

Body Corporate rules change

If you own or rent an apartment, townhouse or unit, your “body corporate” is now an “owners corporation”, following changes to the laws governing communal living.

The new laws are designed to provide more guidance and clarity for Victoria’s 65,000 owners corporations. They were introduced last December in recognition of the changing nature and size of high-density living, particularly the increase in multi-storey high-rise apartment buildings.

The new legislation, which runs to 150 pages, spells out the more stringent governance and regulation requirements – including the issuing of owners corporation certificates, financial management responsibilities, and committee meeting procedures – now in place.

Almost one quarter of Victorians now live “communally” in large tower blocks, residential developments, medium density housing or strata title units.

Owners corporations are created via the registration of a plan of subdivision, with all lot owners on the plan automatically becoming members.

Broadly, an owners corporation is responsible for the management of common property, including repairs, maintenance and insurance.

A major problem experienced by many people buying property has been the difficulty in accessing information from an owners corporation, such as financial statements, maintenance plans. The owners corporation must also keep an owners corporation register, which contains the names and addresses of lot owners and information about lot liability and lot entitlements, insurance, leases and licences entered into by the owners corporation. The register can be inspected by a purchaser of a lot for a reasonable fee.

Also, under the new laws, if you want to sell your unit or apartment, you must provide an owners corporation certificate, which discloses fees and other matters, to potential buyers in your vendor statement, or s32.

Failure to do so will give buyers the right to walk away from any contract before settlement.

The certificate, which will cost you up to \$150, must include information on:

- fees;
- insurance;
- repairs and maintenance;
- funds held by the owners corporation;
- liabilities and contingent liabilities, details of any contract, leases, licences and agreements affecting common property;
- services provided to lot owners and occupiers and the public;
- notices and orders served on the owners corporation;
- legal proceedings;
- manager’s details; and
- whether an administrator has been proposed or appointed for the owners corporation.

The certificate must be accompanied by a copy of the owners corporation rules, an information statement, all resolutions made at the last annual general meeting, and a statement that further information can be obtained by inspecting the owners corporation register.

An owners corporation should have all this information in its records or set out on the plan of subdivision. A copy of the plan of subdivision is available from Land Victoria.

A large number of owners corporations are inactive. Some have never been formally established and many vendors do not realise their unit is affected by an owners corporation, which can cause problems when they want to sell it.



If that is the case, the current owners need to convene a meeting to activate the owners corporation.

The new laws allow members to appoint a manager of the owners corporation. Anyone who carries out any of the functions of a manager for a fee, or reward, must register with the Business Licensing Authority.

Also new is a three-tier approach to dispute resolution.

Owners corporations must have an internal dispute resolution process and those who are not satisfied with that process can contact Consumer Affairs Victoria (CAV) to conciliate or mediate between parties.

The Victorian Civil and Administrative Tribunal now has broad powers to resolve disputes and make binding determinations but only after the dispute resolution process has been exhausted.

More information

Useful web links

www.legislation.vic.gov.au
www.land.vic.gov.au