IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA

CASE NO: CT02626ADJ2026

Ex parte application:

MIDFIELD HOME OWNERS ASSOCIATION NPC **APPLICANT**

Presiding Member: Brian Jennings

Date of handing down of decision: 14 April 2026

DECISION

Introduction

1 The applicant is Midfield Home Owners Association NPC (registration number: 2005/024376/08), represented by Andre Frederich Oberholzer (authorised by a resolution passed by the board of directors of the applicant dated 10 February 2026).

2 The applicant has requested the Companies Tribunal ("**Tribunal**") to exempt it from the requirement to have a social and ethics committee. The applicant's main objects, as a non-profit company, are to –

2.1 promote, advance and protect the communal interests of members of the association being members who are registered owners of a stand or unit;

2.2 in promoting such communal services, to provide and maintain essential and community services, amenities and activities within any property administered by the association; and

2.3 to manage the collective interest common to all its members, which includes expenditure applicable to the common immovable property of such members and the collection of levy contributions for which such members are liable.

3 The applicant has provided me with a breakdown of its public interest score for the financial year ending 30 June 2025 (being 1403.4)[1], which is calculated as follows:

[1] The applicant has stated in its papers that its public interest score is 1139. However, it is evident from the breakdown of the public interest score provided to me by the applicant that its public interest score is in fact 1403.4.

3.1 139 points for the average number of employees of the company during the financial year;

3.2 4.3 points for every R1 million (or portion thereof) in third party liability of the company held by creditors at the financial year end;

3.3 28.1 points for every R1 million (or portion thereof) in turnover during the financial year; and

3.4 1232 points, one point for every member of the non-profit company, at the end of the financial year.

4 Therefore, by virtue of the applicant's members alone, the applicant's public interest score exceeds 500 by some margin, and the applicant's public interest score for its employee count, third party liability and annual turnover combined is only 171.4.

5 The applicant has also stated that the basis for the applicant's turnover is levy income received from the members to provide administrative services, facility maintenance and inhouse security services to its members.

6 The applicant further notes that the directors are not remunerated or in any manner reimbursed for their work or their positions.

7 Clause 9 of the applicant's memorandum of incorporation is also helpful in that it obliges the board to account to the members at each annual general meeting.

Applicable law

8 Section 72(4) of the Companies Act, No 71 of 2008 (as amended) ("**Companies Act**") empowers the responsible Minister to prescribe regulations setting out, amongst other things, a category of companies required to have a social and ethics committee.

9 Regulation 43(1)(c) to the Companies Act ("**Regulations**") requires a company to have a appoint a social and ethics committee if it has, in any two of its previous five years, scored above 500 points in terms of Regulation 26(2).

10 Regulation 26(2) sets out the basis for calculating a company's public interest score. I do not find it necessary to repeat this test here.

11 Section 72(5) of the Companies Act entitles a company who is obliged to appoint a social and ethics committee, to apply to the Tribunal for an exemption from such requirement. In order for the Tribunal to be satisfied to grant such exemption, either –

11.1 the company is required by some other legislation to have, and does have, some form of formal mechanism within its structures that substantially performs the function that would otherwise be performed by the social and ethics committee; or

11.2 it is not reasonably necessary in the public interest to require the company to have a social and ethics committee, having regard to the nature and extent of the activities of the company.

Determination of the applicant's request for exemption

12 The applicant has provided its calculation of its public interest score which exceeds 500 and would, by virtue of its vast membership body, have done so in any two of its previous five years, thus it is obliged to appoint a social and ethics committee.

13 However, the applicant has requested an exemption in terms of section 72(5)(b) of the Companies Act[2]. On this basis, I am satisfied that valid grounds exist to enable the grant of such exemption. These are as follows –

13.1 **Limited activities**: the nature and breadth of the applicant's activities are, by definition and by design in its memorandum of incorporation, extremely limited. They extend only to promoting, advancing and protecting the communal interests of its members and their affairs *inter se*, being the use of common property and areas (roads, pavements, parking areas, dams), preservation of the environment, regulation of nuisance and making of house rules in this regard;

13.2 **Limited class of persons impacted by such activities**: I have considered that the activities are designed to benefit a closed private body of persons, being registered holders of stands within the prescribed geographic area of the estate (noting it may include their guests); and

13.3 **Limited geographic area**: the activities extend only to the geographic area of the estate.

[2] Noting that it was already granted an exemption by the Tribunal on 5 May 2021, which is soon to expire.

14 Accordingly I find that it is not reasonably necessary in the public interest to require the applicant to have a social and ethics committee, having regard to the nature and extent of the activities of the applicant.

Order

15 The application for an exemption from the requirement to appoint a social and ethics committee is hereby granted in terms of section 72(5)(b) of the Companies Act, for a period of five years from the date hereof.

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BRIAN JENNINGS
MEMBER OF THE COMPANIES TRIBUNAL