

Stratum Titles, Company Title & Services Companies FAQs

What are Service Companies?

Stratum title and Company title (collectively known as service companies) were developed before the *Owners Corporations Act 2006* came into existence. They are a unique property structure that are governed differently from an Owners Corporation.

Service companies are bound by the *Corporations Act 2001* and administered by the Australian Securities and Investments Commission (ASIC). The company may have a Memorandum of Association and an Articles of Association (collectively known as the Constitution) and a Board of Directors administer the Constitution.

The difference between a company title and stratum title is as follows:

1. Company Title

A company title is the registered proprietor of the entire property (including the land, building and units). When buying shares in the company title, shareholders are entitled to exclusive use and occupation of a unit at the property and shared use of any common property areas.

2. Stratum Title

A stratum title is the registered proprietor of and manages the common property. Shareholders are the registered proprietor of their private lots and also hold shares in the stratum title.

What governs a Service Company?

Service Companies, unlike Owners Corporations, are not governed by the *Owners Corporations Act 2006*. This is a common misconception within the industry. Service Companies are governed by their Constitution and are also administered by the Service Agreements with each shareholder.

What happens if I have a dispute with my Service company?

On 1 December 2013, the *Company Titles (Home Units) Act 2013* (Vic) ("**Company Titles Act**") came into force. The purpose of the *Company Titles Act* was to confer jurisdiction on the Victorian Civil and Administrative Tribunal ("**VCAT**") to hear and determine neighbourhood disputes affecting service companies for building subdivisions.

Under section 6 of the *Company Titles Act*, VCAT may hear and determine a neighbourhood dispute affecting a company title or a stratum title.

What is a “Neighbourhood Dispute” for the purposes of section 6 of the *Company Titles Act*?

A neighbourhood dispute is a dispute that relates only to a neighbourhood matter or matters.

Under section 5(3) of the *Company Titles Act*, a “neighbourhood dispute” does not include a dispute:

- relating to the sale, transfer or forfeiture of a share or shares in a company title corporation or service company; or
- relating to the lease of a unit that is part of land owned by a company title corporation; or
- relating to a licence to use a unit that is part of land owned by a company title corporation; or
- relating to the winding up of a company title corporation or service company; or
- in relation to which a party to the dispute claims relief under Part 2F.1 of the *Corporations Act 2001*.

When is a rule or term of no effect?

Under section 13 of the *Company Titles Act*, a rule of a company title corporation or service company or a term of a service agreement is of no effect if:

- it is inconsistent with or limits a right or avoids an obligation under this Act; or
- it unfairly discriminates against a shareholder or an occupier of a unit.

Need Advice ?



Phillip Leaman is a Partner at **Tisher Liner FC Law** who specialises in property law. As specialist lawyers, our firm has substantial experience with helping Company Title Corporations and Service Companies including:

- Legal advice on conversion to Owners Corporations
- Levy recovery
- Building defects
- Legal advice on the Memorandum and Articles of Association
- Advice on dealing with disputes between owners

If you need advice, please contact us today for a quote by emailing ocenquiry@tlfc.com.au. For more information on other legal services we offer please visit our website: <https://tlfc.com.au/sectors/owners-corporations-strata/>

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