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management rights agreements and the 6 P's

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During my Army Reserve days a very wise infantry Warrant Officer once told me that *"prior preparation and planning prevents poor performance"*. The "Six P's" (he of course had seven but I have censored one "P") are one of those universal truths. It is a pity this maxim is not more widely applied…

Most of you would be familiar with the following scenario; the Management Rights for your complex are being sold and the Buyer has requested a few changes to the Caretaking and Letting Agreements. Of course your current Resident Unit Manager (**RUM**) is working to a timetable, they have their settlement date lined up and are pushing the Body Corporate to meet it. The Committee considers the proposed changes to the agreements and, understandably, comes up with one or two of its own. What happens next? Sometimes a fight, always a stressful discussion and rarely does everybody win. Why? Everyone is trying to do too much in too little time.

While the Body Corporate in these circumstances may achieve some concessions, often perfectly reasonable requests "fall off the table" (or are pushed!). Mostly this is because it would take too long to follow them through, or a persuasive enough case simply can't be put together and argued by the time settlement comes around. Even worse than this are instances where reasonable changes don't even make it to the negotiating table because they were only thought of after the assignment process had been completed.

So what sort of changes are we talking about? In *Standard Module* complexes it is almost guaranteed that if the agreements have 7 years or less to run the Buyer will seek a 10 year term either through new agreements or a top up. Requests like these by a RUM, even though usually made in the context of an assignment of management rights, *are wholly within the Body Corporate's discretion to grant or refuse*. In my experience most Bodies Corporate are willing to negotiate these sort of changes because there is a benefit either in allowing the current RUM to move on or because the Body Corporate believes that the new RUM is worth the punt.

Here however is the point: If you are a member of the Committee or even an interested lot owner don't wait until the RUM makes an amendment request of its own. Think about how you would like to fine tune the agreements now!

Caretaking and Letting Agreements are not, as is often believed, 10 or 25 year agreements that get entered into (usually by the Developer on behalf of the insipient Body Corporate) and then thrown into a folder, left on the shelf and forgotten for the next 4 or 5 years. They are live documents used and referred to by the RUM, almost every day.

Too often the only time that members of the Body Corporate or Committee drag out the agreements is in response to the sort of amendment request described above. Either that or when a full blown dispute about the performance of the duties is brewing.

There is nothing to stop a pro-active Committee from resolving to canvas the lot owners about the suitability of the agreements, seek suggestions for change, consider and synthesize those suggestions into a "wish list" and then either use those suggestions to negotiate a variation straight away or hang onto them pending the RUM seeking a top up or other amendment. The first part of any negotiation is knowing where you stand and what you want to achieve. Why not do that at your own pace and at a time of your choosing, so that when negotiations do commence you can take the best advantage of them? Just apply the 6 P's…...

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