

Management Rights Assignment

Fact Sheet



A LITTLE BIT ABOUT US FIRST

Active Law is a boutique body corporate law firm.

We act ONLY for Bodies Corporate!

THE MANAGEMENT RIGHTS SALE PROCESS

Once a management rights sale contract is unconditional, the lawyer acting for the current manager will write to your body corporate manager formally requesting the consent of the body corporate to the proposed assignment of the management rights.

FACT #1 - Given you are receiving this Fact Sheet probably means your body corporate manager has received formal notification of the sale of the management rights.

SHOULD A COMMITTEE APPOINT A LAWYERS TO ACT FOR THE BODY CORPORATE?

FACT #2 – Absolutely!

In Riviere on Golden Beach the Adjudicator said:

“It has therefore always been in the consideration of the legislation, that the body corporate is entitled to seek legal advice, and legal assistance, with regard to a proposed transfer and drafting of related documents. It is considered by the legislation prudent for a body corporate to do so.”

Considering the Adjudicator’s comments, committee’s need to be mindful if it proceeds without the benefit of legal advice and the body corporate is prejudiced, then the committee members may be exposed to personal liability.

There is a distinct legal element to an assignment of management rights.

Active Law is highly experienced at reviewing and advising a body corporate on the legal documents submitted in regards the assignment of management rights.

The key legal documents, being the assignment motion and the deed of assignment, are prepared by lawyers acting for the buyer of the management rights.

Accordingly, it is usually the case the draft assignment documents will contain terms prejudicial to the body corporate and will not likely contain terms we would recommend be included for the body corporate’s benefit.

The body corporate also needs to be advised on its rights and obligations under the relevant legislation. For example, is the body corporate entitled to receive a transfer fee in regards the proposed assignment?

WHO PAYS?

FACT #3 – Statutorily and often contractually under the management rights agreements, the reasonable legal and administrative costs incurred by a body corporate in consenting the assignment of the management rights is paid by the outgoing manager.

The very first thing we do for a body corporate when engaged to act for it in an assignment of management rights is to request an undertaking from the outgoing manager to pay the costs incurred by the body corporate, irrespective of whether the management rights sale contract is ultimately completed.

DOES A BODY CORPORATE HAVE TO CONSENT?

FACT #4 – No. The body corporate’s obligation is to not unreasonably withhold consent.

That does not mean the body corporate has to accept any “old joe”.

Where the body corporate wishes to withhold consent, it will need to be expertly guided to ensure it is on a safe footing to do so.

WHY CHOOSE ACTIVE

FACT #5 - We are body corporate legal specialists. Acting for bodies corporate is in our DNA. It’s who we are!

FACT #6 – We will provide you with easy to understand, no nonsense legal advice.

FACT #7 – You will deal with a specialist body corporate lawyer with over 20 years’ experience in acting for bodies corporate.

FACT #8 - We have excellent relationships with “manager’s” lawyers. Feel free to ask any of them.



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