

SHORTCUTTING THE ASSIGNMENT PROCESS

Different States have different requirements when it comes to obtaining Body Corporate consent to the assignment of Building Management Agreements and Letting Agreements. Obviously, an approval at Committee level will be dealt with much quicker than an approval required at a General Meeting of a Body Corporate/Owners Corporation.

Different States – Different Requirements

Effectively, the assignment of Building Management/Caretaking Agreements and Letting Agreements can be dealt with at Committee level in Queensland, Victoria and Western Australia.

However, the NSW legislation requires that any assignment of a Building Management Agreement must be approved at a General Meeting of the Owners Corporation.

Speeding Up The Process

When notifying a Body Corporate of a sale of management rights, you can shortcut the process by ensuring that you provide the Strata Manager/Committee upfront with everything they will possibly require to consider and grant that consent.

All Caretaking/Building Management Agreements and Letting Agreements (and the Queensland legislation) require that the Body Corporate act reasonably when deciding whether to approve or not approve a buyer. Generally, this comes with a requirement that the incoming Manager must be respectable, responsible, financial and capable of performing the duties.

In recent years, we have seen an increased focus by Bodies Corporate in looking into the suitability of incoming managers. Most are now fully investigating the background of proposed assignees and want detailed information and checks done **before** they will grant consent. Consequently, you can save yourself a lot of time and money by providing everything in one go to the Committee.

Checklist

The following will satisfy 99% of a Body Corporate's requirements for an assignment:

- a **résumé** for each purchaser (or each director of a purchaser company), detailing their respective competency, qualification and past experience;
- evidence of the **financial standing** of the purchaser (or each director of the purchaser company) – e.g. an Asset and Liability Statement. Note however that a Queensland Tribunal member has stated that a copy of an incoming financiers letter of finance approval is sufficient evidence of the proposed managers good financial standing;
- at least two **character references** for each purchaser/director;
- at least two **business references** for each purchaser/director;
- a **detailed business plan**, explaining how the new manager proposes to manage the scheme on a day-to-day basis (for example, its structure, management style/approach, staffing, who will be responsible for the day-to-day operation and management of the caretaking and letting business, who are or who will be licensed to conduct of the letting business, etc.);

- a copy of the purchaser's **real estate or letting licence** – or evidence of completed modules required to obtain the licence;
- a **Police check** for each purchaser/director.

For most agreements, providing the above should be more than enough to meet your obligations to the Body Corporate - but also check your agreements for any other peculiar requirements.

Conclusion

Be proactive when it comes to the assignment process. The worst thing you can do is drip feed information to the Committee, as they have no obligation to approve any assignment until they have all of the necessary information to assess the proposed assignee.

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