

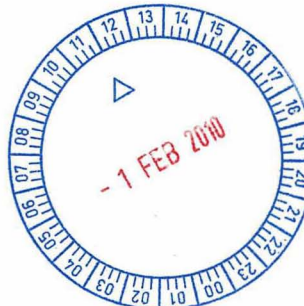
PUBLIC

Standing Committee on Public Administration
Legislative Council
Parliament House
PERTH, WA 6000

AIC
AUSTRALIAN
INSTITUTE OF
CONVEYANCERS
WA DIVISION INC

ABN 25 856 356 858

FORMERLY
THE SETTLEMENT AGENTS
ASSOCIATION (INC.)

29th January 2010

Att: Mrs Cassandra Stephenson

Re: Western Australian Strata Managers

Dear Cassandra

Please find enclosed the Australian Institute of Conveyancers WA Division Inc (AICWA) submission regarding the "Inquiry into Western Australian Strata Managers".

The AICWA represents over 250 Licensed Settlement Agents in Western Australia. Consultation with our Members motivates us to submit this brief submission to the inquiry into Western Australian Strata Managers.

We are motivated by the desire to dissuade any form of regulation that may replicate the regulation of Settlement Agents in Western Australia as currently stands under the Settlement Agents Supervisory Board.

Our Institute is supportive of your endeavours and do advise that our Institute would willing provide any representation to any desired committee that may assist the inquiry to reach it's best endeavours in this regard.

Yours faithfully

Ciaran Westland
Executive Officer

**THE AUSTRALIAN INSTITUTE OF CONVEYANCERS WA
DIVISION INC.**

Submission to the Standing Committee on Public Administration

Regarding

Western Australian Strata Managers

POSITION AS IT STANDS NOW

Strata Managers and the Strata Management industry is presently unregulated. This is a situation that cannot continue. It is the Federal Governments intention to maintain a register of licensed practitioners in allied real estate professions throughout Australia and allow the regulation and disciplinary mechanisms of each particular profession remain with the relevant state Authorities.

In the case of Real Estate and Business Agents, Settlement Agents this position taken by the Federal Government gives rise to the question should the current regulatory boards of both the Real Estate and Business Agents and the Settlement Agents be maintained in their current form or should these regulatory bodies be scrapped all together in favour of some form of self regulation or co-regulation or indeed one regulatory body made up of practitioners from the combined professions to oversee the co-regulation of all aspects of the Real Estate industries practitioners including Strata Managers.

There is much anecdotal evidence that licensed practitioners in both the real estate and the conveyancing profession see their respective regulatory bodies with mounting disquiet and not appropriate bodies for regulating, educating, or encouraging higher standards of licensed practitioners in Western Australia or serving the best interest of the Western Australian consumer.

The reasons for this unhappy circumstance are numerous but fundamentally, the short comings of such regulatory bodies arise because of a basic misunderstanding of the nature of the work provided by licensed practitioners in Western Australia in an ever changing competitive profession that is continually influenced by changing legislation that is continually evolving for the protection and well being of the consumer. This situation can not and must not be repeated within the Strata Title industry in Western Australia.

Our challenge in this regard is to arrive at some form of regulation that is self funding, supportive of the continuing professional development of each practitioner and protective and reassuring for the consumer in Western Australia.

FUNCTIONS AND RESPONSIBILITIES OF STRATA MANAGERS

A Strata Company is a corporate body that is not subject to Corporation Law. The corporate body takes effect upon the registration of the Strata Plan or Survey Strata Plan by the Registrar of Titles.

Lot proprietors are “Members” of the Strata Company, once they become registered proprietors of an individual lot within the Strata Scheme. As members of the Strata Company each registered proprietor becomes liable for any losses and or debts of the Strata Company.

This liability is the single most evident reason for the need for proper management of the functions of the Strata Company.

The functions of a Strata Company can be split into 3 categories being procedural, administrative and executive duties.

The procedural matters are basically contained within the provisions of the current Strata Titles Act while the administrative matters require secretarial and financial procedures to meet the provision of the Act, Strata Company policies, by laws of the Strata Company and the dissemination of the relevant information to the Strata members.

The executive duties of the Strata Company involve in the simplest terms the day to day running and maintenance of the functions of the Strata Company as provided by the differing sections of the Act and include the establishment of an administrative fund, complying with the insurance functions of Strata Company, enforcing by laws, maintaining the common property, both real and personal, managing the common property of the benefit of all residents, maintaining records and complying with notices, convening and conducting meetings, controlling and maintaining control of the common seal, and recovering monies in some instances.

The above mentioned functions are all the responsibility of the Strata Company and are usually discharged by the duly constituted Council who in turn may appoint a Strata Company Manager to implement decisions, provide advice, and refer matters and issues to other specialists.

The role of the Strata Company is then attaining the objectives of the Strata Company in timely and seamless manner to protect the interests of the registered proprietors of the lots within the Strata Scheme their visitor and tenants.

WHETHER STRATA MANAGERS SHOULD BE LICENSED

It is the view of the Australian Institute of Conveyancers WA that all practitioners in the real estate sector should attain a level of competency and be required to maintain that level over the term of their involvement in the profession.

The term “licensed” has come to mean that the recipient, at some time in the past, attained a competency and therefore became licensed and continues to be licensed.

Our Institute accepts that some form of registry of qualified practitioners is required and advisable and in this instance that registry should probably be maintained by the proposed National Occupational Licensing System (as with Settlement Agents and Real Estate Agents) but would prefer the entrance level of the education criteria to be at Advance Diploma Level rather than Certificate level as is currently required in the Real Estate and Conveyancing professions and that level of competency be maintained by continuing professional development to maintain the accepted registration require to practice in the profession.

ANY OTHER RELEVANT MATTER

Regulation

The Australian Institute of Conveyancers WA Division supports a form of co-regulation for professionals contained within the Real Estate Sector and sees no reason for the Strata Managers or the Strata Management Profession not to be included into the regime that regulates the Real Estate sector. The current systems that provide for Boards to act as regulators is outdated, ineffective and in need of urgent change.

Our Institute supports a means of regulation that provides for a commissioner, to oversee the combined Real Estate profession including the Strata Management sector with such Commissioner being supported by a Board of advisors comprised of practitioners active in each sector.

Education

A vital ingredient to the development of the Strata Management profession is the ability and knowledge of the practitioners within the profession. The responsibility for the development and delivery of the required and ever changing and developing education programmes should be left with the participants within the profession. The best equipped body to undertake this obligation and continue to advance it is the peak body representing Strata Managers in Western Australia.

Professional Indemnity Insurance

The professional indemnity insurance should be compulsory for all practitioners participating in the profession. The administration of any professional indemnity policy for the underwriter could again be provided by the professions peak body, probably in conjunction with other professions within the sector, thus ensuring the best possible cover available with no ill effect on the consumer, while providing opportunity and incentive for the professions to encourage the practitioners to undertake risk management courses and risk management compliance visits for the benefit of all.