

STRATA LIFE ELECTION 2010



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Victorian state election issues — OCV is the voice of the owners corporations sector

Owners Corporations Victoria (OCV) is a strong advocate for the needs of consumers as well as its member businesses and is proactive in engaging with the three tiers of government — federal, state and local — to highlight issues of concern.

OCV has developed a comprehensive policy position paper in the lead up to the State Election held on Saturday 27 November. You can download it at: www.ocv.org.au

Only 5% of the issues relate directly to owners corporation (OC) managers. The other 95% of the policy deals predominantly with issues affecting OCs and individual owners. Ultimately, improved outcomes for OCs will mean a more effective sector that indirectly benefits all stakeholders, whether they be OC managers, suppliers, developers, surveyors, governments etc. This in turn directly benefits consumers — lot owners and occupiers.

OCV welcomes the announced review of the operation of the Act in 2011 and will vigorously articulate its concerns on behalf of the industry and consumers **CONTINUED PAGE 2**



Rob Beck,
GENERAL
MANAGER

SELLERS/BUYERS BEWARE

Spring has sprung and with it so has the number of properties for private sale or auction. Between 430 and over 1000 auctions were held each weekend in November across Victoria.

Selling a property in an Owners Corporation (OC) is not as straightforward as choosing an agent and listing the property as you would for a single dwelling.

Owners Corporation Certificates

Under section 151 of the Owners Corporations Act 2006 (the Act), vendors (sellers) need to include an accurate OC Certificate in their Contract of Sale (Section 32) Vendor's Statement.

This requirement was introduced to ensure prospective purchasers are fully aware of the outgoings and costs associated with owning a property in that particular OC and aware of their obligations of being an owner (investor or occupier) in that OC.

Information required:

- Annual fees, the amount payable and date paid until
- Total of any unpaid fees or charges for the lot (property for sale)
- Details of any special levies or fees, when struck and payable
- Any repairs or maintenance which have or will be performed which may incur additional costs
- Maintenance plan and fees for maintenance fund (if applicable)
- Insurance policy, coverage information and when renewals are due
- Total funds held, assets/liabilities, details of any maintenance fund
- Contracts, leases, licenses or agreements affecting common property (eg gardening, pool or window cleaning, substations, towers, exclusive use of common property)
- Details of notices and/or orders not satisfied within past 12 months
- Any current or possible legal proceedings affecting OC
- If a manager or administrator is or will be appointed, their details
- Advice that further information (as prescribed by the Act) can be obtained by inspection of the OC Register.

In addition, the OC Certificate needs to be accompanied by a copy of the minutes of the last Annual General Meeting (AGM) which should detail all resolutions made at that meeting, a copy of any consolidated rules registered at Land Victoria and *Information for Prospective Purchasers and Lot Owners* (as outlined within Schedule 3 of the Owners Corporations Regulations 2007). **CONTINUED PAGE 2**

FROM PAGE 1 – ROB BECK to ensure that any legislative and regulatory change is in the best interests of all stakeholders without increasing the red-tape burden.

Other policy issues of interest include:

Stamp duty on insurance

OCV made a submission to abolish stamp duty on insurance to the Economic Development and Infrastructure Committee State Government Taxation and Debt Inquiry.

In its report to the Parliament in September 2010, the Inquiry agreed with OCV's position and has recommended this tax be removed.

Whichever political party forms Government they will need to consider how state taxes on insurance may be minimised or abolished over the long term.

Lot owners will no longer be out of pocket

OCV has won a social justice issue for OCs regarding costs of fee recovery. The double whammy is being removed - lot owners will no longer be out of pocket. OCV had campaigned on this issue since the end of 2008 including sending petitions to the Minister. One of the OC law changes that commences 1 Jan 2011 is that it empowers VCAT to award a much broader range of costs to OC and lot owners in disputes around arrears of fees. It inserts clause 51ADA into Schedule 1 to the Victorian Civil and Administrative Tribunal

Act 1998 to confer discretion on VCAT to award a broader range of costs, including costs incurred, either directly or indirectly, by lot owners and OC managers [including the costs of professional and volunteer managers], in disputes about arrears of fees and charges imposed by OCs. Costs awarded are not limited to costs incurred by a professional advocate.

Digital TV — launch of ASeT

The digital television switchover is a challenge on the scale of the 1966 decimal currency change. Digital switchover is important for all Australians as it provides access to such things as better picture and sound quality. The Digital Switchover Taskforce and OCV were delighted to hold this event, with 90 attendees, to launch the "Antenna Systems eToolkit", or ASeT, nationwide. ASeT is a new online portal that is accessed via the "Digital Ready" website — www.digitalready.gov.au

Using ASeT residents, property owners and managers will have ready access to technical information about TV antenna equipment, cabling and installation. The portal provides cost estimates for the various technical solutions to ensure adequate digital television reception and distribution throughout buildings. ASeT covers a range of scenarios with the main focus on residential buildings such as apartment buildings, groups of townhouses.

FROM PAGE 1

False and misleading information

It is important to be aware, failure to provide this certificate without any, all, or false, information may allow the purchaser to rescind any contract. You or your conveyancer/solicitor can request this certificate from your professional OC manager. If your OC is self managed you should make this request to your OC chairperson.

Fees

The Regulations specify that the fee which can be charged for the preparation and provision of the OC certificate must not exceed \$150.00. The exact fee can be determined by agreement of the OC and resolution confirmed in the minutes of meeting, in the OC rules and/or within the OC managers' contract of appointment.

Time limit

OC certificates should be provided within 10 business days of request from a lot owner or their representative. If you require a certificate sooner than the regulated 10 business days, be aware additional fees may apply.

OCV presented a session on sustainability at a City of Port Phillip forum 'SOCS & Blocks' (aka Sustainable Owners Corporations and apartment Blocks) in October 2010. The feedback from the attendees was very positive.



The SOCS & Blocks program works with the common areas of apartment buildings. 10 buildings have had energy, water and waste audits and are starting to take action, and the next 10 buildings will be audited shortly.

More and more Port Phillip residents are living in apartment blocks:

- In the City of Port Phillip the overwhelming majority of homes are in medium to high density situations
- Housing stock in the high density category is the fastest growing portion of the market
- Of the 705 development applications in 2009-10, only 62 were for separated dwellings

2006 Census Results	City of Port Phillip	Change 2001–2006
Separated house	12.4%	-2%
Medium density	35.6%	+6%
High density	40.8%	+22%

NEW REQUIREMENTS FROM 1ST JANUARY 2011

From next year, an OC Certificate is not deemed executed without the OC seal. In addition, this needs to be witnessed by either the professional OC manager or the OC chairperson.

OCCUPATIONAL HEALTH AND SAFETY FROM QIA GROUP

QIA's approach has always been to read the legislation, understand how we think it should apply and then approach the regulatory authority administering the legislation to ask them if we are on track.

I will draw your attention to the overall approach adopted by prosecuting authorities in this instance the Victorian Workcover Authority in terms of how the Safety legislation applies to an Owners' Corporation:

1. There is no such thing as absolute safety.
2. There is no legislating for stupidity – the intent here is to say that individuals have a certain responsibility to ensure their own safety.

The above sets a general framework, unfortunately Owners often believe that if the above statements are true, then they need not do anything in terms of making the common property safe for persons to access and to work upon.

In most cases this is not correct and Owners actually need to examine the legislation to ensure that they do not have an obligation under the Act that they are failing to discharge. Ignorance of an obligation is no defence under the legislation, in fact the legislation is clear that all persons need to determine whether they have an obligation and then discharge it.

The Act and Regulations are intended to manage safety in the Workplace, in this instance the Common Property of an Owners' Corporation is a workplace when a person is working upon it.

Essentially the manner in which the Act and Regulations are written is often very confusing but they actually follow a logical path.

Step 1: determine who the legislation applies to, in the State of Victoria.

Step 2: determine how the legislation is to be applied as there are many different classes of workplace across the state. This step is managed in the Act by creating categories of obligation holders.

Step 3: determine if a particular organisation fits into one or more of these categories.

Step 4: determine the extent of the duties to be discharged.

Step 5: determine how the obligation holder is to discharge their duties in accordance with the requirements of the legislation and do so.

For a more comprehensive explanation as to the above please visit www.ocv.org.au/pdfs/2010_eNewsletter/Occupational_Health_and_Safety_QIA_Group_Final.pdf.



Good news for owners corporations: Victorian's freed from Fire Services Levy



CHU, along with many insurers, and Owners Corporations Victoria (OCV) have welcomed the Victorian government's announcement to replace the Fire Services Levy (FSL) with a property-based system to fund emergency services.

Lyn Helwig, CHU State Manager, Victoria and Tasmania said "Most of us would agree that the historic decision to adopt Recommendation 64 of the Bushfire Royal Commission will provide a more equitable system of funding for all Victorians, especially OC's who hold the dubious distinction of being part of the 'most heavily taxed insurance regimes' in the world. Not surprisingly, there is broad based support of the government's move to a much fairer property-based levy. We have long argued that the current system undermines the whole principle of having insurance as it does nothing to discourage underinsurance. Levies and taxes wrapped up and hidden within strata insurance premiums have a big affect on the price paid for insurance by OC's in Victoria."

Tax-on-tax-on-tax

State	Base Premium \$2,000	FSL payable today — to be removed 2012	GST 10%	Stamp Duty 10%	Customer Pays today	2012 After FSL removed	SAVING
VIC	Residential country metro	24% \$480	\$248	\$273	\$3,000	\$2,420	\$581 – 19%
		18% \$360	\$236	\$260	\$2,856	\$2,420	\$436 – 15%
	Commercial country metro	66% \$1,320	\$332	\$365	\$4,017	\$2,420	\$1,597 – 40%
		46% \$920	\$292	\$321	\$3,533	\$2,420	\$1,113 – 32%

The FSL is a tax paid by insurers which in Victoria alone will raise \$536 million in 2010–11, about 75% of the fire services' budget. Rates differ for metropolitan homes (18%) and businesses (46%) and regional homes (24%) and businesses (66%).

OCV has led the charge on behalf of owners and managers and collaboration with the government throughout the Green Paper process by providing submissions and relevant data.

"CHU and OCV has long held the position that the FSL is an unfair and economically inefficient tax and most disturbingly, lacks transparency because it is hidden from OC's. We congratulate the government for adopting this important reform. Our only reservation is that we have to wait until 2012 to see the benefits," Ms Helwig said.

OCV General Manager Rob Beck said "This is great news for lot owners and OCV has lobbied for this over a number of years, raising the issue in its submissions to the Victorian Bushfires Royal Commission, Australia's Future Tax System and Inquiry into State Government Taxation and Debt. It is also contained in our Policy Position."

OCV welcomes the abolition of the unfair and inequitable FSL in favour of a fairer system for funding state fire services. Addressing the FSL is long overdue as Victorians have a relatively high levy, with regional Victorians paying even more. The current situation provides a disincentive to insure and, in the interests of fairness, should be levied on a broader base.

As OCV has advocated, the Victorian Government is moving to a property based levy by 1 July 2012.

OCV recommends the FSL should be levied on a broader base via local municipal Council rates, and it also should be charged only once per person – not, in the case of investor owners, being charged for multiple properties.

Whether it's the insurance cover the OC is required by law to have, or the additional insurance the OC decides it is prudent to have, all will benefit from the change.

CHU BREAST CANCER FUNDRAISER – OAKS DAY



On Thursday 4th November 2010, the ladies of the OC industry stepped out in style at the annual CHU Oaks Day Ladies Luncheon.

This annual fund raising event in support of Breast Cancer research is highly anticipated by our guests and their support continues to grow every year, assisting this event to go from strength to strength.

One guest commented 'It's such good fun and a chance for the girls to enjoy our very own 'fashion on the field'. It's very special and we look forward to it every year!'

As well as the excitement of the luncheon and actual races, entertainers kept guests amused with temporary tattoos, caricature sketches and a roving violinist.

A total of \$4,215.20 was raised on the day for the National Breast Cancer Foundation with 110 guests making the time in their busy schedules to attend.

Thank you to all that attended and assisted in making the day such a success.

CHU also wishes to thank our industry partners and individual OC management companies that were so generous in providing prizes for our main raffle.



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Community Title Insurance

NON COMPLIANT GLAZING: "THE COSTS ARE MOUNTING"!

Non- Compliant glazing is rapidly developing a reputation for costing building owners and operator's significant sums in damages arising from legal action.

In 2006 a new Australian Standard (AS1288-2006) for the selection and installation of glass in buildings was released. The introduction of this standard into the Building Code of Australia imposed strict guidelines on the use of safety glass in buildings, particularly in areas of potential human impacts such as doors, low level windows, wet areas, stairwells, awnings and balustrades.

Case law has shown that just because your building was glazed prior to the introduction of the standard does not excuse it from being safe or fit for purpose. Further, the existence of a building permit does not necessarily mean that your building complies with the current Standard or that you can be said to have properly fulfilled your duty of care.



STRATA COOKING

Spring Asparagus Strata *Serves 4*

INGREDIENTS

- Bunch of large fresh asparagus of 2-3 small bunches
- 8 thin slices bread
- 4 slices sliced cheese (Colby melts well)
- 4 thin slices ham, optional
- 4 eggs
- 2 cups milk
- 1/2 teaspoon salt
- 1/2 teaspoon dry mustard powder
- 1/4 teaspoon pepper
- shredded Cheddar or tasty cheese

METHOD

- Bend the asparagus until the ends snap off. Blanch (submerge) in boiling water quickly then drain, refreshing in cold water to stop the cooking process.
- Place 4 slices of bread, with crusts removed, into a greased square baking pan. Put slice of cheese on each piece of bread, then place asparagus evenly on top of cheese slices. If desired, add a thin slice of ham to each slice of bread. Top each with another slice of bread. Mix egg, milk, salt, pepper, and mustard; pour over bread. Let refrigerate overnight. Sprinkle top with additional grated cheese and bake at 180°C for 45 minutes, or until knife comes out clean when inserted near centre.



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**Questions? Comments?
Articles?**

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