Being an owner can send costs into the stratosphere

October 8, 2006
George Liondis

Sunday Age

Navigating strata title laws and staying on the right side of the body corporate can be a minefield. PHOTO: Time-Life/Getty Images
George Liondis explains how to avoid expensive body corporate blunders.

Good fences make good neighbours. But that doesn't help the 2 million Australians who live in strata-title unit blocks or town houses where they have to share common property with neighbours and where the exact location of the fence line is not always cut and dried.

Whether you are an owner occupier or a property investor, navigating strata title laws and staying on the right side of the body corporate that is meant to police them can be a minefield.

Putting just one foot wrong could cost you tens of thousands of dollars and leave you at war with your neighbours.

Here are three traps you need to avoid to survive the strata.

Trap 1: By-laws

By-laws are the bible of the body corporate.

They set out exactly how residents can behave on a block, from where they can park, to whether they can keep pets and how much noise they can make.

State legislation spells out standard by-laws. But each body corporate can amend and add to these rules, which means by-laws will vary from block to block.

Kevin Doodney, chief executive of the Australian Institute of Property Management, says problems arise when owners and residents do not understand by-laws.

He says trouble related to noise and parking is the most common.

"In my opinion, anyone who buys a property should take the time to understand the rules," he says.

"Most by-laws follow common sense and if they don't, they shouldn't be there."

Cristine Castle, president of the Real Estate Institute of NSW, says for rented properties, getting tenants to comply with by-laws can also be a cause of disputes.

She says owners should make compliance with by-laws a condition of any tenancy agreement. "When you are living in close proximity to your neighbours, you have to be mindful of them," Castle says.

Trap 2: Levies

All body corporates require owners to contribute to an administration fund to cover day-to-day expenses such as electricity bills and a sinking fund to pay for regular maintenance such as the painting of common areas.

But if major unplanned repairs are required to a property, or the money in a sinking fund falls short, a body corporate has the right to raise a special levy to cover costs.

A special levy can only be imposed if a resolution is passed by a majority of owners at a general meeting. But once the majority has ruled, everyone has to pay, even those who voted against the levy.

Gary Adamson, chairman of the Real Estate Institute of NSW's strata management group, says special levies are a constant source of disputes, because the costs can be substantial.

He says it is not unusual for repairs to cost more than $1 million.

Depending on the number of units in a block, that means each owner's share of the repair bill could stretch into the tens of thousands of dollars.

If you don't want to pay the levy, there is little recourse.

"If you can't afford it, I suppose the only option is to sell out, which is something a lot of elderly people are doing at the moment," Adamson says.

Special levies can be a trap for new owners, who may move into a block not realising they have to pay up.

Neville Sanders, chairperson of the body corporate chapter of the Real Estate Institute of Victoria, says it is vital buyers do the right checks before they purchase a property.

If a large levy is in the pipeline, it should show up in minutes from body corporate meetings, which prospective buyers can obtain. Sanders says buyers should also thoroughly inspect a property to spot any looming repairs that may not have been discussed at body corporate level.

The lifts in a building that is more than 20 years old, for example, are probably coming to the end of their life and will need to be replaced at owners' expense.

"People are often so excited about their purchase that they fail to do due diligence, but there are certain things that you should be aware of before you commit," Sanders says.

"Once you are in there is no choice. You are obligated to meet your share."

Trap 3: Boundaries

Disagreements over who "owns" a problem are common in residential blocks. Most times disputes revolve around repairs and who is responsible for paying for them.

Sanders says there are broad rules that are typical to most properties.

He says in multistory blocks, the body corporate is generally responsible for the "fabric of the building", which includes things like ceilings, walls and fittings.

In a town house or villa situation, the owner is usually responsible for the lot, from ceiling to floor boards.

But Sanders stresses these rules can vary substantially from block to block.

"There is no such rule as 'the body corporate always fixes the roof'," Sanders says.

"Each property's plan of subdivision sets out the rules."

Often, problems arise because of grey areas in the rules governing a block. Adamson says he once managed a block of town houses, each with their own courtyard.

The owners of the town houses were responsible for the upkeep of the courtyards. The body corporate, however, was responsible for the airspace - anything four metres from the ground - above the courtyard.

It wasn't until an owner had to remove a tall tree from their courtyard that it got complicated.

While the owner was clearly responsible for the tree at ground level, the body corporate was responsible for any part of the tree above four metres.

In the end common sense prevailed and the cost of removing the tree was split.

"The bulk of disputes arise because owners feel strata should pay for something and not them," Adamson says. "A lot of that comes about because they are not told what they own and what they don't own."

New laws you need to know about ...

In NSW: New laws require body corporates to produce a 10-year budget for their sinking fund to prove it can cover upcoming expenses. Given most sinking funds are underfinanced, the new laws are likely to force the majority of body corporates to raise levies.

In VIC: New body corporate laws are currently before the State Parliament. If they are approved, large blocks will face more stringent accounting standards and be required to develop a detailed maintenance plan.

Tips to survive the strata

- Know a property's by-laws before you buy to ensure there are no restrictions that affect your lifestyle. Are pets allowed?

- Go to body corporate meetings or make sure someone who is attending has your "proxy". Decisions made at meetings can cost you tens of thousands of dollars.

- If you want to be actively involved , join your block's executive committee.

- Noise is a major cause of disputes between neighbours. Your block's by-laws will set the boundaries on this. Note that these may be stricter than limitations imposed by local councils.

- A good strata manager can make all the difference. Make sure your body corporate monitors the performance of your property's manager.

Unit owners are likely to be hit hard

Australians who own property in strata title blocks are neglecting to set aside enough funds to conduct regular maintenance and could be forced to shell out billions of dollars over the next five years to pay for urgently needed repairs.

A new report has found 65 per cent of sinking funds - money kept in reserve by body corporates to pay for maintenance - are underfinanced.

Strata Finance, which produced the report, says the bill to fix building faults will run up to $3 billion in NSW alone and could reach $10 billion Australia-wide, most of which will have to be raised through levies imposed on owners. Managing director of Strata Finance, Bill Debney, says the repair bill equates to an average of $7500 for each unit owner in Australia.

But Gary Adamson, chairman of the Real Estate Institute of NSW's strata management group, says levies of up to $80,000 per lot are not unusual.

No laughing matter

The business of a body corporate is no laughing matter, even for Dennis Moore.

Moore's day job is to teach high-powered executives and their employees how to create a culture of fun in the workplace. He has even written a book, Making Fun Work.

But in his spare time, Moore serves on the executive committee of his unit block in the Sydney suburb of Cronulla, which he admits has not exactly been a barrel of laughs of late.

The 1960s ocean front block had become riddled with "concrete cancer" - a condition common to beachside areas where moist salt air causes concrete reinforcements to rust.

The bill for repairs was close to $900,000, which had to be raised through a levy on the block's 25 unit-owners. Even drawing on his professional expertise, Moore says getting everyone to agree to the repairs was not an easy task given the high cost involved.

But he says the block was ultimately united in a common cause once the importance of the repairs was properly explained.

Moore's advice to strata-title holders facing large repairs is to bring in appropriate experts, who can accurately assess the extent of any damage and help convince even reluctant owners that they need to act.

"There has been a lot of inconvenience," Moore says of the repairs, which are still ongoing. "So it has been a bit hard for people in some situations, but everyone has accepted it in the end."