

Body Corporate and Community Management

The Body Corporate – an Introduction

The following introduces unit owners and prospective purchasers to the role of the body corporate and outlines their rights and obligations as members of a body corporate under the Body Corporate and Community Management Act 1997. It is not intended to be an exhaustive guide to the operation of bodies corporate. The legislation should be consulted as the primary reference.

The legislation

The Body Corporate and Community Management Act 1997 (the BCCM Act) is the Queensland legislation regulating bodies corporate. It sets out the rights and responsibilities of certain people associated with bodies corporate, particularly lot owners and tenants. The Department of Justice and Attorney-General administers the BCCM Act. Dispute resolution and information services are provided by the Office of the Commissioner for Body Corporate and Community Management (BCCM Office) within the department.

A number of regulation modules complement the BCCM Act and are designed to meet the needs of different types of community titles schemes. The regulation modules set out rules relating to committees, general meetings, financial and property management and insurance. Every owner should know which regulation module applies to their scheme.

In this information sheet, the BCCM Act and the regulation modules are referred to as the legislation.

What is a 'community titles scheme' and a 'body corporate'?

The term 'community titles scheme' refers to the area of land comprising the scheme. The scheme contains the individually owned areas of land, called 'lots', together with the body corporate 'common property'. The common

property for a community titles scheme includes all parts of the complex that are not in a lot. Common property can include lawns, access roadways, stairs and infrastructure such as pipes and wiring.

All owners of lots within the scheme collectively make up 'the body corporate'. Each owner automatically becomes a member of the body corporate on purchase of a lot. Owners are NOT able to decline to be body corporate members.

The role of the body corporate

The legislation provides a body corporate with the necessary powers to carry out its duties. The body corporate:

- has a general responsibility to maintain, manage and control the common property for the benefit of owners
- determines the contributions payable by owners to fund the operation of the body corporate
- must have public risk insurance over the common property to provide coverage for compensation for death, illness or injury and damage to property to at least \$10 million for a single event
- can establish rules, called 'by-laws', that relate to the:
 - management and control of common property and body corporate assets
 - use and enjoyment of lots, common property and assets (these rules must be in the form of by-laws which can be enforced by the body corporate)
 - must keep records including minutes of general and committee meetings, a roll of owners, financial accounts and registers of assets, engagements and authorisations.

The body corporate makes decisions about these and other matters either at a general meeting or through an elected committee.

How is owning a lot different from owning a detached house?

Owning a lot in a community titles scheme brings with it certain obligations. You should carefully consider whether living or investing in a community titles scheme suits your lifestyle and financial needs.

The survey plan for a community titles scheme establishes the boundaries of the lots and the common property. Every owner should be aware of the type of plan that applies to their scheme as this is important in determining whether or not an area is common property. The common categories of plans used for community titles schemes are the Building Format Plan (previously Building Units Plan) and the Standard Format Plan (previously Group Titles Plan).

You will not only have certain rights and responsibilities for your own property, but also for the common property shared with other owners within your complex. It is critical to find out what the costs will be for maintenance and general upkeep of the common property. Examples of common property range from a shared driveway or letterbox to elevators and stairways, swimming pools, tennis courts, roadways and golf courses.

As an owner you will be required to financially contribute to day-to-day running costs of the scheme through regular payment of 'levies'. Levies may vary significantly between schemes depending on the condition and age of common property and shared facilities. It is important to remember that running costs are likely to increase over time.

Failure to pay levies on time may attract a high rate of interest (up to 30% per annum) and additional costs. When considering purchasing a unit in a community titles scheme you should find out if there are any levies and charges still owed by the current owner. As the new owner you would be liable to pay outstanding amounts.

Owners and occupiers

The legislation provides that owners and occupiers of lots in a community titles scheme have a number of duties and obligations. An owner:

- is responsible for maintaining their lot in good condition
- may be responsible for maintenance of an area of common property over which the owner has a right of exclusive use
- must obey the by-laws that apply to the scheme.

An occupier must:

- obey the by-laws applying to the scheme
- keep the lot clean and tidy
- not cause a nuisance or hazard
- not interfere unreasonably with the use or enjoyment of another lot
- not interfere unreasonably with the use or enjoyment of the common property by a person who is lawfully on the common property.

Thinking of buying in a body corporate?

Prospective buyers are encouraged to:

1. Contact the Body Corporate Secretary or Manager

You can purchase a Body Corporate Information Certificate from the body corporate secretary or manager whose name and address is supplied in the seller's disclosure statement.

The Information Certificate will confirm any annual levies you will be required to pay and disclose any outstanding amounts.

You can also conduct a search the body corporate records to find out if you are responsible to maintain or take out additional insurance for any improvements to the lot you are purchasing (e.g. balcony enclosure, air-conditioning unit). You can also view any contracts that the body corporate may have already entered into (e.g. caretaking, letting, body corporate management or lift maintenance) and to which you will contribute through levies. Please note that the body corporate is entitled to charge you a fee for any search.

2. Contact the Property, Titles & Valuations Office

Each body corporate has a 'community management statement' (CMS) particular to the scheme. The CMS identifies, among other things, any proposed development of the scheme, the lot entitlement schedules (used to calculate your levies), the relevant by-laws and the regulation.

module that applies to the scheme. You can purchase a copy of the CMS for your scheme by calling 13 QGOV (13 74 68).

3. Contact us (see contact details below)

The Office of the Commissioner for Body Corporate and Community Management provides a free information service for those who live, work or invest in community titles schemes. We have produced a range of factsheets about the operation of bodies corporate, including financial arrangements, insurance, decision-making and by-laws which may assist your understanding. We also provide a dispute resolution service to resolve any disagreements which may arise within the body corporate and which cannot be resolved internally. You can search our records (BCCM Form 3) to see if any disputes have arisen in your scheme which required an adjudicator (a decision maker) to intervene in matters affecting owners, occupiers or the body corporate.

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

Phone (freecall): 1800 060 119
Email: bccm@justice.qld.gov.au
Website: www.justice.qld.gov.au/bccm
Street address: Brisbane Magistrate's Court
Level 4, 363 George Street,
Brisbane
Postal address: GPO Box 1049,
Brisbane Qld 4001

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council by visiting: www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.

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