

ELEVATION

Welcome from the CEO

It's that time of the year again. As June 30 looms large, those of us with investment property can either bury our head in the sand or get organised and approach the tax return deadline in anticipation of a generous refund. Having a clear idea of where you stand financially, where you want to be, and how to prioritise your preparation time, is key.

It pays to start early – call your accountant before June to discuss your current situation and what they need from you to speed up your return. Ask your accountant to forward a list of tax deductibles relevant to your situation, dig out your receipts and start collating a spreadsheet summarising your income and expenditure as it relates to your investment property. Giving this information to your accountant to review before you meet will make their advice more pertinent. The process of collating receipts may prompt a few questions for your accountant and preparing this information yourself should also save you money on your accountant's bill.

In the current economic climate, increasing your cash flow may be a priority, so if you have a negatively-g geared investment portfolio, consider submitting a tax variation form so that you pay less tax throughout the year and don't have to wait until you submit your return to receive your refund. Ask your accountant if you're not sure what's involved. But if your current cash flow is adequate and you're trying to save, you may be more successful receiving a lump sum at the year end.

This time of the year is also a good time to prepare or review your plan to achieve your longer-term financial goals. If your retirement plans have been deferred, consider whether you have other options. Remember that for your accountant needs industry qualifications to give financial advice so consider consulting a financial advisor.

In times of financial crisis, it's easy to act conservatively, avoid making decisions, and adopt a 'wait and see' attitude. But as Winston Churchill said, "Let our advance worrying become advance thinking and planning." Arm yourself with information and prepare a list of questions for your accountant. Many of us bemoan that our accountant isn't giving us active tax advice, but it may be that we are not taking an active and informed interest.

Keep in mind that your accountant isn't only there to prepare your yearly returns; talk to them if your circumstances change during the year to ensure that your tax liability is minimised and tax time is hassle-free.

Good luck,

Cameron Davis

Managing Director/CEO
Strata Title Management Group (STM)



STM STRATA TITLE
MANAGEMENT

Straddling states

For the STM Tweed Heads office, just a stone's throw from the New South Wales/Queensland border, there's a unique set of challenges for Strata Managers that include two different states' legislation to learn and the challenges of accelerating urban growth.

Tweed Heads Strata Managers look after a portfolio of duplexes, high-rises, factories and shopping centres from as far north as Mackay, to Ballina in the south and the town of Emerald in central Queensland. As such, there are two sets of state legislation pertaining to property and body corporate management that the branch's Strata Managers need to know.

"We have a long history in the area, dating from the late 1960s when Frank Cullel's company started his strata management company," says STM Tweed Heads General Manager Mark Purtell. "Nowadays, the challenges of the area mostly revolve

around the transition from small towns to large urban centres."

This includes the Gold Coast's 70 kilometre coastline sprawl, the renaissance of Kirra, and the changing skyline of Coolangatta where sea-changers are flocking, attracted by the town's wide, north-facing beach which looks across to the Gold Coast. "Many of the issues we deal with are related to new developments and the problems they cause our clients," says Mark. "Helping to resolve these amicably is just one of the skills that our Strata Managers must have."



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StrataSphere...

The world of Strata — your questions answered!

Question

Recently, I found out that our Strata Manager kept a commission from taking out insurance on our property. Isn't that illegal, or at least immoral?

Answer

Many people may not like the idea of commissions but they are commonplace in many industries and generally used to keep fees to the customer low. Commissions operate in the advertising industry, property and strata industries, pharmaceutical and sales industries, finance and travel, among others.

All commissions are disclosed under our agency agreement and are governed by the Property Stock and Business Agents Act 2002 and the Consumer Claims Act 1998. Commissions have a cap limit and must be disclosed to the client.

It is a common misperception among Owners Corporations that if it were to purchase insurance directly, bypassing the agent, then a discount would be applied to the overall premium paid. Regrettably, this is not the case – insurance suppliers are not required to pay commissions, especially to entities that are not entitled to them by way of statute. However, insurance suppliers will share commissions with agents in an attempt to establish a client base and provide a more streamlined service for the end user.

Commissions received by the agent help keep strata management fees low and competitive. Should legislation change to remove entitlements to commissions, then ultimately the customer will lose out by having to pay higher fees for services.



Understanding management rights

By Frank Higginson, Partner, Hynes Lawyers

The nature of a management rights structure is frequently misunderstood. More often than not, this relates to the distinction between caretaking and letting functions.

Sometimes management rights arrangements are incorporated into the one agreement. This does not mean that the distinction between the functions is any less important.

Caretaking

The primary function is caretaking. This is an arrangement between the Owners Corporation ('OC') and the caretaker. It is important to note that this relationship is usually one of principal and contractor – not employer and employee. This means that the OC or the Executive Committee ('EC') usually does not have daily control over what the caretaker does. The caretaking agreement sets out what the caretaker must do, and it is then up to the caretaker as to the time and manner of performance of that function, short of the agreement providing otherwise.

Some agreements provide detailed lists of duties and states when these must be performed (ie daily, weekly or monthly). Including lists of this nature helps remove the scope for argument about what must be done by when.

The contractual nature of the relationship means that the caretaker is paid a set remuneration, which is normally reviewed annually under the agreement. Quite often there will be GST payable in addition to the remuneration (for which most OC's can claim an input tax credit). This is distinct from an employment situation where the employer must provide holidays, sick leave and payment of tax and superannuation for the employee.

Letting

The letting functions are completely separate from the caretaking functions. These are services provided to individual owners in relation to the letting of their lots. The letting has very little to do with the OC, as the relationship that exists is one between the letting agent and the owner concerned.

This relationship is governed by the individual letting appointment that the letting agent has with each owner.

The OC should not provide any payment to the letting agent for delivery of letting functions. Payment for these services should be from the owners who use the services alone. In addition, the OC should not demand that certain components of the letting services be provided in exchange for benefits to the OC.

The principle is that users of the service should pay for the service. It is not proper for an OC to effectively subsidise letting functions.

The OC will usually have a letting agreement with the letting agent. This is part of what the letting agent needs to obtain their licence to rent properties on behalf of owners. This agreement usually also provides exclusivity for the letting agent against others providing letting services from within the complex.

Conclusion

A lot of disputes about management rights could be avoided by each party understanding their rights and obligations.

Overriding this is always the need to be open and communicative in a non confrontational manner.

Hynes Lawyers are one of STM's preferred professional services suppliers.

www.hyneslawyers.com.au

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