



Archers Seminars Wrap Up – Commissioners Update on QLD Property Law Review and Air BnB Q&A

Thursday June 1st, 2016

Our latest round of seminars held statewide concluded this week on the Gold Coast with interest exceeding expectations with over 500 attendees! The attendance level demonstrated a high level of interest in the topics - QLD Property Law Review and A Look into Air BnB. Feedback we received indicated that attendees were particularly interested to hear directly from the Commissioner for Body Corporate and Community Management Mr Chris Irons who also provide an insight into the dealings of the office of the Commissioner and how to best utilise their services.

We wish to provide a big thank you to Mr Irons and his office for supportively collaborating with Archers and travelling statewide providing education to the Strata Community.

The seminars also answered many questions being raised throughout the industry about rapidly growing short term letting services such as Air BnB. The speakers provided an insight into the legislation applying to the services, how stakeholders may be affected and steps that may be considered to mitigate concerns.

The Qld Property Law Review – Key Issues of Interest

The Commissioner provided a comprehensive overview of the QLD Property Law Review process and its current status as detailed in his presentation with focus on the following key issues:

Parking and Towing

Unsurprisingly vehicle and parking issues are a recurrent theme in the Commissioner's office and was the subject of audience discussions. The Commissioner reported that the issues around parking has been recognised in the current review and suggestions in regards to towing have been put forth for consultation. The suggestions include options for express provisions in the legislation and authority allowing bodies corporate to tow. This proposed legislative authority would be appropriate for bodies corporate and lot owners to remove a vehicle by tow if in breach of a by-law and in the following circumstances:

- **An unauthorised vehicle is parked on the owner/occupier's lot**
- **Special/urgent circumstances - the vehicle is parked in such a way that blocks utility infrastructure or access**
- **Non-emergent situation – the unauthorised vehicle is parked incorrectly, notice has been given and towing ensues soon after**

It was also recognised that these options come with a range of implications including a large increase in disputes and disharmony as issues surrounding vehicles are often emotionally charged and can come with an array of complexities

Cigarette Smoking and Smoke Drift

Although public acceptance of smoking is steadily declining, to smoke in one's home, even when that smoke causes inconvenience to a person in another home, is not enough to be recognised as 'nuisance' under current property laws. The option of introducing a by-law to regulate and potentially prohibit smoking on balconies without prior body corporate approval is under consideration with a similar approach to other smoking laws which prohibit the activity when within 4 meters of an entry or opening to a building. By-laws surrounding this topic are particularly difficult to enforce because smoking is still a legal activity within a persons home.

How Airbnb May Impact Your Property?

Audiences across the state confirmed that short term letting services such as Air BnB and Stayz are embedded within the strata communities with a particular influx for strata schemes located in known holiday destinations. Whilst the ongoing Property Law Review may result in additional future avenues for Bodies Corporate to pursue, it was confirmed that the current legislation does not allow restriction of the use of lots for a particular activity, cannot discriminate against types of occupiers, cannot impose a bond or fee on owners who undertake short term letting and cannot impose by-laws that are oppressive or unreasonable to owners and occupiers. On top of that even if you were able to govern Airbnb with the introduction of appropriate by-laws, the contravening occupant/s will have moved on before you are able to provide notice in most instances. Some of the areas discussed that you should review to be best prepared for this growing trend are as follows:

- **Review sinking and administration fund budgets to ensure they reflect the current use of common property and make appropriate adjustments if needed for higher cost of increased use by short term occupants**
- **Check that all health and safety, as well as fire safety standards are being met to help guard against any damages or litigation costs**
- **Consider the installation of clear signage and lighting to avoid being interrupted with a knock at the door by short term guest unfamiliar with the building and its facilities**
- **Consider upgrading security infrastructure to better control and monitor the use of your building**
- **Complete a review of by-laws to regulate use of common property which could include making bookings for use of facilities**

This article was contributed by Sam Gleeson. Sam joined Archers as an Accredited Strata Community Associate and has brought a wealth of industry knowledge to the Brisbane team. He currently manages a varied portfolio of schemes, specialising in layered schemes, residential, large schemes, commercial and holiday letting properties.