

**OFFICE OF THE RECORDER OF  
TITLES**

Enquiries: Craig Pursell  
Phone: 6233 2570  
Fax: 6233 6775

12 July 2004

The Chair  
Tasmania Law Reform Institute

**Vendor Disclosure - Issues Paper No 6 June 2004**

Thank you for the opportunity to examine and comment on the above paper. I found the paper well researched and easy to read.

The main aspect of the paper which concerns my office is vendor disclosure of strata title. My office receives numerous phone calls daily asking for an explanation of "strata title" as people were not aware of what they were purchasing at the time.

Further, under the *Strata Titles Act 1998* I am the adjudicator of strata disputes. Often parties to strata disputes only learn that their property is part of a strata scheme when a dispute arises with their neighbour, sometimes years after the purchase.

Purchasers need to be aware they are buying into a strata scheme and it can directly affect their use and enjoyment of the property. For example, elderly persons often wish to take their pet with them. Strata by-laws in many cases disallow the keeping of pets. In fact, Model By-laws in the *Strata Titles Act 1998*, which become operational when a strata scheme does not write its own, disallows pets without the prior written consent of the body corporate.

I would therefore suggest that vendor disclosure in respect to strata schemes needs to include:

- a) a statement that the property is part of a strata scheme and use of the property is subject to body corporate by-laws and requirements of the *Strata Titles Act 1998*;
- b) the name of the strata scheme;
- c) the name and contact details of the secretary of the body corporate or manager, or if no such person exists a statement disclosing the same;

- d) copy of the body corporate by-laws including a copy of the Model; By-laws if applicable;
- e) a certificate under section 83(5) of the *Strata Titles Act 1998*;
- f) copies of insurance policies taken out by the body corporate including certificates of currency;
- g) a statement of any expenditure or liability the body corporate has incurred or resolved to incur and the liability of the lot owner or a nil statement of applicable; and
- h) details of the body corporate sinking fund or a statement that no such fund exists.

A further practical problem may arise in the case of a purchaser who immediately wishes to on-sell and thus becomes the vendor. In Tasmania in most transactions it is the new mortgagee who lodges the transfer documents with the Land Titles Office for registration. The new mortgagee in many instances is one of the four major banks. Unfortunately, a few of these institutions are notoriously slow in lodging the documents. We have had instances of in excess of 12 months where documents have not been lodged for registration. This therefore may cause problems for a vendor.

I am very keen to be kept informed of further developments in relation to vendor disclosure, particularly its effect on strata title.

Yours sincerely

Alice Kawa  
**RECORDER OF TITLES**