

# COMMON PROPERTY

Newsletter for professionals in the facilities  
management sector.



## THE MUCH MALIGNED COMPANY TITLE!



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It is very unfashionable to consider company titles as an alternative way of community living. Nevertheless, it does have its place. From an academic perspective, I want to promote the concept of company title. I simply believe it is maligned and has been ruined because banks will not consider lending against company title property.

Without giving a lesson about company title, let's look at the major features:

- The total structure of the building is owned by the company title. It is not like strata title where we have to work out the separation between common property and lot owner property.
- The Board have inherent powers to do everything in the best interest of the company. There is no separation of powers between EGM and AGM, and executive committee powers. The Board has the power to do what is needed to make the corporation operate.
- The financial records are similar to any other company and are not required to be kept in the manner required by the Strata Schemes Management Act 1996 and the Property Stock & Business Agent's Act 2002.

For those who do not know what company title is, it is a form of title where the title is owned in the name of a corporation. Individuals buy shares in that corporation and that corporation gives them an entitlement in a particular unit. The shareholders elect a Board to manage the corporation and the share holders meet on an annual basis to elect that Board. It is a management system which has hundreds of years of experience.

Why consider company title:

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- There is little dispute concerning over whose responsibility it is to fix structural issues. The structure is owned by the company and therefore the company is responsible for fixing it.

- We don't get into the argument about what is lot owner property and what is owners corporation property. The structure is the structure and it is to be maintained and repaired by the company.

- Because the corporation owns the structure, it holds control of all policies and standards in relation to the building. That is, if you are in something like a serviced apartment, the standards need to be maintained at a high level. By having it as part of a company title, the corporation has the ability to keep it at the standard necessary. Shareholders could be required under the constitution to provide contributions to maintain this standard. The concept of unfair levies would disappear.

- We would not have the section 62 problem whereby the owners corporations are held liable for maintenance and repairs. That section says that the owners corporation must repair and maintain all property. Now, if it was a case of company title, they could make a decision in relation to their own destiny.

- The Board has freedom to act. There is not the problem of calling an EGM and an AGM for making tough decisions. The Board is vested and has the power to carry out decisions. An executive committee is limited to anything that isn't a serious decision. Hence, a Board has sufficient power to make decisions in the best interest of the corporation.

- The financial records are kept in the standard business sense. This means that, we can use standard programs to manage the company title and there are persons already trained who can handle the corporation's financial responsibilities.

The title is no less secure than any other form of title. Why is it therefore maligned? Well, the banks rule our lives! Banks don't like lending against shares in a company title! Thus, this very effective management system for builders has been left to wither on the vine because banks don't want to lend. Alas, company title, like all other forms of title, suffers at the hands of the banking community.

Cheers,

**Bailey Compton and the team at ACP/Leverage**

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