



By-laws

As the population increases and property prices rise combined with people wanting to be closer to the cities, our living spaces are becoming smaller and smaller, however the downside is that many people are not used to living in a Strata Titled complex and having neighbours not only on each side but also upstairs, downstairs and in some cases directly behind them. Others are used to being able to do what they like when they like. And others thought that having federal laws, state laws and council laws were bad enough - now they have by-laws that they have to adhere to?!

What are by-laws?

By-laws are a set of rules which have been set to ensure that all occupants can sensibly and peacefully enjoy living in a complex together. They can include a variety of matters including pets (guide dogs are allowed regardless, the Guide Dogs Act 1972 overrides), noise, parking, laundry hanging on balconies, damage to common property etc.

The by-laws and their enforcement are essential to preserve property values in the community. A by-law must not impose a monetary liability on an owner or occupier of a lot (eg must purchase electricity from the scheme if they have bulk electricity), must not discriminate between different types of occupiers (owners/tenants) (eg only owners can use the BBQ area, tenants are not allowed); cannot restrict the type of residential use of a lot as long as that lot may lawfully be used for residential purposes (eg prevent occupiers from running a business from the lot or placing tenants in the lot); and cannot prevent or restrict the transfer or sale of a lot (eg prevent the sale of a lot to a person under or over a particular age (retirement villages)).

What is an exclusive use by-law?

An exclusive use by-law allows a particular lot to have exclusive rights and enjoyment of common property or a body corporate asset (eg a rear courtyard, balcony or roof top if it is not included as part of the lot). The common property or asset must be identified in the by-law and may also need to be identified on the plans.

An exclusive use by-law must not give exclusive use to the rights and enjoyment of utility infrastructure that is common property or a Body Corporate asset (eg pipe work, electricity cabling or TV satellite)

Where do I find a copy of the by-laws for my scheme?

There is a standard set of by-laws provided in the legislation as a minimum, however each scheme can tailor their by laws to suit their needs. The by-laws are found in the Community Management Statement (CMS), if you are unsure which by-laws apply to your scheme contact the body corporate manager or secretary for a copy. By-laws that are not included in the CMS (eg gym or pool use hours) are known as "house rules" and can not be enforced with by-law breach notices etc.

Do I have to give my tenants a copy?

Yes, the by-laws form part of the lease agreement and tenants must abide by them. A copy must be given to the tenants. Tenants and lot owners can be breached by the Body Corporate if they do not comply.

How do we enforce the by-laws?

If a by-law is broken the Body Corporate can issue them with one of two different types of breach notices:



1. **Continuing Contravention Notice** – issued if an occupier (owner or tenant) is believed to be breaching a by-law and if the circumstances make it likely that the contravention will continue (eg unapproved pet living in the lot, continual parking in the visitors parking space/s). A copy of the Continuing Contravention Notice (Form 10) can be found on the website for the Commissioner for Body Corporate and Community Management www.justice.qld.gov.au/bccm If the person does not comply with the notice the Body Corporate may start proceedings in the Magistrates Court for the failure to comply with the notice or submit an application for dispute resolution with the department.
2. **Future Contravention Notice** – this form is issued to the occupier if the body corporate believes that a by-law has been breached and the circumstances make it likely that the contravention will be repeated (eg loud party, pet dog on common property when not on a lead, parking in visitors parking space). A copy of the Future Contravention Notice (Form 11) can be found on the website www.justice.qld.gov.au/bccm The Future Contravention Notice has effect for a maximum of 3 months after it is issued, if the by-law is breached again in this time the Body Corporate may start proceedings in the Magistrates Court for the failure to comply with the notice or submit an application for dispute resolution with the department.

Next week - Disputes