

# DIY body corporate searches

If you don't want to pay a professional to do a body corporate search, how do you access the records and what should you look for? **Caroline Gonzalez**

**B**EFORE buying into a body corporate, it pays to check the body corporate records. These records can sometimes uncover disturbing details about the building, its financial affairs and its management. You want to know exactly what you're getting into before your contract goes unconditional. So how do you go about it? Here, we look at the procedure in each state.

## New South Wales

Wally Patterson from Dynamic Property Services suggests buyers get professionals to do the job. But he admits DIY searches can open up buyers to the ins and outs of the prospective property.

Patterson says investors should approach members of the property's executive committee to obtain information and to gain access to documents.

## Victoria

Andrew Dawson, president of the Institute of Body Corporate Managers Victoria, says new legislation in the state will make it easier for investors to be informed about a body corporate.

"The (new) *Owners Corporation Act* allows a broader level of enquiry and mandates the attaching of the Form 3, the Body Corporate Certificate, to the Section 32, the Contract of Sale," Dawson says.

The new laws come into effect on December 31.

Currently, bodies corporate must grant information

requests to investors or a representative, including the name and address of each body corporate member, records of accounts and minutes of meetings. Some body corporate managers charge a fee for the information.

Rob Beck from the Institute of Body Corporate Managers Victoria says the Victorian Law Foundation and Consumer Affairs Victoria both supply booklets guiding people on searching for body corporate records.

## Western Australia

Searching details on strata corporations is vital to making a sound investment choice, confirms Jacqueline Courtney, president of the Strata Titles Institute of Western Australia.

"I would never buy into a strata company without searching through its books and records," Courtney says.

Solicitors in WA don't usually conduct searches unless the prospective purchase is a commercial property, she says.

Residential buyers first have to gain approval from the vendor to search the body corporate details, Courtney adds.

Under Section 43 of the *Strata Titles Act*, a proprietor or mortgagee of a lot can make an application in writing and pay a fee, if applicable, to the strata company for access to documents.

"If a prospective owner was searching the books and records, they should read the minutes of all the meetings, including council meetings, pay particular attention to the reserve fund, if there are major works required for the building, and if there will be any future special levies, or any disputes between owners requiring legal action," Courtney says.

## Tasmania

Gary Peterson, senior strata adjudicator at the Office of the Recorder of Titles, says new legislation has made it easier for

buyers to find out more details on bodies corporate in Tasmania.

Under the *Strata Titles Amendment Bill 2006*, investors no longer need approval from the body corporate to obtain a copy of the certificate which contains information about the corporation.

In addition, the legislation allows buyers to find out other details such as any history of legal action against or within the body corporate, Peterson says.

## Northern Territory

Lorelei Fong Lim from the Department of Justice recommends NT investors contact the body corporate manager or secretary via the real estate agent or vendor.

Buyers can request a Section 37 Statement but they don't have a legal entitlement to inspect the body corporate accounts.

For investors who do manage to get their hands on the body corporate accounts, besides seeking details on levies payable and outstanding, Fong Lim recommends looking out for:

- Whether there are any proposals to raise special levies. Have there been complaints about maintenance issues that might give rise to a need for a substantial levy in the near future?
- Are there any proposals to change the articles or by-laws?
- Are there any proposals to alter the units plan?
- Have any special privileges been granted in respect of common property or are there any proposals to do so?
- Has anyone recently been given approval to alter their unit?
- Is anyone allowed to keep pets?

Fong Lim says her comments are general in nature and shouldn't be taken as legal advice.

## Australian Capital Territory

Vendors have to have available for

potential unit buyers a copy of the body corporate's annual general meeting minutes and executive committee meetings minutes, plus financial statements of the past two years.

Warwick Fulton from Canberra Units Plan Services encourages buyers to look beyond this supplied information on the body corporate.

"The advantage of a do-it-yourself search is that you can spend time looking at some of the older minutes and correspondence to see if there were any problems that could re-occur," he says.

Buyers need to first ask the vendor, agent or a solicitor for access to body corporate records.

If permission is granted, the vendor or representative issues a statement giving authority to inspect records and accounts, Fulton says.

The prospective buyer then provides this statement to the strata manager or agent and arranges a time to visit the manager's office to carry out the inspection. The inspection fee is typically \$30.

Fulton says investors can spend more time on a search than a professional searcher.

"In that way, buyers get a feel for the way the body corporate operates and the kinds of people they will encounter as fellow unit owners," he says.

## South Australia

Anna Edwards, president of the Community Titles Institute of South Australia, says real estate agents

## CASE STUDY

### It pays to check

Sue Holland, manager of Penton Management Services in Queensland, says demand for body corporate searches is constantly growing. Her office oversees about 25 body corporate searches a day on the Gold Coast and in Brisbane.

Part of the reason is that since July last year, under the "conveyancing protocol", contracts of sale in Queensland must include a disclosure statement on the body corporate, Holland says.

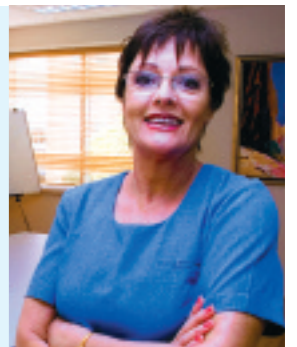
The statement includes details such as the balance of the sinking fund, how much the property is insured for and quarterly levy fees.

But even with the disclosure statement in arm, buyers are keen to find out about other aspects of their prospective purchase, especially when considering buying into an older building, such as if there are any major building repairs in the pipeline.

Many buyers choose to go through a body corporate search agent but there are those who go it alone.

Holland says not all bodies corporate are savvy in their methods and accuracy of record-keeping, and this poses a risk to do-it-yourself investors who don't cross-check facts and figures.

"You could get incorrect information that could jeopardise your purchase," she says. "Personally, if it were a unit that I was interested in buying and I didn't want to do the search myself, I'd get the body corporate manager to provide me with the disclosure statement."



generally apply for a Section 139 Statement (*Community Titles Act*) and Section 41 Statement (*Strata Titles Act*) when selling units or strata titles. Prospective investors can apply for copies of these statements.

Investors need to send the application for a statement to the body corporate secretary of the community corporation or to any member of the property's management committee.

Under the legislation, bodies corporate face up to a \$500 fine for refusing to supply a statement which must set out a range of details including any arrears in strata levies.

Copies of meeting minutes, existing insurance policies and statement of accounts must also be supplied.

## Queensland

Refer to case study above. ■

