

OWNERS CORPORATION CERTIFICATE PRACTICE GUIDELINE



- OVERVIEW

Purpose:

The purpose of the Owners Corporation Certificate is to enhance the transparency of owners corporations – to disclose matters such as rules, fees, levies, liabilities and activities affected by an owners corporation. Circumstances under which a certificate may be requested include at the time of sale or re-financing of a lot.

The certificate is an important and legal document that must be accurate, is accountable and there may be consequences for non-compliance. Preparing the owners corporation certificate takes time and manual intervention - it is not a simple automated electronic process.

Failing to understand what information a certificate must contain will be detrimental to your practice as a Strata Manager.

Background:

S151 Section 151 of the Owners Corporations Act 2006 (“the Act”) identifies that an Owners Corporation Certificate must contain prescribed information pertaining to an owners corporation and a lot.

Reg 11 Regulation 11 of the Owners Corporations Regulations 2007 (“the Regulations”) identifies what that prescribed information is and what must accompany the certificate issued.

Reg 10 The maximum fees for issuing Owners Corporations Certificates are prescribed by the Regulations and chargeable as authorised by the Owners Corporation; details of which should be stipulated in your Contract of Appointment (CoA). A range of priority fees may also be applicable as per the Regulations and your CoA.

SCA (Vic)-CoA

If the certificate relates to a lot affected by more than one owners corporation, a separate certificate must be prepared for each of the multiple owners corporations and a separate fee incurred per certificate. Fees for such additional certificates vary from the fee for the initial request, and may also vary according to the turn around time requested by the applicant. 1-2 business days, 3-5 business days, 6-10 business days, These fees are also prescribed in the Regulations. Fees for additional certificates are also chargeable where an applicant applies for certificates for more than one lot per property managed by the same OC Manager.

The Act provides that the fees for Owners Corporation Certificates are chargeable by ‘fee units’. The number of fee units applicable is provided under the Regulations. The term ‘fee units’ means the value set by the Victorian Treasurer each year under the Monetary Units Act 2004, as amended for each financial year. If any GST is chargeable on the supply of Owners Corporations Certificates as prescribed by the Regulations, the maximum fee is increased by an amount that is equivalent to that GST.

You can access a \$ figure per certificate, as calculated in accordance with the current value of fee units, by visiting the website of Consumer Affairs Victoria.

The certificate is a snapshot in time and is the status of the prescribed information pertaining to an owners corporation and a lot as at the date of the certificate, as situations do change. A vendor may choose to include an Owners Corporation Certificate in the Section 32 of the contract of sale, which is then supplied to the purchaser.

There is no legal requirement for a purchaser to obtain an updated certificate prior to settlement of a sale but most purchasers will do so as this is best practice.

Managers are cautioned against giving verbal updates to a certificate. Alternatively, a manager may consider providing a simple account status report, should only the status of the account be queried and charge a fee equivalent to the prescribed fee for providing a record of the owners corporation,. Should an updated certificate be requested the applicable certificate fees may be charged and a new certificate produced.

Avoid unnecessary detail. Remember the recipient can always request further information on items noted within the certificate; eg copy of contracts, leases, etc.

Procedure:

S151 (1&2) Any person may apply to the owners corporation for an owners corporation certificate, the application must be in writing and must be accompanied by the fee.

S151 (3)
SCA (Vic) – CoA

1. The owners corporation must issue an owners corporation certificate within 10 business days after it receives an application and fee under Section 151 of the Act. Although the Act provides that should the request be made for the certificate to be supplied in less time, the OC manager may choose to comply but charge fees respective to the number of days in which the request has been made. ie 1-2 business days, 3-5 business days, 6-10 business days.

Refer to your Contract of Appointment to identify the schedule of fees and time restrictions for any urgent requests.

S151 (4)(a)

2. Prepare a certificate, one for each owners corporation (unlimited and/or limited), that affects the relevant lot or lots.

Refer to guide – ‘Preparing your Certificate’ for each item to be contained within the certificate.

S151 (4)(b)

3. Ensure attachments are included-

Schedule 3 of Regs

Documents that must be provided are: the owners corporation’s rules, a statement in the prescribed form providing advice and information to prospective purchasers and lot owners (Schedule 3 of Owners Corporations Regulations 2007); minutes of the last annual general meeting; and a statement advising that further information on prescribed matters can be obtained by inspection of the owners corporation register.

Any additional documents referenced within the certificate, eg. maintenance plans, reports, etc.

Cover letter, if preferred (refer example).

4. Review accuracy of contents and sign.

**S20 &
151**

**CALAA-
S22 & 40
CALARA
-S77(3)**

Amendments to Section 20 & 151 of the Act were introduced 1st January 2011 with introduction of the Consumer Affairs Legislative Amendment Act 2009 (CALAA) and the Consumers Affairs Legislative Amendment (Reform) Act 2010 (CALARA). The amendments have affected the executing provision of the certificates by requiring the seal of the owners corporation to be affixed to a certificate and will allow the seal, as it is affixed to an owners corporation certificate, to be witnessed by the registered manager or the chairperson of the owners corporation.

Refer SCA (Vic) Practice Guideline, OCC – Electronic Use of Common Seal

5. Send certificate with all attachments to the applicant.

The Electronic Transactions (Victoria) Act 2000 enables documents to be sent electronically.

Resources:

- Section 20 & 151 of the Owners Corporations Act 2006
- Regulation 10, 11, 20 & Schedule 3 of the Owners Corporations Regulations 2007
- SCA (Vic) Contract of Appointment (SCA (Vic)-CoA)(Version 2.5 August 2011) Item 2.2
- Section 22 & 40 of Consumer Affairs Legislation Amendment Act 2009
- Section 77(3) of Consumer Affairs Legislation Amendment (Reform) Act 2010
- SCA (Vic) Practice Guideline, OCC - Preparing your Certificate, Example OCC, Cover Letter, Electronic Use of Common Seal, Statement of Advice
- Consumer Affairs Victoria website – www.consumer.vic.gov.au

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