

## IS YOUR MANAGEMENT RIGHTS BUSINESS SALE READY?

Before you consider listing your business for sale, there are some key things you want to make sure are in order. Generally, many of the issues identified during a transaction can be resolved, however, checking everything before listing, will assist your sale proceeding far smoother.

Below is a list of common things that ought to be considered:

### Are your letting appointments properly completed and signed?

Missing or incorrectly completed letting appointments are not unusual but can be costly. At law, if you do not hold a letting authority properly signed by your owners, you cannot charge that owner any commissions.

When the buyer's accountant reviews the financial records of the business, the account will request copies of the appointments. Missing or appointments which need to be fixed will delay satisfaction of the buyer's income verification condition.

### Types of letting appointments - assignability

While most operators have, by now, updated their letting appointments to a POA Form 6, which is automatically assignable, we still see some older PAMD Forms 20a around – these are still valid, but, are *only* assignable if completed correctly.

### Up to date sales figures

Most buyers and their financiers require a verification of figures to within two months of the date of the contract. As the purchase price is based on the net profit of the business, when investigated, discrepancies will need to be addressed. This may lead to a price renegotiation if the figures verify to less than what has been included in the contract. The alternative is that if the income has increased, you may be selling for a lower price than you could be.

### What is the term remaining on your management rights agreements?

You need to know the remaining term of your management rights agreements. This is very important to any buyer. If you do not have a long enough term left, you may need to top your agreements up as part of the sale which will lead to additional costs and potentially, a delay. Whether your term is long enough term will largely depend on the market at the time and which Module your agreements are regulated by. You will need to be guided by your broker around what this will be. Make sure you have exercised your options and documented those with the body corporate. Failing to exercise an option can have substantial consequences. Setting false expectations for a buyer on term can be fatal to a transaction.

### Have you fixed up the due diligence issues identified when your purchased?

Where there are certain things that your lawyer recommended should be corrected in the agreements when you purchased? Have you done these? If not, be ready to have that same conversation with the buyer. The commercial risk you accepted when you bought might not be acceptable to the buyer.

### What does your relationship with the body corporate look like?

Are you having a battle with your committee? Are there works that need to be completed? Have you received a breach notice from the body corporate? Are there any issues you are aware about? Are there building defects that have not been dealt with?

These issues will normally be revealed in the buyer's due diligence when they look at the body corporate records. If these types of issues are managed up front and disclosed to the buyer before the buyer finds these out on their own, then the outcome will usually be a lot different to where the buyer identifies it during the due diligence process and then asks the question as to why they were not told in the first place. A buyer will start wondering what else haven't they been told?

### How can Quartz Legal help?

If you have any questions about getting your business ready for sale, please reach out to us at [info@quartzlegal.com.au](mailto:info@quartzlegal.com.au)