
PURCHASING AN APARTMENT CHECKLIST

Your decision to buy an apartment for a home or an investment is influenced by the information you have and the research that you do. Therefore before buying an apartment managed by an owners corporation you should find out more about the apartment and the owners corporation by obtaining a copy of the vendor's statement (or section 32 statement under the *Sale of Land Act 1962*) and inspect the owners corporations register.

The owners corporation certificate and the register contain important information about the total fees, the allocation of lot liability and lot entitlement for the apartment or any legal liabilities. Ensure that you check the following:

- The cost of living in the owners corporation.
- How well the owners corporation operates.
- The details contained in the plan of subdivision. In particular you should check the boundaries of the lot and common property, the location of easements and that the allocation of lot entitlements and liabilities are fair and reasonable.
- The contents and conditions in the contract of sale.
- The owners corporation register.
- The matters contained in the owners corporations rules.
- Any leases/licences of common property.

Living in an apartment has very different rights and obligations than what you may be used to. You should consider all aspects that will impact on your lifestyle or the lifestyle of your potential tenants.

The obligations of the owners corporation include:

- Managing and administering the common property.
- Repairing and maintaining the common property, fixtures and services.
- Taking out and maintaining required insurance.
- Raising fees from the lot owners to meet financial obligations.
- Preparing financial statements and keeping financial records.
- Providing owners corporations certificates when requested.
- Keeping an owners corporation register.
- Establishing a grievance procedure.
- Carrying out any functions and duties under the *Owners Corporations Act 2006*, the *Owners Corporations Regulations 2007*, the owners corporation rules and any other law.
- Ensuring compliance with *Owners Corporations Act 2006*, the *Owners Corporations Regulations* and rules.

Your obligations to the owners corporations include:

- Paying owners corporation fees, levies and charges.
- Maintaining your own apartment, and if relevant, car parking lot, balcony, courtyard or storage unit which is your lot or part of your lot.
- Maintaining any service that serves your apartment exclusively.
- Giving notice to the owners corporation of any application for a planning or building permit or the certification of a plan of subdivision affecting the lot.
- Notifying the owners corporation if you sell your apartment and supplying the name of the new owner within one month of the completion of the contract.
- Notifying the owners corporation if you purchase an apartment within one month of the completion of the contract.
- Not using or neglecting the common property or permitting it to be used or neglected in a manner that is likely to cause damage or deterioration to the common property.
- Giving a copy of the rules to any tenant.
- Ensuring that each occupier or visitor complies with the *Owners Corporations Act 2006*, *Owners Corporations Regulations 2007* and the rules.
- Complying with the *Owners Corporations Act 2006*, regulations and the rules.

The purchaser's checklist at the end of this fact sheet will help you identify issues that you may need to take into account when purchasing a property managed by an owners corporation.

Relevant legislation and documents

Copies of the following documents can help to ensure your owners corporation runs smoothly:

- *Owners Corporations Act 2006*
- *Owners Corporations Regulations 2007*
- *Subdivision Act 1988*
- *Subdivision (Procedures) Regulations 2000*
- Rules of the owners corporation
- Plan of Subdivision

Hard copies of the legislation can be purchased from Information Victoria:

505 Little Collins Street, Melbourne 3000

1300 366 356, www.information.vic.gov.au

Online copies of the legislation can be downloaded from:

www.legislation.vic.gov.au (Victorian Law Today).

Copies of a plan of subdivision and an owners corporation's rules can be obtained from Land Victoria:

570 Bourke Street, Melbourne 3000

03 8636 2010, www.land.vic.gov.au

Further reading from Consumer Affairs Victoria

- Owning, managing and living in a unit or apartment: Guide to owners corporations

Fact sheets:

- Activating your owners corporation
- Annual general meetings
- Chairperson
- Committees
- Dealing with grievances
- Financial management
- Insurance
- Maintenance and maintenance plans
- Managers
- Meeting procedures
- Multiple owners corporations
- Owners corporation register
- Owners corporation certificate
- Prescribed owners corporations
- Records
- Rules
- Secretary
- Two-lot subdivisions
- Voting and ballot guidelines

Ring Consumer Affairs Victoria on 1300 55 81 81 or download the publications from

www.consumer.vic.gov.au/ownerscorp.

More information

Victorian Consumer & Business Centre

113 Exhibition Street

Melbourne 3000

Telephone: 1300 55 81 81

Website www.consumer.vic.gov.au

Regional Offices

Consumer Affairs also has regional offices located in Ballarat, Bendigo, Geelong, Morwell, Mildura, Wangaratta and Warrnambool together with a mobile outreach service that regularly visits rural communities. To find details on the office or mobile service nearest you, ring 1300 55 81 81 or go to the Consumer Affairs website on www.consumer.vic.gov.au and click on the Contact Us link.

Because this publication avoids the use of legal language, information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

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PURCHASERS CHECKLIST

Your needs

- Is the apartment close to transport, work and friends
- Is the apartment close to shops, supermarkets, sporting facilities and schools?
- Will the noise of traffic, trams or trains keep you awake or wake you?
- Can you hear people walking and talking in other apartments?
- Can you smell cooking odours?
- Are you near the garbage bins or waste collection areas? Are there any odours?
- Is the apartment big enough? Will your furniture fit in?
- Does the apartment have a parking space on your title? If so, then check the plan of subdivision and the contract of sale to confirm whether that is correct.
- What is in the rules? Are you able to have pets? Can you keep your bicycle in your car parking space?

Owners corporation finances

- Have you budgeted for all outgoings in owning the apartment?? What are the annual fees, special levies and Council rates?
- Are you able to manage any increases in interest rates, annual fees and special levies?
- What are annual owners corporation fees, levies and charges?
- Are there any fees or other monies owing?
- Is there a bank account in the name of the owners corporation or a trust fund held by the manager?
- Can you see the owners corporation register or most recent financial statements and the budget?
- Does the owners corporation have a credit balance or is it in debt?
- Has the owners corporation borrowed any money or have other financial liabilities? If so, how much?
- Has the owners corporation a sinking maintenance fund?

Check the plan of subdivision

- Are you a member of more than one owners corporation?
- What are your lot entitlements (voting rights) and lot liabilities (your contribution to the owners corporations) as part of the whole development?

- Check the measurements of the apartment and your car space. Are the measurements the same as represented in the plan of subdivision, brochure and the contract of sale?
- Is the car parking space a lot and part of your title? If so, then you need to ensure that the car parking space is transferred with the title.
- Is the car parking space common property? If so, then you need to ensure that you have a lease or a licence.

Maintenance and repairs

- Are there any proposed maintenance, renovations or other building works? Has the owners corporation already raised the funds to cover the cost of the building works? Will there be a special levy?
- Is there a maintenance plan? If so, then ask to see a copy of the maintenance plan.
- Are there any guarantees and warranties on building works and finishes? Are the documents referred to in the contract of sale?
- Are the building works and finishes completed? Are there any defect claims?
- Has the building got sufficient reinstatement and replacement insurance cover?
- Are there any obvious structural issues, damage or repairs needed to the building? Many expensive structural defects are not easily identifiable. You should consider getting a report from a building surveyor or an architect to identify expensive defects in the building before signing the contract.

Management issues

- Is a registered manager appointed?
- Is there a building manager or caretaker manager living on or off the property?
- When was the last annual general meeting? Ask to see the minutes of the last annual general meeting. How many complaints were reported to the owners corporation?
- Is there a committee? Can you contact the chairperson?
- Are there any rules? Are the rules registered at Land Victoria?
- What is the grievance procedure?
- Are any legal proceedings affecting the owners corporation? If so, ask for details or copies of the application or complaint and you should get legal advice before signing the contract.
- Check www.austlii.edu.au for any record of a VCAT decision affecting the owners corporation or the address or the building.