

# Best Practice



**The Home Owners Associations process for the approval  
of Estate Agents**

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## **What Are Best Practices?**

The benefits of benchmarking against best practice and international standards are:

- improved quality of all disciplines in estate leadership and management
- the establishment and maintenance of high performance targets
- continual stretching of targets as others are achieved
- strengthened cost position
- applying a range of more innovative approaches to operating and managing projects
- accelerating change towards an outward rather than an inward approach to estate leadership and management, and
- bringing accountability to the home owners association because it is an ongoing process for measuring performance and ensuring improvement relative to the leaders in the field.

Accordingly, this document represents an ongoing exploration of best practices used in community associations. The first series of best practices in any and all the disciplines of estate management will set the bar, which with ongoing research and development will then continue to raise best practices.

## **Introduction**

A community association board has many responsibilities - setting goals and approving budgets; conducting open, fair and well-publicized elections; organizing events that foster neighbourliness and a sense of community, to name a few. But a board's chief responsibilities, arguably, are to maintain and enhance the common areas and protect home values. The HOA is also reliant on building partnerships with other role players within the Associations' and to this end the Estate Agents who market property within the estate have an important role to play. The background to the need to develop this set of best practice guidelines is outlined below.

## **Background**

Members of IEASA have been experiencing difficulties with many residential estates relating to restrictions to become an accredited Estate Agent, the quantum of the fees to get accredited being levied, restrictions placed on the number of agents receiving accreditation and processes around access, signage and show days. IEASA implemented a campaign to advise their members of their rights. At the initial stages of this campaign ARC and its founder members alerted IEASA to the fact that while some of the elements stated in that campaign were correct, there were many issues and statements made that were not necessarily common practice across the industry. In order to develop a standardized approach, a joint committee was formed to debate the issues at hand. It was agreed that the two organizations would develop a set of best practice guidelines that would benefit, and not compromise either residents living within an estate, the Estate Agents that want to do business in the estate and the Home Owners Association of the estate. IEASA and ARC are to be seen to act in the best interests of their members and the property owners in the estate while respecting and complementing each other as organisations. The aim is to optimise the value propositions offered to the property owners and members. The ultimate objective being that the value of the properties in the estate are protected and enhanced while maintaining integrity, goodwill and good faith.

This best practice document sets out guidelines for Directors and management of a Home Owners Association and Estate Agents wishing to become an approved agent within the residential community Industry. ARC and IEASA strongly urge all stakeholders to apply these best practices to avoid implementing practices that are unfair, cumbersome and even unlawful. The intention of these is to create a standardized approach to Estate Agent activity within a residential estate, while ensuring the rules and regulations of an estate are met, and the rights of buyers and sellers are maintained.

## **Principles**

The following principles underpin the successful implementation of these best practice guidelines

1. The right of a Home Owners Association to apply legally compliant and non discriminatory rules and regulations relating to Estate Agents that want to work in an estate.
2. The right of a property owner to choose and appoint an Estate Agent of his/her choice to sell or let their property.
3. The right of any estate agent to conduct business within the rules and regulations of the estate.
4. All stakeholders within the residential community industry should operate under the same set of rules and regulations in the estate when it comes to marketing or letting property within the estate.
5. An Estate Agent should never be in a position where the Agent has less rights than the properly owner him/herself, when it applies to marketing or letting property within the estate

## **Terminology**

The term "accredited" should be replaced by the term "approved", and the process is the "estate agent approval process" The term accreditation applies to a statutory process as laid down by regulatory bodies within the industry. Furthermore the approval process should apply to the Estate Agent, rather than the Agency

## **Practices relating to the formation of an Estate Management/ Estate Agent committee**

A process of consultation should be entrenched through the formation and implementation of a committee made up of all approved Estate Agents and representatives/Directors of the HOA in order to:

- Agree the processes of application, fees relating to approval, sales processes, letting processes, unforced public auction processes, reporting and record keeping.
- Advise on processes relating to marketing activity, the use of signage, show day protocol and buyer and agent access and egress, etc

- Debate opportunities for estate agents to participate in events for purposes of sponsorship opportunities, other marketing related issues and exposure for the approved Estate Agents.
- Update the approved Estate Agents on estate initiatives, changes in rules and regulations, etc in order for the agents to advise potential buyers accordingly.

The committee should meet as regularly as required.

### **Practices relating to expected qualifications of estate agents**

- All approved estate agents must have a valid fidelity fund certificate of the EAAB.
- Approved Agents should ideally be members of IEASA ensuring the Institute code of conduct is adhered to
- Home Owners Associations should ideally be a member of ARC, ensuring the HOA is applying best practice across all estate leadership and management disciplines

### **Practices relating to the number of Estate Agents approved**

There should be no capping on the number of Estate Agents or Estate Agents per brand/agency approved to market on an estate. A developer can appoint an employee to sell his own first hand properties. All Estate Agents and other selling employees who are employed by a developer should comply with the same set of rules as any other Estate Agent for resales.

### **Practices relating to fees charged for approval.**

Fees charged by the HOA must be fair and equitable and determined within the rules and regulations of the HOA. Fees must be directly equated to value received by the Estate Agent and costs incurred by the HOA to administer the approval process. Furthermore, as jointly agreed between the committee and the HOA, costs related to the promotion of the Estate Agent in the estate can also be factored in.

Approval fees for the Estate Agent approval process should be ring fenced for this purpose and should not be used for any operational costs in the estate or to subsidise the estate budget.

Such costs should include:

- Security costs/access control (EG Access cards)
- Printing costs of maps of the Estate and other useful printing material that will be of value to the Estate Agent and the prospective buyer.
- Signage should be restricted to sign boards that the agents will benefit from directly.
- Any other costs as agreed, incurred within the approval and management process.

### **Practices relating to the process of applying for approval**

1. Estate Agent makes application and attaches all regulatory documentation and his/her fidelity fund certificate.
2. Approval agreement is signed by parties
3. Estate Agent is inducted to the estate rules and guidelines
4. Applicable fees are paid over by the Estate Agent
5. Estate Agent is introduced to the committee (if applicable)

### **Practices relating to the monitoring of Estate Agent activity**

Regular reports should be compiled by the approved Estate Agent which should include:

- Show day list
- Properties sold or let
- Any other useful data that will benefit the estate and the Estate Agent

### **Practices relating to dealing with disputes and conflict resolution**

1. Dispute is resolved by the Committee; if not resolved
2. Elevated to the Home Owners Association ; if not resolved
3. Elevated to the ARC/IEASA Committee; if not resolved
4. The aggrieved party may choose own options to get resolved where IEASA or ARC may elect to assist members of the organization to whom they belong

## **Summary and recommendations**

All residential communities run by an HOA are encouraged to apply these best practices and all Estate Agents are encouraged to comply with these. Furthermore all communities are urged to join the Association of Residential Communities and all Estate Agents in possession of a fidelity fund certificate are urged to join the Institute of Estate Agents of South Africa.

By doing so the Community Associations and the Estate Agents will have access to and support from both these organizations

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