If the trustees want us to communicate with the residents, then they give them an instruction.”</p> |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “We have a WhatsApp group, notice boards and the people communicate with one another.”</p> <p>C5P2: “We have moderate residents committee meetings. On those minutes we put all the communication of the month. This is a newsletter too. We have a WhatsApp group, which we communicate with. Then we have a notice board too. People communicate with each other.”</p> | | | |

Possible recommended practices

1. The board of trustees/management committee should assume responsibility for the governance of members’ relationships by setting the direction for how member relationships should be approached and conducted in the retirement facility.
2. The board of trustees/management committee should delegate to management the responsibility for the implementation and execution of effective member relationship management.

3. The board of trustees/management committee should exercise ongoing oversight of member relationship management and, in particular, oversee that it results in the following:
- Management of members’ risks as an integral part of retirement facility-wide risk management.
 - Mechanisms for engagement and communication with members, including the use of dispute resolution mechanisms and associated processes.

Principle 17: Responsibilities of institutional investors, (see section 3.5.5.2).

| | | | |
|--|--|---|--|
| Explain the process followed for calculation and investment of the reserve funds of the retirement facility. (principle 17) | | | |
| Sectional title retirement facility | | | |
| Case 1 (ST self-managed) | Case 2 (ST self-managed) | Case 3 (ST with MA) | Case 4 (ST with MA) |
| C1P2: “We brought in a financial expert who came to talk to us and gave us advice.” | P2P1: “By law, a retirement resort may only invest with a bank, no other investment. You must not prosper; it is the residents' money.” C2P2: “We are not at all irresponsible in investing our money. It must be a recognised banking institution. The interest is only reinvested. We will by no means make | C3P1: “No, the managing agent has people with whom they invest money.” C3P2: “Is not a high-risk investment, it is invested at a recognised bank and there they get about 6%.” | C4P2: “I would say it is a responsible investment, it is handled by a recognised financial institution.” |

| | | | |
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| | <p>an irresponsible decision because we know it is not our money it is the resident's money.”</p> | | |
| <p>Life right retirement facility</p> | | | |
| <p>Case 5 (LR self-managed)</p> | | | |
| <p>C5P1: “The reserves are not invested in high-risk investments.”</p> <p>C5P2: “These are responsible investments because they are not our money. Our investments are with registered institutions. The management decides on the investments on the recommendation of the finance committee.”</p> | | | |

Possible recommended practices

1. The board of trustees/management committee of the retirement facility should assume responsibility for governing responsible investing by setting the direction for how it should be approached and conducted by the retirement facility.
2. Where the investment decisions have been outsourced to nominees, consultants, or other service providers, the board of trustees should oversee that the outsourcing is regulated by a formal mandate which reflects and gives effect to responsible investment.

5.7 Overview of corporate governance matters

The King IV principles apply to the sectional title as well as life right retirement facilities as was discussed in section 3.5 of Chapter 3. The management structures of the retirement facilities were not familiar with the King IV principles. Possible practices were identified in section 5.6.1 out of the provided King IV Code with taking into consideration the nature, size, and complexity of the retirement facility. The auditors believed that the application of the King IV principles should not be completely neglected, but the question to ask is, will the application of the King IV add any value

to the facility and the residents. The auditors indicated that the application of King IV will contribute to additional costs.

5.8 Conclusion

The results of interviews with selected participants in the sectional title and life right retirement facility industry were discussed in this chapter. Several problems, matters and, suggestions were mentioned of which the industry should take note. These findings can be used as a basis for further research. The next chapter will conclude the study with recommendations for future research.

Chapter 6

CONCLUSION

6.1 Introduction

Providing affordable housing to the elderly in South Africa is one of the greatest problems in the country, especially seen in light of the current population growth, and that South Africa has one of the most rapidly ageing populations in the world. Older people have the right to live in an environment suitable to their changing needs. The private retirement facility industry that offers sectional title ownership options and life right options plays an important role in addressing the elderly housing problem in South Africa.

Very little academic research has been done on sectional title and life right retirement facilities in South Africa from a governance and auditing perspective. The research identified on retirement facilities was mostly in the fields of psychology, information technology, and geography. The main aim of this study was an overview of the management, accounting and auditing as well as corporate governance problems experienced by the chairpersons, managers, and auditors involved with a sectional title and life right retirement facilities. The second aim was to determine the applicability of King IV principles and practices on sectional title and life right retirement facilities. The third aim of this study was to find possible solutions to the above-mentioned problems with possible recommendations in this regard.

In Chapter 1, the housing problem for the elderly in South Africa was discussed. The chapter also includes a brief background and overview of the legal forms and management structures of retirement facilities in South Africa. This chapter includes a discussion on corporate governance as well as some background information on financial reporting in South Africa. The problem statement, objective and research questions were also addressed in Chapter 1.

The second chapter dealt with the legislative frameworks surrounding the sectional title and life right retirement facilities. The purpose of this chapter was to determine the legal framework with which body corporates, managing associations, managers, managing agents, accountants, and auditors in the sectional title and life right retirement facility industry have to comply. Consideration was only given to management, accounting, and auditing aspects. The accounting and reporting of sectional title and life right retirement facilities were also looked at in Chapter 2 with the focus on the most appropriate accounting standards applicable to the facilities. The auditing and assurance aspects of sectional title and life right retirement facilities were also discussed. An overview was given of the accounting and auditing profession in South Africa.

In Chapter 3, governance aspects relating to private retirement facilities focusing on sectional title and life right facilities were discussed. A historical overview of corporate governance was provided for background purposes. Different governance theories that contributed to the development of the governance principle were dealt with. A brief overview of the King IV Code on corporate governance was also discussed to determine the applicability of the King IV principles on sectional title and life right retirement facilities to determine possible practices so that the facilities may realise the governance outcomes of ethical culture, good performance, effective control, and legitimacy.

Chapter 4 dealt with the research methodology. The researcher followed an ontological perspective of constructivism with an epistemology belief of interpretivism. Based on the philosophical position of interpretivism, a qualitative research approach was followed. The research design was a descriptive case study. The population and sampling method were also discussed in chapter 4. The data gathering instrument used was semi-structured interviews and documentary data. The validity and reliability of the research were also dealt with in Chapter 4.

In Chapter 5, the empirical study was undertaken of the sectional title and life right retirement facilities in Mangaung. The interviews were held with role players; namely, the chairperson, manager or managing agent and the accountant or auditor concerning with management, corporate governance, accounting and auditing in the retirement facilities. The chapter was divided into four sections; the first part dealt with

the interview relating to the legislative matters of the facilities. Part two related to the management aspects of the facility, while part three dealt with the interviews applicable to the accounting and auditing matters. The fourth part of this chapter was about determining which King IV practices may apply to the retirement facility. The last part of this chapter summarised the finding from the interviews held.

6.2 Limitations of the study

A qualitative case research design was used to search for problems experienced by the role players in the management, accounting and auditing as well as governance of sectional title and life right retirement facilities. It is, however, known that with a qualitative research approach or using another research design may lead to different findings than from the study.

The population from which the samples were selected for the empirical study was limited to the Mangaung area in South Africa. The literature review attended to the industry throughout South Africa.

The size of the population which consist out of private retirement facilities with a specific focus on sectional title and life right facilities was also limited, in the Mangaung area. Thirteen sectional title retirement facilities, five life right retirement facilities and one rental retirement facility were identified as private retirement facilities within the Mangaung area. Of the five life right facilities, only two met the population criteria and of the two, one was not willing to participate in the study. The management association of the selected life right facility was a self-managed scheme, no life right retirement facilities making use of a managing agent were incorporated into the study. The selected life right retirement facility operated as a non-profit organisation with the reporting requirements of a non-profit organisation. Other bodies, for example companies and trust who may offer life right retirement with their relevant reporting requirements, were not incorporated into this study. Future samples can be elected to include other bodies who offered life right retirement. Of the selected sectional title retirement facilities, two body corporates used the services of a managing agent and two body corporates used the service of a manager.

Only three role players, namely the chairperson of the body corporate, manager or managing agent, and accounting and auditing practitioners of the sectional title retirement facility were part of the empirical study, as was the case for the life right retirement facility. In future studies, the sample can be extended to include the members of the body corporate and management association.

6.3 Alignment of research question and empirical findings

The study attempted to answer the following research questions.

RQ1: What are the current legislative frameworks in place relating to the management, governance, and control of two types of private retirement facilities?

This question was answered out of the literature review in Chapter 2. The question was also directed to the participants as to what legislative framework they know of that is appropriate for the retirement facility in which they are involved. The answer given to this question was summarised in section 5.2.1 (sectional title retirement facility) and 5.4.1 (life right retirement facility) of Chapter 5.

RQ2: Which corporate governance principles according to King IV apply to the governing of two types of private retirement facilities?

This question was answered out of the literature review in Chapter 3. One question per King IV principle was also asked to the participants to determine which practices as provided by King IV will be best suitable for the retirement facilities taking into consideration their size, nature, and complexity. The answer given to this question was summarised in section 5.6.1 of Chapter 5 for sectional title retirement facilities and life right retirement facilities.

RQ3: What are the risks associated with the two types of retirement facilities?

The empirical findings to the question asked to participants concerning the risk relating to the facilities was discussed in section 5.2.3.4 and 5.2.4.9 (sectional title retirement facility) and section 5.4.2.5 and 5.4.3.9 (life right retirement facilities) of Chapter 5. The following can be highlighted but not limited to the risk associated with the retirement facilities.

- Risks identified by chairpersons of sectional title retirement facilities were chairperson and trustee members are responsible and can be held accountable.
- Risks identified by the managers and managing agent of sectional title retirement facilities were inconsistency with the application of conduct rules and financial risk for the managing agent.
- Risks identified by the manager of life right retirement facility was to manage the finances effectively.
- Risks identified by auditors of sectional title retirement facilities were ensuring no irregularities by management, segregation of duties and cash risk.
- Risks identified by the auditor of the life right retirement facilities were segregation of duties, correcting journals, and cash risk.

RQ4: What are the current auditing and assurance-related problems experienced by South African auditors performing statutory engagements for the two types of retirement facilities?

The empirical findings to the question asked to participants concerning the auditing and assurance-related problems relating to the facilities was discussed in section 5.2.4 (sectional title retirement facility) and section 5.4.3 (life right retirement facilities) of Chapter 5. The following can be highlighted but not limited to challenges identified with the accounting and bookkeeping of the retirement facilities.

- The timeframe provided by legislation for audited financial statements to be issued after the financial year-end for sectional title retirement facility was a major challenge.
- Auditors differ in opinion regarding which manner (complete audit or agreed-upon procedure) will assure the financial statements of the retirement facility. The auditor of the life right retirement facility conducted a complete audit.
- Auditors differ in opinion as to whether sectional title retirement facilities are considered to be “high risk” audit.
- Auditors had mixed opinions concerning the fact that IRBA listed the sectional title retirement facilities as a high-risk audit next to listed companies.

- Legislation of sectional title retirement facilities requires additional opinions on certain elements and some auditors mentioned that an opinion cannot be expressed.
- The in-between process of the compilation of financial statements of sectional title retirement facility by someone independent contributes to further cost and time constraints.
- The auditors believe that there is pressure to keep fees for retirement facilities auditing low and lead to the write-off of time.
- Auditors believed that the audit of financial statements adds value to sectional title and life right retirement facilities.

RQ5: What are the current accounting and bookkeeping challenges relating to the two types of retirement facilities?

The empirical findings in the answers to the question asked to participants concerning the accounting and bookkeeping challenges relating to the facilities were discussed in section 5.2.4 (sectional title retirement facility) and section 5.4.3 (life right retirement facilities) of Chapter 5. The following can be highlighted, but are not limited to challenges identified with the accounting and bookkeeping of the retirement facilities.

- Accounting information provided by the managing agent was a concern for the sectional title retirement facilities; the accounting information provided was on a cash basis, and that makes the compilation of financial statements very time-consuming, and makes the provision for creditors very difficult.
- The timeframe provided by legislation for audited financial statements to be issued after the financial year-end for sectional title retirement facility was a major challenge.
- Uncertainty exists regarding the most applicable accounting standard to use when compiling the annual financial statements of sectional title retirement facilities. Full IFRS is not considered, IFRS for SMEs was an option but the overall feel was that facilities must use entity-specific accounting standards. The answers concerning the accounting standard as provided by the participants of the sectional title retirement facilities did not correspond with the disclosure of the accounting standards in the financial statements. The

accounting standard for life right retirement facilities is determined by the body that offered the life right. The interviewed life right retirement facility made use of entity-specific accounting standards.

- The additional disclosure requirements for sectional title retirement facilities as requested by legislation require additional work and no guidelines were provided by legislation concerning the format. Non-consistency with the disclosure of the maintenance, repair, and replacement plan.
- The financial statements of some sectional title retirement facilities did not contain all the disclosure requirements as requested by legislation.
- The time spent on the compilation and financial statements are not worth the money for the practitioners.

RQ6: What problems do those in charge of governance experience relating to the day-to-day management of the two types of private retirement facilities?

The empirical findings in the answers to the question asked to participants concerning the day-to-day management of the facility were discussed in section 5.2.3 (sectional title retirement facility) and section 5.4.2 (life right retirement facilities) of Chapter 5. The following can be highlighted, but are not limited to concerns identified with the day-to-day management of the retirement facilities.

- Some sectional title retirement facilities chairpersons' knowledge regarding the applicable legislation is limited and relies on the knowledge of the manager or managing agent.
- The Community Scheme Ombud Service is an area of concern for both sectional title and life right retirement facilities; the concerns raised were no acknowledgment of information and levies, approval of conduct rules time-consuming. The question asked is, what is happening with all the levies paid over to the government service.
- The biggest challenges of the general management of sectional title retirement facilities were compliance with the rules of conduct, to keep the levies in line with inflation, overdue levies, and disputes between owners and trustees. The biggest challenge of the general management of the life right retirement facility was the management of human resources.

- The trustees (sectional title retirement facility) and management committee (life right retirement facility) members were not remunerated for a lot of time spent on the management of the retirement facilities. Offering compensation may also address the problem concerning the unwillingness of members to serve on the board of trustees of sectional title retirement facilities.
- The biggest challenges experienced by the chairperson of sectional title retirement facilities were residents expecting them to be available at all times and the ungratefulness and rage of the residents.
- Drawing up the maintenance, repair and replacement plan for sectional title retirement facilities was a challenge, the plan is difficult, no guidelines provided by legislation, and no uniformity in the format and content.
- There is a need for sectional title-specific training for trustees.

RQ7: What are the possible solutions to the current governance problems and challenges in the retirement facility industry?

The following are possible recommendations but are not limited to solutions and advice to the current role players in the retirement facility industry.

- All retirement facilities irrespective of ownership type must consider the appointment of a full-time manager to manage the facility to provide effective management to all residents as well as a lesser involvement constrain on trustees dealing with residents' complaints and issues.
- A possibility to develop a sectional title-specific accounting framework for retirement facilities that will incorporate all the legislative specific reporting requirements.
- Clear guidelines need to be developed by IRBA, SAICA, and NAMA concerning the compilation, disclosure, and feasibility requirements of the maintenance, repair and replacement plan.
- Training needs to be developed and offered to all role players in the sectional title retirement industry according to their areas of shortcoming.

6.4 Recommendations for future research

The empirical research in this study focused on sectional title and life right retirement facilities in the Mangaung area. A further empirical study could be undertaken on sectional title and life right retirement facilities throughout South Africa. The empirical study on life right retirement facility was limited to one facility, as discussed in section 6.2; a further study could be undertaken to extend the life right retirement facilities research. An internationally comparative study could be undertaken, comparing the management, auditing and accounting aspects in retirement facilities in South Africa with similar entities around the world. For the empirical study, the categories were limited to four main areas, namely management, accounting, auditing and corporate governance. In future studies, the sample can be extended to include the members of the body corporate.

A further study could be undertaken to extend the life right retirement facility research to include other bodies that offer life right, as was discussed in section 6.2. In addition, Chapter 3 indicated the applicability of corporate governance principles to retirement facilities as well as the application of possible practices, as was studied in Chapter 5. Further research could be done on governance awareness in the retirement facility industry as well as implementation practices for the industry.

6.5 Conclusion

The study provides valuable background information on the management, accounting, and auditing as well as corporate governance aspects in the sectional title and life right retirement facility industry that may be useful to the board of trustees, managers, and managing agents, accounting and auditing practitioners, other researchers, people that need to consider retirement and any other role players in the industry. The researcher believes this study was the first of its kind in the retirement facility industry undertaken in South Africa. Several possible further research options in the retirement facility were also provided.

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Annexure A – Participant information sheet

Dear participant

My name is Anna Catherina Elizabeth Coetzee and I am a junior lecturer in the Department of Accounting and Auditing at the Central University of Technology, Free State (CUT). I am performing research towards a Master's degree in Internal Auditing at CUT with Dr L Steenkamp as supervisor and Prof. D Kokt as co-supervisor of my study. I invite you to participate in this study titled: *Private retirement facilities in the Mangaung area: A corporate governance perspective*.

OBJECTIVE OF THE STUDY

The main objective of the study is to give an overview of selected private retirement facilities in the Mangaung area, specifically from a risk, governance and control perspective. The aim is also identifying problems and challenges faced by sectional title as well as life right retirement facilities relating to management, accounting and auditing as well as corporate governance.

WHAT DOES THE STUDY INVOLVE?

It would be appreciated if you could make yourself available for this interview in your valuable time. I will be flexible in terms of the interview venues, dates and times. This interview consists of an individual interview of 45 to 60 minutes with semi-structured questions. These questions form a guide for the interview and other questions may be asked as the interview develops. Making use of a digital voice recording and hand-written notes, the interviews will be recorded after written permission had been attained from you. You may at any time demand that the voice recorder be switched off.

WHY ARE YOU INVITED TO PARTICIPATE?

You are invited to participate in this study as you form part of the management of a private retirement facility within the Mangaung area. I believe you could offer me with important and valuable information to fulfil the objective of my study. Approximately twelve participants will be invited to participate in the individual interviews of this study which include the following:

- Managers/chairpersons of retirement facilities.
- Managing agents of retirement facilities, with the permission of the managers/chairpersons.
- Accounting and auditing practitioners of retirement facilities, with the permission of the managers/chairpersons.

Participants are under no obligation to participate and participation in this study is voluntary. If you do choose to take part, you will be requested to sign a written consent form. You may withdraw at any time from the interview without providing a reason.

CONFIDENTIALITY

Any information and answer that you provide will be treated as strictly confidential. Your name will not be noted anywhere, and no one will be able to link you to the answers provided during the interview. The persons transcribing and co-coding the interviews will sign a confidentiality agreement to guarantee that the data stays confidential. Copies of your answers will be kept by the researcher on a password-protected computer of CUT for a period of five years for further research or academic purposes. Hard copies of your answers will be kept for a period of five years in a locked cupboard in the researcher's office on the CUT premises. These copies of your answers will be destroyed after a 5-year period has expired.

CONCLUSION

The answers that you will provide will be processed with the answers of other participants in order to determine problems and challenges experienced with the management, accounting, auditing and corporate governance of selected sectional title and life right retirement facilities. The study will provide a valuable contribution towards developing recommendations to the challenges for various role players in retirement facilities. Such recommendations could be of great importance to the management of retirement facilities, residents of retirement facilities, managing agents as well as accounting and auditing professionals doing work for these entities.

If you would like to receive an electronic copy of the dissertation once this study is complete, please contact me (0799 264 553 or ccoetzee@cut.ac.za). For any further information about any aspect of this study, you are welcome to contact me. Should

you have concerns about the manner in which the interview has been directed, you may contact my supervisor, Dr L Steenkamp (llubbe@cut.ac.za) or co-supervisor, Prof. D Kokt (koktd@cut.ac.za).

Thank you very much for taking time to read this information sheet and to sacrifice your valued time to participate in this study.

Kind Regards



Anna Coetzee



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Annexure B – Inligtingsblad vir deelnemers aan die studie

INLIGTINGSBLAD VIR DEELNEMERS AAN STUDIE

Geagte deelnemer

My naam is Anna Catherina Elizabeth Coetzee en ek is 'n junior lektrise verbonde aan die Departement van Rekeningkunde en Ouditkunde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek is tans besig om navorsing te doen vir my Meestersgraad in Interne Ouditkunde, met Dr. L Steenkamp as studieleier en Prof. D Kock as medestudieleier. Ek nooi u graag uit om deel te neem aan hierdie studie, genaamd: *Private retirement facilities in the Mangaung area: A corporate governance perspective.*

DOELWIT VAN DIE STUDIE

Die hoofdoelwit van die studie is om 'n oorsig te gee oor geselekteerde privaat aftreefasiliteite in die Mangaung area, spesiek vanuit 'n bestuurs-, rekeningkunde- en ouditkunde-perspektief. Die doel is ook om probleme en uitdagings te identifiseer rakende deeltitel- en lewensreg aftreefasiliteite rakende bestuur, rekeningkunde en ouditering.

WAT BEHELS DIE STUDIE?

Dit sal opreg waardeur word indien u u waardevolle tyd beskikbaar sal stel vir 'n onderhoud. Ek sal buigsaam wees in terme van datum, tyd en plek. Die onderhoud behels 'n individuele onderhoud van ongeveer 45 tot 60 minute, bestaande uit semi-gestruktureerde vrae. Hierdie vrae vorm 'n raamwerk vir die onderhoud, en mag moontlik lei tot opvolg-vrae soos die onderhoud vorder. Met u skriftelike toestemming sal stem-opnames, asook handgeskrewe notas gemaak word tydens die onderhoud. U mag enige tyd tydens die onderhoud versoek dat die opneem-apparaat afgeskakel word.

WAAROM WORD U UITGENOOI OM DEEL TE NEEM?

U word genooi om deel te neem aan die studie, aangesien u deel vorm van die bestuurstruktuur van 'n privaat aftreefasiliteit in die Mangaung area. Ek vertrou dat u beskik oor belangrike inligting wat van waarde kan wees vir my om die doelwit van die studie te bereik. Ongeveer twaalf persone sal versoek word om deel te neem aan onderhoude, insluitend:

- Bestuurders / voorsitters van aftreefasiliteite.
- Bestuurders / Bestuursagente van aftreefasiliteite, met die toestemming van die voorsitters.
- Rekenmeesters en ouditpraktisyns van aftreefasiliteite, met die toestemming van die bestuurders/voorsitters.

Deelnemers is onder geen verpligting om deel te neem nie, en deelname is ten volle vrywillig. Indien u instem om deel te neem aan die studie, sal u versoek word om 'n skriftelike toestemmingsvorm te teken. U mag ter enige tyd van die onderhoud onttrek sonder om 'n rede te verskaf.

VERTROULIKHEID

Alle inligting en antwoorde wat u verskaf sal streng vertroulik hanteer word. U naam sal nêrens aangeteken word nie, en niemand sal u kan verbind met die antwoorde verskaf tydens u onderhoud nie.

Die persone wat die onderhoude transkribeer en kodeer sal ook 'n vertroulikheidsooreenkoms teken, wat sal bepaal dat alle data vertroulik sal bly.

Elektroniese weergawes van notas en u antwoorde sal deur die navorser gestoor word op 'n SUT rekenaar met wagwoord-beskerming vir 'n tydperk van vyf jaar vir verdere navorsing of akademiese doeleindes. Harde kopieë van u antwoorde sal ook vir 'n tydperk van vyf jaar geberg word in veilige bewaring, toegesluit in die navorser se kantoor.

Alle kopieë en afskrifte sal na 'n tydperk van vyf jaar vernietig word.

SAMEVATTING

Die antwoorde deur u verskaf sal verwerk word saam met die antwoorde van ander deelnemers. Dit sal die navorser in staat stel om probleme en uitdagings te identifiseer

rakende die bestuur, rekeningkunde en ouditering van beide lewensreg sowel as deeltitel aftreefasiliteite.

Daar word voorsien dat die studie 'n waardevolle bydrae sal lewer tot die ontwikkeling van aanbevelings tot die uitdagings vir die verskeie rolspelers in privaat aftreefasiliteite. Hierdie aanbevelings kan belangrik wees vir bestuurders van aftreefasiliteite, inwoners van aftreefasiliteite, bestuursagente, sowel as rekenmeesters en ouditeure wat werk verrig vir hierdie entiteite.

Indien u graag 'n elektroniese kopie van die verhandleing wil ontvang wanneer die studie afgehandle is, of om enige verdere inligting rakende die studie te bekom, is u welkom om my te kontak (0799 264 553 or ccoetzee@cut.ac.za). Indien u ontevrede is oor enige aspek rakende die onderhoud, is u welkom om kontak te maak met my studieleier, Dr. L Steenkamp (llubbe@cut.ac.za) of my mede-studieleier, Prof. D Kokt (koktd@cut.ac.za).

Dankie dat u die tyd afgestaan het om deur hierdie inligtingstuk te lees en vir u waardevolle tyd om deel te neem aan hierdie studie.

Vriendelike groete



Anna Coetzee



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Annexure C – Interview schedule for trustee chairperson of sectional title retirement facilities

1. INTRODUCTION

Good day. I am Anna Coetzee, a Master's degree student at the Central University of Technology, Free State. I am going to conduct a semi-structured interview with you as discussed telephonically. The purpose of the interview is to specifically discuss the challenges and problems experienced by you regarding management, accounting, auditing and governance aspects within your sectional title retirement facility.

Our interview is probable going to last between 45 and 60 minutes. Please note that you are not forced to answer any of the questions, your participation is voluntary, and you may withdraw at any time. All data, including personal data will be kept confidential.

2. INFORMED CONSENT SECTION

I, _____ (participant name), confirm that Anna Coetzee, who is requesting my permission to take part in her study, has informed me about the purpose and the nature of her study.

- I have read and understood the study as clarified in the information sheet.
- I am willing to participate in the study and will ask questions if information / questions are not clear.
- I understand that my participation is voluntary and that I can withdraw at any time without penalty.
- I am mindful that the findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.
- I approve the use of a voice recorder during the semi-structured interview.
- I provide permission for an interview with the relevant managing agent, accountant and auditor of the sectional title retirement facility.

| | |
|-----------------------|------------------------|
| PARTICIPANT SIGNATURE | RESEARCHER'S SIGNATURE |
| _____ | _____ |
| DATE | DATE |

3. INTERVIEW QUESTIONS

| |
|--|
| Section A: Background information and administrative matters |
| <ol style="list-style-type: none"> 1. Please provide me with some <u>background</u> on your retirement facility and your <u>involvement</u> in your retirement facility. <ol style="list-style-type: none"> 1.1 How many units are in your retirement facility? 1.2 How long have you been staying in the retirement facility? 1.3 For how many years have you been serving on the board of trustees of the retirement facility? 1.4 How many people are serving on the board of trustees of your retirement facility? 1.5 For how many years have you been the trustee chairperson? 1.6 What other committees are operating in your retirement facility? 2. Describe your familiarity with the <u>legislative frameworks</u> within which the retirement facility functions. <ol style="list-style-type: none"> 2.1 Have you attended any type of sectional title training courses in the past? <ul style="list-style-type: none"> • If yes, did you consider the training course informative? • If no, please provide reasons for your answer. 2.2 As chairperson, which legislative frameworks do you have knowledge about that relates to the management of retirement facilities? 2.3 Are you up to date with the latest stipulations of the Sectional Titles Act? 2.4 Give your opinion any shortcomings in these legislative frameworks that cause difficulties with management of the retirement facility. 2.5 In your opinion, what needs exist for training relating to sectional title retirement facility legislation, if any? |

| |
|---|
| <p>2.6 How do the trustees of the retirement facility keep up with changes in legislation?</p> |
| <p>3. Are you familiar with the Community Schemes Ombud Service (<u>CSOS</u>) and the services they offer?</p> <p>3.1 Have you ever made use of the services of CSOS? If yes, please elaborate.</p> <p>3.2 If you have dealt with CSOS in the past, please describe any challenges that you experienced.</p> |
| <p>Section B: Management of sectional title retirement facilities</p> |
| <p>4. Do you make use of the services of a <u>managing agent</u> for your retirement facility? If yes, please answer the following questions.</p> <p>4.1 Which of the following services are being provided by your managing agent?</p> <p>4.1.1 Day-to-day management of the complex</p> <p>4.1.2 Administrative tasks</p> <p>4.1.3 Compiling of financial statements</p> <p>4.1.4 Compiling of budgets</p> <p>4.1.5 Collection of levies, amounts receivable etc.</p> <p>4.1.6 Other (specify)</p> <p>4.2 Who is responsible for the appointment of the managing agent?</p> <p>4.3 Describe the factors that play the most important role in the decision about the appointment?</p> <p>4.4 In your opinion, what would you consider to be the characteristics of a good managing agent for a retirement facility?</p> <p>4.5 How satisfied are you with the service that you receive from your managing agent?</p> <p>4.6 Describe the most significant problems/challenges that you experience with the managing agent.</p> |
| <p>5. Please describe the composition of the <u>board of trustees</u> of your retirement facility.</p> <p>5.1 Describe the most significant problems that you as chairperson experienced with the board of trustees.</p> |

| |
|--|
| <p>5.2 How regularly does the board of trustees meet?</p> <p>5.3 Do you think that there are any risks involved in being a member of the board of trustees of a retirement facility?</p> <p>5.4 How willing are residents to serve on the board of trustees of the retirement facility?</p> |
| <p>6. Please describe your role and function as <u>chairperson</u> of the board of trustees.</p> <p>6.1 Are you receiving any remuneration for your role as chairperson?</p> <p>6.2 What are your main frustrations and challenges in your role as chairperson?</p> <p>6.3 Which responsibilities do you not enjoy?</p> <p>6.4 Do you think that there are any risks involved in being a chairperson of the board of trustees of a retirement facility? If yes, please elaborate.</p> |
| <p>7. Is the annual general meeting (<u>AGM</u>) of your retirement facility usually well attended?</p> <p>7.1 What are the most common problems experienced regarding the AGM?</p> <p>7.2 Describe the matters that are presented / approved during the AGM.</p> <p>7.3 Which other meetings are held for the residents of the retirement facility? Please elaborate on your answer.</p> |
| <p>Section C: Accounting and auditing of sectional title retirement facilities</p> |
| <p>8. Who is responsible for the day-to-day <u>bookkeeping</u> functions of the retirement facility?</p> <p>8.1 What are the daily responsibilities of this person?</p> <p>8.2 Who is responsible for making payments?</p> <p>8.3 Please give a brief explanation of the payment process followed.</p> <p>8.4 What are the biggest challenges experienced regarding the day-to-day bookkeeping function of the retirement facility?</p> <p>8.5 What measures are in place to prevent misappropriation of funds of the retirement facility?</p> <p>8.6 Describe the most significant challenges that you experience in terms of municipal accounts.</p> |

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| <p>9. Are the administrative funds (<u>levy income</u>) of the retirement facility kept in a separate bank account from the reserve funds?</p> <p>9.1 Please give an overview of how levies are calculated.</p> <p>9.2 Do you charge interest on arrear accounts, and what is the percentage?</p> <p>9.3 How do you collect arrear levies?</p> |
| <p>10. Into which <u>bank account</u> is, the monthly contributions (levies) paid. (E.g. the bank account of the managing agent, or the bank account of the sectional title scheme.)</p> <p>10.1 Who has authorisation to make payments from this account?</p> <p>10.2 How regularly are bank reconciliations done?</p> <p>10.3 Who is responsible for doing the bank reconciliations?</p> <p>10.4 Who is responsible for reviewing the bank reconciliations?</p> <p>10.5 How is interest received on the bank accounts handled?</p> |
| <p>11. Who is responsible for setting up the annual <u>budget</u> of the retirement facility?</p> <p>11.1 What are the greatest problems experienced during the budgeting process?</p> <p>11.2 Do you experience any resistance from the members of the body corporate relating to increases in budgets and resulting levies?</p> |
| <p>12. Who is responsible for compiling the <u>maintenance, repair and replacement plan</u>, if any?</p> <p>12.1 What are the greatest challenges experienced during this process?</p> <p>12.2 In your opinion, does your retirement facility have sufficient reserve funds available to cover future repairs and maintenance costs?</p> |
| <p>13. Who is responsible for compiling the <u>financial statements</u> of the retirement facility?</p> <p>13.1 Who is responsible for the appointment of the accountant?</p> <p>13.2 Which factors play the most important role in the decision about the appointment of the accountant?</p> <p>13.3 In your opinion, does the average resident of the retirement facility understand the content of the financial statements?</p> |
| <p>14. Who is responsible for the <u>audit</u> of the financial statements of the retirement facility?</p> |

- 14.1 How long has the auditor been in service of the retirement facility?
- 14.2 Is this person independent from the compiler of the financial statements?
- 14.3 Describe the factors that play the most important role in the decision about the appointment of the auditor?
- 14.4 What are the greatest problems experienced with the audit of the financial statements?

Section D: Governance of the retirement facility

15. Are you familiar with the concept of corporate governance?
- 15.1 In your opinion, what leadership qualities should members of the board of trustees have?
- 15.2 How does the board of trustees monitor compliance with the rules of the body corporate? (And do the trustees lead by example?)
- 15.3 What initiatives have been put in place in your retirement facility relating to sustainability?
- 15.4 Do the trustees ever have strategic planning sessions?
- 15.5 Do all members of the retirement facility receive their AGM pack well in advance of the meeting?
- 15.6 What agenda points are usually discussed at trustee meetings?
- 15.7 Please advice on the selection criteria used for electing trustees.
- 15.8 Do any of the service providers (managing agent, accountant, auditor, etc.) attend the trustee meetings or AGM?
- 15.9 Does the board of trustees ever evaluate their own performance?
- 15.10 Are all trustee members fully aware of their individual responsibilities?
- 15.11 Please give an overview of how the trustees manage risk (e.g. insurance, security, funds, etc.).
- 15.12 How does the trustees ensure proper retention and safeguarding of information?
- 15.13 In your opinion, does your retirement facility comply with all relevant legislative frameworks?
- 15.14 Do the board members receive any remuneration for their tasks as trustees?

15.15 Do the trustees familiarise themselves with the contents of the audit report before the AGM?

15.16 Do the trustees communicate with the members of the body corporate (over and above the AGM)? Please elaborate.

15.17 Explain the process followed for calculation and investment of the reserve funds of the retirement facility.

16. Any further comments?

Annexure D – Onderhoudskedule aan trustee voorsitters van deeltitel aftreefasiliteite

1. INLEIDING

Goeidag. Ek is Anna Coetzee, 'n Meestersgraad-student, verbonde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek gaan met u 'n semi-gestruktureerde onderhoud voer, soos telefonies bespreek. Die doel van die onderhoud is om spesifiek probleme en uitdagings te bespreek rakende die bestuur, boekhouding en ouditering van u deeltitel aftreefasiliteit. Ons onderhoud gaan waarskynlik tussen 45 en 60 minute duur. U is onder geen verpligting om enige van die vrae te beantwoord nie. U deelname is ten volle vrywillig, en u mag ter enige tyd van die onderhoud onttrek. Alle data, insluitend persoonlike inligting sal ter alle tye streng vertroulik hanteer word.

2. INGELIGTE TOESTEMMING

Ek, _____ (naam van deelnemer), erken dat Anna Coetzee, wat my toestemming gevra het om deel te neem aan haar studie, my ingelig het oor die doel en aard van haar studie.

- Ek het die inligtingstuk bestudeer en verstaan die inhoud daarvan.
- Ek verklaar myself bereid om deel te neem aan die studie, en sal die nodige vrae vra indien enige inligting of vrae onduidelik is.
- Ek verstaan dat my deelname vrywillig is en dat ek ter enige tyd van die onderhoud kan onttrek sonder benadeling.
- Ek verstaan dat die bevindinge van die studie streng vertroulik hanteer sal word in 'n navorsings-verHandleing, joernaal-publikasie en/of kongresvoordrag.
- Ek stem in tot die gebruik van 'n stem-opname-apparaat gedurende die onderhoud.
- Ek gee toestemming dat 'n onderhoud gevoer mag word met die relevante bestuurder/bestuursagent, rekenmeester en/of ouditeur van die aftreefasiliteit.

DEELNEMER HANDTEKENING

NAVORSER HANDTEKENING

DATUM

DATUM

3. ONDERHOUDSVRAE

Deel A: Agtergrondinligting en administratiewe aangeleenthede

1. Verskaf asseblief agtergrond oor u aftreefasiliteit en u betrokkenheid daarby.
 - 1.1 Hoeveel eenhede is in u aftreefasiliteit?
 - 1.2 Hoe lank woon u al in die aftreefasiliteit?
 - 1.3 Hoeveel jaar dien u op die raad van trustees van die aftreefasilit
 - 1.4 Hoeveel mense dien op die raad van trustees van die aftreefasiliteit?
 - 1.5 Hoeveel jaar dien u as voorsitter van die raad van trustees?
 - 1.6 Watter ander komitees funksioneer in die aftreefasiliteit?
2. Beskryf u bekendheid van die wetgewende raamwerk wat van toepassing is op die aftreefasiliteit.
 - 2.1 Het u al enige opleidingskursus bygewoon van toepassing op deeltitel aftreefasiliteite?
 - Indien wel, beskou u die opleidingskursus as insiggewend?
 - Indien nie, spesifiseer rede vir u antwoord.
 - 2.2 As voorsitter, watter wetgewende raamwerk het u kennis van wat verband hou met die bestuur van die aftreefasiliteit?
 - 2.3 Is u op hoogte van die nuutste bepalings rakende die Wet op Deeltitels?
 - 2.4 Gee asseblief u opinie oor enige tekortkominge in hierdie wetgewende raamwerk wat probleme veroorsaak met die bestuur van die aftreefasiliteit.
 - 2.5 Na u mening, bestaan daar n behoefte aan opleidingskursusse vir deeltitel wetgewing van toepassing op aftreefasiliteite, indien enige?
 - 2.6 Hoe bly die trustees van die aftreefasiliteit op hoogte van enige verandering in wetgewing?
3. Is u bekend met die Ombuddiens vir Gemeenskapskemas (CSOS) en die dienste deur hulle aangebied?
 - 3.1 Het u al van die dienste gebruik gemaak wat verskaf word deur die Ombuddiens? Indien ja, spesifiseer.
 - 3.2 Indien u in die verlede gebruik gemaak het van die Ombuddiens, verduidelik enige probleme wat u moontlik ervaar het.

Deel B: Bestuur van Deeltitel aftreefasiliteite

- 4 Word daar van die dienste van n bestuurder/bestuursagent in u aftreefasiliteit gebruik gemaak? Indien wel, antwoord die volgende vrae.
- 4.1 Watter van die volgende dienste word gelewer deur die bestuurder/bestuursagent?
- 4.1.1 Dag tot dag bestuur van aftreefasiliteit
- 4.1.2 Administratiewe take
- 4.1.3 Opstel van finansiële state
- 4.1.4 Opstel van begrotings
- 4.1.5 Invordering van heffings, bedrae ontvangbaar, ens
- 4.1.6 Ander (spesifiseer)
- 4.2 Wie is verantwoordelik vir die aanstelling van die bestuurder/bestuursagent?
- 4.3 Na u mening, watter faktore speel die belangrikste rol met die besluit oor die aanstelling?
- 4.4 Na u mening, wat sou u beskou as die eienskappe van 'n goeie bestuurder/bestuursagent vir 'n aftreefasiliteit?
- 4.5 Hoe tevrede is u met die diens ontvang van die bestuurder/bestuursagent?
- 4.6 Beskryf beduidende probleme/uitdagings wat u ervaar met die bestuurder/bestuursagent.
- 5 Beskryf die samestelling van die raad van trustees van u aftreefasiliteit.
- 5.1 Beskryf die belangrikste probleme wat u as voorsitter ervaar met die raad van trustees?
- 5.2 Hoe gereeld vergader die raad van trustees?
- 5.3 Dink u daar is enige risiko's verbonde om te dien as lid van die raad van trustees van 'n aftreefasiliteit?
- 5.4 Hoe bereid is inwoners om op die raad van trustees te dien van die aftreefasiliteit?
- 6 Beskryf u rol en funksie as voorsitter van die raad van trustees.
- 6.1 Ontvang u enige vergoeding vir u rol as voorsitter?
- 6.2 Wat is u frustrasies en uitdagings in u rol as voorsitter?
- 6.3 Watter verantwoordelikhede geniet u nie?

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| 6.4 | Dink u daar is enige risiko's verbonde om te dien as voorsitter van die raad van trustees van 'n aftreefasiliteit? Indien wel, spesifiseer. |
| 7 | Word die <u>algemene jaarvergadering</u> (AJV) van u aftreefasiliteit gewoonlik goed bygewoon? |
| 7.1 | Wat is die mees algemene probleme ervaar met betrekking tot die algemene jaarvergadering? |
| 7.2 | Beskryf die aangeleenthede wat tydens die algemene jaarvergadering aangebied/goedgekeur word. |
| 7.3 | Watter ander vergaderings word gehou vir die inwoners van die aftreefasiliteit? Spesifiseer asseblief. |
| Deel C: Rekeningkunde en Ouditering van Deeltitel aftreefasiliteite | |
| 8 | Wie is verantwoordelik vir die daaglikse <u>boekhouding</u> funksies van die aftreefasiliteit? |
| 8.1 | Wat is die daaglikse verantwoordelikhede van hierdie persoon? |
| 8.2 | Wie is verantwoordelik daarvoor om betalings te maak? |
| 8.3 | Gee asseblief 'n kort uiteensetting van die betalingsproses wat gevolg word. |
| 8.4 | Wat is die grootste uitdagings met betrekking tot die daaglikse boekhoudingfunksie van die aftreefasiliteit? |
| 8.5 | Watter maatreëls is in plek om die wanbestuur van fondse van die aftreefasiliteit te voorkom? |
| 8.6 | Beskryf die belangrikste uitdagings wat u ondervind met betrekking tot munisipale rekeninge. |
| 9 | Word die administratiewe en reserwefondse (<u>heffingsinkomste</u>) van die aftreefasiliteit in 'n aparte bankrekening gehou? |
| 9.1 | Gee 'n oorsig van hoe heffings bereken word. |
| 9.2 | Hef u rente op agterstallige rekeninge, en wat is die persentasie? |
| 9.3 | Hoe word agterstallige heffings gevorder? |
| 10 | In watter <u>bankrekening</u> word die maandelikse bydraes (heffings) betaal? (b.v. die bankrekening van die bestuursagent, of die bankrekening van die deeltitelskema.) |
| 10.1 | Wie het magtiging om betalings vanaf hierdie rekening te doen? |

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| <p>10.2 Hoe gereeld word bankrekonsiliasies gedoen?</p> <p>10.3 Wie is verantwoordelik daarvoor om die bankrekonsiliasies te doen?</p> <p>10.4 Wie is verantwoordelik vir die hersiening van die bankrekonsiliasies?</p> <p>10.5 Hoe word rente op die bankrekening hanteer?</p> |
| <p>11 Wie is verantwoordelik vir die opstel van die jaarlikse <u>begroting</u> van die aftreefasiliteit?</p> <p>11.1 Wat is die grootste probleme wat tydens die begrotingsproses ondervind word?</p> <p>11.2 Ervaar u enige weerstand van die beheerliggaam ten opsigte van verhogings in begrotings en gevolglike heffings?</p> |
| <p>12 Wie is verantwoordelik vir die opstel van die <u>instandhoudings-, herstel- en vervangingsplan</u>, indien enige?</p> <p>12.1 Wat is die grootste uitdagings wat tydens hierdie proses ervaar word?</p> <p>12.2 Na u mening, het die aftreefasiliteit voldoende reserwefondse beskikbaar om toekomstige herstel- en onderhoudskoste te dek?</p> |
| <p>13 Wie is verantwoordelik vir die opstel van die <u>finansiële state</u> van die aftreefasiliteit?</p> <p>13.1 Wie is verantwoordelik vir die aanstelling van die rekenmeester?</p> <p>13.2 Watter faktore speel die belangrikste rol in die besluit oor die aanstelling van die rekenmeester?</p> <p>13.3 Na u mening, verstaan die gemiddelde inwoner van die aftreefasiliteit die inhoud van die finansiële state?</p> |
| <p>14 Wie is verantwoordelik vir die <u>oudit</u> van die finansiële state van die aftreefasiliteit?</p> <p>14.1 Hoe lank is die ouditeur al in diens van die aftreefasiliteit?</p> <p>14.2 Is hierdie persoon onafhanklik van die persoon wat die finansiële state opstel?</p> <p>14.3 Beskryf die faktore wat die belangrikste rol speel in die besluit oor die aanstelling van die ouditeur?</p> <p>14.4 Wat is die grootste probleme wat ervaar word met die oudit van die finansiële state?</p> |

Deel D: Bestuurstoetsig van die aftreefasiliteit

- 15 Is u vertrouwd met die konsep van korporatiewe bestuurstoetsig?
- 15.1 Na u mening, watter leierseienskappe moet lede van die raad van trustees oor beskik?
- 15.2 Hoe monitor die raad van trustees die nakoming van die reëls deur die beheerliggaam, gee voorbeelde? (Stel die trustees die nodige voorbeeld?)
- 15.3 Watter inisiatiewe is in plek in die aftreefasiliteit ten opsigte van volhoubaarheid?
- 15.4 Het die raad van trustees strategiese beplanningssessies?
- 15.5 Ontvang al die lede van die aftreefasiliteit hul AJV-inligting vroegtydig voor die vergadering?
- 15.6 Watter agendapunte word gewoonlik tydens trusteevergaderings bespreek?
- 15.7 Verduidelik die keuringskriteria wat gebruik word vir die verkiesing van trustees.
- 15.8 Woon enige van die diensverskaffers (bestuurder/bestuursagent, rekenmeester, ouditeur, ens.) die trusteevergaderings of die algemene jaarvergadering by?
- 15.9 Evalueer die raad van trustees ooit hul eie optrede?
- 15.10 Is alle trusteelede van die aftreefasiliteit ten volle bewus van hul individuele verantwoordelikhede?
- 15.11 Gee 'n oorsig oor hoe risiko bestuur word deur trustees (bv. versekering, sekuriteit, fondse, ens.).
- 15.12 Hoe verseker die trustees behoorlike bewaring en beskerming van inligting?
- 15.13 Na u mening, voldoen u aftreefasiliteit aan alle toepaslike wetgewende raamwerke?
- 15.14 Ontvang die trustees enige vergoeding vir hul take?
- 15.15 Is die trustees vertrouwd met die inhoud van die ouditverslag voor die aanvang van die AJV?
- 15.16 Kommunikeer die trustees enigsins met die lede van die beheerliggaam (bo en behalwe die AJV)? Brei uit asseblief?

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| 15.17 | Verduidelik die proses wat gevolg is vir die berekening en belegging van die reserwefondse van die aftreefasiliteit? |
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| 16 | Enige verdere kommentaar? |
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Annexure E – Interview schedule for managing agents of sectional title retirement facilities

1. INTRODUCTION

Good day. I am Anna Coetzee, a Master's degree student at the Central University of Technology, Free State. I am going to conduct a semi-structured interview with you as discussed telephonically. The purpose of the interview is to specifically discuss the challenges and problems experienced by you regarding management, accounting, auditing and governance aspects within your sectional title retirement facility clients.

Our interview is probable going to last between 45 and 60 minutes. Please note that you are not forced to answer any of the questions, your participation is voluntary, and you may withdraw at any time. All data, including personal data will be kept confidential.

2. INFORMED CONSENT SECTION

I, _____ (participant name), confirm that Anna Coetzee, who is requesting my permission to take part in her study, has informed me about the purpose and the nature of her study.

- I have read and understood the study as clarified in the information sheet.
- I am willing to participate in the study and will ask questions if information / questions are not clear.
- I understand that my participation is voluntary and that I can withdraw at any time without penalty.
- I am mindful that the findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.
- I approve the use of a voice recorder during the semi-structured interview.

PARTICIPANT SIGNATURE

RESEARCHER'S SIGNATURE

DATE

DATE

3. INTERVIEW QUESTIONS

Section A: Background information and administrative matters

1. Please provide some background on your managing agency.
 - 1.1 How many sectional title retirement schemes are currently being managed by your managing agency?
 - 1.2 For how many years have your managing agency been operating as a sectional title managing agent for retirement facilities?
 - 1.3 Which of the following services do you provide to sectional title retirement facilities?
 - Day-to-day management of the facility
 - Administrative tasks
 - Compiling of budgets
 - Compiling of financial statements
 - Collection of levies, outstanding debt
 - Other (specify)
 - 1.4 What factors/criteria are considered in the calculation of your management fees?
2. As managing agent, of which legislative frameworks do you have knowledge about that relates specifically to the management of sectional title retirement facilities?
 - 2.1 In your opinion, are there any shortcomings in these legislative frameworks that cause difficulties with management of the retirement facility? If yes, please elaborate.
 - 2.2 In your opinion, what needs exist for training of managing agents regarding legislation that relates to the management of sectional title retirement facilities, if any?
 - 2.3 As managing agent, how do you keep up to date with changes in legislation?
 - 2.4 Are you a member of the National Association of Managing Agents (NAMA)? If yes, please give your opinion on their current and potential role in the industry.

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| <p>3. How regularly do you deal with the Community Schemes Ombud Service (<u>CSOS</u>)?</p> <p>3.1 Please elaborate on the matters that you refer to (or engage on) with CSOS.</p> <p>3.2 In your past dealings with CSOS, what is your opinion on the effectiveness of the service to retirement facilities?</p> <p>3.3 Describe any problems that you have experienced in the past with CSOS?</p> |
| <p>Section B: Management of sectional title retirement facilities</p> |
| <p>4. In terms of the general <u>management</u> of sectional title retirement facilities, what are your biggest challenges?</p> <p>4.1 What are, in your opinion, the greatest risks involved in being a managing agent of a retirement facility?</p> <p>4.2 What would you consider to be the characteristics of a good managing agent for a retirement facility?</p> |
| <p>5. Do you, in general, consider the level of involvement of retirement facilities' <u>boards of trustees</u> to be adequate?</p> <p>5.1 Describe the most significant challenges that you as managing agent experienced with boards of trustees of retirement facilities.</p> <p>5.2 In your opinion, does the average retirement facility trustee have the necessary competence to act as such?</p> |
| <p>6. In your opinion, what knowledge and skills are required of a trustee <u>chairperson</u> of a retirement facility?</p> |
| <p>7. As managing agent of the retirement facility what, are your responsibilities regarding <u>meetings</u>?</p> <p>7.1 Do you attend any meetings other than annual general meetings (AGMs) or special general meetings of the retirement facilities that you manage?</p> <p>7.2 Are the AGMs of the retirement facilities that you manage well attended?</p> <p>7.3 What are most common challenges that you experience during AGMs?</p> |
| <p>Section C: Accounting and auditing of sectional title retirement facilities</p> |
| <p>8. Who is responsible for the day-to-day <u>bookkeeping</u> functions of the retirement facility?</p> <p>8.1 What are the daily responsibilities of this person?</p> <p>8.2 Who is responsible for making payments?</p> |

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| <p>8.3 Please give a brief explanation of the payment process followed.</p> <p>8.4 What are the biggest challenges experienced regarding the day-to-day bookkeeping function of the retirement facility?</p> <p>8.5 What measures are in place to prevent misappropriation of funds of the retirement facility?</p> <p>8.6 Describe the most significant challenges that you experience in terms of municipal accounts.</p> |
| <p>9. Are the administrative funds (<u>levy income</u>) of the retirement facility kept in a separate bank account from the reserve funds?</p> <p>9.1 Please give an overview of how levies are calculated.</p> <p>9.2 Do you charge interest on arrear accounts, and what is the percentage?</p> <p>9.3 How do you collect arrear levies?</p> |
| <p>10. Into which bank <u>account/accounts</u> is the monthly contributions (levies) paid? (E.g. the bank account of the managing agent, or the bank account of the sectional title scheme.)</p> <p>10.1 If contributions are paid into the managing agent's trust account,</p> <p>10.1.1. describe the managing of the funds,</p> <p>10.1.2. how regularly are trust account reconciliations done,</p> <p>10.1.3. who is responsible for this function?</p> <p>10.1.4. how is interest received on the trust account handled?</p> <p>10.2 What are the biggest problems experienced regarding the management of administrative funds?</p> |
| <p>11. Who is responsible for setting up the annual <u>budget</u> of the sectional title retirement facility?</p> <p>11.1 What are the greatest problems experienced during the budgeting process?</p> <p>11.2 Do you experience any resistance from the members of the body corporate relating to increases in budgets and resulting levies?</p> |
| <p>12. Who is responsible for compiling the <u>maintenance, repair and replacement plan</u>, if any?</p> <p>12.1 What are the greatest problems experienced during this process?</p> <p>12.2 Does the average retirement facility that you manage have sufficient reserve funds available to cover future repairs and maintenance costs?</p> |

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| <p>13. Who is responsible for compiling the <u>financial statements</u> of the retirement facility?</p> <p>13.1 Who is responsible for the appointment of the accountant?</p> <p>13.2 Which factors play the most important role in the decision about the appointment of the accountant?</p> <p>13.3 In your opinion, does the average resident of the retirement facility understand the content of the financial statements?</p> |
| <p>14. Who is responsible for the <u>audit</u> of the financial statements of the retirement facility?</p> <p>14.1 Do you find that there are a limited number of audit firms that specialise in these types of audits?</p> <p>14.2 Do the average audit firm remain in the employ of the retirement facility for a lengthy period of time (i.e. longer than five years)?</p> <p>14.3 Is this person independent from the compiler of the financial statements?</p> <p>14.4 Describe the factors that play the most important role in the decision about the appointment of the auditor?</p> <p>14.5 What are the greatest problems experienced with the audit of the financial statements?</p> |
| <p>Section D: Governance of the retirement facility</p> |
| <p>15. Are you familiar with the concept of <u>corporate governance</u>?</p> <p>15.1 In your opinion, what leadership qualities should members of the board of trustees have?</p> <p>15.2 Please give some examples of how boards of trustees monitor compliance with the rules of the body corporate? (And, in your opinion, do the trustees, in general, lead by example?)</p> <p>15.3 What initiatives have been put in place in retirement facilities relating to sustainability?</p> <p>15.4 Do you know of trustees who have strategic planning sessions?</p> <p>15.5 Do all members of retirement facilities receive their AGM pack well in advance of the meeting?</p> <p>15.6 What agenda points are usually discussed at trustee meetings?</p> <p>15.7 Please advise on the selection criteria used for electing trustees.</p> |

- 15.8 Do the service providers (managing agent, accountant, auditor, etc.) attend the trustee meetings or AGMs of retirement facilities?
- 15.9 Do the boards of trustees of retirement facilities ever evaluate their own performance as far as you are aware?
- 15.10 Are trustee members in the retirement facilities managed by you fully aware of their individual responsibilities?
- 15.11 Please give an overview of how you as managing agent, together with the trustees manage risk (e.g. insurance, security, funds, etc.)
- 15.12 How does your managing agency ensure proper retention and safeguarding of information?
- 15.13 In your opinion, does your managed retirement facilities comply with all relevant legislative frameworks?
- 15.14 Do trustees of retirement facilities usually receive remuneration for their tasks as trustees?
- 15.15 Do you familiarise yourself with the contents of the audit report of the sectional title retirement facility before the AGM?
- 15.16 Do you as managing agent communicate with the members of the body corporate (over and above the AGM)? Please elaborate.
- 15.17 Explain the process followed for calculation and investment of the reserve funds of the retirement facility.
16. Any further comments?

Annexure F – Onderhoudskedule aan bestuurder/bestuurgente van deeltitel aftreefasiliteite

1. INLEIDING

Goeddag. Ek is Anna Coetzee, 'n Meestersgraad-student, verbonde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek gaan met u 'n semi-gestruktureerde onderhoud voer, soos telefonies bespreek. Die doel van die onderhoud is om spesifiek probleme en uitdagings te bespreek rakende die bestuur, boekhouding en ouditering van u deeltitel aftreefasiliteit. Ons onderhoud gaan waarskynlik tussen 45 en 60 minute duur. U is onder geen verpligting om enige van die vrae te beantwoord nie. U deelname is ten volle vrywillig, en u mag ter enige tyd van die onderhoud onttrek. Alle data, insluitend persoonlike inligting sal ter alle tye streng vertroulik hanteer word.

2. INGELIGTE TOESTEMMING

Ek, _____ (naam van deelnemer), erken dat Anna Coetzee, wat my toestemming gevra het om deel te neem aan haar studie, my ingelig het oor die doel en aard van haar studie.

- Ek het die inligtingstuk bestudeer en verstaan die inhoud daarvan.
- Ek verklaar myself bereid om deel te neem aan die studie, en sal die nodige vrae vra indien enige inligting of vrae onduidelik is.
- Ek verstaan dat my deelname vrywillig is en dat ek ter enige tyd van die onderhoud kan onttrek sonder benadeling.
- Ek verstaan dat die bevindinge van die studie streng vertroulik hanteer sal word in 'n navorsings-verHandleing, joernaal-publikasie en/of kongresvoordrag.
- Ek stem in tot die gebruik van 'n stem-opname-apparaat gedurende die onderhoud.
- Ek gee toestemming dat 'n onderhoud gevoer mag word met die relevante bestuurder/bestuursagent, rekenmeester en/of ouditeur van die aftreefasiliteit.

DEELNEMER HANDTEKENING

NAVORSER HANDTEKENING

DATUM

DATUM

3. ONDERHOUDSVRAE

Deel A: Agtergrondinligting en administratiewe aangeleenthede

1. Verskaf asseblief agtergrond oor u bestuursagentskap.

1.1 Hoeveel deeltitel aftreefasiliteite word tans deur u bestuursagentskap bestuur?

1.2 Vir hoeveel jaar bestuur die bestuurder/bestuursagentskap deeltitel aftreefasiliteite?

1.3 Watter van die volgende dienste word gelewer deur u aan deeltitel aftreefasiliteite?

- Dag tot dag bestuur van aftreefasiliteit
- Administratiewe take
- Opstel van begrotings
- Opstel van finansiële state
- Invordering van heffings, bedrae ontvangbaar, ens
- Ander (spesifiseer)

1.4 Watter faktore/kriteria word in ag geneem by die berekening van u bestuursfooi?

2 As bestuurder/bestuursagent, watter wetgewende raamwerke het u kennis oor wat spesifiek betrekking het op die bestuur van deeltitel aftreefasiliteite?

2.1 Na u mening, is daar tekortkominge in hierdie wetgewende raamwerke wat die bestuur van die aftreefasiliteit bemoeilik? Indien wel, spesifiseer.

2.2 Na u mening, bestaan daar 'n behoefte aan opleiding van bestuurders/bestuursagente rakende wetgewing wat verband hou met die bestuur van deeltitel aftreefasiliteite, indien enige?

2.3 Hoe bly u as bestuurder/bestuursagent op hoogte van verandering in wetgewing?

2.4 Is u 'n lid van die "National Association of Managing Agents" (NAMA)? Indien wel, gee u opinie oor die huidige en potensiele rol wat hulle speel in die industrie.

3 Hoe gereeld kry u te doen met die Ombuddiens vir Gemeenskapskemas (CSOS)?

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|--|--|
| 3.1 | Brei asseblief uit oor die aangeleenthede waarby u betrokke is of verwys na die Ombuddiens? |
| 3.2 | Wat is u opinie oor die doeltreffendheid van die diens gelewer in die verlede aan aftreefasiliteite deur die Ombuddiens? |
| 3.3 | Beskryf enige probleme wat u in die verlede ondervind het met die Ombuddiens vir gemeenskap skemas? |
| Deel B: Bestuur van deeltitel aftreefasiliteite | |
| 4 | Wat is u grootste uitdagings in terme van die algemene bestuur van deeltitel aftreefasiliteite vir die <u>bestuurder/bestuursagent</u> ? |
| 4.1 | Na u mening, wat is die grootste risiko's verbonde aan die bestuur van 'n aftreefasiliteit? |
| 4.2 | Na u mening, wat sou u beskou as die eienskappe van 'n goeie bestuurder/bestuursagent vir 'n aftreefasiliteit? |
| 5 | Beskou u die betrokkenheid van die <u>rade van trustees</u> vir aftreefasiliteite as voldoende? |
| 5.1 | Beskryf die belangrikste uitdagings wat u as bestuurder/bestuursagent ervaar met die rade van trustees van aftreefasiliteite? |
| 5.2 | Na u mening, het die gemiddelde trustee van aftreefasiliteite die nodige bevoegdheid om as sodanig op te tree? |
| 6 | Na u mening, watter kennis en vaardighede word vereis van die <u>voorsitter</u> van die raad van trustees van 'n aftreefasiliteit? |
| 7 | Wat is u verantwoordelikhede rakende <u>vergaderings</u> as bestuurder/bestuursagent van die aftreefasiliteit? |
| 7.1 | Woon u enige ander vergaderings by, behalwe algemene jaarvergaderings (AJV) of spesiale algemene vergaderings van die aftreefasiliteite wat u bestuur? |
| 7.2 | Word die algemene jaarvergaderings van die aftreefasiliteite wat u bestuur, goed bygewoon? |
| 7.3 | Wat is die mees algemene uitdagings wat u ervaar tydens algemene jaarvergaderings? |
| Deel C: Rekeningkunde en ouditering van deeltitel aftreefasiliteite | |
| 8 | Wie is verantwoordelik vir die daaglikse <u>boekhouding</u> funksies van die aftreefasiliteit? |

| | |
|---------|---|
| 8.1 | Wat is die daaglikse verantwoordelikhede van hierdie persoon? |
| 8.2 | Wie is verantwoordelik daarvoor om betalings te maak? |
| 8.3 | Gee asseblief 'n kort uiteensetting van die betalingsproses wat gevolg word. |
| 8.4 | Wat is die grootste uitdagings met betrekking tot die daaglikse boekhoudingsfunksie van die aftreefasiliteit? |
| 8.5 | Watter maatreëls is in plek om die wanbestuur van fondse van die aftreefasiliteit te voorkom? |
| 8.6 | Beskryf die belangrikste uitdagings wat u ondervind met betrekking tot munisipale rekeninge? |
| 9 | Word die administratiewe en reserwe fondse (<u>heffingsinkomste</u>) van die aftreefasiliteit in 'n aparte bankrekening gehou? |
| 9.1 | Gee 'n oorsig van hoe heffings bereken word? |
| 9.2 | Hef u rente op agterstallige rekeninge, en wat is die persentasie? |
| 9.3 | Hoe word agterstallige heffings gevorder? |
| 10 | In watter <u>bankrekening</u> word die maandelikse bydraes (heffings) betaal? (Bv. die bankrekening van die bestuursagent, of die bankrekening van die deeltitelskema.) |
| 10.1 | Indien die bydraes in die trustrekening van die bestuuragent betaal word, |
| 10.1.5. | beskryf die bestuur van die fondse? |
| 10.1.6. | hoe gereeld word rekonsiliasie van trustrekeninge gedoen? |
| 10.1.7. | wie is verantwoordelik vir hierdie funksie? |
| 10.1.8. | hoe word rente op die trustrekening hanteer? |
| 10.2 | Indien die bydraes in die bank van die deeltitelskema betaal word, 10.2.1 |
| | Wie het magtiging om betalings te doen? |
| 10.2.1 | Hoe gereeld word bankrekonsiliasies gedoen? |
| 10.2.2 | Wie is verantwoordelik daarvoor om die bankrekonsiliasies te doen? |
| 10.2.3 | Wie is verantwoordelik vir die hersiening van die bankrekonsiliasies? |
| 10.2.4 | Hoe word rente op die bankrekening hanteer? |
| 10.3 | Wat is die grootste probleme wat ervaar word met die bestuur van administratiewe fondse? |

| | |
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| 11 | Wie is verantwoordelik vir die opstel van die jaarlikse <u>begroting</u> van die aftreefasiliteit? |
| 11.1 | Wat is die grootste probleme wat tydens die begrotingsproses ondervind word? |
| 11.2 | Ervaar u enige weerstand van die beheerliggaam ten opsigte van verhogings in begrotings en gevolglike heffings? |
| 12 | Wie is verantwoordelik vir die opstel van die <u>instandhoudings-, herstel- en vervangingsplan</u> , indien enige? |
| 12.1 | Wat is die grootste uitdagings wat tydens hierdie proses ervaar word? |
| 12.2 | Na u mening, het die gemiddelde aftreefasiliteit voldoende reserwefondse beskikbaar om toekomstige herstel- en onderhoudskoste te dek? |
| 13 | Wie is verantwoordelik vir die opstel van die <u>finansiële state</u> van die aftreefasiliteit? |
| 13.1 | Wie is verantwoordelik vir die aanstelling van die rekenmeester? |
| 13.2 | Watter faktore speel die belangrikste rol in die besluit oor die aanstelling van die rekenmeester? |
| 13.3 | Na u mening, verstaan die gemiddelde inwoner van die aftreefasiliteit die inhoud van die finansiële state? |
| 14 | Wie is verantwoordelik vir die <u>oudit</u> van die finansiële state van die aftreefasiliteit? |
| 14.1 | Is daar na u mening 'n beperkte aantal outditfirmas wat spesialiseer in hierdie tipe werk? |
| 14.2 | Bly die gemiddelde ouditfirma vir 'n lang tydperk (d.w.s. langer as vyf jaar) in diens van 'n aftreefasiliteit? |
| 14.3 | Is hierdie persoon onafhanklik van die persoon wat die finansiële state opstel? |
| 14.4 | Beskryf die faktore wat die belangrikste rol speel in die besluit oor die aanstelling van die ouditeur? |
| 14.5 | Wat is die grootste probleme wat ervaar word met die oudit van die finansiële state? |
| Deel D: Bestuurstoedig van die aftreefasiliteit | |
| 15 | Is u vertrouwd met die konsep van <u>korporatiewe bestuur</u> ? |

- 15.1 Na u mening, oor watter leierseienskappe moet lede van die raad van trustees beskik?
 - 15.2 Hoe monitor die rade van trustees nakoming van reëls deur die beheerliggaam, gee voorbeelde? (Stel die trustees 'n voorbeeld?)
 - 15.3 Watter inisiatiewe is in plek in die aftreefasiliteite ten opsigte van volhoubaarheid?
 - 15.4 Het die raad van trustees strategiese beplanningsessies?
 - 15.5 Ontvang al die lede van die aftreefasiliteit hul AJV-inligting vroegtydig voor die vergadering?
 - 15.6 Watter agenda-punte word gewoonlik tydens trusteevergaderings bespreek?
 - 15.7 Adviseur oor die keuringskriteria wat gebruik word vir die verkiesing van trustees?
 - 15.8 Woon enige van die diensverskaffers (bestuursagent, rekenmeester, ouditeur, ens.) die trusteevergaderings of die algemene jaarvergadering by?
 - 15.9 Evalueer die rade van trustees ooit hul eie optrede?
 - 15.10 Is alle trusteelede van die aftreefasiliteit ten volle bewus van hul individuele verantwoordelikhede?
 - 15.11 Gee oorsig oor hoe risiko bestuur word deur die bestuurder/bestuursagent in samewerking met die trustees (bv. versekering, sekuriteit, fondse, ens.)?
 - 15.12 Hoe verseker die bestuurder/bestuursagent behoorlike bewaring en beskerming van inligting?
 - 15.13 Na u mening, voldoen die aftreefasiliteit onder u bestuur aan alle toepaslike wetgewende raamwerke?
 - 15.14 Ontvang die bestuurslede enige vergoeding vir hul take?
 - 15.15 Is die bestuurder/bestuursagent vertrouwd met die inhoud van die auditverslag voor die aanvang van die AJV?
 - 15.16 Kommunikeer die bestuurder/bestuursagent met die lede van die beheerliggaam (bo en behalwe die AJV)? Brei asseblief uit.
 - 15.17 Verduidelik die proses wat gevolg word vir die berekening en belegging van die reserwefondse van die aftreefasiliteit?
- 16 Enige verdere kommentaar?

Annexure G – Interview schedule for accounting and auditing practitioner of sectional title retirement facilities

1. INTRODUCTION

Good day. I am Anna Coetzee, a Master's degree student at the Central University of Technology, Free State. I am going to conduct a semi-structured interview with you as discussed telephonically. The purpose of the interview is to specifically discuss the challenges and problems experienced by you regarding management, accounting, auditing and governance aspects within your sectional title retirement facility clients.

Our interview is probable going to last between 45 and 60 minutes. Please note that you are not forced to answer any of the questions, your participation is voluntary, and you may withdraw at any time. All data, including personal data will be kept confidential.

2 INFORMEND CONSENT SECTION

I, _____ (participant name), confirm that Anna Coetzee, who is requesting my permission to take part in her study, has informed me about the purpose and the nature of her study.

- I have read and understood the study as clarified in the information sheet.
- I am willing to participate in the study and will ask questions if information/questions are not clear.
- I understand that my participation is voluntary and that I can withdraw at any time without penalty.
- I am mindful that the findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.
- I approve the use of a voice recorder during the semi-structured interview.

PARTICIPANT SIGNATURE

RESEARCHER'S SIGNATURE

DATE

DATE

3 INTERVIEW QUESTIONS

| Section A: Background information and administrative matters | |
|---|--|
| 1. | Please provide me with some <u>background</u> on your practice. |
| 1.1 | How many sectional title retirement facilities are currently clients of yours? |
| 1.2 | For how many years have your practice been operating as a sectional title accounting and auditing practitioner for retirement facilities? |
| 1.3 | Which of the following services do you provide to sectional title retirement facilities? |
| | <ul style="list-style-type: none"> • Only drawing up financial statements • Only auditing of financial statements • Drawing up and auditing of financial statements • Drawing up of financial statements and other form of assurance • Drawing up of budgets • Other (specify) |
| 1.4 | What factors/criteria are considered in the calculation of your accounting and auditing fees? |
| 2 | As accounting and auditing practitioners, of which <u>legislative frameworks</u> do you have knowledge about that relates specifically to sectional title retirement facilities? |
| 2.1 | In your opinion, are there any shortcomings in these legislation frameworks that cause difficulties with accounting/auditing of the retirement facility? If yes, please specify. |
| 2.2 | In your opinion, what needs exist for training of accountants/auditors regarding legislation that relates to sectional title retirement facilities, if any? |
| 2.3 | As accountant/auditor, how do you keep up with changes in legislation? |
| 3 | Are you familiar with the Community Schemes Ombud Service (<u>CSOS</u>) and the services they offer? |
| Section B: Management of sectional title retirement facilities | |
| 4 | In terms of the <u>managing agent</u> of the sectional title retirement facility, what are your biggest problems/challenges? |

| | |
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| 4.1 | In your opinion, what would you consider to be the characteristics of a good managing agent for a retirement facility? |
| 4.2 | How satisfied are you with the service that you receive from the managing agent? |
| 4.3 | Are you of the opinion that a managing agent of a retirement facility should be a member of a professional association (e.g. NAMA)? If yes, please elaborate. |
| 5 | Describe the most significant challenges that you as accountant/auditor experienced with <u>boards of trustees</u> of retirement facilities. |
| 5.1 | In your opinion, does the average retirement facility trustee have the necessary competence to act as such? |
| 6 | In your opinion, what knowledge and skills are required of a trustee <u>chairperson</u> of a retirement facility? |
| 7 | As accounting and auditing practitioner of the retirement facility what are your responsibilities regarding <u>meetings</u> ? |
| 7.1 | Which meetings do you attend of the retirement facility? |
| 7.2 | Are the AGMs of the retirement facility well attended? |
| 7.3 | What are most common challenges that you experience during AGMs? |
| Section C: Accounting and auditing of sectional title retirement facilities | |
| 8 | Who is responsible for the day-to-day <u>bookkeeping</u> functions of the retirement facility? |
| 8.1 | What is your level of satisfaction with regards to the completeness of accounting work received from the responsible person? |
| 8.2 | What is your level of satisfaction with regards to the completeness of source documents received from the trustee or managing agent? |
| 9 | How do you determine the provision for bad debts on <u>levies</u> for sectional title retirement facilities? |
| 10. | Into which <u>bank account</u> is the monthly contributions (levies) paid? (E.g. the bank account of the managing agent, or the bank account of the sectional title scheme.) |
| 10.1 | If contributions are paid into the managing agent's trust account, |
| 10.1.1 | describe the managing of the funds, |
| 10.1.2 | how regularly are trust account reconciliations done |

| | |
|--------|---|
| 10.1.3 | who is responsible for this function |
| 10.1.4 | how is interest received on the trust account handled? |
| 11. | Who is responsible for setting up the annual <u>budget</u> of the retirement facility? |
| 11.1 | Are you aware of any problems experienced during the budgeting process? |
| 11.2 | Do you assist with the budgeting process of any of your sectional title retirement facility clients? |
| 12. | Who is responsible for compiling the <u>maintenance, repair and replacement plan</u> , if any? |
| 12.1 | Are you aware of any problems experienced during this process? |
| 12.2 | Do your retirement facility clients, in your opinion, have sufficient reserve funds available to cover future repairs and maintenance costs? |
| 13. | Who is responsible for compiling the <u>financial statements</u> of the retirement facility? |
| 13.1 | What are the problems that you experience in regard to the accounting work or compiling of the financial statements of sectional title retirement facilities? |
| 13.2 | In your opinion, which accounting standards is the most applicable in compiling of financial statements for retirement facilities? <ul style="list-style-type: none">• IFRS• IFRS for SME's• A specific accounting standard must be developed for retirement facilities• Other (specify) |
| 13.3 | In your opinion, is there any part of legislation that relates to retirement facilities that create problems with drawing up the financial statements of the sectional title retirement facilities? |
| 13.4 | What is the average qualification or post level of staff who are responsible for compiling the financial statements of the retirement facility? |
| 14. | Who is responsible for the <u>audit</u> of the financial statements of the retirement |
| 14.1 | Is this person independent from the compiler of the financial statements |

14.2 What are the problems that you experience in regard to the auditing/assurance work of sectional title retirement facilities

14.3 What is the most applicable manner to provide assurance regarding the financial statements of a sectional title retirement facility?

- Complete audit
- Agreed upon procedures
- An independent review
- Other (specify)

14.4 In your opinion, what are the greatest risks attached to the auditing of sectional title retirement facilities?

14.5 Do you consider the audits of sectional title retirement facilities to be “high risk” audits?

14.6 Are you aware of the fact that the IRBA recently reclassified sectional title audits into the high-risk audit category (Category A)?

14.7 In your opinion, what was the reason for the IRBA to make the above decision?

14.8 What do you think will be the impact of the above IRBA decision on the audits of sectional title schemes in general?

14.9 Will the above IRBA action have any impact on your decision to continue with sectional title audits?

14.10 Will the above IRBA action impact on your audit fees?

14.11 In your opinion, what value does the auditing of the financial statements add to the retirement facilities?

14.12 What are the most significant problems with regards to audits of retirement facilities that you experience with the following organisations/service providers?

- Municipalities
- Other government institutions
- Banks and other financial institutions
- Managing agencies

14.13. In your opinion, is there any part of legislation that relates to retirement facilities that create problems with auditing of the financial statements of the sectional title retirement facility?

14.14 What is the average qualification or post level of staff who are responsible for auditing the financial statements of the retirement facility?

Section D: Governance of the retirement facility

15. Do you have any suggestions on how sectional title retirement facilities can incorporate principles of good governance in their schemes?

16. Any further comments?

Annexure H – Onderhoudskedule aan rekenmeesters en oudit praktisyns van deeltitel aftreefasiliteite

1. INLEIDING

Goeidag. Ek is Anna Coetzee, 'n Meestersgraadstudent, verbonde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek gaan met u 'n semi-gestruktureerde onderhoud voer, soos telefonies bespreek. Die doel van die onderhoud is om spesifiek probleme en uitdagings te bespreek rakende die bestuur, boekhouding en ouditering van u deeltitel aftreefasiliteit. Ons onderhoud gaan waarskynlik tussen 45 en 60 minute duur. U is onder geen verpligting om enige van die vrae te beantwoord nie. U deelname is ten volle vrywillig, en u mag ter enige tyd van die onderhoud onttrek. Alle data, insluitend persoonlike inligting sal ter alle tye streng vertroulik hanteer word.

2. INGELIGTE TOESTEMMING

Ek, _____ (naam van deelnemer), erken dat Anna Coetzee, wat my toestemming gevra het om deel te neem aan haar studie, my ingelig het oor die doel en aard van haar studie.

- Ek het die inligtingstuk bestudeer en verstaan die inhoud daarvan.
- Ek verklaar myself bereid om deel te neem aan die studie, en sal die nodige vrae vra indien enige inligting of vrae onduidelik is.
- Ek verstaan dat my deelname vrywillig is en dat ek ter enige tyd van die onderhoud kan onttrek sonder benadeling.
- Ek verstaan dat die bevindinge van die studie streng vertroulik hanteer sal word in 'n navorsingsverHandleing, joernaal-publikasie en/of kongresvoordrag.
- Ek stem in tot die gebruik van 'n stem-opname-apparaat gedurende die onderhoud.
- Ek gee toestemming dat 'n onderhoud gevoer mag word met die relevante bestuursagent, rekenmeester en/of ouditeur van die aftreefasiliteit.

DEELNEMER HANDTEKENING

NAVORSER HANDTEKENING

DATUM

DATUM

3. ONDERHOUDSVRAE

Deel A: Agtergrondinligting en administratiewe aangeleenthede

1. Verskaf asseblief agtergrond oor u praktyk.
 - 1.1 Hoeveel deeltitel aftreefasiliteite is tans kliënte van u?
 - 1.2 Vir hoeveel jare Handle u praktyk as rekenmeesters en ouditeure vir deeltitel aftreefasiliteite?
 - 1.3 Watter van die volgende dienste word deur u gelewer aan deeltitel aftreefasiliteite?
 - Opstel van finansiële state
 - Slegs ouditering van finansiële state
 - Opstel en ouditering van finansiële state
 - Opstel van finansiële state en ander vorm van gerusstelling
 - Opstel van begrotings
 - Ander (spesifieer)
 - 1.4 Watter faktore / kriteria word in ag geneem by die berekening van u rekeningkundige en ouditgelde vir deeltitel aftreefasiliteite?
2. As rekenmeesters en auditpraktisyns, van watter wetgewende raamwerke dra u kennis wat spesifiek betrekking het op die bestuur van deeltitel aftreefasiliteite?
 - 2.1 Na u mening, is daar tekortkominge in hierdie wetgewende raamwerke wat die rekeningkunde en ouditering van die aftreefasiliteit bemoeilik? Indien wel, spesifiseer.
 - 2.2 Na u mening, bestaan daar n behoefte aan opleiding van rekenmeesters/ouditeure rakende wetgewing wat verband hou met deeltitel aftreefasiliteite, indien enige?
 - 2.3 As rekenmeester/ouditeur hoe bly u op hoogte met verandering in wetgewing?
3. Is u bekend met die Ombuddiens vir gemeenskap skemas (CSOS) en die dienste deur hulle aangebied?

Deel B: Bestuur van deeltitel aftreefasiliteite

| |
|---|
| <p>4. In term die <u>bestuursagent/bestuurder</u> van die deeltitel aftreefasiliteit, wat is u grootste probleme/uitdagings?</p> <p>4.1 Na u mening, wat sou u beskou as die eienskappe van 'n goeie bestuursagent/bestuurder vir 'n aftreefasiliteit?</p> <p>4.2 Hoe tevrede is u met die diens ontvang vanaf van die bestuursagent/bestuurder?</p> <p>4.3 Is u van mening dat bestuursagente/bestuurder van deeltitel aftreefasiliteite lid moet wees van 'n professionele vereniging (bv. NAMA)? Indien wel, verskaf redes vir u antwoord.</p> |
| <p>5. Beskryf die belangrikste uitdagings wat u as rekenmeester/ouditeur met <u>rade van trustees</u> van aftreefasiliteite ervaar?</p> <p>5.1 Na u mening, het die gemiddelde aftreefasiliteit trustee die nodige bevoegdheid om as sodanig op te tree?</p> |
| <p>6. Na u mening, watter kennis en vaardighede word vereis van die <u>voorsitter</u> van die raad van trustees van 'n aftreefasiliteit?</p> |
| <p>7. Wat is u verantwoordelikhede rakende <u>vergaderings</u> as rekenmeester/ouditeur van die aftreefasiliteit?</p> <p>7.1 Watter vergaderings van die aftreefasiliteit woon u by?</p> <p>7.2 Word die algemene jaarvergaderings van die aftreefasiliteit goed bygewoon?</p> <p>7.3 Wat is die mees algemene uitdagings wat u ervaar tydens algemene jaarvergaderings?</p> |
| <p>Deel C: Rekeningkunde en ouditering van deeltitel aftreefasiliteite</p> |
| <p>8. Wie is verantwoordelik vir die daaglikse <u>boekhouding</u> funksies van die aftreefasiliteit?</p> <p>8.1 Wat is u vlak van tevredenheid met betrekking tot die volledigheid van die boekhou werk ontvang?</p> <p>8.2 Wat is u vlak van tevredenheid met betrekking tot die volledigheid van bron dokumente ontvang vanaf trustees of bestuursagent?</p> |
| <p>9. Hoe bepaal u die voorsiening vir oninbare skulde vir deeltitel aftreefasiliteite ten opsigte van <u>heffingsinkomste</u>?</p> |

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| <p>10. In watter <u>bankrekening</u> word die maandelikse bydraes (heffings) betaal? (Bv. die bankrekening van die bestuursagent, of die bankrekening van die deeltitelskema.)</p> <p>10.1 Indien die bydraes in die trustrekening van die bestuuragent betaal word,</p> <p>10.1.1 Beskryf die bestuur van die fondse</p> <p>10.1.2 Hoe gereeld word rekonsiliasies van trustrekeninge gedoen</p> <p>10.1.3 Wie is verantwoordelik vir hierdie funksie?</p> <p>10.1.4 Hoe word rente op die trustrekening hanteer?</p> <p>10.2 Indien die bydraes in die bank van die deeltitelskema betaal word,</p> <p>10.2.1 Wie het magtiging om betalings te doen</p> <p>10.2.2 Hoe gereeld word bankrekonsiliasies gedoen?</p> <p>10.2.3 Wie is verantwoordelik daarvoor om die bankrekonsiliasies te doen?</p> <p>10.2.4 Wie is verantwoordelik vir die hersiening van die bankrekonsiliasies?</p> <p>10.2.5 Hoe word rente op die bankrekening hanteer?</p> |
| <p>11. Wie is verantwoordelik vir die opstel van die jaarlikse <u>begroting</u> van die aftreefasiliteit?</p> <p>11.1 Is u bewus van enige probleme ervaar tydens die begrotingsproses</p> <p>11.2 Help u met die begrotingsproses van u deeltitel aftreefasiliteit kliënte?</p> |
| <p>12. Wie is verantwoordelik vir die opstel van die <u>instandhoudings-, herstel- en vervangingsplan</u>, indien enige?</p> <p>12.1 Is u bewus van enige probleme ervaar tydens die proses?</p> <p>12.2 Na u mening, het die gemiddelde aftreefasiliteit voldoende reserwefondse beskikbaar om toekomstige herstel- en onderhoudskoste te dek?</p> |
| <p>13. Wie is verantwoordelik vir die opstel van die <u>finansiële state</u> van die aftreefasiliteit?</p> <p>13.1 Wat is die probleme wat u ondervind met betrekking tot die boekhouwerk of die opstel van die finansiële state van deeltitel aftreefasiliteite?</p> <p>13.2 Watter van die volgende standaarde is volgens u die toepaslikste om te gebruik by die opstel van finansiële state van deeltitel aftreefasiliteite?</p> <ul style="list-style-type: none">• IFRS• IFRS for SME's |

- 'n Spesifieke rekeningkundige standaard moet ontwikkel word vir aftreefasiliteite
- Ander (spesifiseer)

13.3 Na u mening is daar dele van die wetgewing wat verband hou met deeltitel aftreefasiliteite wat probleme veroorsaak met die opstel van finansiële state?

13.4 Wat is die gemiddelde kwalifikasie of posvlak van personeel wat verantwoordelik is vir die opstel van die finansiële state van die aftreefasiliteit?

14. Wie is verantwoordelik vir die oudit van die finansiële state van die aftreefasiliteit?

14.1 Is hierdie persoon onafhanklik van die persoon wat die finansiële state opstel?

14.2 Wat is die probleme wat u ondervind met betrekking tot die oudit/gerusstellingswerk van deeltitel aftreefasiliteite?

14.3 Wat is volgens u die toepaslikste manier om gerusstelling oor die finansiële state van 'n deeltitel aftreefasiliteit uit te spreek?

- 'n Volledige oudit
- Ooreengekome prosedures
- 'n Onafhanklike oorsig
- Ander (spesifiseer)

14.4 Na u mening, wat is die grootste risikos verbonde aan die ouditering van deeltitel aftreefasiliteite?

14.5 Beskou u die oudits van deeltitel aftreefasiliteite, as 'n hoërisiko-oudit?

14.6 Is u bewus daarvan dat IRBA onlangs deeltitel oudits geklassifiseer het in die hoërisiko-ouditkategorie (Kategorie A)?

14.7 Na u mening, wat was die rede vir IRBA om bogenoemde besluit te neem?

14.8 Wat dink u sal die impak van bogenoemde IRBA-besluit wees op die oudits van deeltitelskemas in die algemeen?

14.9 Sal die bogenoemde IRBA optrede enige uitwerking hê op u besluit om voort te gaan met deeltitel oudits?

14.10 Sal die bogenoemde IRBA optrede 'n impak hê op u oudit fooi?

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|---|---|
| 14.11 | Na u mening, watter waarde dra die ouditering van die finansiële state by tot die aftreefasiliteite? |
| 14.12 | Wat is die grootste probleme wat u met die volgende instansies/diensverskaffers, met betrekking tot die oudits van deeltitel aftreefasiliteite ervaar? <ul style="list-style-type: none">• Munisipaliteite• Ander regeringsinstellings• Banke en ander finansiële instellings• Bestuursagentskappe |
| 14.13 | Na u mening, is daar dele van die wetgewing wat verband hou met deeltitel aftreefasiliteite wat probleme veroorsaak met die oudit van finansiële state? |
| 14.14 | Wat is die gemiddelde kwalifikasie of posvlak van personeel wat verantwoordelik is vir die oudit van finansiële state van die aftreefasiliteit? |
| Deel D: Bestuurstoestig van die aftreefasiliteit | |
| 15. | Het u enige voorstelle oor hoe deeltitel aftreefasiliteite beginsels van goeie bestuur in hul skemas kan insluit? |
| 16. | Enige verdere kommentaar? |

Annexure I – Interview schedule for chairperson of life right retirement facilities

1. INTRODUCTION

Good day. I am Anna Coetzee, a Master's degree student at the Central University of Technology, Free State. I am going to conduct a semi-structured interview with you as discussed telephonically. The purpose of the interview is to specifically discuss the challenges and problems experience by you regarding management, accounting, auditing and governance aspects within your life right retirement facility.

Our interview is probable going to last between 45 and 60 minutes. Please note that you are not forced to answer any of the questions, your participation is voluntary, and you may withdraw at any time. All data, including personal data will be kept confidential.

2. INFORMED CONSENT SECTION

I, _____ (participant name), confirm that Anna Coetzee, who is requesting my permission to take part in her study, has informed me about the purpose and the nature of her study.

- I have read and understood the study as clarified in the information sheet.
- I am willing to participate in the study and will ask questions if information / questions are not clear.
- I understand that my participation is voluntary and that I can withdraw at any time without penalty.
- I am mindful that the findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.
- I approve the use of a voice recorder during the semi-structured interview.
- I provide permission for an interview with the relevant managing agent, accountant and auditor of the life right retirement facility.

PARTICIPANT SIGNATURE

RESEARCHER'S SIGNATURE

DATE

DATE

3. INTERVIEW QUESTIONS

| Section A: Background information and administrative matters | |
|---|--|
| 1. | Please provide me with some <u>background</u> on your retirement facility and your <u>involvement</u> in your retirement facility. |
| 1.1 | How many units are in your retirement facility? |
| 1.2 | How long have you been staying in the retirement facility? |
| 1.3 | For how many years have you been serving on the management committee of the retirement facility? |
| 1.4 | How many people are serving on the management committee of your retirement facility? |
| 1.5 | For how many years have you been the chairperson of the committee? |
| 1.6 | What other committees are operating in your retirement facility? |
| 2. | Describe your familiarity with the <u>legislative frameworks</u> within which the retirement facility functions. |
| 2.1 | Have you attended any legislative training courses in the past relevant to life right retirement facilities? <ul style="list-style-type: none"> • If yes, did you consider the training course informative? • If no, please provide reasons for your answer. |
| 2.2 | As chairperson, which legislative frameworks do you have knowledge about that relates to the management of retirement facilities? |
| 2.3 | Are you up to date with the stipulations of the Housing Development Scheme for Retired Persons Act (HDSRPA)? |
| 2.4 | Give your opinion of any shortcomings in these legislative frameworks that cause difficulties with management of the retirement facility? |
| 2.5 | In your opinion, what needs exist for training relating to life right retirement facility legislation, if any? |
| 2.6 | How do the management of the retirement facility keep up with changes in legislation? |
| 3. | Are you familiar with the Community Schemes Ombud Service (<u>CSOS</u>) and the services they offer? |
| 3.1 | Have you ever made use of the services of CSOS? If yes, please elaborate. |

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| <p>3.2 If you have dealt with CSOS in the past, please describe any challenges that you experienced.</p> |
| <p>Section B: Management of life right retirement facilities</p> |
| <p>4. Do you make use of the services of a <u>managing agent</u> for your retirement facility?</p> <p>4.1 Which of the following services are being provided by your managing agent?</p> <p>4.1.1 Day-to-day management of the complex</p> <p>4.1.2 Administrative tasks</p> <p>4.1.3 Compiling of financial statements</p> <p>4.1.4 Compiling of budgets</p> <p>4.1.5 Collection of levies, amounts receivable etc.</p> <p>4.1.6 Other (specify)</p> <p>4.2 Who is responsible for the appointment of the managing agent?</p> <p>4.3 Describe the factors that play the most important role in the decision about the appointment?</p> <p>4.4 In your opinion, what would you consider to be the characteristics of a good managing agent for a retirement facility?</p> <p>4.5 How satisfied are you with the service that you receive from your managing agent?</p> <p>4.6 Describe the most significant problems/challenges that you experience with the managing agent.</p> |
| <p>5. Please describe the composition of the <u>management committee</u> of your retirement facility.</p> <p>5.1 Describe the most significant problems that you as chairperson experienced with the management committee?</p> <p>5.2 How regularly does the management committee meet?</p> <p>5.3 Do you think that there are any risks involved in being a member of the management committee of a retirement facility?</p> <p>5.4 How willing are residents to serve on the management committee of the retirement facility?</p> |
| <p>6. Please describe your role and function as <u>chairperson</u> of the management committee.</p> |

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| <p>6.1 Are you receiving any remuneration for your role as chairperson?</p> <p>6.2 What are your main frustration and challenges in your role as chairperson?</p> <p>6.3 Which responsibilities do you not enjoy?</p> <p>6.4 Do you think that there are any risks involved in being a chairperson of the management committee of a retirement facility?</p> |
| <p>7. Is the annual general meeting (<u>AGM</u>) of your retirement facility usually well attended?</p> <p>7.1 What are the most common problems experienced regarding the AGM?</p> <p>7.2 Describe the matters that are presented/approved during the AGM?</p> <p>7.3 Which other meetings are held for the residents of the retirement facility? Please elaborate on your answer.</p> |
| <p>Section C: Accounting and auditing of life right retirement facilities</p> |
| <p>8. Who is responsible for the day-to-day <u>bookkeeping</u> functions of the retirement facility?</p> <p>8.1 What are the daily responsibilities of this person?</p> <p>8.2 Who is responsible for making payments?</p> <p>8.3 Please give a brief explanation of the payment process followed?</p> <p>8.4 What are the biggest challenges experienced regarding the day-to-day bookkeeping function of the retirement facility?</p> <p>8.5 What measures are in place to prevent misappropriation of funds of the retirement facility?</p> <p>8.6 Describe the most significant challenges that you experience in terms of municipal accounts.</p> |
| <p>9. Does the retirement facility collect any other funds from the residents apart from <u>levy income</u>, please elaborate?</p> <p>9.1 Please give an overview of how levies are calculated.</p> <p>9.2 Do you charge interest on arrear accounts, and what is the percentage?</p> <p>9.3 How do you collect arrear levies?</p> |
| <p>10. Into which <u>bank account</u> is the monthly contributions (levies) paid?</p> <p>10.1 Who has authorisation to make payments from this account?</p> <p>10.2 How regularly are bank accounts reconciliations done and who is responsible for this function?</p> <p>10.3 Who is responsible for reviewing the bank reconciliations?</p> |

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| <p>10.4 How is interest received on the bank accounts handled?</p> |
| <p>11. Who is responsible for setting up the annual <u>budget</u> of the retirement facility?</p> <p>11.1 What are the greatest problems experienced during the budgeting process?</p> <p>11.2 Do you experience any resistance from the members of the management association relating to increases in budgets and resulting levies?</p> |
| <p>12. Who is responsible for compiling the <u>maintenance and repair plan</u>, if any?</p> <p>12.1 What are the greatest problems experienced during this process?</p> <p>12.2 Does your retirement facility have sufficient funds available to cover future repairs and maintenance costs?</p> |
| <p>13. Who is responsible for compiling the <u>financial statements</u> of the retirement facility?</p> <p>13.1 Who is responsible for the appointment of the accountant?</p> <p>13.2 Which factors play the most important role in the decision about the appointment of the accountant?</p> <p>13.3 In your opinion, does the average resident of the retirement facility understand the content of the financial statements?</p> <p>13.4 How is the purchase transaction recorded in the accounting records for the provider of the life right?</p> <p>13.5 What is the purchase amount use for during the occupation of the housing interest?</p> <p>13.6 If interest is applicable, how is interest on the purchase amount handled?</p> <p>13.7 When the life right terminates explain the refund of the original purchase price?</p> <p>13.8 How is the sales transaction recorded in the accounting records for the provider of the life right?</p> |
| <p>14. Who is responsible for the <u>audit</u> of the financial statements of the retirement facility?</p> <p>14.1 Is this person independent from the compiler of the financial statements?</p> <p>14.2 Describe the factors that play the most important role in the decision about the appointment of the auditor?</p> |

14.3 What are the greatest problems experienced with the audit of the financial statements?

Section D: Governance of the retirement facility

15. Are you familiar with the concept of corporate governance?

15.1 In your opinion, what leadership qualities should members of the management committee have?

15.2 How do the management committee monitor compliance with the rules of the management association? (And do the committee lead by example?)

15.3 What initiatives have been put in place in your retirement facility relating to sustainability?

15.4 Do the management committee ever have strategic planning sessions?

15.5 Do all members of the retirement facility receive their AGM pack well in advance of the meeting?

15.6 What agenda points are usually discussed at management committee meetings?

15.7 Please advise on the selection criteria used for electing the management committee members.

15.8 Do any of the service providers (managing agent, accountant, auditor, etc.) attend the management committee meetings or AGM?

15.9 Does the management committee ever evaluate their own performance?

15.10 Are all management committee members fully aware of their individual responsibilities?

15.11 Please give an overview of how the management committee manage risk (e.g. insurance, security, funds, etc.)

15.12 How does the management committee ensure proper storage and safeguarding of information?

15.13 In your opinion, does your retirement facility comply with all relevant legislative frameworks?

15.14 Do the management committee members receive any remuneration for their tasks?

15.15 Do the management committee familiarise themselves with the contents of the audit report before the AGM?

15.16 Do the management committee communicate with the members of the management association (over and above the AGM)? Please elaborate.

15.17 Explain the process followed for calculation and investment of the reserve funds of the retirement facility.

16. Any further comments?

Annexure J – Onderhoudskedule aan voorsitters van lewensreg aftreefasiliteite

1. INLEIDING

Goeidag. Ek is Anna Coetzee, 'n Meestersgraadstudent, verbonde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek gaan met u 'n semi-gestruktureerde onderhoud voer, soos telefonies bespreek. Die doel van die onderhoud is om spesifiek probleme en uitdagings te bespreek rakende die bestuur, boekhouding en ouditering van u lewensreg aftreefasiliteit. Ons onderhoud gaan waarskynlik tussen 45 en 60 minute duur. U is onder geen verpligting om enige van die vrae te beantwoord nie. U deelname is ten volle vrywillig, en u mag ter enige tyd van die onderhoud onttrek. Alle data, insluitend persoonlike inligting sal ter alle tye streng vertroulik hanteer word.

2. INGELIGTE TOESTEMMING

Ek, _____ (naam van deelnemer), erken dat Anna Coetzee, wat my toestemming gevra het om deel te neem aan haar studie, my ingelig het oor die doel en aard van haar studie.

- Ek het die inligtingstuk bestudeer en verstaan die inhoud daarvan.
- Ek verklaar myself bereid om deel te neem aan die studie, en sal die nodige vrae vra indien enige inligting of vrae onduidelik is.
- Ek verstaan dat my deelname vrywillig is en dat ek ter enige tyd van die onderhoud kan onttrek sonder benadeling.
- Ek verstaan dat die bevindinge van die studie streng vertroulik hanteer sal word in 'n navorsings-verHandleing, joernaal-publikasie en/of kongresvoordrag.
- Ek stem in tot die gebruik van 'n stem-opname-apparaat gedurende die onderhoud.
- Ek gee toestemming dat 'n onderhoud gevoer mag word met die relevante bestuurede/bestuursagent, rekenmeester en/of ouditeur van die aftreefasiliteit.

DEELNEMER HANDTEKENING

NAVORSER HANDTEKENING

DATUM

DATUM

3. ONDERHOUDSVRAE

Deel A: Agtergrondinligting en administratiewe aangeleenthede

1. Verskaf asseblief agtergrond oor u aftreefasiliteit en u betrokkenheid daarby
 - 1.1 Hoeveel eenhede is in u aftreefasiliteit?
 - 1.2 Hoe lank woon u al in die aftreefasiliteit?
 - 1.3 Hoeveel jaar dien u al op die bestuurskomitee van die aftreefasiliteit?
 - 1.4 Hoeveel mense dien op die bestuurskomitee van die aftreefasiliteit?
 - 1.5 Hoeveel jaar dien u as voorsitter van die bestuurskomitee?
 - 1.6 Watter ander komitees funksioneer in die aftreefasiliteit?
2. Beskryf u bekendheid van die wetgewende raamwerk wat van toepassing is op die aftreefasiliteit.
 - 2.1 Het u al enige opleidingskursus bygewoon van toepassing op lewensreg aftreefasiliteite?
 - Indien wel, beskou u die opleidingskursus as insiggewend?
 - Indien nie, spesifiseer rede vir u antwoord.
 - 2.2 As voorsitter, watter wetgewende raamwerk het u kennis van wat verband hou met die bestuur van die aftreefasiliteit?
 - 2.3 Is u op hoogte met die bepalinge van die wet op behuisingsontwikkelingskemas vir afgetrede persone (HDSRPA)?
 - 2.4 Gee u opinie oor enige tekortkominge in hierdie wetgewende raamwerk wat probleme veroorsaak met die bestuur van die aftreefasiliteit?
 - 2.5 Na u mening, bestaan daar n behoefte aan opleidingskursusse vir wetgewing rakende lewensreg aftreefasiliteite, indien enige?
 - 2.6 Hoe bly die bestuur van die aftreefasiliteit op hoogte van enige veranderinge in wetgewing?
3. Is u bekend met die Ombuddiens vir gemeenskap skemas en die dienste aangebied?
 - 3.1 Het u al van die dienste gebruik gemaak wat verskaf word deur die Ombuddiens? indien ja, spesifiseer.
 - 3.2 Indien u in die verlede gebruik gemaak het van die Ombuddiens, verskaf enige probleme ervaar.

Deel B: Bestuur van Lewensreg aftreefasiliteite

4. Word daar van die dienste van n bestuurder/bestuursagent in u aftreefasiliteit gebruik gemaak? Indien wel, antwoord die volgende vrae.
- 4.1 Watter van die volgende dienste word gelewer deur die bestuurder/bestuursagent?
- 4.1.1 Dag tot dag bestuur van aftreefasiliteit
- 4.1.2 Administratiewe take
- 4.1.3 Opstel van finansiële state
- 4.1.4 Opstel van begrotings
- 4.1.5 Invorderings van heffings, bedrae ontvangbaar, ens
- 4.1.6 Ander (spesifiseer)
- 4.2 Wie is verantwoordelik vir die aanstelling van die bestuurder/bestuursagent?
- 4.3 Na u mening, watter faktore speel die belangrikste rol met die besluit oor die aanstelling?
- 4.4 Na u mening, wat sou u beskou as die eienskappe van 'n goeie bestuurder/bestuursagent vir 'n aftreefasiliteit?
- 4.5 Hoe tevrede is u met die diens ontvang van die bestuurder/bestuursagent?
- 4.6 Beskryf belangrike probleme/uitdagings wat u ervaar met die bestuurder/bestuursagent.
5. Beskryf die samestelling van die bestuurskomitee van u aftreefasiliteit.
- 5.1 Beskryf die belangrikste probleme wat u as voorsitter ervaar met die bestuurskomitee?
- 5.2 Hoe gereeld vergader die bestuurskomitee?
- 5.3 Dink u daar is enige risiko's verbonde om te dien as lid van die bestuurskomitee van 'n aftreefasiliteit?
- 5.4 Hoe bereid is inwoners om op die bestuurskomitee te dien van die aftreefasiliteit?
6. Beskryf u rol en funksie as voorsitter van die bestuurskomitee.
- 6.1 Ontvang u enige vergoeding vir u rol as voorsitter?
- 6.2 Wat is u frustrasies en uitdagings in u rol as voorsitter?
- 6.3 Watter verantwoordelikhede geniet u nie?

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| 6.4 | Dink u daar is enige risiko's verbonde om te dien as voorsitter van die bestuurskomitee van 'n aftreefasiliteit? Indien wel, spesifiseer. |
| 7. | Word die <u>algemene jaarvergadering</u> (AJV) van u aftreefasiliteit gewoonlik goed bygewoon? |
| 7.1 | Wat is die algemeenste probleme ervaar met betrekking tot die algemene jaarvergadering? |
| 7.2 | Beskryf die aangeleenthede wat tydens die algemene jaarvergadering aangebied/goedgekeur word? |
| 7.3 | Watter ander vergaderings word gehou vir die inwoners van die aftreefasiliteit? Spesifiseer. |
| Deel C: Rekeningkunde en Ouditering van lewensreg aftreefasiliteite | |
| 8. | Wie is verantwoordelik vir die daaglikse <u>boekhouding</u> funksies van die aftreefasiliteit? |
| 8.1 | Wat is die daaglikse verantwoordelikhede van hierdie persoon? |
| 8.2 | Wie is verantwoordelik vir betalings? |
| 8.3 | Gee asseblief 'n kort uiteensetting van die betalingsproses wat gevolg word? |
| 8.4 | Wat is die grootste uitdagings met betrekking tot die daaglikse boekhouding funksie van die aftreefasiliteit? |
| 8.5 | Watter maatreëls is in plek om die wanbestuur van fondse te voorkom van die aftreefasiliteit? |
| 8.6 | Beskryf die belangrikste uitdagings wat u ondervind met betrekking tot munisipale rekeninge. |
| 9. | Kollekteer die aftreefasiliteit enige ander fondse by die inwoners afgesien van die <u>heffingsinkomste</u> , brei uit asseblief? |
| 9.1 | Gee 'n oorsig van hoe heffings bereken word? |
| 9.2 | Hef u rente op agterstallige rekeninge, en wat is die persentasie? |
| 9.3 | Hoe word agterstallige heffings gevorder? |
| 10. | In watter <u>bankrekening</u> word die maandelikse bydraes (heffings) betaal? (b.v. die bankrekening van die bestuursagent, of die bankrekening van die lewensreg skema) |
| 10.1 | Wie het magtiging om betalings vanaf hierdie rekening te doen? |

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| <p>10.2 Hoe gereeld word bankrekening rekonsiliasies gedoen en wie is verantwoordelik vir die funksie?</p> <p>10.3 Wie is verantwoordelik vir die hersiening van die bankrekonsiliasies?</p> <p>10.4 Hoe word rente op die bankrekening hanteer?</p> |
| <p>11. Wie is verantwoordelik vir die opstel van die jaarlikse <u>begroting</u> van die aftreefasiliteit?</p> <p>11.1 Wat is die grootste probleme wat tydens die begrotingsproses ondervind word?</p> <p>11.2 Ervaar u enige weerstand van die bestuursverenigings lede ten opsigte van verhogings in begrotings en gevolglike heffings?</p> |
| <p>12. Wie is verantwoordelik vir die opstel van die <u>instandhoudings en herstel plan</u>, indien enige?</p> <p>12.1 Wat is die grootste uitdagings wat tydens hierdie proses ervaar word?</p> <p>12.2 Na u mening, het die aftreefasiliteit voldoende reserwefondse beskikbaar om toekomstige herstel- en onderhoudskoste te dek?</p> |
| <p>13. Wie is verantwoordelik vir die opstel van die <u>finansiële state</u> van die aftreefasiliteit?</p> <p>13.1 Wie is verantwoordelik vir die aanstelling van die rekenmeester?</p> <p>13.2 Watter faktore speel die belangrikste rol in die besluit oor die aanstelling van die rekenmeester?</p> <p>13.3 Na u mening, verstaan die gemiddelde inwoner van die aftreefasiliteit die inhoud van die finansiële state?</p> <p>13.4 Hoe word die kooptransaksie van lewensreg aangeteken in die rekeningkundige rekords van die verskaffer van lewensreg?</p> <p>13.5 Waarvoor word die aankoopbedrag gebruik tydens die besetting van die huisbelang?</p> <p>13.6 As rente van toepassing is, hoe word die rente op die koopbedrag hanteer?</p> <p>13.7 Sodra die lewensreg eindig, hoe vind die terugbetaling van die oorspronklike koopprys plaas?</p> |

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| <p>13.8 Hoe word die verkoopstransaksie aangeteken in die rekeningkundige rekords van die verskaffer van lewensreg?</p> |
| <p>14. Wie is verantwoordelik vir die <u>oudit</u> van die finansiële state van die aftreefasiliteit?</p> <p>14.1 Is hierdie persoon onafhanklik van die persoon wat die finansiële state opstel?</p> <p>14.2 Beskryf die faktore wat die belangrikste rol speel in die besluit oor die aanstelling van die ouditeur?</p> <p>14.3 Wat is die grootste probleme wat ervaar word met die oudit van die finansiële state?</p> |
| <p>Deel D: Bestuurstoetsig van die aftreefasiliteit</p> |
| <p>15. Is u vertrou met die konsep van <u>korporatiewe bestuurstoetsig</u>?</p> <p>15.1 Na u mening, watter leierseienskappe moet lede van die bestuurskomitee oor beskik?</p> <p>15.2 Hoe monitor die bestuurskomitee die nakoming van die reëls deur die bestuursvereniging, gee voorbeelde? (Stel die bestuur n voorbeeld?)</p> <p>15.3 Watter inisiatiewe is in plek in die aftreefasiliteit ten opsigte van volhoubaarheid?</p> <p>15.4 Het die bestuurskomitee strategiese beplanningsessies?</p> <p>15.5 Ontvang al die lede van die aftreefasiliteit hul AJV-inligting vroegtydig voor die vergadering?</p> <p>15.6 Watter agenda-punte word gewoonlik tydens bestuurskomitee vergaderings bespreek?</p> <p>15.7 Adviseur oor die keuringskriteria wat gebruik word vir die verkiesing van bestuurslede?</p> <p>15.8 Woon enige van die diensverskaffers (bestuursagent, rekenmeester, ouditeur, ens.) die bestuurskomitee vergaderings of die algemene jaarvergadering by?</p> <p>15.9 Evalueer die bestuurskomitee ooit hul eie optrede?</p> <p>15.10 Is alle bestuurskomitee lede van die aftreefasiliteit ten volle bewus van hul individuele verantwoordelikhede?</p> <p>15.11 Gee oorsig oor hoe risiko bestuur word deur bestuurskomitee (bv. versekering, sekuriteit, fondse, ens.)?</p> |

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| 15.12 | Hoe verseker die bestuurskomitee behoorlike bewaring en beskerming van inligting? |
| 15.13 | Na u mening, voldoen u aftreefasiliteit aan alle toepaslike wetgewende raamwerke? |
| 15.14 | Ontvang die bestuurskomitee lede enige vergoeding vir hul take? |
| 15.15 | Is die bestuurskomitee lede vertrou met die inhoud van die ouditverslag voor die AJV? |
| 15.16 | Kommunikeer die bestuurskomitee met die lede van die bestuursvereniging (bo en behalwe die AJV)? Brei uit asseblief? |
| 15.17 | Verduidelik die proses wat gevolg is vir die berekening en belegging van die reserwefondse van die aftreefasiliteit? |
| 16. | Enige verdere kommentaar? |

Annexure K – Interview schedule for manager / managing agent of life right retirement facilities

1. INTRODUCTION

Good day. I am Anna Coetzee, a Master's degree student at the Central University of Technology, Free State. I am going to conduct a semi-structured interview with you as discussed telephonically. The purpose of the interview is to specifically discuss the challenges and problems experience by you regarding management, accounting, auditing and governance aspects within your life right retirement facility clients.

Our interview is probable going to last between 45 and 60 minutes. Please note that you are not forced to answer any of the questions, your participation is voluntary, and you may withdraw at any time. All data, including personal data will be kept confidential.

2. INFORMEND CONSENT SECTION

I, _____ (participant name), confirm that Anna Coetzee, who is requesting my permission to take part in her study, has informed me about the purpose and the nature of her study.

- I have read and understood the study as clarified in the information sheet.
- I am willing to participate in the study and will ask questions if information / questions are not clear.
- I understand that my participation is voluntary and that I can withdraw at any time without penalty.
- I am mindful that the findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.
- I approve the use of a voice recorder during the semi-structured interview.

PARTICIPANT SIGNATURE

RESEARCHER'S SIGNATURE

DATE

DATE

3. INTERVIEW QUESTIONS

Section A: Background information and administrative matters

1. Please provide me with some background on your managing agency.
 - 1.1 How many life right retirement schemes are currently being managed by your managing agency?
 - 1.2 For how many years have your managing agency been operating as a life right managing agent for retirement facilities?
 - 1.3 Which of the following services do you provide to life right retirement facilities?
 - Day-to-day management of the facility
 - Administrative tasks
 - Compiling of budgets
 - Compiling of financial statements
 - Collection of levies, outstanding debt
 - Other (specify)
 - 1.4 What factors/criteria are considered in the calculation of your management fees?
2. As managing agent, of which legislative frameworks do you have knowledge about that relates specifically to the management of life right retirement facilities?
 - 2.1 In your opinion, are there any shortcomings in these legislative frameworks that cause difficulties with management of the retirement facility?
 - 2.2 In your opinion, what needs exist for training of managing agents regarding legislation that relates to the management of life right retirement facilities, if any?
 - 2.3 As managing agent, how do you keep up with changes in legislation?
3. How regularly do you deal with the Community Schemes Ombud Service (CSOS)?
 - 3.1 Please elaborate on the matters that you refer to (or engage on) with CSOS.
 - 3.2 In your past dealings with CSOS, what is your opinion on the effectiveness of the service to retirement facilities?
 - 3.3 Describe any problems that you have experienced in the past with CSOS?

Section B: Management of life right retirement facilities

4. In terms of the general management of life right retirement facilities, what are your biggest challenges?

4.1 What are, in your opinion, the greatest risks involved in being a managing agent of a retirement facility?

4.2 What would you consider to be the characteristics of a good managing agent for a retirement facility?

5. Do you, in general, consider the level of involvement of retirement facility management committee to be adequate?

5.1 Describe the most significant challenges that you as managing agent experienced with management committees of retirement facilities.

5.2 In your opinion, does the average retirement facility management committee member have the necessary competence to act as such?

6. In your opinion, what knowledge and skills are required of a management committee chairperson of a retirement facility?

7. As managing agent of the retirement facility what are your responsibilities regarding meetings?

7.1 Do you attend any meetings other than annual general meetings (AGMs) or special general meetings of the retirement facilities that you manage?

7.2 Are the AGMs of the retirement facilities that you manage well attended?

7.3 What are most common challenges that you experience during AGMs?

Section C: Accounting and auditing of life right retirement facilities

8. Who is responsible for the day-to-day bookkeeping functions of the retirement facility?

8.1 What are the daily responsibilities of this person?

8.2 Who is responsible for payments?

8.3 Please give a brief explanation of the payment process followed?

8.4 What are the biggest challenges experienced regarding the day-to-day bookkeeping function of the retirement facility?

8.5 What measures are in place to prevent misappropriation of funds of the retirement facility?

8.6 Describe the most significant challenges that you experience in terms of municipal accounts.

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| <p>9. Does the retirement facility collect any other funds from the residents apart from <u>levy income</u>, please elaborate?</p> <p>9.1 Please give an overview of how levies are calculated.</p> <p>9.2 Do you charge interest on arrear accounts, and what is the percentage?</p> <p>9.3 How do you collect arrear levies?</p> |
| <p>10. Into which bank <u>account/accounts</u> is the monthly contributions (levies) paid?</p> <p>10.1 If contributions are paid into the managing agent's trust account,</p> <p>10.1.1 describe the managing of the funds,</p> <p>10.1.2 how regularly are trust account reconciliations done?</p> <p>10.1.3 who is responsible for this function?</p> <p>10.1.4 how is interest received on the trust account handled?</p> <p>10.2 What are the biggest problems experienced regarding the management of funds?</p> |
| <p>11. Who is responsible for setting up the annual <u>budget</u> of the retirement facility?</p> <p>11.1 What are the greatest problems experienced during the budgeting process?</p> <p>11.2 Do you experience any resistance from the members of the management association relating to increases in budgets and resulting levies?</p> |
| <p>12. Who is responsible for compiling the <u>maintenance and repair plan</u>, if any?</p> <p>12.1 What are the greatest problems experienced during this process?</p> <p>12.2 Does the average retirement facility that you manage have sufficient funds available to cover future repairs and maintenance costs?</p> |
| <p>13. Who is responsible for compiling the <u>financial statements</u> of the life right retirement facility?</p> <p>13.1 Who is responsible for the appointment of the accountant?</p> <p>13.2 Which factors play the most important role in the decision about the appointment of the accountant?</p> <p>13.3 In your opinion, does the average resident of the retirement facility understand the content of the financial statements?</p> |
| <p>14. Who is responsible for the <u>audit</u> of the financial statements of the retirement facility?</p> <p>14.1 Is this person independent from the compiler of the financial statements?</p> |

14.2 Describe the factors that play the most important role in the decision about the appointment of the auditor?

14.3 What are the greatest problems experienced with the audit of the financial statements?

Section D: Governance of the retirement facility

15. Are you familiar with the concept of corporate governance?

15.1 In your opinion, what leadership qualities should members of the management committee have?

15.2 How do the management committee monitor compliance with the rules of the management association? (And do the members of the management committee lead by example?)

15.3 What initiatives have been put in place in a retirement facility relating to sustainability?

15.4 Do you know of management committees who have strategic planning sessions?

15.5 Do all members of retirement facilities receive their AGM pack well in advance of the meeting?

15.6 What agenda points are usually discussed at management committee meetings?

15.7 Please advise on the selection criteria used for electing management committee members.

15.8 Do any of the service providers (managing agent, accountant, auditor, etc.) attend the management committee meetings or AGM?

15.9 Does the management committee ever evaluate their own performance as far as you are aware?

15.10 Are management committee members in the retirement facilities managed by you fully aware of their individual responsibilities?

15.11 Please give an overview of how you as managing agent, together with the management committee members manage risk (e.g. insurance, security, funds, etc.)

15.12 How does your managing agency ensure proper storage and safeguarding of information?

- 15.13 In your opinion, does your managed retirement facilities comply with all relevant legislative frameworks?
- 15.14 Do management committee members of retirement facilities usually receive remuneration for their tasks?
- 15.15 Do you familiarise yourself with the contents of the audit report of the life right retirement facility before the AGM?
- 15.16 Do you as managing agent communicate with the members of the management association (over and above the AGM)? Please elaborate.
- 15.17 Explain the process followed for calculation and investment of the reserve funds of the retirement facility.

Annexure L – Onderhoudskedule aan bestuurder / bestuursagent van lewensreg aftreefasiliteite

1. INLEIDING

Goeidag. Ek is Anna Coetzee, 'n Meestersgraadstudent, verbonde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek gaan met u 'n semi-gestruktureerde onderhoud voer, soos telefonies bespreek. Die doel van die onderhoud is om spesifiek probleme en uitdagings te bespreek rakende die bestuur, boekhouding en ouditering van u lewensreg aftreefasiliteit. Ons onderhoud gaan waarskynlik tussen 45 en 60 minute duur. U is onder geen verpligting om enige van die vrae te beantwoord nie. U deelname is ten volle vrywillig, en u mag ter enige tyd van die onderhoud onttrek. Alle data, insluitend persoonlike inligting sal ter alle tye streng vertroulik hanteer word.

2. INGELIGTE TOESTEMMING

Ek, _____ (naam van deelnemer), erken dat Anna Coetzee, wat my toestemming gevra het om deel te neem aan haar studie, my ingelig het oor die doel en aard van haar studie.

- Ek het die inligtingstuk bestudeer en verstaan die inhoud daarvan.
- Ek verklaar myself bereid om deel te neem aan die studie, en sal die nodige vrae vra indien enige inligting of vrae onduidelik is.
- Ek verstaan dat my deelname vrywillig is en dat ek ter enige tyd van die onderhoud kan onttrek sonder benadeling.
- Ek verstaan dat die bevindinge van die studie streng vertroulik hanteer sal word in 'n navorsings-verHandleing, joernaal-publikasie en/of kongresvoordrag.
- Ek stem in tot die gebruik van 'n stem-opname-apparaat gedurende die onderhoud.
- Ek gee toestemming dat 'n onderhoud gevoer mag word met die relevante bestuursagent, rekenmeester en/of ouditeur van die aftreefasiliteit.

DEELNEMER HANDTEKENING

NAVORSER HANDTEKENING

DATUM

DATUM

3. ONDERHOUDSVRAE

Deel A: Agtergrondinligting en administratiewe aangeleenthede

1. Verskaf asseblief agtergrond oor u bestuur/bestuursagentskap.
 - 1.1 Hoeveel lewensreg aftreefasiliteite word tans deur u bestuursagentskap bestuur?
 - 1.2 Vir hoeveel jaar bestuur die bestuurder/bestuursagentskap lewensreg aftreefasiliteite?
 - 1.3 Watter van die volgende dienste word gelewer deur u aan lewensreg aftreefasiliteite?
 - Dag tot dag bestuur van aftreefasiliteit
 - Administratiewe take
 - Opstel van begrotings
 - Opstel van finansiële state
 - Invorderings van heffings, bedrae ontvangbaar, ens
 - Ander (spesifiseer)
 - 1.4 Watter faktore/kriteria word in ag geneem by die berekening van u bestuurs fooi?
2. As bestuurder/bestuursagent, watter wetgewende raamwerke het u kennis oor wat spesifiek betrekking het op die bestuur van lewensreg aftreefasiliteite?
 - 2.1 Na u mening, is daar tekortkominge in hierdie wetgewende raamwerke wat die bestuur van die aftreefasiliteit bemoeilik? Indien wel, spesifiseer.
 - 2.2 Na u mening, bestaan daar n behoefte aan opleiding van bestuurders/bestuursagente rakende wetgewing wat verband hou met die bestuur van lewensreg aftreefasiliteite, indien enige?
 - 2.3 As bestuurder/bestuursagent hoe bly u op hoogte met verandering in wetgewing?
3. Hoe gereeld kry u te doen met die Ombuddiens vir gemeenskap skemas?
 - 3.1 Brei asseblief uit oor die aangeleenthede waarby u betrokke is of verwys het na die Ombuddiens vir gemeenskap skemas?
 - 3.2 Wat is u opinie oor die doeltreffendheid van die diens gelewer in die verlede aan aftreefasiliteite deur die Ombuddiens vir gemeenskap skemas?

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| 3.3 | Beskryf enige probleme wat u in die verlede ondervind het met die Ombuddiens vir gemeenskap skemas? |
| Deel B: Bestuur van lewensreg aftreefasiliteite | |
| 4. | Wat is u grootste uitdagings in terme van die algemene bestuur van lewensreg aftreefasiliteite vir die <u>bestuurder/bestuursagent</u> ? |
| 4.1 | Na u mening, wat is die grootste risiko's verbonde aan die bestuur van 'n aftreefasiliteit? |
| 4.2 | Na u mening, wat sou u beskou as die eienskappe van 'n goeie bestuurder/bestuursagent vir 'n aftreefasiliteit? |
| 5. | Beskou u die betrokkenheid van die <u>bestuurskomitee</u> vir aftreefasiliteite as voldoende? |
| 5.1 | Beskryf die belangrikste uitdagings wat u as bestuurder/bestuursagent ervaar met die bestuurskomitee van aftreefasiliteite? |
| 5.2 | Na u mening, het die gemiddelde bestuur van aftreefasiliteite die nodige bevoegdheid om as sodanig op te tree? |
| 6. | Na u mening, watter kennis en vaardighede word vereis deur die <u>voorsitter</u> van die bestuurskomitee van 'n aftreefasiliteit? |
| 7. | Wat is u verantwoordelikhede rakende <u>vergaderings</u> as bestuurder/bestuursagent van die aftreefasiliteit? |
| 7.1 | Woon u enige ander vergaderings by, behalwe algemene jaarvergaderings (AJV) of spesiale algemene vergaderings van die aftreefasiliteite wat u bestuur? |
| 7.2 | Word die algemene jaarvergaderings van die aftreefasiliteite wat u bestuur, goed bygewoon? |
| 7.3 | Wat is die mees algemene uitdagings wat u ervaar tydens algemene jaarvergaderings? |
| Deel C: Rekeningkunde en Ouditering van Lewensreg aftreefasiliteite | |
| 8. | Wie is verantwoordelik vir die daaglikse <u>boekhouding</u> funksies van die aftreefasiliteit? |
| 8.1 | Wat is die daaglikse verantwoordelikhede van hierdie persoon? |
| 8.2 | Wie is verantwoordelik vir betalings? |
| 8.3 | Gee asseblief 'n kort uiteensetting van die betalingsproses wat gevolg word? |

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| <p>8.4 Wat is die grootste uitdagings met betrekking tot die daaglikse boekhouding funksie van die aftreefasiliteit?</p> <p>8.5 Watter maatreëls is in plek om die wanbestuur van fondse te voorkom van die aftreefasiliteit?</p> <p>8.6 Beskryf die belangrikste uitdagings wat u ondervind met betrekking tot munisipale rekeninge?</p> |
| <p>9. Kollekteer die aftreefasiliteit enige ander fondse van die inwoners bo en behalwe die <u>heffingsinkomste</u>, brei uit, asseblief?</p> <p>9.1 Gee 'n oorsig van hoe heffings bereken word?</p> <p>9.2 Hef u rente op agterstallige rekeninge, en wat is die persentasie?</p> <p>9.3 Hoe word agterstallige heffings gevorder?</p> |
| <p>10. In watter <u>bankrekening</u> word die maandelikse bydraes (heffings) betaal? (b.v. die bankrekening van die bestuursagent, of die bankrekening van die deeltitelskema)</p> <p>10.1 Indien die bydraes in die trustrekening van die bestuuragent betaal word,</p> <p>10.1.1 Beskryf die bestuur van die fondse?</p> <p>10.1.2 Hoe gereeld word rekonsiliasie van trustrekeninge gedoen?</p> <p>10.1.3 Wie is verantwoordelik vir hierdie funksie?</p> <p>10.1.4 Hoe word rente op die trustrekening hanteer?</p> <p>10.2 Indien die bydraes in die bank van die regspersoon betaal word,</p> <p>10.2.1 Wie het magtiging om betalings te doen?</p> <p>10.2.2 Hoe gereeld word bankrekonsiliasies gedoen?</p> <p>10.2.3 Wie is verantwoordelik daarvoor om die bankrekonsiliasies te doen?</p> <p>10.2.4 Wie is verantwoordelik vir die hersiening van die bankrekonsiliasies?</p> <p>10.2.5 Hoe word rente op die bankrekening hanteer?</p> <p>10.3 Wat is die grootste probleme wat ervaar word met die bestuur van fondse?</p> |
| <p>11. Wie is verantwoordelik vir die opstel van die jaarlikse <u>begroting</u> van die aftreefasiliteit?</p> <p>11.1 Wat is die grootste probleme wat tydens die begrotingsproses ondervind word?</p> |

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| <p>11.2 Ervaar u enige weerstand van die bestuursvereniging ten opsigte van verhogings in begrotings en gevolglike heffings?</p> |
| <p>12. Wie is verantwoordelik vir die opstel van die <u>instandhoudings en herstelplan</u>, indien enige?</p> <p>12.1 Wat is die grootste uitdagings wat tydens hierdie proses ervaar word?</p> <p>12.2 Na u mening, het die gemiddelde aftreefasiliteit voldoende reserwefondse beskikbaar om toekomstige herstel- en onderhoudskoste te dek?</p> |
| <p>13. Wie is verantwoordelik vir die opstel van die <u>finansiële state</u> van die aftreefasiliteit?</p> <p>13.1 Wie is verantwoordelik vir die aanstelling van die rekenmeester?</p> <p>13.2 Watter faktore speel die belangrikste rol in die besluit oor die aanstelling van die rekenmeester?</p> <p>13.3 Na u mening, verstaan die gemiddelde inwoner van die aftreefasiliteit die inhoud van die finansiële state?</p> |
| <p>14. Wie is verantwoordelik vir die <u>oudit</u> van die finansiële state van die aftreefasiliteit?</p> <p>14.1 Is hierdie persoon onafhanklik van die persoon wat die finansiële state opstel?</p> <p>14.2 Beskryf die faktore wat die belangrikste rol speel in die besluit oor die aanstelling van die ouditeur?</p> <p>14.3 Wat is die grootste probleme wat ervaar word met die oudit van die finansiële state?</p> |
| <p>Deel D: Bestuurstoetsig van die aftreefasiliteit</p> |
| <p>15. Is u vertrou met die konsep <u>korporatiewe bestuur</u>?</p> <p>15.1 Na u mening, watter leierseienskappe moet lede van die bestuurskomitee oor beskik?</p> <p>15.2 Hoe monitor die bestuurskomitee nakoming van reëls deur die bestuursvereniging, gee voorbeelde? (Stel die bestuurskomitee n voorbeeld?)</p> <p>15.3 Watter inisiatiewe is in plek in die aftreefasiliteit ten opsigte van volhoubaarheid?</p> <p>15.4 Het die bestuurskomitee strategiese beplanningssessies?</p> |

- 15.5 Ontvang al die lede van die aftreefasiliteit hul AJV-inligting vroegtydig voor die vergadering?
- 15.6 Watter agenda-punte word gewoonlik tydens bestuurskomitee vergaderings bespreek?
- 15.7 Adviseur oor die keuringskriteria wat gebruik word vir die verkiesing van bestuurskomitee lede?
- 15.8 Woon enige van die diensverskaffers (bestuursagent, rekenmeester, ouditeur, ens.) die bestuurkomitee vergaderings of die algemene jaarvergadering by?
- 15.9 Evalueer die bestuurskomitee lede ooit hul eie optrede?
- 15.10 Is alle bestuurskomitee lede van die aftreefasiliteit ten volle bewus van hul individuele verantwoordelikhede?
- 15.11 Gee oorsig oor hoe risiko bestuur word deur die bestuurder/bestuursagent in samewerking met die bestuurslede (bv. versekering, sekuriteit, fondse, ens.)?
- 15.12 Hoe verseker die bestuurder/bestuursagent behoorlike bewaring en beskerming van inligting?
- 15.13 Na u mening, voldoen die aftreefasiliteit onder u bestuur aan alle toepaslike wetgewende raamwerke?
- 15.14 Ontvang die bestuurslede enige vergoeding vir hul take?
- 15.15 Is die bestuurder/bestuursagent vertrou met die inhoud van die auditverslag voor die AJV?
- 15.16 Kommunikeer die bestuurder/bestuursagent met die lede van die bestuursvereniging (bo en behalwe die AJV)? Brei uit asseblief.
- 15.17 Verduidelik die proses wat gevolg is vir die berekening en belegging van die reserwefondse van die aftreefasiliteit?
16. Enige verdere kommentaar?

Annexure M – Interview schedule for accounting and auditing practitioner of life right retirement facilities

1. INTRODUCTION

Good day. I am Anna Coetzee, a Master's degree student at the Central University of Technology, Free State. I am going to conduct a semi-structured interview with you as discussed telephonically. The purpose of the interview is to specifically discuss the challenges and problems experience by you regarding management, accounting, auditing and governance aspects within your life right retirement facility clients.

Our interview is probable going to last between 45 and 60 minutes. Please note that you are not forced to answer any of the questions, your participation is voluntary, and you may withdraw at any time. All data, including personal data will be kept confidential.

2. INFORMEND CONSENT SECTION

I, _____ (participant name), confirm that Anna Coetzee, who is requesting my permission to take part in her study, has informed me about the purpose and the nature of her study.

- I have read and understood the study as clarified in the information sheet.
- I am willing to participate in the study and will ask questions if information / questions are not clear.
- I understand that my participation is voluntary and that I can withdraw at any time without penalty.
- I am mindful that the findings of this study will be confidentially treated in a research dissertation, journal publications and/or conference proceedings.
- I approve the use of a voice recorder during the semi-structured interview.

PARTICIPANT SIGNATURE

RESEARCHER'S SIGNATURE

DATE

DATE

3. INTERVIEW QUESTIONS

Section A: Background information and administrative matters

1. Please provide me with some background on your practice.
- 1.2 How many life right retirement facilities are currently clients of yours?
- 1.3 For how many years have your practice been operating as a life right accounting and auditing practitioner for retirement facilities?
- 1.4 Which of the following services do you provide to life right retirement facilities?
 - Only drawing up financial statements
 - Only auditing of financial statements
 - Drawing up and auditing of financial statements
 - Drawing up of financial statements and other form of assurance
 - Drawing up of budgets
 - Other (specify)
- 1.5 What factors/criteria are considered in the calculation of your accounting and auditing fees for life right retirement facilities?

2. As accounting and auditing practitioner, of which legislative frameworks do you have knowledge about that relates specifically to life right retirement facilities?
 - 2.2 In your opinion, are there any shortcomings in these legislation frameworks that cause difficulties with accounting/auditing of the retirement facility?
 - 2.3 In your opinion, what need exist for training of accountants/auditors regarding legislation that relates to life right retirement facilities, if any?
 - 2.4 As accountant/auditor, how do you keep up with changes in legislation?

3. Are you familiar with the Community Schemes Ombud Service (CSOS) and the services they offer?

Section B: Management of life right retirement facilities

4. In terms of the managing agent of the life right retirement facility, what are your biggest problems/challenges?
 - 4.4 In your opinion, what would you consider to be the characteristics of a good managing agent for a retirement facility?

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| 4.5 | How satisfied are you with the service that you receive from the managing agent? |
| 5. | Describe the most significant challenges that you as accountant/auditor experience with management <u>committee</u> of retirement facilities. |
| 5.2 | In your opinion, does the average retirement facility management team have the necessary competence to act as such? |
| 6. | In your opinion, what knowledge and skills are required of a chairperson of a retirement facility? |
| 7. | As accounting and auditing practitioner of the retirement facility what are your responsibilities regarding <u>meetings</u> ? |
| 7.4 | Which meetings do you attend of the retirement facility? |
| 7.5 | Are the AGMs of the retirement facility well attended? |
| 7.6 | What are most common challenges that you experience during AGMs? |
| Section C: Accounting and auditing of life right retirement facilities | |
| 8. | Who is responsible for the day-to-day <u>bookkeeping</u> functions of the retirement facility? |
| 8.1 | What is your level of satisfaction with regards to the completeness of accounting work received from the responsible person? |
| 8.3 | What is your level of satisfaction with regards to the completeness of source documents received from the management committee or managing agent? |
| 9. | How do you determine the provision for bad debts for liferight retirement facilities? |
| 10. | Into which <u>bank account</u> is the monthly contributions (levies) paid? |
| 10.1 | If contributions are paid into the managing agent's trust account, |
| 10.1.1 | describe the managing of the funds, |
| 10.1.2 | how regularly are trust account reconciliations done, |
| 10.1.3 | who is responsible for this function, |
| 10.1.4 | how is interest received on the trust account handled? |
| 11. | Who is responsible for setting up the annual <u>budget</u> of the retirement facility? |
| 11.1 | What are the greatest problems experienced during the budgeting process |

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| 11.2 Do you assist with the budgeting process of any of your liferight retirement facility clients? |
| 12 Who is responsible for compiling the <u>maintenance and repair and plan</u> , if any? 12.1 Are you aware of any problems experienced during this process? 12.2 Does the retirement facility have sufficient reserve funds available to cover future repairs and maintenance costs? |
| 13 Who is responsible for compiling the <u>financial statements</u> of the retirement facility? 13.1 What are the problems that you experience in regard to the accounting work or compiling of the financial statements of life right retirement facilities? 13.2 In your opinion, which accounting standards is the most applicable in compiling of financial statements for retirement facilities? <ul style="list-style-type: none">• IFRS• IFRS for SME's• A standard must be developed for retirement facilities• Other/Specify 13.3 In your opinion, is there any part of legislation that relates to retirement facilities that create problems with drawing up the financial statements of the life right retirement facilities? 13.4 What is the average qualification or post level of staff who are responsible for compiling the financial statements of the retirement facility? 13.5 How is the purchase transaction recorded in the accounting records for the provider of the life right? 13.6 What is the purchase amount use for during the occupation of the housing interest? 13.7 If interest is applicable, how is interest on the purchase amount handled? 13.8 When the life right terminates explain the refund of the original purchase price? 13.9 How is the sales transaction recorded in the accounting records for the provider of the life right? |

14 Who is responsible for the audit of the financial statements of the retirement facility?

14.1 Is this person independent from the compiler of the financial statements?

14.2 What are the problems that you experience in regard to the auditing/assurance work of life right retirement facilities?

14.3 What is the most applicable manner to provide assurance regarding the financial statements of a life right retirement facility?

- Complete audit
- Agreed upon procedures
- An independent review
- Other (specify)

14.4 In your opinion, what are the greatest risk attached to the auditing of life right retirement facilities?

14.5 In your opinion, what value does the auditing of the financial statements add to the retirement facilities?

14.6 What are the most significant problems with regards to audits of retirement facilities that you experience with the following organisations/service providers?

- Municipalities
- Other government institutions
- Banks and other financial institutions
- Managing agencies

14.7 In your opinion, is there any part of legislation that relates to retirement facilities that create problems with auditing of the financial statements of the life right retirement facility?

14.8 What is the average qualification or post level of staff who are responsible for auditing the financial statements of the retirement facility?

Section D: Governance of the retirement facility

15 Do you have any suggestions on how sectional title retirement facilities can incorporate principles of good governance in their schemes?

Annexure N – Onderhoudskedule aan rekenmeesters en oudit praktisyns van lewensreg aftreefasiliteite

1. INLEIDING

Goedag. Ek is Anna Coetzee, 'n Meestersgraadstudent, verbonde aan die Sentrale Universiteit van Tegnologie, Vrystaat. Ek gaan met u 'n semi-gestruktureerde onderhoud voer, soos telefonies bespreek. Die doel van die onderhoud is om spesifiek probleme en uitdagings te bespreek rakende die bestuur, boekhoudingen ouditering van u lewensreg aftreefasiliteit. Ons onderhoud gaan waarskynlik tussen 45 en 60 minute duur. U is onder geen verpligting om enige van die vrae te beantwoord nie. U deelname is ten volle vrywillig, en u mag ter enige tyd van die onderhoud onttrek. Alle data, insluitend persoonlike inligting sal ter alle tye streng vertroulik hanteer word.

2. INGELIGTE TOESTEMMING

Ek, _____ (naam van deelnemer), erken dat Anna Coetzee, wat my toestemming gevra het om deel te neem aan haar studie, my ingelig het oor die doel en aard van haar studie.

- Ek het die inligtingstuk bestudeer en verstaan die inhoud daarvan.
- Ek verklaar myself bereid om deel te neem aan die studie, en sal die nodige vrae vra indien enige inligting of vrae onduidelik is.
- Ek verstaan dat my deelname vrywillig is en dat ek ter enige tyd van die onderhoud kan onttrek sonder benadeling.
- Ek verstaan dat die bevindinge van die studie streng vertroulik hanteer sal word in 'n navorsingsverHandleing, joernaal-publikasie en/of kongresvoordrag.
- Ek stem in tot die gebruik van 'n stem-opname-apparaat gedurende die onderhoud.
- Ek gee toestemming dat 'n onderhoud gevoer mag word met die relevante bestuursagent, rekenmeester en/of ouditeur van die aftreefasiliteit.

DEELNEMER HANDTEKENING

NAVORSER HANDTEKENING

DATUM

DATUM

3. ONDERHOUDSVRAE

Deel A: Agtergrondinligting en administratiewe aangeleenthede

1. Verskaf asseblief agtergrond oor u praktyk?
 - 1.1 Hoeveel lewensreg aftreefasiliteite is tans kliënte van u?
 - 1.2 Vir hoeveel jare Handle u praktyk as rekenmeesters en ouditeure vir die lewensreg aftreefasiliteit?
 - 1.3 Watter van die volgende dienste word deur u gelewer aan lewensreg aftreefasiliteite?
 - Opstel van finansiële state
 - Slegs ouditering van finansiële state
 - Opstel en ouditering van finansiële state
 - Opstel van finansiële state en ander vorm van gerusstelling
 - Opstel van begrotings
 - Ander (spesifieer)
 - 1.4 Watter faktore / kriteria word in ag geneem by die berekening van u rekeningkundige en ouditgelde vir lewensreg aftreefasiliteite?
2. As rekenmeesters en auditpraktisyns, watter wetgewende raamwerke het u kennis oor wat spesifiek betrekking het op die bestuur van lewensreg aftreefasiliteite?
 - 2.1 Na u mening, is daar tekortkominge in hierdie wetgewende raamwerke wat die rekeningkunde en ouditering van die aftreefasiliteit bemoeilik? Indien wel, spesifiseer.
 - 2.2 Na u mening, bestaan daar n behoefte aan opleiding van rekenmeesters/ouditeure rakende wetgewing wat verband hou met lewensreg aftreefasiliteite, indien enige?
 - 2.3 As rekenmeester/ouditeur hoe bly u op hoogte met verandering in wetgewing?
3. Is u bekend met die Ombuddiens vir gemeenskap skemas en die dienste aangebied?

Deel B: Bestuur van Lewensreg aftreefasiliteite

4. In term die bestuursagent van die lewensreg aftreefasiliteit, wat is u grootste probleme / uitdagings?

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| 4.1 | Na u mening, wat sou u beskou as die eienskappe van 'n goeie bestuursagent vir 'n aftreefasiliteit? |
| 4.2 | Hoe tevrede is u met die diens ontvang vanaf die bestuursagent? |
| 5. | Beskryf die belangrikste uitdagings wat u as rekenmeester/ouditeur met <u>bestuurskomitee</u> van aftree fasiliteite ervaar? |
| 5.1 | Na u mening, het die gemiddelde bestuurekomitee lid van aftreefasiliteite die nodige bevoegdheid om as sodanig op te tree? |
| 6. | Na u mening, watter kennis en vaardighede word vereis deur die <u>voorsitter</u> van die bestuurskomitee van 'n aftreefasiliteit? |
| 7. | Wat is u verantwoordelikhede rakende <u>vergaderings</u> as rekenmeester/ouditeur van die aftreefasiliteit? |
| 7.1 | Watter vergaderings van die aftreefasiliteit woon u by? |
| 7.2 | Word die algemene jaarvergaderings van die aftreefasiliteit goed bygewoon? |
| 7.3 | Wat is die mees algemene uitdagings wat u ervaar tydens algemene jaarvergaderings? |
| Deel C: Rekeningkunde en Ouditering van Lewensreg aftreefasiliteite | |
| 8. | Wie is verantwoordelik vir die daaglikse <u>boekhouding</u> funksies van die aftreefasiliteit? |
| 8.1 | Wat is u vlak van tevredenheid met betrekking tot die volledigheid van die boekhou werk ontvang? |
| 8.2 | Wat is u vlak van tevredenheid met betrekking tot die volledigheid van bron dokumente ontvang vanaf bestuurskomitee of bestuursagent? |
| 9. | Hoe bepaal u die voorsiening vir oninbare skulde vir lewensreg aftreefasiliteite ten opsigte van <u>heffingsinkomste</u> ? |
| 10. | In watter <u>bankrekening</u> word die maandelikse bydraes (heffings) betaal? (b.v. die bankrekening van die bestuursagent, of die bankrekening van die deeltitelskema) |
| 10.1 | Indien die bydraes in die trustrekening van die bestuuragent betaal word, |
| 10.1.1 | Beskryf die bestuur van die fondse? |
| 10.1.2 | Hoe gereeld word rekonsiliasie van trustrekeninge gedoen? |
| 10.1.3 | Wie is verantwoordelik vir hierdie funksie? |
| 10.1.4 | Hoe word rente op die trustrekening hanteer? |

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| <p>11. Wie is verantwoordelik vir die opstel van die jaarlikse <u>begroting</u> van die aftreefasiliteit?</p> <p>11.1 Is u bewus van enige probleme ervaar tydens die begrotingsproses?</p> <p>11.2 Help u met die begrotingsproses van u lewensreg aftreefasiliteit kliënte?</p> |
| <p>12. Wie is verantwoordelik vir die opstel van die <u>instandhoudings en herstelplan</u>, indien enige?</p> <p>12.1 Is u bewus van enige problem ervaar tydens die proses?</p> <p>12.2 Na u mening, het die aftreefasiliteit voldoende reserwefondse beskikbaar om toekomstige herstel- en onderhoudskoste te dek?</p> |
| <p>13. Wie is verantwoordelik vir die opstel van die <u>finansiële state</u> van die aftreefasiliteit?</p> <p>13.1 Wat is die probleme wat u ondervind met betrekking tot die boekhouwerk of die opstel van die finansiële state van lewensreg aftreefasiliteite?</p> <p>13.2 Watter van die volgende standarde is volgens u die toepaslikste om te gebruik by die opstel van finansiële state van lewensreg aftreefasiliteite?</p> <ul style="list-style-type: none">• IFRS• IFRS for SME's• ñ Standaard moet ontwikkel word vir aftreefasiliteite• Ander (spesifiseer) <p>13.3 Na u mening is daar dele van die wetgewing wat verband hou met lewensreg aftreefasiliteite wat probleme veroorsaak met die opstel van finansiële state?</p> <p>13.4 Wat is die gemiddelde kwalifikasie of posvlak van personeel wat verantwoordelik is vir die opstel van die finansiële state van die aftreefasiliteit?</p> <p>13.5 Hoe word die kooptransaksie van lewensreg aangeteken in die rekeningkundige rekords van die verskaffer van lewensreg?</p> <p>13.6 Waarvoor word die aankoopbedrag gebruik tydens die besetting van die huisbelang?</p> <p>13.7 As rente van toepassing is, hoe word die rente op die koopbedrag hanteer?</p> |

13.8 Sodra die lewensreg eindig, hoe vind die terugbetaling van die oorspronklike koopprys plaas?

13.9 Hoe word die verkoopstransaksie aangeteken in die rekeningkundige rekords van die verskaffer van lewensreg?

14. Wie is verantwoordelik vir die oudit van die finansiële state van die aftreefasiliteit?

14.1 Is hierdie persoon onafhanklik van die persoon wat die finansiële state opstel?

14.2 Wat is die probleme wat u ondervind met betrekking tot die oudit / gerusstellingswerk van lewensreg aftreefasiliteite?

14.3 Wat is volgens u die toepaslikste manier om gerustelling oor die finansiële state van 'n lewensreg aftreefasiliteit uit te spreek?

- ñ Volledige oudit
- Ooreengekome prosedures
- ñ Onafhanklike oorsig
- Ander (spesifiseer)

14.4 Na u mening, wat is die grootste risiko verbonde aan die ouditering van lewensreg aftreefasiliteite?

14.5 Na u mening, watter waarde dra die ouditering van die finansiële state by tot die aftreefasiliteite?

14.6 Wat is die grootste probleme wat u met die volgende instansies/diensverskaffers, met betrekking tot die oudits van lewensreg aftreefasiliteite ervaar?

- Munisipaliteite
- Ander regeringsinstellings
- Banke en ander finansiële instellings
- Bestuursagentskappe

14.7 Na u mening, is daar dele van die wetgewing wat verband hou met lewensreg aftreefasiliteite wat probleme veroorsaak met die oudit van finansiële state?

14.8 Wat is die gemiddelde kwalifikasie of posvlak van personeel wat verantwoordelik is vir die oudit van finansiële state van die aftreefasiliteit?

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| Deel D: Bestuurstoesig van die aftreefasiliteit |
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| 15. Het u enige voorstelle oor hoe lewensreg aftreefasiliteite beginsels van goeie bestuur in hul skemas kan insluit? |
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