

PREPARING YOUR BUSINESS FOR SALE

Selling your business can be very stressful as you juggle the demands of both the business buyer and the owners in your strata scheme, while at the same time being under the time pressure of a looming settlement date. One way you can significantly reduce this stress is by making sure your letting pool is in order, before you sell.

A common issue we encounter during a Management Rights sale is the need to fix and/or replace letting appointments before the settlement date. The range of problems we regularly see include:

- missing or unsigned letting appointments;
- missing or out of date fees and charges schedules; and
- non-compliance with Managed Investment Scheme obligations. (relates only to short-term lettings with more than 20 owners in your rental pool).

If you have any of these issues with any of your letting appointments, it is quite possible that the buyer of your business could demand a price reduction. Renegotiating your sale price is not the kind of stress you need once you are several weeks into the sale process.

To avoid this outcome, it is far better for your business (and your mental health) to be proactive and to review all your letting appointments well before putting your business on the market.

The things you can check yourself include:

1. Do you have a letting appointment in your records for every lot in your letting pool?
2. Is every letting appointment signed by the owner (usually you need signatures for all owners when there is more than one) and signed by your agent entity?
3. Are your letting appointments complete with current fees and charges schedules attached?
4. Are there any fees and expenses you have been charging owners that aren't shown in the fees and charges schedules?

Things you may want to check with the help of a lawyer:

5. Are there any fees and charges you are not allowed to collect from owners?
6. Do you have the correct authority needed for the fees and charges you have been collecting from owners?
7. In Queensland, was the correct version of the letting appointment form used and is the letting appointment assignable?
8. Does your letting appointment need to be Managed Investment Scheme compliant (for short-term lettings) and, if so, is it?

If you complete a review and do find there is a problem with your letting appointments, it gives you the opportunity to fix the problem in your own time and without the pressure of a buyer treating every problem as an excuse to lower the business sale price. It also means you have more time to shepherd solutions past the owners in your letting pool, and waiting weeks/months to receive a signed document in the mail won't have you pulling your hair out.

By being proactive and considering all the questions raised above and resolving any issues you find, your business will be far healthier and you could avoid losing several thousands of dollars when it comes time to sell your business.

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