

## LICENSING, REGULATION AND ALCOHOL STRATEGY

### Dealing with a Body Corporate Manager

***If you own a property in a body corporate, chances are that a licensed body corporate manager will be appointed to manage the affairs of the body corporate. This fact sheet provides a guide to the appointment and duties of a licensed body corporate manager.***

### Creation and General Duties of a Body Corporate

A body corporate is created on registration of a unit plan with the Land Titles Office. All proprietors of units within the unit plan automatically become members of the body corporate which owns the common property.

The body corporate is a special type of corporation created under the *Unit Titles Act (the Act)* and its powers, duties and obligations are set out in the Act. The body corporate has legal responsibility to:

- enforce its articles and rules;
- control, manage and administer the common property, including its insurance and the administration of finances and common funds;
- keep common property, chattels, apparatus and equipment in good repair.

In carrying out its functions the body corporate must:

- keep proper records of meetings;
- maintain a register of decisions and motions;
- maintain funds and keep accurate accounts;
- keep a register of all unit owners and committee members;
- make documentation available for inspection by owners.

### Appointment of A Body Corporate Manager

The body corporate may appoint a manager (who may or may not be paid) to assist in the administration of its affairs. A body corporate manager who carries out services for a fee is required to hold a licence under the *Agents Licensing Act*. For consumer protection, a licensed agent is required to hold monies in trust and hold professional indemnity insurance.

Before dealing with an agent, the body corporate should establish that they are licensed in the Northern Territory. You can conduct a check of the public register by telephoning Property Agents Licensing on 8999 1800.

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A licensed body corporate manager is required to be formally appointed to provide services on behalf of the body corporate. The Management Agreement is a legally binding contract. It will specify the services that the agent will provide and the amount of fees and other charges that the body corporate agrees to pay for those services. The appointment may be terminated on notice if the need arises.

Before entering into an agreement, the body corporate should talk to a few agents and compare their services and fees.

### **Delegation of Powers and Duties**

The body corporate or its elected committee may delegate some or all of its powers and duties to a licensed body corporate manager. The body corporate manager may only exercise the specific duties detailed in the Management Agreement and any other powers and duties that have been delegated. The appointment and delegation of powers to a licensed body corporate manager can only be decided at a general meeting. A body corporate manager cannot be given the power to:

- delegate its power of delegation;
- make a decision on a restricted matter, that is, a matter that may only be decided by a unanimous or special resolution. The managing agent does not make decisions but assists the body corporate to make fair, equitable and legally enforceable decisions.

It is important to have a clear understanding of what services are covered by the appointment and the extent of the agent's authority to act on behalf of the body corporate.

Some of the services that you can expect the body corporate manager to carry out under delegation are as follows:

- assist with the secretarial requirements such as dealing with daily correspondence, responding to member's queries and concerns, keeping and maintaining records, sending notices, completing statements for transfer of ownership, convening and holding meetings, maintaining the strata roll and supervising the use of the common seal;
- assist with the bookkeeping and accounting requirements such as keeping accurate accounts, preparing financial statements, sending quarterly contribution accounts to members and recording payments, drafting the annual budget, arranging for the collection of debts;
- assist with the financial planning by analysing the body corporate's plans and preparing budgets, short and long term, and determining sinking fund requirements;
- assist in the handling of complaints and breaches of the articles or rules;
- assist in the maintenance and repairs of the common property and building;
- assist in the identification of insurance needs, procuring of insurance and handling of claims;
- assist in the liaison with neighbours, tenants, property managers, sales agents, councils, conveyancers, tradespersons and service providers.

A licensed body corporate manager is required by law to act in the best interests of the body corporate and to carry out instructions, except where it would be unreasonable or improper to do so. Under the *Agents Licensing Act* Code of Conduct, a body corporate manager is required to exercise due skill, care and diligence in carrying out duties and to disclose any interest in a transaction relating to the management of the body corporate.

If you have a problem with the staff of the body corporate manager, you should in the first instance, raise the matter with the business manager of the agency.

### **Agency Fees**

A management fee and other charges should be included in the Management Agreement. These fees are not set under the *Agents Licensing Act* and like any fees, may be negotiated with the agent. The Management Agreement should also specify any other fees or costs that the body corporate may be required to pay such as charges for holding additional meetings, attendance at proceedings of the Local Court and other legal proceedings.

### **Ending the Agreement**

If you wish to terminate the Management Agreement with your agent, you should first check the signed agreement for the termination clause.

It is important to cancel your agreement in writing and to give the proper notice required by the agreement. If the agreement is not ended properly, the body corporate may be liable for an early termination fee.

On termination of the agreement, the body corporate will need to provide instructions concerning the handover of its official documents, records and funds held in trust.

### **Where to Get More Information**

You can telephone Property Agents Licensing on 8999 1800 to obtain general information about the licensing of a body corporate manager and the obligations of a licensed agent under the *Agents Licensing Act* or you can access the legislation at [www.nt.gov.au/justice/licenreg](http://www.nt.gov.au/justice/licenreg).

For specific information about a body corporate you can access the *Unit Titles Act* at [www.nt.gov.au](http://www.nt.gov.au), Hansard and Legislation.