Owners of a principal unit in a body corporate automatically become members of a body corporate and voting rights are attached to ownership. No one else can be a member, and no one can choose to join just because they would like to.

How effectively the body corporate operates is not only dependent on the owners who collectively make up the body corporate, but is also significantly influenced by the roles and interaction among the following:

- The body corporate manager (previously secretary)
- The building manager/land or facilities manager
- The body corporate committee
- The body corporate chairperson

**Body Corporate Manager**

While the body corporate manager operates under instruction from the committee, they are usually more familiar with the requirements needed by the body corporate under the UTA as they work in this area on a daily basis for many complexes. They therefore become familiar with the requirements and the pitfalls of the administration required to comply with the legislation –both the UTA 2010 and the Unit Titles Regulations 2011.

Just who the body corporate manager is and how they operate can impact dramatically on what it is like to live in a unit title development.

Managing a body corporate necessitates a range of skills to deal with the many aspects involved. Although some of these tasks may vary depending on whether or not there is a building manager or facilities manager, a body corporate needs a manager to:

- Manage the administration of the body corporate including organising meetings
- Manage the financials including setting budgets and corresponding levies, collecting levies and financial reporting
- Manage and arrange insurance
- Manage the payment of all property operating costs
- Manage compliance with legislation including annual Building Warrant of Fitness
- Maintain the register of owners
- Manage contracts that maintain the shared facilities including the building, garden, pool, gym and other common property
- Arranging all service contracts for the building’s services
- Manage social issues including neighbourhood disturbances
- Deal with the body corporate’s correspondence including pre-settlement disclosure certificates/statements
- Provide vendors with the information they require to meet disclosure obligations on sales
- Ensure compliance with body corporate rules

For simple or small bodies corporate, the body corporate manager, in conjunction with the committee, often takes on some of the administration tasks of a building/facilities manager in addition to the body corporate management role. However if there is either a visiting building manager or an on site building manager for the body corporate, many of the maintenance tasks relating to the complex and administration of contracts and contractors will be undertaken or overseen by the building manager.

There is no legal obligation to appoint a body corporate manager. However with the complexities of the Unit Titles Act 2010 and the numerous administrative tasks required under the Act, almost all bodies corporate benefit from the services of a professional body corporate manager.

**Building Manager / Facilities Manager**

The building manager can either be a live-in manager or a visiting building manager who manages and oversees the facilities within the complex. While a building manager may have letting contracts for the individual units and will manage those units for private owners, this arrangement is outside the provisions of the Unit Titles Act 2010 and the role they undertake for the body corporate. A facilities manager may be responsible for managing the facilities, which may include the common property and/or individual units.

Depending on the skill and contract fee paid the duties that an on site or visiting building manager/facilities manager may be required to undertake are:

- Arranging and supervising all maintenance and repairs to the common property
- Obtaining quotations for work required on the complex
- Arranging for access for service contractors for the building’s services
- Arranging cleaning and caretaking
- Arranging all ground maintenance
- Implementing the long-term maintenance plan
- Managing/overseeing building alterations or additions
- Managing building security
- Ensuring compliance with the body corporate rules
- Managing compliance with legislation including annual Building Warrant of Fitness

Further duties may be required by arrangement with the body corporate and subject to individual contract with the body corporate.
Body Corporate Committee

A body corporate with 9 or fewer principal units may form a committee but all bodies corporate with more than 9 principal units must form a committee. Committee members must be either owners of principal units or the Director of a company (nominated by the company) where a company owns a principal unit.

A body corporate of more than 9 units can decide 'not' to form a committee and / or decline to delegate the duties of the body corporate to a committee; this must be passed by special resolution at a general meeting.

The body corporate which thinks it won’t bother to elect a committee will need to realise what the impact of that decision will be:

- Every issue to be decided (including relatively trivial decisions) will require a general meeting or postal vote as required under section 104 of the UTA 2010. This could be costly as many body corporate managers charge extra for preparing additional general meetings over and above the annual general meeting.
- Every issue to be decided can only be approved if 75% of eligible voters, who vote, cast a vote in favour. If a committee is elected and authorities are delegated to it, the resulting issues will be approved by a simple majority of committee members.
- The time frame to have simple tasks completed and invoices paid will be lengthy.

Once the body corporate has elected a committee the makeup of the committee and the extent of their personal involvement will have a significant impact on management decisions.

A body corporate may delegate almost all of its powers and duties to a committee. However there are certain powers which may not be delegated and remain with the body corporate. These are:

- The ability to reassess ownership interests and utility interests
- The obligation of the body corporate to comply with its rules
- Responsibilities relating to the application of insurance money
- The power of delegation

There are certain requirements upon the committee once they have been elected at a general meeting:

- At the first meeting of a body corporate committee, the committee must appoint a chairperson, who has to be a member of the committee.
- Any matters at a meeting of the body corporate committee must be decided by a simple majority of votes.
- The committee is required to meet within one month of the date of service of a Notice of Delegation. This is sent to the committee by the body corporate manager after the annual general meeting and details the delegations conferred on the committee at the general meeting.
- The committee has to provide copies of the minutes of its meetings to a unit owner in the unit title development if the unit owner requests them.
- The committee is required to report to the body corporate at each annual general meeting of the body corporate.

As a general rule, to ensure democratic management of the body corporate committee, members may wish to:

- Meet regularly.
- Appoint a minute keeper and keep minutes of all committee meetings.
- Ensure the needs of the body corporate are paramount.
- Observe the confidentiality of non-public information such as owners’ details.
- Recognise that the chairperson is the spokesperson for the committee on all matters unless the committee specifies otherwise.
- Avoid any conflicts of interest with respect to their fiduciary responsibility.

Committee members when elected are entrusted with the responsibility of ensuring effective governance of the complex as a whole, despite the different views they may bring to committee discussions. They are required to work for positive outcomes for all concerned and to establish and maintain effective relationships with both owners and occupiers of the body corporate and contractors to the body corporate.

Chairman of the Body Corporate

Under the provisions of the Unit Titles Act 2010 a chairperson must be elected for every body corporate, at every annual general meeting.

Only an owner (or the Director of a company where a company owns a unit) is eligible for this position.

The duties of the chairperson are generally those which were carried out previously by the body corporate secretary under the provisions of the 1972 Act. They are largely administrative and therefore may be delegated to the committee at a general meeting who may then contract with the body corporate manager to carry out these tasks.

Duties of the body corporate chairperson are:

- Maintain the register of unit owners.
- Call for AGMs and EGMs.
- Prepare agendas and minutes of meetings.
- Chair the meetings.
- Record resolutions.
- Keep financial records.
- Have financial statements audited.
- Liaise between the committee and owners.
- Sign documents on behalf of the body corporate.
- Notify owners of pending and actual resolutions made outside of general meetings.
- Anything else relating to administration the body corporate decides.
- Resign if they no longer own a unit.

Summary

In summary, the Unit Titles Act 2010 now sets out how a body corporate should function.

For the smooth and effective running of a body corporate, its members should consider the following:

- The appointment of a committee to be able to make decisions and take action between general meetings.
- The appointment of a building or facilities manager to carry out or oversee the maintenance of the complex.
- The appointment of a professional body corporate manager to carry out the administration of the body corporate and assist the committee.

Congratulations to our ‘Contact Details Update’ winner - Madeleine Thrivwall.

Madeleine has won $250 worth of accommodation or tours at the gorgeous Hananui Lodge and Apartments in Russell, Bay of Islands. Visit www.hananui.co.nz

To enter our next draw, simply update your contact details using Crockers Direct, our online body corporate client website, any time before 31 March 2013. If you have not yet experienced Crockers Direct, please contact your Account Manager (have your BC and unit number handy), and they will be only too happy to get you started.