

Blend of Talent for New State Team

State President Kim Cox has been elected to head the QRAMA State Executive for his fourth term.

Long serving Gold Coast president Graeme Beattie has been succeeded in the Vice President's position by new Brisbane branch President Geoff Allen. Mr Beattie remains on the State Executive.

John Anderson retains the position of State Secretary and Treasurer, but has relinquished those roles with the Sunshine Coast branch.

President Kim Cox said that the State Executive had good representations of permanent and holiday experience and that QRAMA would continue to remain "hands on" with its membership services.

Mr Cox said that QRAMA had a universal charter for both permanent and holiday sectors and would work to service the corporate and common issues, but would continue to represent the individual needs of the special sectors within the industry.

"We want to represent all resident accommodation managers in all forums, through the local committees," he said.

"We have a continuous program of activity with State and Federal legislation and a continuing task to ensure that all our stakeholders understand better, the role and the requirements of modern residential accommodation managers.

"The challenge is for all members to remain active and to help us identify and address issues to improve the recognition of residential accommodation managers in 21st century property industry matters," Mr Cox said.

Full details on page 2.

Challenging Year Ahead

Resident Accommodation Managers face another challenging year ahead as the new body corporate legislation comes into effect and our industry continues to attract the interest of the investment industry.

As members of QRAMA, we have had a direct involvement in the development of the new legislation and regulations and in doing so, have been able to convey to the regulators many of the day to day realities which impact on our industry.

As involved members, I urge you to keep a close watch on the impacts of the new legislation and keep your association informed of both the benefits and the areas of concern in a working sense. The community titles area is one of constant change as stakeholders seek alternative ways to achieve their objectives.

Only with strong member feedback and involvement, can we as an industry, on both the permanent and holiday letting management of properties, continue to deal with issues and ensure that the legislation remains workable.

We have a significant challenge before us with this year's "schoolies" festival attracting the special interest of the Premier in making sure that this event is encouraged and successful.

For those in holiday letting it is one of those opportunities where the Government wishes to strongly support the tourist industry in our State and wants the suppliers of services to foster the Government's agenda.

A number of our industry issues have been presented in the development of the strategy and we will be working with the Government now and in the future to support this important economic opportunity.

But "schoolies", together with some corporate activities in our industry, highlight in the media only a section of our growing industry, and the expectations that so many stakeholders have of our industry.

QRAMA has been able to achieve a number of objectives because we have remained at a grass roots level and member focussed in our work and representations with the Government.

We intend to continue at this level, with your help in your branches.

We will continue to think strategically for the industry and strengthen the understanding within those key stakeholders in Government and industry circles of the key importance which strong professional residential management plays in the success of a property.

Our strength will remain with you the members who play such an important part in the communications of our issues at all three levels of Government.

Next year there will be three levels of Government elections. It is an opportunity for QRAMA to continue to be active with the lawmakers and to influence the direction of the policy developers.

Get ready for another busy time which I believe can lead us to further recognition and improvement of our businesses and the prospects for the industry.

I look forward to working with you all again.

Kim Cox
PRESIDENT

contents

| | |
|--|--------|
| Election Results – QRAMA Executive | page 2 |
| Election Results – QRAMA Branches | page 2 |
| New State Vice President..... | page 2 |
| Branch Numbers..... | page 2 |
| BCCM Reports Postive Trend For Schemes..... | page 3 |
| New Legislation Regulates Tenancy Databases..... | page 3 |
| New Wage Increases Impact Across Industry..... | page 3 |
| BCCM..... | page 4 |
| PAMDA | page 5 |
| OFT Good Business Guide..... | page 5 |
| Residential Tenancy Trap..... | page 6 |
| Appointment of Agent – Statutory Requirement | page 6 |
| Schoolies Festival Has Statewide Impacts | page 7 |
| QRAMA Schoolies Week Survey | page 7 |
| Internet Ownership Concerns..... | page 8 |
| Contact List..... | page 8 |

Election Results for 2003-2004

Introducing your new QRAMA Executive for the coming year:

State Management Committee

President Kim Cox
 Vice President Geoff Allen
 Secretary/Treasurer John Anderson

Brisbane John Ferrier
Whitsunday Brian Walker
Port Douglas Ken Dobbs

Cairns Chris Stolk
Sunshine Coast Ian Barrett

John Keast
 Maria Duke
 Bob McMillan
Gold Coast Geoff Stephens
 Graeme Beattie



QRAMA State President Kim Cox returns for his fifth year in office. Having once again taken up the reigns of the Association, Mr Cox looks forward to an eventful and challenging year.



Having recently accepted the role of Brisbane Branch President, Geoff Allen has also taken on the position of State Vice President.



To complete the State Executive Committee, John Anderson has also successfully retained his position of Secretary/Treasurer.

The QRAMA annual Branch elections were determined in each regional Annual General Meeting, held across the State recently. Congratulations to those in the following positions:

Brisbane

President Geoff Allen
 Vice President John Ferrier
 Secretary Brydon Halliday
 Treasurer Trish Glover

Committee Murray Phipps
 Tony Williams
 David Mills
 Warren Guppy

Sunshine Coast

President Ian Barrett
 Vice President Maria Duke
 Secretary/Treasurer Bob McMillan

Committee Stephen Holmes
 Hans van Vugt
 John Keast
 Sheryn Blundstone
 Gordon Page
 Steve Rosser
 Rob Horell
 David Montgomery
 Colin Druber

Gold Coast

President Graeme Beattie
 Secretary/Treasurer Geoff Stephens

Committee Randall Deer
 Ron Jungblut
 Sue Eynstone-Hinkins
 Terry Fitzgerald
 David Ruxton
 Tom Taggart

Whitsunday

President Brian Walker
 Vice President Alex Bortoli
 Secretary Wendy Downes

Port Douglas

President Ken Dobbs
 Vice President Rob Sutherland
 Secretary Jason Moore
 Treasurer Graham Fletcher

Cairns

President Chris Stolk
 Vice President Kay Partridge
 Secretary Peter Donnellan
 Treasurer Graham Yeoman

INTRODUCING THE NEW STATE VICE PRESIDENT MR GEOFF ALLEN

As the new Brisbane Branch President and State Vice President, Geoff Allen brings with him a wealth of experience and ideas to the Association.

Geoff and his wife Marilyn took over the Management Rights at River Plaza Apartments in on the Brisbane River near Southbank after moving from Sydney in January 2002.

Certainly not new to the concept of management, Geoff has spent 25 years working in the corporate world, a decade of which has taken him across the globe to cities such as Suva, Tel Aviv, Manchester and London.

From these experiences, Geoff understands the importance of customer relations, the critical requirement of a strong industry lobby group, and the benefits of building the right network.

Within his own building, Geoff has had some success in increasing the letting pool, starting a program to upgrade the site, and obtaining a new income source from providing an electricity billing service to the River Plaza.

Geoff himself adds that a major focus for the Brisbane Branch this year will be to increase membership. "To be an effective lobby group, we must have a good representation of the industry," he said.

In order to maintain and expand the membership in his region, Geoff is working closely with his QRAMA Brisbane Branch committee.

Together, the aim is to increase QRAMA's involvement in the long term letting industry, and improve the benefits of membership to all Resident On-site Managers.

Helpful Hint

Ensure a copy of the "house rules" are made available to Schoolies as early as possible. According to Legal Aid Queensland, providing "house rules" to young people as late as check-in may not comply with the requirements of contract law. Providing fair and objective rules guarantees an optimistic time for all. The organisation recommends that school-leavers be given a copy of the terms and conditions regulating the accommodation contract, including any "house rules" of the apartment complex, prior to their entry into the accommodation rental contract.

branch numbers

| | |
|---------------------|-----|
| Cairns..... | 35 |
| Gold Coast..... | 145 |
| Port Douglas..... | 37 |
| Sunshine Coast..... | 249 |
| Brisbane..... | 95 |
| Hervey Bay..... | 14 |
| Whitsundays..... | 17 |

BCCM Commissioner Reports Positive Trends For Schemes

The continuing building boom throughout Australia has seen a solid 8.8 per cent increase in new strata and community title schemes during the past 30 months. Queensland now has almost 300,000 lots in 29,800 schemes registered in the State.

At June this year, 30% of community title schemes were located on the Gold Coast, 27% in Brisbane, and 13% on the Sunshine Coast.

Body Corporate and Community Management (BCCM) Commissioner, Fiona Fitzpatrick has reported a 2.8 per cent increase in applications for new schemes in the past 12 months, with 4,400 applications lodged to the Commission Office since January 1998.

Schemes are reported to be lodging multiple applications with almost 800 schemes lodging an average of three and a half applications, and approximately 2,800 distinct schemes lodging an average of eight applications. Several schemes are reported to have lodged over 20 applications with the Commission Office.

Numbers are likely to continue at these levels as the building boom continues around the country.

The Commissioner also reports that the number of matters requiring resolution responded to by the BCCM has declined by 8 per cent in the past year.

New Legislation Regulates Tenancy Databases

New pioneering legislation to regulate tenancy databases is an Australian first giving Queensland landlords and tenants greater protection.

We should be very proud of this legislation because it makes a real difference to people's lives. Minister for Public Works and Housing, Robert Swarten, said State Parliament unanimously passed new legislation.

Tenant databases are a legitimate tool to help protect property investment but should be regulated to ensure tenants are not unfairly listed.

Around 30 per cent of Queenslanders rent their home and they should be protected from discriminatory or vexatious listings.

The *Residential Tenancies and other Legislation Act 2003* will place a legal requirement upon listing persons to make a genuine attempt to advise the tenant in writing that they will be listed and the details of the listing.

Mr Swarten said the legislation would for the first time set down in law who can be listed, when they can be listed and for what reasons they can be listed.

Other major reforms included in the legislation:

- The person must be a named tenant on the tenancy agreement;
- The tenancy must have ended;
- If a money amount is involved, it must be in excess of any rental bond money held

Mr Swarten said the legislation also extends the powers of the Small Claims Tribunal to enable it to hear applications about disputes concerning a listing on a tenancy database.

NEW WAGE INCREASES IMPACT ACROSS INDUSTRY

Award wages have increased in an amendment by the Queensland Industrial Relations Commission. The change in wages reflects the 2003 Safety Net Adjustment. The new rates are effective from 1 September 2003.

Two groups affected under the amendment are Level Two employees under the Accommodation Industry (Other than Hotels) Award, in the South Eastern Division and Grade Two (i) employees under the Boarding House Employees Award in the State Northern Division Eastern District (excluding South East Queensland).

Level 2 Employees – Accommodation Industry (Other than Hotels) Award

Permanent employees: \$490.20 per week

Part-time employees: \$12.90 per hour

Casual employees:

Monday to Friday \$16.1250 per hour

Saturdays \$19.3500 per hour

Sundays \$22.5750 per hour

Public Holidays \$32.2500 per hour

Juniors receive the following percentages of the adult rate:

Under 18 years of age 60%

18 & under 19 years of age 70%

19 & under 20 years of age 80%

20 & under 21 years of age 90%

Grade 2(i) Employees – Boarding House Employees Award

Permanent employees: \$490.15 per week

Casual employees:

Monday to Friday \$16.1234 per hour

Saturday & Sunday \$19.3480 per hour

Public Holidays \$32.2467 per hour

Juniors receive the following percentages of the adult rate:

Under 18 years of age 70%

18 years of age 80%

19 years of age 90%

20 years of age Full adult rate

Information for other districts and full details are available at www.wageline.qld.gov.au and a summary is available in the Information Library on the QRAMA site.

BCCM Regulations – Operational by End of 2003

Amendments to the *Body Corporate & Community Management Act* were passed by State Parliament earlier this year and have operated since last March. The amendments to the Regulations are expected to be approved by Cabinet within weeks.

Advice to QRAMA is that the development and stakeholder consultation of the Regulations has now been completed and the proposed changes will be before State Cabinet for approval and submission to the Executive Council in late October. We expect the amended Regulations to be operating from 1 December.

"Following our long involvement with the consultation and negotiation with the new Act and its recognition of many of our submissions on behalf of a stronger recognition of the role and rights of the resident accommodation manager, the development of the regulatory process has been just as complex and protracted", State secretary John Anderson said. "The amended Regulations provide improved and better defined processes for the operation of community management schemes."

"Once again QRAMA branches and members have embraced the consultation process. We have been able to have reflected in the amendments of many of the issues that were identified in the legislation, carried through in a very practical sense to improved and clearer processes in the Regulations."

"We now have far greater certainty as a result of this rounds of legislative and regulatory review, encompassing three years of hard work. In the end, resident accommodation managers have far more certainty in their businesses."

Mr Anderson said that with the legislative review, politicians, bureaucrats and many people in the community have a far better understanding of the important business undertaking residential accommodation management has become. The number of schemes operated under this legislation continues to increase and 300,000 units in Queensland are subject to this legislation.

"These new regulations now clearly define what resident managers can and cannot do in running their building, property and business," he said.

Previously there was uncertainty in the definition of some aspects of the Regulations that made them subject to imprecise interpretation. Both resident managers and committee chairperson at times made their own rules or applied imaginative interpretations. These problems have been addressed.

Now the regulations are very precise and very clearly define the role and responsibilities of the resident manager and the rights and responsibilities of the other stakeholders including the body corporate, the body corporate committee, the body corporate manager and the relationship with owners.

"The recognition of the diverse responsibilities to the resident manager, the modern context in which the business operates and the day to day issues which the regulations are required to define has meant the drafting and review has been a great challenge," Mr Anderson said.

"It is a major milestone for both holiday and permanent resident managers," he said. "It also provides greater certainty for all stakeholders."

"It is vital that all resident managers take the time to become familiar with the regulations as they have done with the Act, because there will still be issues as the various stakeholders grasp the implications of these new regulations," he said. "It is a requirement of your Code of Conduct that you have a working knowledge of the legislation. With greater definition on many issues, this knowledge will require some effort from all managers. The Code of Conduct does not provide you with an option. It is now a condition of your relationship with the body corporate."

"Whilst we as a group have worked with the officers of the Department of Natural Resources & Mines, CTIQ (Community Titles Institute Queensland representing the body corporate managers) and the AOUQ (Unit Owners Association of Queensland) on this process, implementation takes place at the grass roots in each building and with each scheme."

Just as the success of every scheme depends on a willingness of each owner to work with other owners and respect the rights and objectives of all stakeholders in the body corporate, the Regulations have been developed in a similar atmosphere of co-operation and understanding.

QRAMA thanks the representatives of UOAQ and CTIQ for their contributions to the process of developing workable Regulations. We also thank the many

QRAMA members who have provided assistance in our negotiations. There have been many people within the Government who have brought the Regulations to their final form. QRAMA acknowledges the remarkable work and skill of Dr Russell Priebbenow and his endless patience in working through each issue and negotiating a satisfactory outcome. We also thank Dr Kay Pearse for her work in ensuring that proposed changes were acceptable to the Minister and her work with stakeholders to achieve acceptable outcomes. Without the skills and efforts of Dr Priebbenow and Dr Pearse, the Regulations would have lacked much of the quality of the final product.

"The regulations clearly spell out all levels of the relationship, those who can attend and be involved in committee meetings and the powers and limitations of chairperson and the committees."

"Members need to realise that they have a responsibility to themselves and their businesses to ensure they understand all the implications of the new regulations."

"The Regulations provide the rules under which you can operate the body corporate part of your business and how you must manage your building."

"They are much more precise than previously, as they have to deal with many issues. They have provided positive guidance and removed many of the options used by the resident manager or the committee chairman to make their own rules, often to the detriment of some other stakeholders. The Regulations now define processes that previously were undefined."

"This has been the major achievement, of ensuring that we cover many of those situations which can arise in the business relationship, and which in the past were open to any interpretation," he said.

Transitional arrangements are defined and generally committees will continue to operate under the 1997 Regulations until the next Annual General Meeting. The date that defines whether a committee is operating under the 1997 Regulations or the 2003 Amendments is the date on which notice is given of the Annual General Meeting. Details of the transitional arrangements are available in the Members' Information Library on the QRAMA website.

BCCM Regulations – Amendments 2003

Refer to the Regulations for the full details. This summary highlights some of the issues that have been addressed.

- Committee size is defined as maximum 7, minimum 3 and non-voting members are not counted in the number.
- The caretaking service contractor (resident manager) and the body corporate manager are "non-voting" members of the committee. These two non-voting members cannot be elected to the committee even if they own property and are members of the body corporate. Similarly any associate of either cannot be a committee member irrespective of any other circumstances. "Associate" is defined and includes both family and business associates.
- No owner (including associates) who conducts any letting in the scheme can be a committee member. Hence an off-site agent who owns a unit cannot be a committee member if they also let any property in the building.
- Any owner who owes a debt to the body corporate cannot vote and cannot be a committee member.
- The election process is better defined. Only owners and defined family of owners are eligible for committee membership.
- Any owner who sells their unit ceases to be a committee member at the time of the sale.
- Vacancies on the committee must be filled and the processes are defined.
- Nominations for the committee must be called not more than 6 weeks and not less than 3 weeks before the end of the body corporate's financial year. The format of nomination is defined and candidates must be identified by their lot number, or, if representing an owner as family member, their own address as well.

- Any one person can only nominate one candidate. Hence many owners will nominate themselves. This provision will prevent the resident manager, chairperson or body corporate manager from "nominating" their committee.
- If insufficient nominations are received, nominations can be invited from the floor of the meeting. If there are still insufficient nominations AND there are fewer than the minimum 3 committee members, co-owners can be nominated.
- Greater details are defined for reimbursement of expenses for committee members.
- Procedures for calling committee meetings are better defined.
- Requirements for committee meeting agenda items are defined.
- Use of proxies at committee meetings are restricted.
- Attendance at committee meetings by non-voting members is defined and the non-voting members must not be present for specific events such as contract disputes.
- Attendance at committee meetings by non-members is also clarified. Provided non-members give the required 24-hour notice and are not present for discussion on defined issues, they may be present.
- The procedure for voting outside committee meetings to handle emergency issues is defined.
- The contents of committee meeting minutes are defined and minutes must be distributed within 21 days of the meeting.
- Provision is made to appoint the body corporate manager as the committee as a "Division 10" appointment. If such an appointment is made, there is no committee and the resident manager is no longer a non-voting member.

- The issuing of voting papers and the details that must be on voting papers for General meetings are defined, including the papers for secret ballots.
- Definition is provided of how voting papers must be presented and the accompanying material that is provided.
- The contents of the minutes of general meetings are defined and they must also be distributed within 21 days of the meeting.
- Use of proxies is limited and a proxy must not be used for votes on certain matters, particularly regarding contracts.
- The terms of the engagement of the caretaking service contractor (resident manager) and the body corporate manager are revised.
- The grounds for terminating an engagement are defined and the processes that must be followed are explained.
- Engagement and authorisation contracts can now be amended and extended, with the process defined.
- The processes for adjusting a body corporate budget are defined. The point of authorisation of work included in the budget is also clarified. Inclusion of an item in the budget is NOT authority to carry out the expenditure. A separate decision must be made before the expenditure is incurred. The decision will be made by the committee or at a general meeting, depending on the authority levels and the amount of expenditure.
- The administration of the administrative and sinking funds and the insurance issues are all better defined.

This list is not an exhaustive summary. It does show the approach that has been taken and the issues that are now addressed in the Regulations.

PAMDA – For Review

The Office of Fair Trading, which now administers both the *BCCM Act* and the *Property Agents and Motor Dealers Act*, is continuing its extensive legislative review process.

Submissions were made in September 2002 and QRAMA identified 15 issues that need attention. These 15 issues were summarised in the November QRAMA Newsletter (details on website).

Early in 2003, OFT held meetings with stakeholders to discuss issues raised in the various submissions and has since outlined recommendations. The OFT submission is confidential and the industry does not know what the Minister has been told. The OFT submission will enable resources to be allocated to the detailed review which is likely to commence around August 2004.

State secretary John Anderson said that this review would also be a watershed for the industry.

"Resident accommodation managers, or restricted real estate agents as their role within PAMDA is known, obviously have complimentary roles in the two areas of legislation, which are now administered within the one portfolio," Mr Anderson said.

"The Government has recognised the growth and development within this area of the property industry and the complexities which flow from this growing area of the general economy."

"The need to bring PAMDA up to 21st century conditions has been recognised by the Government in the continuing review process. We at QRAMA have been concerned that the review so far has looked back at items that need attention and has not looked at providing a framework that will take the industry forward for the next ten years and beyond. Unfortunately most legislation is reactive to old and existing problems rather than being pro-active and providing a more constructive framework that recognises current and future issues."

Mr Anderson said that it was timely that after 12 months under the new PAMDA legislation, a mechanism be established to see how the new legislation has worked.

He said QRAMA would again be looking for members to bring forward examples and concerns under the 15 headings already identified and other matters that may need some fine-tuning or, where under practical experience, need to be reconsidered.

Mr Anderson said that the dynamics of the industry, which were already attracting significant comment within the financial and business media at a national level, clearly indicated the economic interest within the industry. The role of two corporate companies in the industry has brought with it the separation of the property owner in the letting pool from the decision maker and the replacement of the owner by the shareholder as the main financial beneficiary.

"We are no longer Mum and Dad businesses providing a myriad of management and housekeeping services."

"The corporatisation of some sectors of the industry and the size and complexity of many of the properties, both in the permanent and holiday letting areas was now being recognised by investors, developers, financiers and governments," Mr Anderson said.

OFT Guide

The Queensland Office of Fair Trading will issue a 70 page Good Business Guide to residential accommodation managers to provide a plain English review of PAMDA.

The guide is one of a series that OFT has developed for professional stakeholders impacted by its portfolio responsibilities.

QRAMA secretary John Anderson has reviewed the guide with the OFT officers to ensure that the publication deals with key sections of the Act in a practical manner.

"The OFT recognises that it now controls the two intertwining piece of legislation, PAMDA and the BCCM Act which impacts on the various operations of resident accommodation managers," Mr Anderson said.

"It is expected that this guide will have a second edition with the progress of the regulations for the administration of the BCCM Act," he said.

Mr Anderson said that the publication was a handy information tool, but members needed to recognise that it provides a summary of the Act and regulations and that it was not a substitute for the Act and the accompanying regulations.

Residential Tenancy Trap

by John Mahoney, Partner Mahoney Lawyers

Many managers in permanent let complexes have arrangements with the owner and tenant for the **mowing of tenant's lawns** and maintenance of tenant's gardens. It has been a common feature in many complexes for the tenant to pay the manager a weekly or monthly fee for lawn mowing and garden maintenance.

Typically a manager will include in the Residential Tenancy Agreement with the tenant an obligation on the tenant to pay, in addition to rent, a fixed amount for the lawn mowing and garden maintenance. So when paying rent, the tenant will pay for example \$200.00 for the rent and \$15.00 for lawn mowing and garden maintenance.

The \$15.00 amount does not form part of the gross rent and might be paid directly into the manager's general account or perhaps processed through the trust account but not appear on the owner's statement as part of gross rent as it has not been paid as such.

Managers who follow this procedure should be aware that they are in breach of the *Residential Tenancies Act*. Section 142(1) of that Act states:-

"The Lessor or Lessor's agent must not require the tenant to buy goods or services from the Lessor, the Lessor's agent or a person nominated by the Lessor or agent,"

The penalty for breach is a fine of up to \$1,500.

By imposing in a Tenancy Agreement a condition that the tenant pays the onsite manager a fee for lawn mowing or garden maintenance, the landlord is requiring the tenant to buy services from the landlord's agent in breach of that section.

Apart from giving rise to a potential penalty of \$1,500, that probably places the manager in breach of the Code of Conduct under both the *Property Agents and Motor Dealers Act* and the *Body Corporate and Community Management Act*.

Further, such a condition is not enforceable against the tenant if the tenant objects to the payment. Subject to other terms and conditions of the Tenancy Agreement, the landlord or the manager might find themselves having to carry out the lawn mowing and garden maintenance at their cost without being able to seek reimbursement from the tenant.

Some managers have attempted to overcome this problem by having a private arrangement with the tenant, not recorded in the Tenancy Agreement. However, that may also be in breach of the section because it specifically precludes either the lessor or the lessor's agent (ie the manager) from requiring a tenant to buy services from the manager. A formal agreement between the manager and the tenant about an ongoing obligation for the tenant to have the manager mow the lawns or maintain the

gardens for a fixed fee would be in breach of that section. A casual or informal arrangement would probably not breach the section unless the tenant could demonstrate that the agreement was one insisted upon by the manager.

The **correct procedure** for the manager to adopt is to **include the cost of the lawn mowing or garden maintenance in the rent payable by the tenant**. In the above example, the rent should increase to \$215.00 and the letting appointment between the manager and the owner should provide for the \$15.00 fee to be paid to the manager for the lawn mowing and garden maintenance. GST would also need to be taken in to account to ensure that the owner still achieved the \$200.00 per week net rent.

When negotiating rent with the owner, the manager can still refer to the net rent of \$200 pointing out that the additional \$15 or so is to cover the mowing and maintenance. Also, the Tenancy Agreement should contain a condition requiring the landlord to keep the lawns mowed and gardens properly maintained. That condition should be coupled with an obligation on the tenant to allow the manager access to the lawns and gardens for that purpose.

Care needs to be taken that there is no breach of section 109 of the *Residential Tenancies Act* which severely limits the circumstances in which a landlord or the onsite manager can enter the premises.

Whilst the clause suggested below refers to an agreement between the landlord and the tenant as to a time of entry under section 111(4) of the Act, should a dispute arise between the manager and the tenant about that, it might be necessary for the manager to act under section 110(1). That section requires the manager to give a tenant at least 24 hours notice before entering the premises to carry out the mowing or maintenance. Hopefully few if any managers would need to go through that procedure.

The suggested special conditions for a Tenancy Agreement is as follows:-

"The lessor must keep the lawns within the premises properly mown and must keep the gardens and lawns within the premises properly maintained. For that purpose, the tenant acknowledges that the lessor's agent may enter the premises to carry out lawn mowing or garden maintenance one time per week during the months of September to March and one time per 2 weeks during the months of April to August. The lessor and the tenant acknowledge and agree that this arrangement is an agreement to allow the lessor's agent to enter the premises in accordance with Sections 109(f) and 111(4) of the Residential Tenancies Act."

Appointment of Agent – Statutory Requirement

Queensland law now requires real estate and restricted letting agents to obtain a written appointment in the approved form before performing any real estate service or function for a client, Commissioner for Fair Trading, Matt Miller advises.

"Any agent who acts for a client without first obtaining a written appointment commits an offence and is liable to a penalty (currently up to \$15,000)," he said.

A written appointment ensures the client's and agent's rights and obligations are detailed clearly. This removes any doubt about what services are to be provided and how much the client is likely to pay for them," Mr Miller said.

Therefore, it is in the interests of both the client and agent to ensure that:

- The written agreement is completed, read, understood and signed;
- The range of services and the cost of those services have been negotiated and agreed to; and
- The client is given a copy of the completed appointment.

Schoolies Festival Has Statewide Impacts

While the Government continues to direct its Schoolies Week activities at the Gold Coast, the issues raised are generally applicable for all schoolies throughout all areas.

A Schoolies Week update in October announced a Three Point Plan as developed by the Queensland Government in partnership with the Gold Coast City Council and many other organisations.

Department of Fair Trading Officers met with the State Committee of QRAMA to outline details of the Government's new program for 2003.

The Plan was produced as a result of deliberations by the Schoolies Festival MP's Taskforce and outlines a strategy to achieve a safe Schoolies Week in 2003.

The Plan's three key areas cover:

- Better coordination and more partnerships to plan effectively for the festivities

- Improved safety for school-leavers
- Generating an awareness of rights and responsibilities for all parties involved in Schoolies Week.

Premier Peter Beattie said it was important to make Schoolies Week memorable for school-leavers – for all the right reasons.

“By working closely with local businesses, accommodation providers, tourism operators, councils and state government agencies, young people will be able to enjoy the festivities within a safe environment,” Mr Beattie said.

More specific measures of the plan include a training program for accommodation managers and a voluntary Code of Conduct for both accommodation managers and young people, and an independent complaint-handling mechanism to deal with accommodation issues. Details will be made available through the QRAMA website.

QRAMA SCHOOLIES WEEK SURVEY

QRAMA representatives have presented further details at a Schoolies Inquiry Meeting held at the Premier's Department.

State President Kim Cox and former Gold Coast Branch President Graeme Beattie expanded on the QRAMA submission presented to the Deputy General of the Premier's Department, Dr Leo Kelihier.

QRAMA circulated a survey on Schoolies Week issues to members, which was well responded to by members particularly from the two main centres of Schoolies activities.

As a result of the survey and further liaison with members, QRAMA has developed a policy document that outlines the areas of concern faced by our members, as part of the Schoolies activities.

This formed a thirteen-page submission to the Premier's department. Our survey indicated that many of our members are interested in retaining the Schoolies event, but want better control.

The four areas of concern are:

- concern over the level of security
- Effects of alcohol on behaviour
- Protecting the rights of other guests
- Damage to property.

Other issues were also raised and are addressed in the body of our submission.

Our members reported damage ranging from \$200 to \$3500 to common property and individual units. There were a majority of concerns about the serving of alcohol and a request for clarification of licensing laws concerning people under the age of 18 consuming liquor in units and on common property.

Our members manage more than 25,000 units providing holiday accommodation for the State and contribute significantly to the State's tourism economy and to the investor property market.

“We would be pleased to further cooperate with your inquiry to assist in developing satisfactory outcomes for the better management of this holiday and recreation period, which has some important commercial attractions for our members,” Mr Cox said.

“Some of our members do not involve themselves with accommodating Schoolies at the request of their owners.

“QRAMA congratulates the Premier on this important initiative to review the impact of the Schoolies period and we look forward to the development of some workable solutions and outcomes that will enable a more structured and controlled situation.

“This will ensure all visitors to Queensland's major tourism centres will be able to enjoy the benefits and pleasures from a holiday, without adverse impact from other holidaymakers.”

QRAMA and its members are very willing to be active participants in the development of further strategies concerning the running and management of Schoolies.

Detailing the submission, Mr Cox said there is a significant polarisation of buildings concerning Schoolies.

Some bodies corporate have instructed the manager that bookings from Schoolies will not be accepted due to the additional security costs and reduction in amenity of others in the building.

This position is particularly so where owner-occupiers are involved. In other buildings, many owners instruct the manager that they do not want Schoolies in their properties because of the cleaning and repair costs typically involved with these bookings.

In summary, Schoolies are accepted in buildings with a proper programme and who provide the additional security needed to handle the activities.

In such buildings, the greatest success is achieved when ALL occupants are Schoolies, there are no owner-occupiers and no other bookings are accepted.

Buildings that do not provide the cost of extra security and have other guests generally choose to avoid Schoolies or minimise their presence.

The problem is compounded where Schoolies occupy units that are not managed by the manager, such as when owners allow Schoolies (often sons, daughters and abundant “friends”) to use their property without regard to the noise and disruption suffered by others in the building.

This problem is typical of body corporate problems but is made worse by the Schoolies believing that they do not need to abide by the building by-laws or any other restraints.

The results of the questionnaire demonstrated that QRAMA members are interested in retaining the Schoolies event, but want better control. For example, members are concerned with the level of security, the effects of alcohol on the behaviour of Schoolies, protecting the rights of other guests, and damage to property.

More than a third of respondents agreed that the three main issues from this event were alcohol, the behaviour of guests, and the impact on other guests.

More than 20% of participants reported damage to both common property and units. Some quoted the cost of repairs from as little as \$200 to as high as \$3500.

Other issues highlighted by members included lack of security, parking, parents, not enough organised activities and the lack of support for the event.

More than half of the respondents would like clarification of licensing laws for under 18s consuming liquor in the units, position of parents supplying alcohol to under 18s, and the “no alcohol in glass containers” rule that most bodies corporate apply to swimming pool and common areas for all occupants.

Other issues faced by members include cleaning up the mess left by Schoolies, theft, security and noise pollution.

Some of the comments made were “other guests tend to stay away from Surfers Paradise when Schoolies Week is on due to the threatening behaviour of some Schoolies”. However, other resident managers praised the behaviour of Schoolies within their buildings and that the older people/hangers-on are the main problem.

Only a third of the responding membership believe Queensland Schoolies create a larger problem, with some members going so far as to say the first week is always the worst.

However, there are other members who believe that the Queensland Schoolies are not the problem, that it is the older groups in the 20–25 age brackets including university students who create havoc.

There is confusion among managers about the contractual rights of contracting for holiday accommodation with persons less than 18 years of age.

We would appreciate a clear directive that parents are in fact contracting in these circumstances and that parents' contact details (for 24 hour contact) are provided as part of the booking process.

Bookings taken by wholesalers such as Sunlover Holidays and by travel agents ignore the consequences of not providing the manager with clear details of the guests and contact details of the parents. It is too late when the Schoolies are in the entry foyer to start negotiating because of Sunlover's shortcomings.

A few suggestions by QRAMA members include organising more under-age activities, greater security on main streets and outside of accommodation buildings, and consultation with parents regarding alcohol consumption and expectations of reasonable behaviour.

It is recommended that the proposed policy document be supported by rules which are enforceable and communicated to all stakeholders:

- There should be a strategic objective that takes into account the future of the Schoolies Festival.
- There needs to be key people appointed to the role of representative for each group. These people form a committee, which then appoints sub-committees for each group. These committees work to the “strategic objectives” using the policy document as the framework. Operational practices and procedures can then be developed to enable the rules to be communicated and enforced.

Internet Ownership Concerns

By Di O'Shea – Quality Matters Pty Ltd

While your Internet presence and Web content is mainly intellectual (soft) property, it is essential that you ensure a basic protection for this investment.

Regardless of whether you have initiated your web presence (ie purchased the Domain name and/or had the Web site developed) or you have purchased it as part of the Management Rights, you must ensure that you are the Licensee of the Domain name and that you have all access details for your web site content. Your Web Developer may have concerns about handing over some of this information but if you (or your predecessor) have paid for the development of the content, then you must insist that you have what is your asset.

Here are a couple of examples to explain the potential problems:

1. Domain name cancelled:

- In 1997, www.holidaymagic.com.au was registered for the building "Holiday Magic" by the Resident Manager using their company name ABC Pty Ltd;
- In 2000, the Management Rights were sold to XYZ Pty Ltd;
- In 2002, the Management Rights were sold to Now Pty Ltd;
- In 2003, the Domain name was cancelled.

In this case, it was established that no transfer of ownership of the Domain name had ever been documented in a Contract of Sale. The basic policy covering Australian Domain names prevented Now Pty Ltd obtaining any details other than those on public record and from transferring the License to themselves without the written approval of the original Licensee ABC Pty Ltd, who was no longer in the country. The Web site was inoperable until the matter could be sorted out, which was a long and difficult task. The alternative was to allow sufficient time to pass before the Authority was prepared to offer the Domain name for new registration.

2. Web content lost:

- In 2001 Sunny House had a Web site developed;
- In 2003 the Manager decided to update the site;
- Several attempts were made to contact the Web developer, without success. They were no longer in business;
- Annual renewal of hosting fees had been sent by (and paid to) the Developer. There were no records of the Hosting Service Provider or site content.

A new Web Developer was employed and the Manager was charged for much more than the minor changes first envisaged.

Your Internet presence should be one of your most valuable business assets and marketing tools. Protect it by ensuring your legal ownership of all components and obtain all access information ie keys, passwords etc. Keep all information on file. When you sell or buy Management Rights, each component of an existing Internet presence must be documented in the contract and appropriate transfers completed (both handover of information and registration with the relevant authorities). You must maintain control of the ownership of your domain name and your site content.

Contact List

State

PO Box 2477
Fortitude Valley BC QLD 4006
Phone: 07 3257 3927
Fax: 07 3257 3932
Email: state@qrama.com.au

Branches:

Sunshine Coast

PO Box 311
Maroochydore QLD 4558
Phone: 07 5448 8777
Fax: 07 5450 9699
Email: sunshinecoast@qrama.com.au

Gold Coast

PO Box 7902
Gold Coast MC QLD 9726
Phone: 07 5564 6426
Email: goldcoast@qrama.com.au

Port Douglas

PO Box 429
Port Douglas QLD 4871
Phone: 07 4099 6055
Fax: 07 4099 5713
Email: portdouglas@qrama.com.au

Cairns

PO Box 293N
North Cairns QLD 4870
Phone: 07 4081 6900
Fax: 07 4081 6918
Email: cairns@qrama.com.au

Whitsunday

14 Golden Orchid Drive
Airlie Beach QLD 4802
Phone: 07 4946 6391
Fax: 07 4946 5556
Email: whitsunday@qrama.com.au

Jasons
australia
travel channel
www.jasons.com

Got a special offer
you want to tell
over 63,000 people
about?

Jason's **Explore!** is a monthly email newsletter that is packed full of hot deals, travel features and destination guides, covering Australia, New Zealand and the South Pacific Islands.

Queensland
THE AUSTRALIAN TRAVELLER'S
accommodation guide
2004

The canvass for the next edition of the Queensland directory will soon be coming to a close – to secure your place in the 2004 edition call us **NOW!!**

Want more information?

Call Jasons Sales Support now on
07 3221 3810 or email
sales.support@jasons.com.au

Jasons
travelmedia

Level 2, 46 Edward St,
Brisbane QLD 4000
Phone (07) 3221 3810
Fax (07) 3221 6985

Helpful Hint

Residential Managers are regulated by the provisions of the Property Agents and Motor Dealers Act (Qld) 2000 as restricted letting agents. Are YOU aware of your rights and obligations? The Code of Conduct requires residential managers to, among other things:

- Act honestly, fairly and professionally in the conduct of a restricted letting agency practice (section 7 (1) of the Code);
- Treat a customer honestly and fairly (section 7 (2) of the Code);
- Not engage in high pressure tactics, harassment or unconscionable conduct in the conduct of a restricted letting agency practice (section 14 of the Code)

Brisbane

1/116 Meadowlands Rd
Carindale QLD 4152
Phone: 07 3843 0074
Fax: 07 3843 0478
Email: brisbane@qrama.com.au

Secretariat

McCalls' Public Relations
PO Box 2477
Fortitude Valley BC QLD 4006
Phone: 07 3257 3927
Fax: 07 3257 3932
Email: state@qrama.com.au