



What to expect at the committee interview

What will happen?

The last hurdle that you must cross in your management rights purchase is to obtain the consent of the body corporate to the transfer of the management and letting agreements. Under the *Body Corporate and Community Management Act 1997* the body corporate cannot unreasonably withhold consent to an assignment. Therefore unless you have a history of criminal fraud or something equally serious in your past, the committee must consent to the assignment of the management and letting rights to you.

That is not to say that you should take the committee interview lightly or that the committee must not be difficult. First impressions count and it is always important to impress the people that you will be dealing with on an almost daily basis during your time as owner of the management and letting rights. You should answer questions honestly and forthrightly and try to keep responses as simple as possible with additional explanations being given only where necessary.

Some interviews are very formal and last for over an hour. Some are short and sweet with the emphasis on simply meeting you. The questions we have produced below are some of the most extensive and intrusive that you may be asked. It is not likely that you will be asked all of these questions, but you may be asked some of them. In any event, if you prepare with these questions in mind, you should be ready for any question the committee might ask you.

Character and personal questions

Have you:	<ul style="list-style-type: none"> – Had any previous criminal convictions? – Had any domestic violence orders taken out against you? – Had any judgments entered against you? – Ever been involved in any failed or insolvent company?
Is there any:	<ul style="list-style-type: none"> – Current litigation in which you are involved? – Any action pending for an indictable offence and/or an offence involving fraud, dishonesty or assault?
What are your:	<ul style="list-style-type: none"> – Educational qualifications? – Previous work experience? – Previous experience in any managerial role? – Reasons for leaving any previous jobs or businesses?
Have you undertaken or do you intend to undertake an ARAMA, REIQ or other training course?	<ul style="list-style-type: none"> – You may be asked to give some sort of undertaking or even agree to a condition that you will undertake such a course. If you haven't attended a course as yet, you are entitled to respond that it is your understanding that the courses will be of far more value to you once you have been in your role as resident manager for some time so as to get a better understanding of the business. Of course your licence course should be completed or well underway at this stage of th
What is your state of health?	<ul style="list-style-type: none"> – This requires a simple explanation. Naturally, the committee would not want to hear that you are sick or suffering some form of debilitating condition that could affect your ability to carry out the management functions. You should not misrepresent the nature of any health issues you may have.
Do you have a pet that you intend bringing with you to keep on site?	<ul style="list-style-type: none"> – Most committees will usually consent to a pet being kept provided that it is small and manageable and will not be replaced on its death. This is always dependent on the particular body corporate. Recent litigation has confirmed committees must act reasonably when it comes to consent to keeping pets. An absolute prohibition on pets is unlawful. If you do want to keep a pet, it never hurts to actually have a very short resume for your pet (seriously!).
Do you have any children that will occupy the management unit?	<ul style="list-style-type: none"> – To refuse consent on this ground would be discriminatory. This is more a 'getting to know you' type of question.



Do you consider yourself fit and strong enough to clean the common property areas, maintain gardens and look after the common facilities?	<ul style="list-style-type: none"> - You could state that you have made a careful assessment of what duties you are required to perform and are sure that you can perform them. If you exercise regularly, you should mention this at this stage. - If you intend to use contractors to fulfil any of the duties you could also explain your proposal in this regard, obviously on the basis that you are responsible to oversee their fulfilment of any of the duties.
Have you previously worked as a resident manager?	<ul style="list-style-type: none"> - It is always best to have a reference from a previous committee you have been involved with if you have previously owned management rights. It can create some concern for a committee if a previous committee refuses to provide a reference for you. It is not unknown for committee members to ring chasing references from former buildings you have been involved with.
Why did you sell the previous management rights business?	<ul style="list-style-type: none"> - The circumstances of your departure from the previous building should be handled carefully and consistently with why you did sell your prior building. Stating simply that you felt it best to move for a particular reason (ie the building was not busy enough, time for a change etc) is probably the best explanation.
Do you have any trade or clerical skills or experience in the tourism industry or real estate management	<ul style="list-style-type: none"> - This requires a simple explanation of your work background.

Transaction questions

When will the contract of sale for the management and letting rights settle?	<ul style="list-style-type: none"> - The committee can be informed of the settlement date. This will of course follow approval by the body corporate of the assignment.
Have arrangements been made for instruction to be given to you by the resident manager with respect to duties to be performed by you under the agreements?	<ul style="list-style-type: none"> - The management rights contract usually provides for the vendor to provide you with a tuition period. Explain what that tuition time is. Vendors will usually also be available by phone or email for any questions outside the tuition period as well and confirm this if it has been discussed.
Has the resident manager shown you the mechanical and electrical systems in the building and other relevant common property facilities?	<ul style="list-style-type: none"> - If this hasn't already occurred it should be covered during your tuition. If this is the case, simply explain that.
Are you aware of any maintenance agreements between the body corporate and independent contractors?	<ul style="list-style-type: none"> - If these haven't already been covered with you, they should be discussed during your tuition. If this is the case, simply explain that.
Which firm of solicitors is representing you in your purchase and are they experienced in management rights matters?	<ul style="list-style-type: none"> - Hynes Legal are very experienced in management rights matters. We have acted in hundreds of management rights purchases & sales over the past decade. The body corporate manager will usually know the experience of Hynes Legal through our dealings with them over the years.

Management questions

Are you buying the management and letting rights and the management unit with the same entity, and if not will a deed be prepared to make the purchase of the management and letting rights dependent upon the purchase of the management unit?	<ul style="list-style-type: none"> - Irrespective of what entities you are buying in, the unit contract and the management rights contract are conditional upon the settlement of the others. One will not settle without the other. - If you are purchasing the business and lot in different entities we will be including a section 116 provision in the deed of assignment which fulfils the requirements of the legislation for split ownership.
---	---



<p>Who will occupy the management unit (i.e. living on site)? If not you, who will be living on site? Will this person be an employee or a contractor? What other staff will you use to assist you? In what capacity will you be involved in the day to day management of the scheme?</p>	<ul style="list-style-type: none"> - Most bodies corporate like to see the resident manager actively involved in the business and not just employing staff to do all the work with the resident manager providing minimal supervision. If you are purchasing a smaller management rights you will most likely be performing all the management functions yourselves. If you are purchasing a larger management rights and are taking over the vendors employees you should mention this to the committee. They are usually happy to know that someone with experience with their building is remaining. Conversely, if they are not happy with the employee you will probably find out there and then. - It is important to be truthful about your proposal moving forward.
<p>Who will carry out the trust accounting function, and has that person ever done so before?</p>	<ul style="list-style-type: none"> - Whoever is licenced under the <i>Property Occupations Act</i> will be authorised to carry out the trust account duties. Whoever does so will be licenced under the Act and the trust account will be subject to the usual audit requirements of the Office of Fair Trading.
<p>Are you aware that you are engaged under the management rights agreements on the basis that you are responsible for your own superannuation and all other employment related costs?</p>	<ul style="list-style-type: none"> - This is the case. You are an independent contractor of the body corporate and must make your own tax and superannuation arrangements. You may choose to inform the committee that you are aware of this and that your accountant will assist you with tax requirements and other obligations.
<p>What insurance will you take out?</p>	<ul style="list-style-type: none"> - We recommend that all resident managers take out professional indemnity and public liability insurance. Some financiers also require that you take out life and business interruption insurance as well. You should tell the committee what insurance you will be taking out and what other forms of insurance you are considering.
<p>What are your long term business plans?</p>	<ul style="list-style-type: none"> - It is generally advisable to have a written business plan (more so in the case of a short-term (holiday / corporate) building), even if it is more for your own benefit than the body corporate's. It should specify how you intend to promote the letting business. That may mean nothing more than stating that you intend to carry on with the current promotional arrangements which the current resident manager has put in place (in which case you should list these) with a comment that you want to review each of those in more depth once you have taken up your role with a view to finding new methods of promotion. - It would be to your benefit if you could also show how you intend to improve the appearance of the common property which you are to maintain under the caretaking component of the management rights agreements.
<p>If your performance of management duties is not to the reasonable satisfaction of the committee, would you at the request of the committee, engage at your cost sub-contractors to perform work as necessary?</p>	<ul style="list-style-type: none"> - This is a rude question, but can be answered by stating that you have made a careful assessment of what duties you are required to perform and are sure that you can perform them. If you need help you will obtain it.
<p>What systems will you implement to carry out your obligations under the management rights agreements?</p>	<ul style="list-style-type: none"> - An answer that is usually palatable to a committee is one in which you state that you will adopt the practices of the current resident manager until you are fully aware of what the nature of the scheme is, and then assess it from there. If you have any immediate ideas you could flag these with the committee now, or even ask them for their ideas.



Legal questions

<p>Have you read and are you fully aware of the terms and conditions of the management rights agreements and by laws?</p>	<ul style="list-style-type: none"> - You can inform the committee that Hynes Legal has provided you with copies of all documents and a full report on their important legal implications. You can also inform them that we will provide you with a complete set of all management rights material after settlement which will include copies of all documents, which you will keep handy.
<p>Has your accountant made a feasibility study of the management and letting rights?</p>	<ul style="list-style-type: none"> - You can inform them that the figures of the business have been verified to your satisfaction. If they ask about what the figures were verified at, you can state that this question is a question for the current resident manager as it is their business are you are bound by confidentiality. The information you have had verified is confidential to you and your advisers under the management rights contract.
<p>Are you aware of the relevant provisions of the <i>Body Corporate and Community Management Act 1997</i> and the <i>Property Agents and Motor Dealers Act 2000</i>?</p>	<ul style="list-style-type: none"> - You may inform them that Hynes Legal has advised you of the relevant sections of the Acts and will be able to be contacted if you have any immediate questions.
<p>Will you be personally responsible for completion of work sheets for trades persons, verification of invoices, insurance claims and other matters pertaining to your duties under the management rights agreements?</p>	<ul style="list-style-type: none"> - You can inform the committee that will perform all your duties as required.
<p>Are you aware of the boundaries and location of your lot and the office so far as they relate to common property boundaries?</p>	<ul style="list-style-type: none"> - You are aware that the office is on title or the right to use it has been granted to you in accordance with the Act.
<p>Are you aware of the committee's expectations of your performance of the obligations contained in the management rights agreements?</p>	<ul style="list-style-type: none"> - This is a chance to discuss what the committee expect of you. This is why it is vital that you are aware of your duties before you attend the committee meeting.
<p>Will you always communicate openly and fully with the committee or its representative?</p>	<ul style="list-style-type: none"> - Yes. You should ask the committee who their representative is if they haven't already told you.
<p>Are you willing to comply with and carry out the committee's reasonable directions from time to time given in relation to administration and management of the property, and do you accept that those directions may change from time to time depending on the requirements of legislation and changing circumstances of the scheme?</p>	<ul style="list-style-type: none"> - This is a reasonable request you should agree to.
<p>Has a resident letting agent's licence been applied for, and if so, are there any reasons as to why you believe a licence may be denied?</p>	<ul style="list-style-type: none"> - You should inform them who is obtaining the relevant licence and that you are not aware of a reason as to why that person would not be granted a licence.



<p>On taking over the letting business do you have any intention of increasing the costs for any of the services you provide?</p>	<ul style="list-style-type: none"> - The safest response to this question is to state that you will adopt the practices of the current resident manager until you are fully aware of what the nature of the scheme is, and then assess it from there, but at this stage you have no intention of increasing charges.
<p>What is the latest date after the end of each month that you intend to forward net rental cheques to letting owners?</p>	<ul style="list-style-type: none"> - You can inform the committee that you will comply with the Act as a minimum standard, but endeavour to have remittances out within 7 days of month end in any event.

Financial questions

<p>Are you borrowing to fund your purchase?</p>	<ul style="list-style-type: none"> - Yes. (Unless of course you are the very rare type of purchaser who is able to fund a purchase without borrowing)
<p>How much have you borrowed?</p>	<ul style="list-style-type: none"> - You should respond by saying that you are contributing approximately one half (or whatever the actual percentage is) of the total amount of the purchase price of the unit and management rights. You may choose to disclose to the committee the exact nature of your loan. Alternatively, you should politely explain that the committee of course would understand your desire to keep such personal business details confidential. If asked you should explain that based on the income available to you, both you and your financier are satisfied of your ability to meet your borrowing commitments. - You have agreed with the vendor to keep the sale price of the management unit and the management rights business confidential. You should not tell the committee the prices you have paid without the vendor's consent.
<p>Do you have a statement of assets and liabilities?</p>	<ul style="list-style-type: none"> - There may be a specific right for a body corporate to ask for this in the management rights agreements. Alternatively, the BCCM Act provides that the committee is entitled to evidence of your financial standing. Almost without doubt, at the core of this is your personal balance sheet. - If the information is requested, you should politely point out that you are, as would any member of the committee be, reluctant to provide that type of confidential personal information. However you may indicate in general terms the range of your net asset position, pointing out that you are contributing from your own resources half (or the actual proportion) of the business purchase price. - There are other alternatives available that Hynes Legal can advise you on to try and avoid providing the information if this is not enough for the committee.
<p>If a company is purchasing the management rights, will you provide personal guarantees?</p>	<ul style="list-style-type: none"> - You should be prepared to accept this as standard commercial and management rights practice. Hynes Legal will review the terms of the personal guarantee to make sure it is not too onerous. - If required these will form part of the deed of assignment.
<p>If you are financing the purchase will you be requiring the body corporate to enter into a deed of consent to security or similar agreement?</p>	<ul style="list-style-type: none"> - These deeds are not required in Queensland as the banks have statutory protection under the BCCM Act.
<p>What is the income from the business?</p>	<ul style="list-style-type: none"> - This is a private matter for the vendor. If the committee wishes to know they should ask the vendor direct. You are contractually bound to keep that information confidential. You should not disclose information that does not belong to you.



Summary

As with any committee structure, some committee members enjoy the 'power' and perceived control they have. In their role as a committee person and interviewer of a prospective resident manager they may deliberately (or otherwise) try and make you feel uncomfortable.

They may say things like 'there is no guarantee that your agreement will be renewed.' As is invariably the case, your response to that (if you consider one is warranted), should be that it is your belief that you will demonstrate to the body corporate that you are a very competent resident manager, that you believe you will carry out your management duties thoroughly and for the benefit of all unit owners so that unit owners would want to support you in relation to a new agreement or an extension of your old agreement at the appropriate time.

Management rights is a 'people management' type of business. This will be the first time you may be exposed to what will become one of your core business roles. Embrace it and make sure you remain professional at all times and you will be fine.

Would you like to receive the best management rights information in the industry?

Visit www.hyneslegal.com.au/subscribe