

Strata Title Living

Units and townhouses are becoming a popular (and cheaper) alternative to owning a house and land.

There are now over 60,000 strata title schemes in New South Wales alone.

Owning a strata unit or townhouse is different from owning land because you only own your unit and the airspace encompassing that unit (but not the roof, external walls or floor) – as opposed to owning the land on which the unit is situated. Typically this means you own all internal walls and fixtures and fittings such as the kitchen, carpets, curtains, etc.

Strata plan

- There will be a strata plan for the unit or townhouse development showing the precise location of all the strata lots and any common property (such as foyers, driveway, pool, grounds, common stairwells, etc).
- You also have an ownership share, along with all other unit holders, in the common property surrounding the unit in proportion to your unit entitlement.

Unit entitlement

- Each unit in the strata scheme has a unit entitlement, which governs the voting rights attaching to the unit, and the proportion of levies that the unit must pay.
- The unit entitlements are also shown on the strata plan.

The owners corporation

- Each unit owner has an undivided share in the owners corporation, in proportion to the unit entitlement attaching to the unit.
- All of the owners comprise the owners corporation and they elect an executive committee to make most of the decisions.

What are the principal powers and obligations of an owners corporation?

- To establish property management and maintenance funds based on contributions known as levies which are calculated according to unit entitlements. (Each lot owner has a unit entitlement which determines his or her interest in the common property and on which the amount of levy is based).
- To employ persons to administer, control or perform work on the building and common property.

- To enforce the by-laws and to sue for any damage caused to the building and common property.
- To add to or amend certain by-laws.
- To make provision for insurance against fire, and to take out other insurances required by law, for instance, workers compensation and public liability insurance.
- To maintain the building and common property in good order.
- To hold annual general meetings of members.
- To keep minutes of meetings and prepare accounts.
- To record details of the ownership and occupancy of lots in a strata roll.
- To provide information to owners and mortgagees about the strata scheme.

By-laws

There are rules that govern the use of the unit and the common property, referred to as the owners corporation by-laws. These by-laws set down the rules of living in the complex.

They may prohibit certain activities (such as owning pets) or regulate other activities (such as the carrying out of any refurbishment of the lot).

There will also be by-laws dealing with the operation and management of the owners corporation and the holding of meetings of the owners corporation.

Strata owners also have rights under the Strata Schemes Management Act (NSW) and at law, which will override any conflicting provisions in the by-laws.

Insurance

The owners corporation has the insurable interest in the improvements, and is required to effect replacement insurance each year on the building and improvements.

The owners corporation is also required to effect insurance for public risk (covering common property) and worker's compensation (covering workers employed by the owners corporation).

A unit owner has an insurable interest in the internal fixtures (such as lighting, carpet and curtains) and contents (such as furniture and moveables (including carpet) in the unit, and this should be covered by a separate insurance policy of the unit owner.

Levies

Owners corporation levies are struck for each unit, and the amount payable by each strata lot owner will depend on the unit entitlement for each lot. There are normally two levies payable by lot owners on a periodic basis:

- an administrative budget covering annually recurring expenditure, (ie insurance, annual repairs, lighting to common property, wages etc); and,
- a sinking fund budget, to cover long term expenditure (ie painting of the building, repair/replacement of lifts etc). This fund is designed to have funds available to meet long term expenses when they occur. If adequate funding is not put into place early in the life of a building, the sinking fund will not have sufficient funds to meet long term expenses, and the result will be that the owners at the time when the expense is incurred by the owners corporation will have to pay the expense, which will be raised by way of special levy by the owners corporation.

The owners corporation will strike the levy each year and be responsible for collection of the levy and its use.

How are disputes resolved?

Disputes between lot owners or with the owners corporation are best resolved by discussion. Should this fail you can contact the Strata Titles Commissioner or the Strata Titles Board for assistance.

For further information, contact:

Simon Singer

Phone (02) 9212 1099

Email ssinger@dls-lawyers.com