

Purchasing a Company Title Unit



Company Title differs from the more common strata title for unit ownership in that a Company Title owner does not have a title in any real estate. The Company Title owner has, rather, a right to occupy a defined area in the company's building (e.g., apartment no. 27) by virtue of owning a set number of shares in the company which owns the building (the home unit company).

There are both upsides and downsides to purchasing a Company Title Unit.

Upside of Company Title

- Company Title apartments are generally not as expensive as neighbouring strata title apartments of comparative quality title.
- The residency of the Company Title building is controlled as, before shares can be transferred; the Directors of the company must first approve the prospective owner. These Directors are frequently themselves residents of the building.
- It is generally far easier to access and address issues with the management of the Company Title building than with a strata title manager.
- Generally, there are a high percentage of owner-residents in Company Title buildings (traditionally Company Title units being for residents only).
- Where renting is permitted (it is usually in the form of a licence from the relevant shareholder to the "lessee"), the tenant will more likely than not also have to be approved by the company's Board.

Downside of Company Title

- The value of the unit "owned" through shares will not increase at the same rate as units owned under strata title.
- Some lending institutions are not prepared to advance as much for a Company Title purchase as a purchase for real estate held under Torrens Title or Strata Title.
- The Directors must approve your purchaser when you go to sell, which can restrict the size of your market.
- You must be thoroughly familiar with the home unit company's articles of association or constitution, as the case may be, with failure to comply with any particular article having potentially serious consequences, including the forfeiture of your right to occupy the building.
- The law does not look upon a Company Title unit "owner" in the same way as a Strata Title unit owner, which may limit the extent to which you will be awarded relief should trouble arise.



Other Aspects of Company Title

- A. No prospectus is required when advertising and selling your shares in the company. The Corporations Law specifically exempts this.
- B. Stamp duty legislation provides for standard stamp duty rates on the stamping of Company Title shares so that stamp duty is paid as if the unit is held under Strata Title (i.e., between 3% and 5% of the purchase price).
- C. Under conveyancing laws, the Vendor must make the same statutory warranties and attach the same disclosure documents to any contract for sale as are found in a contract for the sale of real estate, e.g., a zoning certificate under section 149(2) of the Environmental Planning and Assessment Act 1979.
- D. "Cooling off" provisions, which normally apply to residential sales by private treaty, do not automatically apply in Company Title sales as the sale of shares representing the Company Title unit is not caught by the definition of "residential property" under section 66Q of the Conveyancing Act 1919.



Additional matters

In addition to carrying out the normal inspections and searches associated with buying a property, a purchaser considering a Company Title acquisition should also inspect the books and records of the home unit company and consider such issues as :

- restrictions on transfers;
- whether the company's articles prescribe an interview for potential purchasers;
- whether renting is permitted;
- the purchaser's own approval by the Board of Directors;
- restrictions that will be placed on any tenant and tenancy itself;
- how the right to exclusive possession of the unit is described, e.g., by the company's articles of association and/or by licence arrangements;
- a shareholder's obligations to make contributions and whether this obligation is at the discretion of the Directors;
- the current liabilities of the company;
- the adequacy and currency of the insurance effected by the company over the building;
- the provisions made for ongoing maintenance and repairs;
- rights and obligations pertaining to common areas, parking space and storage space and the use of balconies, etc;
- possible restrictions on auctions and sale/letting advertisements;
- the extent of the Directors' powers.

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