

Recovering Unpaid Levies in Company Title

In strata schemes, when an individual purchases a lot, they become a member of the owners corporation. As a member of an owners corporation, they are conferred with all the rights and responsibilities that come with being a lot owner in the respective scheme.

Company title schemes are a form of property ownership where the scheme is owned by a company. Under a company title scheme, rather than purchasing real estate within the scheme like you would with strata, individuals instead purchase shares in the company that owns the building.

These shares entitle the owner the right to occupy a defined area (typically an apartment in the building) owned by the company. The company constitution will detail the process for the transfer of these shares and generally require the approval of a director of the company.

Shareholders under company title, like lot owners under strata schemes, are 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 proportionate to the shares they hold in the company, not dissimilar to unit entitlements under strata schemes.

Where a shareholder is in arrears on their levy payments, there are means of recovery through legal avenues, namely 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. Where stipulated in the company's constitution, a company has power to recover any unpaid levies through debt recovery proceedings in the Local Court.

A company can further safeguard their interests by incorporating other related levy recovery provisions into its constitution. This includes but is not limited to provisions that provide for: the eventual forfeiture of shares in the event of ongoing failure to pay levies, charging a lien over the proceeds of the sale for any share as security for the unpaid levies, prescribing an interest rate that accrues on unpaid levies and the recovery of all reasonable costs incurred in recovering the levies.

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 or on 02 9929 0226.

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