

Managing property properly

Notice Periods for General Meetings in ST schemes and HOAs

In our increasingly litigious society, it's a good idea to get things right, whatever they are.

General meetings of members in community schemes are the forum where important policy decisions are made. It's all very well for trustees or directors to make the day to day decisions, but it can be dangerous to compromise a member's opportunity to exercise his or her right to take part in the major decisions concerning their property, and defective notice of a general meeting could be held to have done just that. In his book on sectional title meetings, Prof Paddock says, "The general common law principle behind the convening of a meeting is that all persons who are entitled to attend that meeting must be given an adequate opportunity to exercise that right."

This is such an important concept that both the **sectional titles prescribed rules and the Companies Act** – which applies to homeowners' associations (HOAs) constituted as non-profit companies – codify the common law by specifying the form, content, delivery method and the period of notices of meetings. The constitutions of common law HOAs invariably do the same.

So what are the requirements for notice of meetings and **how do they differ** between different types of community schemes?

Notice must be in writing, must specify the location, date and time of the meeting and must specify the purpose of the meeting and the substance of any resolutions that will be taken. This applies to both types of community schemes.

In sectional title schemes, the notice period is 14 days, except for meetings at which a unanimous or special resolution is to be taken, and those meetings require 30 days' notice. In his book on meetings in sectional title schemes, **Prof Paddock explains how to calculate "days"**: the day on which the notice is sent is excluded and the period includes the whole of the last day of notice. But if the last day of the notice period falls on a Sunday or public holiday, that day is not included in the notice period.

The Companies Act makes an interesting provision about the notice period. It says, for non-profit companies, that 15 business days' notice must be given, but allows the company's memorandum of incorporation to specify either a shorter or a longer period. And the specification is for delivery of the notice and the regulations made under the Companies Act contain a table that specifies what delivery means, taking into account delivery by hand, email, fax and registered post as well as to whom the notice is addressed! It distinguishes, for example between "persons" and "natural persons".

Finally, if all the members who are entitled to receive notice of a meeting agree, any defect in the notice can be ignored and the meeting and the decisions made at that meeting are valid.