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LATE REGULATIONS LEAVE OWNERS IN THE DARK
State Government fails to consult with public

New regulations to replace those in place for Bodies Corporate across Victoria are yet to be seen by the general public, with the closing date for submissions set for 25 July.

According to the Institute of Body Corporate Managers (IBCMV), the new regulatory regime imposes a much greater compliance burden on owners and professional managers alike.

"With 65,000 Bodies Corporate and 500,000 lots in Victoria, about 1,000,000 Victorians or 1 in 4 people are living in or affected by Bodies Corporate", according to the Institute's General Manager, Rob Beck.

Bodies Corporate comprise of residential properties ranging from 2 units in a suburban street to many hundreds of units in an urban tower block. Bodies Corporate also encompass commercial, retail, lifestyle resorts, retirement villages, car parks, storage facilities, industrial and, increasingly, mixed developments with more than one form of development.

In September last year the State Government passed the **Owners Corporations Act**, due to be proclaimed on 31 December 2007 at the latest.

"Draft regulations to support the new Owners Corporations Act 2006 and replace the Subdivision (Body Corporate) Regulations 2001 have now been prepared, yet no press announcement regarding its availability has been made. Therefore, members of the public are unaware of the new laws and are in the dark about the proposed regulations - so those wanting to comment on the proposed changes will miss their opportunity. Submissions close 25 July." Beck continued.

"This legislation represents a huge shift in public policy and completely changes the rules we've been working under for a generation. Under the new Act, the term Body Corporate is replaced with Owners Corporation. The name change is the least of the amendments." said Beck.

Among other things, the new regulations prescribe:

- classes of prescribed owners corporations
- insurance requirements for owners corporations
- when an existing corporation must establish an owners corporation register
- information to be included on an owners corporation certificate
- fees, costs and charges, and
- model rules for owners corporations.

"The draft regulations have been available on the Department of Consumer Affairs website for weeks now, yet the Minister has failed to alert the public to the proposed changes, denying them the opportunity to consider the Regulatory impact Statement (RIS).

IBCMV is concerned that those most affected by the legislative changes will not be afforded the opportunity to have their say on the regulations until almost too late for the Government to respond to submissions. Also, once the regulations are 'made', little time remains for community education. How does the Government expect people to comply with the new laws if they don't know about them?" asked Mr Beck.

Owners Corporation Managers deal with:

- The management of people in a community living environment
- Manage billions of dollars of other peoples money on an on-going and not a single transaction basis
- Manage entire communities and their current and future assets and facilities.

"In practice, compliance with some of the proposed provisions will disadvantage professional managers, members of owners corporations and committees alike.

For example, the Act does not recognise the important role of professional managers in the smooth and consistent running of owners corporations. In practice, managers now perform the roles of secretary and chairperson at general meetings at the behest of owners, to ensure proper and effective conduct of meetings and proxies/ballots. The new Act prohibits this, which would result in much greater responsibility being foisted on individual committee members." Mr Beck said.

The proposed definition of a prescribed owners corporation, which will have much higher compliance burdens, will capture strata properties with annual fees in excess of \$200,000, or more than 100 lots and will affect about 27% of all lots, and 1.2% of all owners corporations. Among other reporting requirements, these must have a ten year maintenance plan approved by the property owners and a maintenance fund to make provision for the plan's implementation.

"Experienced Owners Corporation Managers recognise that it is not the biggest owners corporations that generally have the biggest problems. Many of these "prescribed" owners corporations are newer and usually have professional managers well aware of the need for well-thought out maintenance plans and funds. The vast majority of the other 99% of the smaller non "prescribed" owners corporations tend to be older and these are the ones that do not plan for dealing with maintenance.

It is these smaller owners corporations that often have maintenance issues, but little provision to replace major items and protect owners assets. Over time, this neglect can lead to other issues such as OH&S "slips, trips and falls" and subsequent liability claims. As noted in the RIS, owners corporations play an important role in maintaining property and sustaining residential property values in Victoria." Beck continued.

"The IBCMV recommends prescribing properties with annual fees in excess of \$75,000, or more than 13 lots. This would capture about 50% of all lots, and 10% of all owners corporations. Moreover, the IBCMV advocates that all Owners Corporations, regardless of size, should plan for future maintenance costs.

"Property owners should also consider how to maximise the property's energy saving potential. For example, with the price of water set to rise, any water collected and held in water tanks on strata properties could be a source of contention among neighbours as some seek to use it for their own gardens, toilets etc, not just common property. It is important to have an agreement about how any savings are to be applied to avoid disputes." Mr Beck concluded.

For further information about the new laws, proposed regulations and to read IBCMV's submissions to the State Government:

<http://www.bodycorp.org>

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