

**PUBLIC**



**REAL ESTATE INSTITUTE OF WESTERN AUSTRALIA**

**Submission to the  
Standing Committee on Public Administration**

**on the**

**Inquiry into Western Australian Strata Managers**

**January 2010**

## 1. Introduction

The Real Estate Institute of Western Australia Inc (“REIWA”) is a apolitical professional association of real estate practitioners in Western Australia, representing some 1500 principals and 6000 employees.

REIWA represents an important element of the broader property sector which makes a significant contribution to Western Australia’s social and economic development.

REIWA also serves as an advocacy group for consumers engaging in real estate transaction in the State, speaking on their behalf on a range of issues impacting on property.

## 2. Executive Summary

REIWA appreciates the opportunity to make a comment on the inquiry into Western Australian Strata Managers.

The functions and responsibilities of strata managers are extensive. It is REIWA’s view that the services agreed to in REIWA’s agency agreement should be the minimum expectations of a strata manager.

It is REIWA’s view that a skilled and knowledgeable strata manager can be a significant benefit to the strata company in the efficient administration of the strata scheme.

As with any specialist practitioner it is important that the person has access to quality training and information.

To maintain the public’s confidence in the ownership of strata property there should be some form of regulation or licensing of strata managers. Further the monies receipted by a strata company should be maintained in a trust account.

Each strata company should be taking action to ensure that the strata company has sufficient funds to enable adequate maintenance of the common property. Some form of compulsory contribution is suggested.

## 3. Terms of Reference

### 3.1 The functions and responsibilities of Strata Managers

The functions and responsibilities of strata managers will depend upon what has been agreed between the strata manager and the strata company.

A real estate agent who is taking on a strata management will, pursuant to the *Real Estate and Business Agents Act*, require a written authority.

REIWA provides a standard written authority that it encourages its members to use. That authority sets out in detail the services that the agent will provide, broken down between Agreed Services and Additional

Services. REIWA believes that these Agreed Services are the minimum expectations that a strata company should have of their strata manager.

3.1.1 The Agreed Services are those that are considered standard services and the agreed management fee would include the following list of functions and responsibilities:

3.1.1.1 Accounting Services

- Pay accounts and outgoings
- Prepare budgets and calculate the amounts of contributions and reserve funds
- Prepare and serve notices of contributions determined in accordance with Section 36(1)
- Collect and bank contributions into a trust account and issue receipts
- Keep the Strata Company's books of account and prepare an annual statement of account
- Invest the Strata Company's reserve funds in an account as directed by the council or the Strata Company.

3.1.1.2 Insurance

- Effect and promptly renew insurance covers as instructed by the Council or the Strata Company.
- Make insurance claims, other than major claims (subject to the provisions of the Financial Services Reform Act and the Agent being an authorised representative or arranger of the insurer or broker).

3.1.1.3 Secretarial

- Attend to routine correspondence.
- Receive and display notices and record notices and orders served on the Strata Company.
- Maintain Strata Company roll pursuant to section 35A.
- Maintain minute records.
- Retain the records, documents and common seal of the Strata Company.

3.1.1.4 Meetings

- Prepare and issue notices of annual general meetings of the Strata Company but not extraordinary general meetings.
- Attend and prepare and distribute minutes of annual general meetings of the Strata Company.

3.1.1.5 Repairs and Maintenance

- Arrange routine maintenance, repair and replacement of the common property as authorised by the council or the Strata Company.

#### 3.1.1.6 General

- Advise the Strata Company and the council on by-laws.
- Advise the Strata Company and council on matters of compliance, procedure and management.
- Generally assist the Strata Company, the council and its officers in the exercise of their powers and authorities and performance of their duties and functions.

3.1.2 Additional Services are non standard services for matters with which the strata company may require assistance. A separate fee would be agreed. The Additional Services would include the following functions and responsibilities:

#### 3.1.2.1 Strata Council Meetings

- Prepare and distribute notices for council meetings;
- Attend, prepare and distribute minutes of council meetings.

#### 3.1.2.2 Extraordinary general meetings

- Prepare and distribute notices of extraordinary general meetings of the Strata Company;
- Attend, and prepare and distribute minutes of extraordinary general meetings of the Strata Company.

#### 3.1.2.3 Repairs and Maintenance

- Arrange non-routine maintenance, repair and replacement of common property and liaise with consultants/builders for major works.
- Liaise with developers relative to defect rectification in new buildings.

#### 3.1.2.4 Insurance

- Prepare and lodge major insurance claims.
- Arrange insurance valuations on instruction from the Strata Company or the strata council.

#### 3.1.2.5 Accounting

- Engage consultants (at Strata Company cost) to assist in preparation for reserve fund budget and



other financial reports requested by the Strata Company or the strata council.

- Maintain wage and related records required by law in respect of employees or contractors of the Strata Company and prepare and file associated returns.
- Submit invoices to the Strata Company treasurer for approval.
- Make an application for a Strata Company tax file number, if required.
- Make an application for a Strata Company Australian Business Number, if required.
- Instruct a registered taxation agent in relation to lodgement of income tax returns.
- Instruct a registered taxation agent in relation to lodgement of Business Activity Statements.
- Register/deregister the Strata Company for GST, if applicable.
- Assist auditor in provision of accounts and records for audit.
- Prepare interim statements of account.
- Reconciliation of gas, water or electricity sub-meter accounts.
- Prepare and serve notices of contributions and recover costs payable other than in accordance with Section 36(1).
- Collect and bank contributions determined other than in accordance with section 36(1).
- Prepare and issue initial demand notifications for outstanding contributions.

#### 3.1.2.6 General

- Prepare and issue certificates under Section 43(1) of the Act, furnish information and supervise inspections.
- Apply and make submissions to government and judicial authorities for consents, authorisations, licences, approvals, exemptions and other decisions and attend hearings and meetings conducted by government and judicial authorities.
- Instruct and attend conferences, courts, tribunals or mediations, with lawyers.
- Attend at the property for any purpose which is not an agreed service.
- Implement the decisions of the Strata Company and council which the Agent is not required to do as part of its agreed services

#### 3.1.2.7 Secretarial

- Copy and forward to proprietors and residents newsletters and other material prepared by the Strata Company or the council;

- Attend to non-routine correspondence;
- Prepare documentation for solicitors, advisors or others in relation to proceedings or matters to which the Strata Company is a party;
- Provide proprietors' address labels;
- Provide copies of documents, furnish information and supervise inspections as may be requested under section 43(1)(b) of the Act;
- Prepare and issue certificates\* pursuant to section 43(1)(c) and (d) of the Act;
- Forward correspondence to consultants, legal advisors, occupiers, letting or selling agents or any other bodies;
- Provide archive facilities.

### **3.2 The Education of Strata Managers**

Strata managers who receive formal training are better placed to provide sound management practice and guidance to strata companies.

It is REIWA's view that a lack of information and education contributes to poor management by both strata companies and strata managers. Strata companies should be seeking people who have adequate training in strata management.

Further it is REIWA's view that detailed guidance should be offered on managing reserve funds. It is not unusual for self managed strata companies to not know what to account for or how much to put aside in building their reserve funds. Whilst small schemes are less likely to engage a strata manager, these small schemes of three or four lots can still have significant value and therefore have large balances in administration and reserve funds especially in commercial properties.

### **3.3 Licensing of Strata Managers**

REIWA supports some form of regulation or licensing of strata managers in the situation where the strata manager is not a lot owner.

In consideration of the growing number of strata titled properties and the associated revenue raised from levies it is important that the public has confidence in the ownership and management of strata titled property.

If strata managers were required to be licensed then REIWA would not oppose a change to the definition of a real estate transaction to include strata management.

Additionally if there is some form of regulation then in addition to a requirement for training in the basic areas of strata management, there should be a requirement for ongoing training as a form of continuing professional development.

## **4. Any other relevant matter**

#### 4.1 Compulsory Reserve Fund

It is REIWA's view that individual strata lot owners should be required to pay periodic levies to a strata special contribution (a sinking) fund in cases where there is any common property. This reserve fund would accumulate funds to meet:

- (a) contingent expenses other than those of a routine nature, and
- (b) other major expenses of the strata company likely to arise in the future.

#### 4.2 Trust Accounts

It is REIWA's view that all monies received by a strata company should be held in a trust account.

The present situation of a strata manager being able to deposit strata levies into their personal account is unacceptable and could certainly increase the risk of defalcation of strata funds.