

**AKARANA MASTER HOME
OWNERS ASSOCIATION
("AMHOA")**

QUESTION	REQUIREMENT	SOURCE OF REQUIREMENT	CURRENT PRACTICE	COMMENTS
1. Formation	Condition imposed by Winelands District Council when approving subdivision of 791/27	Title Deeds to 791/36, 791/37, 791/39, 791/40, 791/41, 791/42 and the Title Deeds to subdivisions of 791/39	There is no evidence that the AMHOA was ever constituted and at the moment does not oversee and control any aspect of the entire estate (i.e. 791/27) nor does it fulfill its functions and obligations as per the Constitution	- The Constitution of the AMHOA was approved by Boland District Municipality on 10/07/2001 subject to their amendments being incorporated into the document (see letter of this date on file – need to procure the final Constitution that was submitted as well as the amendments required by Council) - Need to obtain copy of Approval and Conditions of subdivision of 791/27 (MvZ to endeavor to procure)
2. Membership	- Compulsory for the registered owner of an "Erf". "Erven" is defined as Erven and/or sectional title units and common property resulting from the subdivision of the farm (i.e. 791/27) - Limited to - - the developer (up to 4 nominees who are deemed members); - any person, incl the developer, who are registered owners of Erven; and - any person entitled to have an erf registered in his name - Where there is more than one registered owner of an erf they are all deemed to be one member - The developer will have rights in terms of AMHOA Constitution for as long as it is the registered owner of any erf - Registered owner cannot resign as a member - The registered owners of 791/36, 791/37, 791/38, 791/39; 791/40, 791/41, 791/42, 791/43, 791/44, 791/45, 791/46, 791/47, 791/48, 791/49, 791/50, 791/51, 791/52, 791/53, 791/54, 791/55, 791/56, 791/57, 791/59, 791/60, 791/61, 791/62, 791/63, all 10 units under Scheme SS Sante Winelands NO 416/2003 and all two units under Scheme SS Sante Winelands NO 2/2004	Clause 6.1 AMHOA Constitution Clause 6.2 AMHOA Constitution Clause 6.9 AMHOA Constitution Clause 6.5 AMHOA Constitution Condition of title endorsed on the title deed to each of these properties	The AMHOA has never been constituted and no persons have been active members	cf votes Dewgro is disputing that it is the developer. If this is the case Dewgro gets no special rights in terms of the AMHOA Constitution. Consider whether this is desirable
3. Purpose and Object	Business = the promotion, advancement and protection of the members as owners of erven	Clause 3 of the AMHOA Constitution		

	- Object = - the care, maintenance, upkeep and control of the Development Area and the Common Areas and the maintenance of all services on the Farm, including refuse removal; - to control the architectural design and maintenance of buildings and other improvements of the Farm, pertaining to the various districts - to maintain all the road paths, walkways, trails and services on the farm - to promote and control security of the Development Area and the common areas - to promote, control and improve the farming activities on the farm; - the promotion, advancement and protection of the communal and group interest of the Members generally	Clause 4 of the AMHOA Constitution	These objects are currently being carried out by the LBV-POA who is levying non-members as well as members in respect of the expenses incurred in fulfilling these objects	Farming activities is referred to as an object. Consider bringing the Farming Association into the AMHOA
4. Levies	Members are liable in equal shares provided an owner of more than one erf is liable to make payment in respect of each erf	Clause 7.1 AMHOA Constitution		Consider with reference to votes wanting to be on a basis proportionate to erf size. If this is so then levies should be allocated on a similar basis
5. Authority	Trustees can make regulations governing – - use, occupation and enjoyment of the common area and development area; - farming activities; - security/access; - water rights pertaining to individual parties	Clause 8.1 AMHOA Constitution		Refers to Water Rights. Consider this in view of the Water User Association
6. Voting	Owner vote per erf provided that if there is more than one owner of an erf they will jointly have one vote	Clause 23.1 AMHOA Constitution		- No super votes for developer but is entitled to 4 memberships (see 2 above) - Consider correspondence that refers to linking votes to land size
7. Amendment	Special Resolution passed at a meeting where a quorum is 80% of all members	Clause 31 AMHOA Constitution		

**LA BELLA VITA ESTATE
PROPERTY OWNERS
ASSOCIATION ("LBV-POA")**

QUESTION	REQUIREMENT	SOURCE OF REQUIREMENT	CURRENT PRACTICE	COMMENTS
1. Formation	The LBV-POA must be established in terms of section 29(1) of LUPO and its Constitution must be approved by Council	Condition 12 to the Approval for Subdivision of 791/39	The LBV-POA has been constituted and does operate	- The Constitution of the LBV-POA was approved by Boland District Municipality on 10/07/2001 subject to their amendments being incorporated into the document (see letter of this date on file – need to procure the final Constitution that was submitted as well as the amendments required by Council) - According to MvZ Council does not have a copy of the Constitution on file
2. Membership	- The HOA established in terms of 1 above must include all owners involved in the entire property - Compulsory membership for the registered owner of each of the 15 Resort Zone II units, the guesthouse as well as individual farms 791/36, 791/37, 791/38, 791/39, 791/40, 791/41 and 791/42 – this requirement must be registered against the title deeds to these properties - Compulsory for the Registered Owner of each "Unit Erf". "Unit Erf" is defined as the <u>residential erven</u> resulting from the subdivision of 791/39. "Registered Owner" is defined as the name in which the Unit Erven is registered in the Deeds Office - If a person is a registered owner in respect of more than one Unit Erf, he has the rights and obligations as a member in respect of each Unit Erf - Registered Owner may not resign as a member of the LBV-POA - The registered owners of 791/43, 791/44, 791/45, 791/46, 791/47, 791/48, 791/49, 791/50, 791/51, 791/52, 791/53, 791/54, 791/55, 791/56, 791/57, 791/59, 791/60, 791/61, 791/62, 791/63, all 10 units under Scheme SS Sante Winelands NO 416/2003 and all two units under Scheme SS Sante Winelands NO 2/2004	Condition 12 to the Approval for Subdivision of 791/39 Condition 13 to the Approval for Subdivision of 791/39 Clause 2.1 and 6.1 of the LBV-POA Constitution Clause 6.2.2 of the LBV-POA Constitution Clause 6.6 of the LBV-POA Constitution Condition of title on the title deed to each of these properties	Membership currently comprises the registered owners of the 15 Resort Zone II units and the registered owner of the guesthouse (i.e. Fundev) The requirement has been registered against the title deed to of 791/43, 791/44, 791/45, 791/47, 791/48, 791/49, 791/50, 791/51, 791/52, 791/53, 791/54, 791/55, 791/56, 791/57, 791/59, all 10 units under Scheme SS Sante Winelands NO 416/2003 and all two units under Scheme SS Sante Winelands NO 2/2004	"Entire property" probably refers to the whole of 791/27 Consider the impact of this on the owners of the other 6 portions of 791/27 in terms of proposal The definition of Unit Erf in the LBV-POA Constitution is inadequate Consideration must be had to the sectional title units
3. Main Business and Object	- Business = the promotion, advancement and protection of the members of <u>Unit Erven</u> - Object =	Clause 3 of the LBV-POA Constitution Clause 4.1 of the LBV-POA	These objects are currently being carried out by the LBV-POA who is levying non-members as well as members in respect of the expenses	

	○ control over all buildings and/or structures erected or to be erected on the unit erven as well as the maintenance thereof and the care, maintenance, upkeep of the "Private Open Spaces" ○ the promotion, advancement and protection of the communal and group interest of the members generally • LBV-POA is to address the operation of the <u>agricultural section</u> in conjunction with the guest house and individual units to the satisfaction of Council	Constitution Clause 4.2 of the LBV-POA Constitution Condition 14 to the Approval for Subdivision of 791/39	incurred in fulfilling these objects There are no "Private Open Spaces" A separate La Bella Vita Farming Association has been formed	Is the LBV-POA responsible for the maintenance of all buildings etc erected on the Unit Erven i.e. the residential erven? Condition 14 to the Approval for Subdivision of 791/39 provides that the remainder of portion 39 as well as the other 6 portions of 791/27 are to retain their agricultural zoning. Goes on to say that the LBV-POA Constitution must address the operation of the "<u>agricultural section</u>" in conjunction with the guest house and individual units to the satisfaction of Council. Therefore it is arguable that it was Councils intention that all portions of 791/27 must be members of the LBV-POA and are subject to the farming provisions Consider also Condition 10 to the Approval for Subdivision of 791/39 which implies that must form part of the programme for the remainder of the farm Deal in the LBV-POA Constitution with the appointment of a manager
4. Levies	Borne in equal shares between the members	Clause 7.5 of the LBV-POA Constitution	Currently done on a percentage ratio allocation	The LBV-POA Constitution must be amended to reflect the practice
5. Voting	• One vote for each Unit Erven registered in the name of a member, provided that if more than one registered owner of a Unit Erf, jointly have one vote • Status of "Registered Owner" – the Registered Owner shall until such time as the number of Unit Erven sold and transferred equals 90% of the total number of Unit Erven, be entitled at every general meeting to – ○ the number of votes equal to the total number of votes of all other members of the LBV-POA ○ appoint the majority of the Trustees	Clause 22.1 of the LBV-POA Constitution Clause 31 of the LBV-POA Constitution		Reference to "Registered Owner" should probably be to the developer Pages are missing from the LBV-POA Constitution on file

**LA BELLA VITA FARMING
ASSOCIATION ("LBV-FA")**

QUESTION	REQUIREMENT	SOURCE OF REQUIREMENT	CURRENT PRACTICE	COMMENTS
1. Formation	- The remainder of Portion 39 as well as the other 6 portions of 791/27 is to retain their Agricultural zoning and the Constitution of the Home Owners' Association (presumably the LBV-POA) must address the operation of the "agricultural section" in conjunction with the guest house and individual units to the satisfaction of Council - Established for the purpose of exercising control over all farming activities and the portions of residential erven within 791/39 that are cultivated for agricultural purposes	Condition 14 to the Approval for Subdivision of 791/39 Clause 2 of the LBV-FA Constitution Deed of Sale of the 15 Villas		Did Council give its approval to the formation of the LBV-FA as the means to manage the farming activities? Nothing on file in this regard Require a copy of Deed of Sale (MvZ to provide)
2. Membership	- Mandatory for Purchasers in terms of the Deeds of Sale of the Residential Erven - Owners of Adjoining Farms may <u>wish</u> to become members - Compulsory for every registered owner of a residential erf - The developer has the right to be a member and can withdraw at any time in its discretion - Owner cannot resign as a member, other than the developer	Clause 2 of the LBV-FA Constitution Clause 2 of the LBV-FA Constitution Clause 5.7 of the LBV-FA Constitution Clause 5.1 of the LBV-FA Constitution Clause 5.3 of the LBV-FA Constitution Clause 21.1.4 of the LBV-FA Constitution	Owners of the 15 Villas as well as the owners of the other 6 portions of 791/27 have been members of the LBV-POA 791/42 and 791/40 have withdrawn It is not included in any title deeds to any property that membership of the LBV-FA is compulsory	Condition 14 to the Approval for Subdivision of 791/39 provides that the remainder of portion 39 as well as the other 6 portions of 791/27 are to retain their agricultural zoning. Goes on to say that the LBV-POA Constitution must address the operation of the "agricultural section" in conjunction with the guest house and individual units to the satisfaction of Council. Therefore it is arguable that it was Council's intention that all portions of 791/27 must be members of the LBV-POA and are subject to the farming provisions
3. Main Object	- Control over and undertake the management of all farming activities pertaining to "agricultural land" and products and/or livestock thereon. "Agricultural land" is defined in clause 2 as the portions of the residential erven acquired by the members which is cultivated for agricultural purposes - Members have a right to outcome etc - Market and sell produce - Non-profit	Clause 3.1 of the LBV-FA Constitution Clause 3.2 and 4.2 of the LBV-FA Constitution Clause 4.7 of the LBV-FA Constitution	The LBV-FA has currently been controlling farming activities on all 7 portions of 791/27 791/40 and 791/42 have withdrawn Manager has been appointed	
4. Cost recovery and levies	- Costs recovered in terms of a formula - Levies charged at a flat rate	Clause 4.3 of the LBV-FA Constitution Clause 4.6 of the LBV-FA Constitution	????	
5. Management				Has the Development Period expired?
6. Termination of Membership	The developer has the right to cede all rights in terms of the LBV-FA Constitution	Clause 7.2 of the LBV-FA Constitution		
7. Voting	One vote per registered erf, provided that if more than one registered owner			Developer has no super voting powers

	of an erf, jointly have one vote			
8. Amendments	By special resolution and developer must consent to any special resolution during the development period	Clause 19 of the LBV-FA Constitution		