Tourism, Fair Trading and Wine Industry Development
Queensland Government

Fact Sheet

The body corporate – an introduction

The following introduces unit owners to the role of the body corporate and outlines their rights and obligations as members of a body corporate. It is not intended to be an exhaustive guide to the operation of bodies corporate. The legislation should be consulted as the primary reference.

What is a body corporate?

A body corporate is a legal entity created when land is subdivided and registered under *the Land Title Act 1994* to establish a community titles scheme. The scheme can be a duplex, a residential unit block, a high rise accommodation complex, a shopping complex or a business park. Every owner of a lot in a community titles scheme is automatically a member of the body corporate. Owners do not have a choice as to whether or not they will be a body corporate member.

The legislation

The *Body Corporate and Community Management Act 1997* ("the Act") is the Queensland legislation regulating bodies corporate. It sets out the rights and responsibilities of certain persons associated with bodies corporate, particularly lot owners and tenants. The Department of Tourism, Fair Trading and Wine Industry Development administers the Act. Dispute resolution and information services are provided by the Office of the Commissioner for Body Corporate and Community Management within the Department.

Four regulation modules complement the 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 Act and the regulation modules are referred to as the *legislation*.

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 that relate to the:
    - management and control of common property and body corporate assets; and
    - 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); and
- 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 a representative committee.

The 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.

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 a Building Units Plan) and the Standard Format Plan (previously a Group Titles Plan).

The committee

There must be a committee for the body corporate. A committee is chosen by the owners to handle the day-to-day administration of the body corporate. The committee has certain powers under the legislation. For example, a committee may:

- organise the maintenance of common property;
- convene the annual general meeting;
- ensure that notices, such as meeting notices and levy notices, are sent to owners;
- respond to inquiries from owners and other persons (including prospective purchasers).

The legislation restricts the issues that can be determined by the committee. For example:

- there is a prescribed monetary limit on expenditure that can be authorised by the committee; and
- the committee cannot fix or change the contribution to be levied on owners.

General meetings

A general meeting is a meeting of the owners in a scheme. The body corporate must hold an annual general meeting. The annual general meeting must be held within three months after the end of the body corporate's financial year. The following matters must be considered at each annual general meeting:

- election of the committee;
- acceptance of financial statements for the previous financial year;
- administrative and sinking fund budgets for the next financial year; and
- administrative and sinking fund contributions for the next financial year.

The body corporate can hold an extraordinary general meeting at any time during the year if the committee or sufficient owners consider it is necessary.

Owners have the right to submit motions to be considered at a general meeting. Written notice of a general meeting must be given to each lot owner. The notice must include an agenda that states the motions to be considered. The legislation sets out the rules for calling, holding and voting at meetings. Every owner is entitled to attend and vote on the motions listed on the agenda. The right of an owner to vote at a general meeting is restricted if that owner has not paid a levy contribution or there are other monies owed to the body corporate.

Financial management

The owners agree on budgets for the administrative and sinking funds for the next financial year at each annual general meeting. The administrative fund is used to meet expenditure due annually or more frequently. Examples of administrative fund expenditure include lawn mowing, security lighting and insurance. The sinking fund is used to provide for future capital expenditure. Examples of sinking fund expenditure include painting of common property and replacement of fixtures on common property.

All owners are required to contribute to both the administrative and sinking funds and their contributions must be paid into a bank account in the name of the body corporate.

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

An occupier must:

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

The Office of the Commissioner for Body Corporate and Community Management
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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 at
www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm
or purchased from GOPRINT at 371 Vulture Street, Woolloongabba, Brisbane or Ground Floor, Mineral House, 41 George Street, Brisbane. GOPRINT Customer Service can be contacted on telephone: (07) 3246 3399 or 1800 679 778.

Disclaimer
The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this fact sheet 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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