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NEW BODY CORPORATE LAWS LATE AND FLAWED

STATE GOVERNMENT FAILS OWNERS, OCCUPIERS AND MANAGERS

The peak body for professional body corporate managers has slammed the State Government for its handling of the Owners Corporations Act, due to take effect on 31 December this year, as a Bill set to amend the Act before the laws come into force stalls in Parliament.

According to Rob Beck, General Manager of the Institute of Body Corporate Managers Victoria (IBCMV), the Owners Corporations Act 2006 was passed by Parliament fifteen months before its commencement date to allow time for stakeholder and community consultation.

"Instead of using this time to engage with the 65,000 Bodies Corporate in Victoria and the one in four people living in or affected by these new Owners Corporations, the lack of consultation about the laws and regulations has been staggering." Beck said.

All Victorians will be required to comply with the new laws by year's end but even the final version of the Act is up in the air. On 30 October, Minister for Consumer Affairs, Mr Tony Robinson, introduced amendments to the Owners Corporations Act even before it becomes law on 31 December. This extraordinary step was taken because the Government finally accepted IBCMV's view, strenuously argued before the Act was passed in September last year that many provisions were unworkable.

The Second Reading of the omnibus Fair Trading and Consumer Acts Further Amendment Bill was made on 1 November and it makes, among other amendments, important and necessary changes to the role of Secretary and Chairperson of Owners Corporations, currently known as Bodies Corporate.

Despite strong representations from IBCMV, the Owners Corporations Act 2006 did 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. Professional Managers ensure proper and effective conduct of meetings and proxies/ballots. The new Act prohibits this, which will result in the conduct of Owners Corporation meetings for the vast majority of Owners Corporations being in disarray and consequently increase costs for those Owners Corporations.

"Now in a move that beggars belief, the Government has indicated that the Bill amending the Owners Corporations Act will not be passed this Parliamentary session, laying over until the House sits in autumn next year, months after the Act and the regulations enabled by it come into force. As a result, owners, tenants and occupiers, along with professional managers, will be expected to comply with two sets of laws all because the Government literally can't get its 'Act' together.

"The Regulatory Impact Statement process has also been a shambles, with the regulations only just finalised. The Government closed submissions for the proposed regulations on 8 November, yet the Minister and the Department of Consumer Affairs failed to release one Media Statement to alert the one million stakeholders— owners and occupiers – of the review, robbing people of the chance to have their say. Indeed, not

one release relating to the Owners Corporations Act has been made since its passing last year." Beck continued.

Neither Minister Robinson nor his predecessor Minister Andrews released any media statements alerting members of the public to these fundamental changes to strata property administration. While the Regulatory Impact Statement and draft regulations are available on the Consumer Affairs Victoria website, consumers and stakeholders were not advised of their availability. Average Victorians are not in the habit of surfing State Government home pages looking for new laws to comply with." Beck said

"In a further blow to professional managers, the 'approved forms' enabled by the Act are still under review and won't be finalised before hundreds of thousands of fee invoices are sent out to lot owners on 1 December. Despite strong representations made to the Government, these forms remain unworkable and fail to address the commercial realities of running an Owners Corporations management business.

Moreover, the Government has again left professional managers high and dry, with the Act and Regulations to take effect in little over one month, the delay in finalising these forms until the last minute leaves managers with little time or opportunity to adjust their systems - both administrative and electronic - to accommodate the changes.

The Institute of Body Corporate Managers Victoria also has real concerns about the total lack of community education. It is difficult to expect people to comply with the new laws if they have not been made aware of the changes. It is even more difficult to educate stakeholders while the changes they are required to comply with remain up in the air." Rob Beck concluded.

EDITOR'S NOTE

ABOUT THE INSTITUTE OF BODY CORPORATE MANAGERS VICTORIA INC (IBCMV)

IBCMV is the peak body representing more than 75% of the professionals who manage:

- residential properties ranging from 2 units in a suburban street to many hundreds of units in an urban tower block
- commercial, retail, lifestyle resorts, retirement villages, car parks, storage facilities, industrial and, increasingly, mixed developments with more than one form of development
- manage billions of dollars of other peoples money on an on-going basis
- manage entire communities, their current and future assets and facilities.

With 65,000 Owners Corporations and 500,000 lots in Victoria, about 1,000,000 Victorians or 1 in 4 people are living in or affected by Bodies Corporate.

The strata and community title industry continues to grow rapidly in Australia and represents the management of property worth more than \$500 billion. There are approximately 1500 body corporate managers in Australia; with 3.5 million people living or working in bodies corporate schemes. Conservatively, it is estimated 20,000 Australians work in and derive their income from the strata title industry.

OWNERS CORPORATIONS VICTORIA (OCV)

The most obvious change resulting from the new Act is the replacement of the term Body Corporate with Owners Corporation.

From 1 January 2008, the IBCMV will officially become Owners Corporations Victoria (OCV), coinciding with the commencement of the new Owners Corporations Act.