

## **SILONQUE HOLIDAY ESTATE — BODY CORPORATE Information for Homeowners — Legal Proceedings Update**

April 2026

Dear Homeowner,

We would like to inform you on the ongoing legal proceedings and latest developments between the Body Corporate of Silonque Holiday Estate versus the developer, Silonque Bush Estate (Pty) Ltd.

We believe it is important that all members understand the background and why legal action became necessary, and where things stand today.

### **Background**

As you are aware, under the Sectional Titles Schemes Management Act, upon establishment of a Body Corporate, the developer is legally required to hand over all accounts, audited financial records, utility accounts, contracts and sectional title plan to the Body Corporate; whereas the Board of Trustees then becomes legally responsible for running the Body Corporate in a compliant manner. This includes registering with the Community Schemes Ombud Service (CSOS), maintaining finances, and managing all utility accounts.

While the Body corporate should have been established much earlier, no formal inaugural meeting was ever held and only in 2022, the Body Corporate was finally formally handed over. From that moment, the board of trustees made every effort to fulfil all legal requirements; however, the developer refused to collaborate from the outset. No financial records, no audit over previous years, no sectional title plans nor utility accounts were handed over and no (mandatory) registration at CSOS was done.

### **The utility account problem**

Between the AGM of 18 June and October 2022, the developer continued invoicing homeowners for water and electricity at rates that were not accurate and we also discovered, upon hand-over of the estate, the main meters were not running in accordance with actual usage, registering approximately 80 kWh/month where an actual total consumption is +/- 3000 kWh/month and the water meter is mostly not running. This meant a liability issue for all members and/or the risk of Eskom and the local municipality, if finding out, that they may disconnect the services to the estate.

From September 2022 until January 2023, the board attempted multiple times to get the collaboration of the developers to have the meters fixed and hand-over accounts or cross invoice.

On January 10<sup>th</sup> 2023 we finally received confirmation from the developer : *“So from the month of January 2023 you as trustee will do the readings from the meters. Silonque will send you a copy of the invoice (with total kWh and amount in ZAR) with the request to work out the administration to the other owners/users (including Silonque Bush Estate). The money that is paid “too much”, will be held in a deposit for future needs. One of the needs can be a reclaim from Eskom and in that case the amount in deposit will be used for the part of the claim that covers the period starting from January 1, 2023 “.*

However, despite asking the developer multiple times, the developer never forwarded invoices so no cross-invoicing took place.

### **Why legal proceedings became necessary**

In order to be law compliant, we needed an audit for the previous year(s) and get registered at CSOS, but the lack of collaboration prevented us from that. The trustees therefore appointed a professional managing agent, SPM, in August 2023 to assist in setting up the Body Corporate correctly, secure a proper bank (trust) account and help with CSOS registration without the help of the developer or audit to prior years. That is when the developer stopped making payment of levy contributions, resulting in an arrear backlog exceeding R 300.000. So in April

2024, the trustees, bound by their fiduciary obligation, appointed an attorney to assist with the collection of arrear levy contributions from the developer and to request the developer to handover the management of the Body Corporate to the trustees.

The backlog in levy payments was the primary cause of the maintenance shortfalls experienced over 2023-2025 and multiple letters were sent by the attorney to offer a solution. Having exhausted every avenue for negotiation, the trustees had no choice but to initiate legal proceedings as we are legally obliged to take all steps necessary to set up and manage the Body Corporate in a lawful manner.

One day before the September 2025 AGM, most arrears levies were paid and the matter was again addressed and the BC the attorney, who was also present at that meeting, explained the Act and again requested the developer to hand over accounts or sit at a round-table meeting, to no avail so the legal procedures continued

### **The court case**

The developer responded by raising two special pleas before the merits of the case could even be heard. The first — arguing that the matter should be heard by CSOS rather than the court — was dismissed by the magistrate. The second — arguing that the Body Corporate lacked the legal standing to invoice homeowners for utility costs because the developer remains the account holder — was upheld.

The attorney and managing agent believe this ruling is legally incorrect as the provisions in the Sectional Titles Act and Sectional Titles Schemes Management Act are proving otherwise. The mentioned Acts provide that upon establishment of a body corporate the developer must handover all documents to the body corporate and if the developer fails to do so, the developer will be guilty of a criminal offence.

Also, the ruling was handed over in a less than professional manner, with a mere scribble on a sheet without any explanation. Our attorney therefore has requested written reasons from the magistrate and we intend to appeal the order seeing that a Body Corporate is lawfully compelled to recover utility charges from its members.

We would also like ask the members to realise that accepting this ruling without challenging would require the Body Corporate to firstly reimburse all utility charges collected to date to all member, as the ruling states we had no right to collect them, after which we would have to pay for legal costs. This would result in a bankruptcy of the estate, being appointed a mandatory executive agent by CSOS and likely leading to a huge increase of levies for all members.

Important to note: the ruling affects only this specific portion (utility charges) of the claim.

### **Where things stand now**

As trustees we were entrusted by the South African law to run the Body Corporate legally compliant, we have to continue on the path unless the developer decides to cooperate. We understand that this may lead to questions and more money spent on legal fees. However, we also trust that each member understands that we have no other choice as it is our legal duty to set up the Body Corporate according to the Sectional Titles act, do all in our power to avoid bankruptcy and protect all members from liabilities.

If you have any questions, don't hesitate to ask us and if needed we can bring you in touch with our attorney. Trusting this letter gave you more insight on the developments,

Kind regards,

**The Board of Trustees** Body Corporate of Silonque Holiday Estate