

ARTICLE 1

Managing Your Owners Corporation Series

IMPORTANCE OF GOOD MANAGEMENT

Gary F Bugden*

A well managed owners corporation is probably the single most important contributor to preserving the value of owner's units.

This article explains why that is so and other articles in the series will reveal the secrets of good strata title management.

Owners corporation

The owners corporation is like a company. It owns the common property in a strata title building and is responsible for its repair and maintenance. The members of the owners corporation are the owners of all the units in the building and they are represented by a board (called an executive committee). It is financed by levies imposed on the unit owners, usually each quarter.

There is one important difference between an owners corporation and most other companies. The members, or shareholders, of most companies cannot be legally compelled to contribute more than a nominal amount to discharge the unfunded liabilities of the company. This is why companies go into liquidation when they have insufficient funds to pay their debts. The shareholders lose the value of their shares but nothing else.

Where an owners corporation has insufficient funds to discharge its debts it must impose a levy on the unit owners to raise whatever funds it needs. If it does not do this, creditors can have a compulsory managing agent appointed to take control of the owners corporation and force the imposition of the levy. There is little if anything owners can do to escape this levy process. This means that owners are ultimately responsible to discharge the liabilities of their owners corporation. This liability can, in an extreme case, extend to their personal bankruptcy.

Insurance

Adequate insurance cover is important to minimize the risk of incurring this type of extreme liability. This is graphically illustrated by a Western Australian accident involving the collapse of a home unit balcony. At the time of its collapse the balcony was crowded with numerous medical practitioners attending a function. Many were badly injured and claims against the owners corporation currently exceed \$#, but it

was only insured for \$#. The difference will have to be made up by the unit owners out of their personal assets.

Adequate insurance cover is but one aspect of good management.

Unit purchasers beware

When someone buys a unit they are putting themselves in the position of having to contribute to any outstanding liabilities of the owners corporation. They are effectively “buying into” the problems of the building. This is why solicitors acting for purchasers usually arrange for an inspection of the records of the owners corporation. The report on this inspection is useful because potentially it identifies:

- outstanding liabilities
- the amount of available funds
- discussion or reports about serious maintenance problems
- disharmony within the home unit community.

Good management ensures that all of these matters are under control. The fact that there is a problem will not normally deter a purchaser from buying a unit. However, the purchaser will be deterred if the problem is not being dealt with, or if it is the source of serious dispute within the building.

Concealing the problems by tampering with the records is not the answer. The problems will eventually be discovered and those responsible for interfering with the records, and possibly the owners corporation itself, will be left with a legal liability to the purchaser.

Good management

What is good management? It is a combination of things that require a range of skills. Sometimes one person has all the skills, but often a team approach produces the best result.

Six things go to make up good management. I refer to these as the **six pillars** of good management. They are:

- Governance
- Communications
- Finance
- Record keeping
- Maintenance
- Insurance

Governance

Governance is about decision making. In the case of an owners corporation it occurs at two levels, the executive committee level and at the general meeting of owners. Both depend on each other. The general meeting elects the members of the executive committee and those members need to earn and retain the support of the general

meeting in order to function effectively. This is because the general meeting retains or is able to control most of the decision making power.

In addition to attending to routine matters, the executive committee needs to develop longer term strategies to maintain the building and deal with problems and then convince the owners at a general meeting that those strategies are sound. Strategies for asset protection are critical. The value of the building and its individual units needs to be a priority for communal governance. This involves maintenance and renewal programs over an extended period of time.

Communications

Convincing owners about strategic or policy decisions requires good communications between the executive committee and owners, not only at general meetings but also between meetings. The way in which the communication occurs, its timing and content are all important factors.

The executive committee depends upon the owners to finance the implementation of their decisions. This is because the annual budget must be approved at the annual general meeting. The budget and its underlying strategies therefore need to be “sold” to the owners.

Insurance

Insurance is an important and compulsory aspect of asset protection. Although it may seem simple, in a strata title context it is actually quite complex. Care needs to be taken to ensure that insurance covers are adequate, not only the sum insured but also the terms and conditions of the policy. Then there is the question of the choice of insurer – something that until recently was often overlooked.

Another compulsory aspect of management is record keeping. An owners corporation must keep a range of records and have them available for inspection by owners, prospective purchasers and other authorized persons. The importance of good records will be appreciated from what has already been said in this article.

In the weeks ahead this series of articles will explain in more detail each of the six pillars of good management and provide a practical guide to administering the affairs of an owners corporation.

* **Gary Bugden** is the author of *NSW Strata Schemes Management Handbook*, as well as numerous other strata title publications.