

How to replace your sectional title scheme's managing agent

Community housing and sectional title schemes have risen in popularity over the last few years with many buyers seeking the increased security, convenience, shared costs and lifestyle amenities they offer. However, says Andrew Schaefer, MD of Trafalgar, these advantages can easily evaporate if the scheme is not efficiently and capably managed and kept on a sound financial footing.



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“For example, people buy homes in community housing schemes because they believe they will enjoy a greater degree of personal safety, but that security often depends on equipment being regularly checked and kept in good order, or on the selection of a proven guarding or armed response service – and someone has to be responsible for that.”

Similarly, he says, someone has to ensure that the communal gardens, roadways, and other amenities such as pools, paving and walkways are properly maintained, either by the scheme’s own staff or by outside service providers who have to be paid. The scheme’s municipal bills and insurance premiums must also be paid, and then there is the considerable administration involved in collecting levies and managing the scheme’s accounts.



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'Not all managing agents are created equal'

“And while these tasks are ultimately the responsibility of the scheme’s trustees or directors, they generally recognise that they lack the specialised knowledge or experience to carry them out themselves and appoint a managing agent to assist them and handle the day-to-day running of the scheme. But not all managing agents are created equal, and trustees or directors need to know how to go about making the change from an agent they are not happy with to another property management company they believe will offer them better service.”

Schaefer says that in sectional title schemes the trustees will generally need to consult the management agreement they have with the existing managing agent and then follow one of three procedures:

1. If there is no formal management agreement, a trustee resolution or an ordinary resolution passed by the body corporate is all that is needed to give a managing agent notice and appoint a different one. "The trustees may do this in terms of Prescribed Management Rule (PMR) 28 of the Sectional Title Schemes Management Act (STSMA) and we suggest that a 30-day notice period is reasonable in such cases."
2. If there is a management agreement, the STSMA provides that it cannot run for more than three years, so if it is older than that, it has effectively expired and the trustees or body corporate can simply cancel it and refuse to renew it, as provided in PMR 28(8), he says. These agreements will typically automatically renew on a month-to-month basis, whereby one calendar months' notice would be required.
3. If there is a management agreement that is still valid, the trustees will need to follow the provisions of PMR 28(7), which are that they can cancel the agreement, without liability or penalty, if the body corporate approves the decision by special resolution passed at a general meeting, and they then give the agent two months' notice. "It is also worth noting that in such instances it does not matter if there are different provisions in the management agreement itself. The STSMA will overrule those provisions."



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Vet a new managing agent thoroughly

Schaefer also says it is vital that the trustees vet any new managing agent really thoroughly before appointing them. "These days it is not enough for a managing agent to be a registered property professional with a Fidelity Fund Certificate. They also need to have the systems in place to correctly manage client information in terms of the Protection of Personal Information Act, for example, and to manage levy allocations to reserve funds as well as submissions to the Community Housing Schemes Ombud.

"A thorough knowledge of several pieces of legislation in addition to the STSMA is also required, and the capacity to organise and attend body corporate and trustee meetings and generate all the financial and other reports that may be required.

"Trustees should of course also ask for references from other clients and establish how long the company has been in business and how many other schemes it manages. Experience in this industry really counts because it will enable the managing agent to provide the correct advice in many different circumstances, and help the trustees to avoid making bad decisions that could put their schemes in jeopardy," says Schaefer.

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