

## SPECIAL LEVIES

### WHAT FOR? WHO DECIDES? WHO PAYS?



**M**ost people who buy sectional title units understand very little about the liabilities and responsibilities unique to this kind of property ownership - until they encounter them for real as the registered owner of the unit. But the thing they usually have heard about is the monthly levy, and the one they've heard about and - justifiably - dread is the special levy.

#### Raising a special levy

Both the Sectional Titles Act and the prescribed rules leave the decision to raise a special levy to the sole discretion of the trustees. The Act says a special contribution, "becomes due on the passing of a resolution in this regard by the trustees" and the rule says "The trustees may . . . make special levies upon the owners". It would be possible for owners to agree to fund an expense that they as a body must approve - such as an improvement to the common property - by special levy, but ordinarily owners don't have a say, they must just pay.

#### Two requirements for trustees' raising a special levy

The legislation does however make the trustees' power to raise a special levy conditional on two requirements. The first is that the **special levy must be necessary** and the second is that a **special levy cannot be raised to pay an expense that was already included in the budget** approved at the last AGM. Necessary

means that a special levy can't be raised for an expense that can wait for inclusion in the budget for the next financial year. The budget restraint means that a special levy can't be used, for example, to pay a maintenance expense because maintenance must be included in the budget. Special levies are for emergencies!

#### Liability provisions

The liability provisions for paying a special levy are slightly different to the provisions that govern the liability for the ordinary levy. The persons who are the registered owners of units in the scheme on the date the trustees raise the levy, whether it is the annual levy or a special levy, are liable to pay that levy. However, when a unit is transferred, the liability for the annual levy shifts pro-rata from the person who was owner at the time of the trustees' resolution to the new owner.

The same is not true for the liability for a special levy, though. If a special levy is running at the time a unit is sold, the selling owner must complete the payment of the special levy before transfer of the unit to the new owner. An alternative could be an arrangement in the sale agreement that accommodates payment of the special levy. And the body corporate must be happy with the arrangement because that is a condition for the issue of a levy clearance certificate.

Article reference: Paddocks Press

#### Footnote from Compeg:

The views expressed in this article are those of the author and do not necessarily represent the views of Compeg.

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## Quote of the Month

“What is home? My favorite definition is ‘a safe place,’ a place where one is free from attack, a place where one experiences secure relationships and affirmation. It’s a place where people share and understand each other. Its relationships are nurturing. The people in it do not need to be perfect; instead, they need to be honest, loving, supportive, recognizing a common humanity that makes all of us vulnerable.”

- Gladys Hunt

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