

# Recovering Unpaid Levies in Company Title

In strata schemes, when people or companies purchase a lot, they own that lot and have all the rights and responsibilities that come with being a lot owner in the respective scheme.

Company title structures are a form of property ownership where the building, including all apartments and areas intended for shared use, is owned by a company. Rather than purchasing a lot like you would with strata, purchasers purchase shares in the company that owns the building. The company will generally have a constitution conferring rights on shareholders, typically including the conditional right to occupy an apartment (and perhaps parking, storage or other areas) and have shared use of other areas. The company constitution may restrict the transfer of these shares, e.g. by requiring board approval.

Shareholders under company title are generally required to pay levies. These levies are paid to the company to cover its operating costs and maintenance of the building and common areas. The contributions a shareholder is required to make are generally (but not necessarily) proportionate to the number of shares they hold in the company. There are significant differences to strata, e.g. there is no concept of unit entitlements and there is far less regulation of funds once paid.

Where a shareholder is in arrears on their levy payments, there are means of recovery through legal avenues, including the Local Court. Section 34A of the Local Court Act 2007 confers the Local Court with jurisdiction to make a variety of orders in relation to certain forms of company title disputes and a company may attempt to recover any unpaid levies through debt recovery proceedings in the Local Court. However, there is a greater than usual need for legal advice in relation to such proceedings. This is partly because company constitutions are often not well drafted and partly because such claims may be impacted by Corporations Act 2001 requirements.

A company may have other options if specified in its constitution, e.g. forfeiture of shares, a lien over the shares and recovery of interest and enforcement costs. Alternatively, it may wish to consider amending its constitution to access these, if it has not already.

If you're a shareholder in a company with company title property and have concerns about your levy recovery options, we have the expertise to advise and assist you with the recovery of any outstanding levies that may be owed. For enquiries on this topic please contact us [enquiries@bannermans.com.au](mailto:enquiries@bannermans.com.au) or on 02 9929 0226.

*\*\*\*The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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**Updated 1 May 2025**



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