



BUYING INTO AN OWNERS CORPORATION

Perhaps the most important issue to consider when buying a property affected by an owners corporation is to determine the boundary of the lot you are purchasing and what constitutes common property on the plan of subdivision.

Stand Alone Unit

Purchasers of a stand alone unit/lot need to determine who will be responsible for maintaining, repairing and replacing the roof, exterior walls and windows? The boundary of a unit/lot needs to be determined to ascertain whether such costs will be the responsibility of the unit/lot owner or the owners corporation. If the unit/lot has a courtyard adjacent to the building, a purchaser needs to determine:

- is the courtyard area included within the title of the lot?
- is the courtyard area part of the common property owned by the owners corporation? If the answer is yes, is there a lease or licence from the owners corporation to the current owner of the lot which is capable of being transferred to you?
- does any other person have any right to use or access the courtyard area?

Apartment in a Multi-Storey Building

If you are purchasing an apartment in a multi-storey building, it is important to determine the title boundaries of the apartment. Issues requiring consideration include:

- is the title boundary the interior face of the walls, floors and ceilings?
- who owns the roof of the building, is it the owners corporation or the owner of the apartment located immediately below the roof?
- if there is a suspended ceiling in the apartment, who owns the area between the suspended ceiling and the concrete slab above?
- where there is a balcony adjacent to the apartment, who owns the balcony area, balustrade and the floor tiles?

Once title boundary has been established then it is possible to determine liability issues such as whether the lot owner or the owners corporation will be responsible for:

- costs of maintenance, repair and replacement;
- water damage to an apartment located below the balcony of another apartment;
- injury to a person who fell through a balcony balustrade.

Other issues to consider when buying an apartment in a multi-storey building include:

- determining the structural integrity of the building;
- is there flammable cladding on the building which needs to be replaced?
- does the owners corporation have a maintenance plan?
- does the owners corporation have a maintenance fund to cover the cost of repairs and maintenance to the building and services to the building, for example, lifts, roof, exterior facades, swimming pools?
- what do the minutes of the last annual general meetings of the owners corporation reveal regarding possible maintenance, repair and replacement costs which may be incurred by the owners corporation?
- does the owners corporation have sufficient insurance which not only complies with statutory obligations but will protect you from possible claims for personal injury and property damage?

...continued on page 2

Generally, your lot liability determines your liability for the cost of maintenance, repairs and replacement incurred by the owners corporation.

Reading a certificate of title and a plan of subdivision requires knowledge of legislation and case law. The *Subdivision (Registrar's Requirements) Regulations 2011* prescribes information for interpreting plans of subdivision registered after 8 October 2011. Plans registered prior to this date need to be interpreted with reference to the *Subdivision Act 1988*.

McKean Park can assist you when you purchase any style of property. McKean Park does not just act as a processor of title transfer documents. McKean Park provides advice regarding the title documents and seeks your instructions as to representations made by the agent to you concerning the property, especially, those relating to the location of title boundaries so that your interests can be protected.



Robyn Crozier, Consultant Lawyer & Accredited Specialist in Property Law
robyn.crozier@mckeanpark.com.au



Anne Marie Gasbarro, Partner
a.gasbarro@mckeanpark.com.au

Expert advice. Practical solutions. Personal service.

McKean Park Lawyers
Level 11, 575 Bourke Street
Melbourne VIC 3000 Australia
GPO Box 38, Melbourne 3001
DX 400
T 03 8621 2888
F 03 9614 0880
www.mckeanpark.com.au
 

McKEANPARK
LAWYERS