

ManagementONE

The quarterly newsletter from The Management Rights Lawyers

Are property prices affecting your letting pool? by Amy McKee

A booming property market has seen Queensland property prices reach record highs. That is great news for sellers but perhaps not such great news for managers who are losing lots to owner occupiers. It seems that increasing prices is also driving demand for lots in community titles schemes as buyers look to purchase units and townhouses because they can no longer afford a standalone house.

Managers losing lots from their letting pool is not a new problem and one that will continue beyond this current property boom. Unfortunately housing prices are not the only cause managers lose lots from the letting pool. There are many factors that contribute to this problem.

The unfortunate impact is not only the loss of income from these letting appointments but also the loss in value of a business. It is not unusual for a letting appointment to be worth many thousands of dollars, or even tens of thousands of dollars depending on the type of business (short/ long term) and the multiplier that applies to that business.

Managers need to understand that this is a risk of owning a management rights business. Income is unlikely to be stable over time. Income goes up as lots are gained in the letting pool or as rents increase. Income goes down when lots are lost from the pool and rates

go down. The income for the business will swing as various factors (covid-19, natural disasters, the economy and world politics just to name a few) impact the tourism industry. The value of the business will change accordingly.

Despite these factors, managers can reduce these risks by doing a good job and having a good relationship with owners. Managers should:

- Remind owners about the excellent returns on their investment and encourage owners to maintain that investment rather than sell and invest elsewhere.
- Make owning an investment property as easy as possible for owners through good management and making sure owners know about the excellent service being provided.
- If owners wish to sell, encourage owners to sell the property as an investment relying upon the excellent returns. Managers should assist owners collate/ provide information for the sales agent regarding the investment returns so that the property can easily and succinctly be marketed on that basis. Managers should work with rather than against the sales agents for the best chance of being engaged as letting agent by any future investor.
- Remind owners about the excellent condition of the complex and

common property and how this positively impacts rental and property values. Owners are more likely to reward managers with their support if they believe that they have contributed to their success.

- Take active steps to return any lots that are let by outside letting agents back into the letting pool. Good managers are in the best position to provide the best service to owners. Managers need to market this and develop relationship with all owners not just those in the letting pool.
- Consider obtaining a full real estate licence and offering additional services to owners. Sales agents have an obligation to the owners to achieve the best price so a manager will not be able to ignore owner occupier buyers however a manager will be able to control the marketing of the property to encourage investors rather than owner occupiers. If selling to an owner occupier, managers should develop a good relationship with the buyer at this stage. Circumstances change and owner occupiers may become future investors. People provide referrals for those who provide good service which may lead to other opportunities. You might ask that owner to vote in favour for your next general meeting motion or they might become the next chairperson.

Don't let your agreements or appointments let you down! by Amy O'Donnell

It is rare that a week goes by that we are not asked to check an agreement, or review an appointment, comment on a duty or check a by-law. These documents are the cornerstone of your business and are the key documents that will be looked at by a buyer when you go to sell (who will be looking for holes). It never hurts to be prepared and have these fixed or at least identified!

It is well known that the income of your business is a determining factor on the sale price you will be able to achieve. This income is only achievable and sustainable with proper letting appointments in place. We continue to be surprised at issues we commonly see (which are all usually simple fixes) – including:

- not signed by the agent;
- wrong name of the letting agent;
- wrong licensee;
- wrong licence number;
- missing dates;
- missing pages;
- schedule of fees not attached; or
- an appointment for a term, that has expired.

Fortunately, as a result of a Court of Appeal decision, a POA form 6 letting appointment will not be invalid just because the wrong version of the form was used at the time it was entered into. Provided the version of the Form 6 actually used, is substantially in accordance with the current version, then that will be sufficient compliance.

It does not hurt to take the time to review your appointments and make sure they are all in order, long before you are thinking of selling.

All managers should also remember, that without a proper appointment, there is no entitlement to commission.

The same can be said for your agreements with the body corporate. Whilst we have written many times about knowing your dates, it is just as important to ensure that you have complete copies of your agreements, and understand what they say. You don't want to try selling your business (without a manager's lot) only to find out at due diligence that there is a hidden clause in the agreement requiring the lot to stay with the business.

Other issues we often see come up in relation to the agreements, include:

- signed by the wrong person;
- the wrong body corporate seal inadvertently used;
- no evidence of a returning officer for a top up variation; or
- no evidence of an option being exercised.

Sometimes these little things, with the pressure of time constraints and emotion of a sale, become insurmountable. This should not be the case.

Whilst not everyone will be on the market to sell anytime soon, everyone should take the time to review the documents that make up their business and ensure that they are in order. This may seem a mundane and unexciting task but do not underestimate its importance. We are always more than happy to help you conduct a broad review of your key management rights documents.



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For latest CPI figures go to

[Click here for Brisbane All Groups CPI figures](#)

You will need to click on "All groups CPI, index numbers(a)" to see the detail. For example, if your remuneration started at \$100,000 on 1 September 2016, the correct calculation for the 1 September 2021 increase based on Brisbane All Groups CPI would be $\$100,000 \times 119.2$ (i.e. the last index figure before the review date – the June 2021 quarter) / 109 (i.e. the last index figure before the commencement date – the June 2016 quarter) = \$109,357.80. Mahoneys has assisted many managers in having their remuneration increased to market level.



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