

Positions Vacant – Help Needed – Tourists Very Welcome

The struggle continues, the Aussie dollar continues to rise along with rain gauges, insurance premiums, rates and levies, electricity, petrol, airline tickets, food, bank fees - where do you stop?

At a recent ARAMA seminar on the Gold Coast, a prominent industry advocate suggested to me that all overseas departure tax should be tripled for Australian tourism operators wishing to holiday overseas in this current economy. Think about it, if we are lucky enough to take a holiday, why not support the Australian tourism industry and holiday at home. After all, we are a diverse country with plenty of geographical and climatic choices. We should at least support our own industry and holiday in Australia.

There is a point to be made from the above ramblings and that is, yes help is needed. All tourists are welcome and we encourage all facets of this industry to work together to the benefit of all stakeholders. I continue to receive emails and telephone calls from industry stakeholders in various phases of distress. Queensland tourism appears to be the worst affected and the further you go from the NSW border north, the real horror stories become fact. Lack of tourism numbers and the real effect from a high Aussie dollar, the downturn in the domestic drive market and the declining lack of confidence in tourism operators, be it managers or service providers, is evident.

Queensland continues to have the Mining sector boom, however until this slows down the tourism industry will continue to struggle. At the time of writing this article winter has arrived and like the weather, the economic outlook for the next 3 months is bleak.

How does this affect the management rights industry? With current sales still occurring, we are finding the so-called buyers market is evident. Nearly all sales are highly negotiated with industry multipliers having a correction of some sort. Valuations are now a necessity if a manager is considering selling, as is a current Profit and Loss. Here lies the problem - declining occupancy in holiday buildings and lower than expected tariff rates all lead to a declining nett operating profit.

The decision to be made is if you want to achieve an above average market price when selling, you will have to wait for an improved economy and that may take some time, in fact some years.

The flip side to the above is if you wish to move on and re buy in the industry, you sell at the current market price and re purchase on the same ground rules. There are some decided advantages in both scenarios. The “head in the sand approach” to business has well and truly gone.

The lack of constant sales in the management rights industry leads to a decline in valuations and hesitancy with purchasers willing to commit. I strongly suggest you move forward with your commitment to the industry and ride out the current downturn. The management rights industry from the date of concept has always moved forward and given a turnaround in the Australian economy and the tourism market sometime in the future; this will just be regarded as another industry article.

Until next time...

Jake Clarke



Can a resident manager enforce by-laws?

One of the most annoying parts of every resident manager's life must be that knock on the door after hours with a whinge from an owner or a tenant about someone parking in 'their' spot.

So what is the legal position?

Firstly, it is very well accepted that a body corporate cannot delegate the power to enforce by-laws. Taking action for breaches of by-laws is something that only a body corporate can do. It cannot farm that right out to third parties – including resident managers.

Most caretaking agreements include a specific reference to the resident manager's role when it comes to by-laws. The more modern caretaking agreements have a clause in which the resident manager must *'monitor compliance with the by-laws and report to the committee any serious or persistent breaches of them'*.

Older caretaking agreements usually have a clause along the lines of *'police the observance of the by-laws of the body corporate'* with a corresponding right to *'take action to the same extent that the body corporate itself can do so'*.

Secondly, the responsibility to enforce by-laws will usually be a point of conflict with your committee, especially if your caretaking agreement contains an outdated clause to enforce the by-laws. These arguments are often fuelled by a committee's inability to appreciate that enforcement of by-laws is limited to issuing contravention notices, then taking appropriate legal action.

A committee does not have the power to take the law into its own hands and physically prevent a resident from moving furniture in a lift that is not padded, or directing the building manager to do that. While at first glance, it seems appropriate to take immediate action to stop a by-law breach, the limited way to enforce by-laws recognises that taking this type of confronting action might only cause greater conflict and disharmony in a community setting.

By-law enforcement has been litigated. As an example of the types of decisions that can be produced, please click [here](#) to read our previous newsletter on this topic.

So, a few golden rules when it comes to these situations:

1. It is not your role to physically enforce by-laws. You are not required to manhandle people out of the pool after hours or physically tow their cars. All you can, and should do, is make the people aware of the fact that they are breaching the by-laws. That might be a note under the windshield. If there are potentially dangerous issues (like a wild party in a unit), then call the police.
2. Be aware of the different hats you may be wearing. One is as a caretaker and one is potentially as a letting agent. If the people in the pool after hours are owners then there is not much more you can do. If they are your tenants then your role potentially goes a bit further as letting agent. This is because if the body corporate breaches the owner or the tenants, then it will more than likely bounce back to you from the owner as their letting agent. Hopefully, your tenancy agreements / terms and conditions allow you to evict people if they breach the by-laws.
3. Create a template for by-laws breach reports to send to your body corporate manager or committee. This would include the details of the breach including the date, time, the person complaining, what was complained of and the details of the breach. Reference names and registration numbers etc should be in this template. The form which the body corporate must use to enforce by-laws is [here](#). If you make sure that your template includes the information here the body corporate will be able to do what it has to.

Don't be tempted to take the law into your own hands.

Of course, we can help with any of these issues if needed!

If you have any questions in relation to this article please contact [Frank Higginson](#).

We Are All In This Together

As we come to the end of another financial year, it is timely we reflect on the year that was.

Firstly, to all those who have been affected by the natural disasters in 2010-11, can I say our ongoing thoughts are with you and do hope that some form of 'normality' has returned to your lives. Who would have thought at Christmas, that the following months would result in a cyclone destined to hit Mt Isa or Toowoomba would flood.

As many readers would be aware, banks review their commercial loans at least once a year. In the reviews we have completed at Bankwest in recent months, one of our key learnings has been an increasing number of clients, particularly in the smaller complexes, who have a determined focus to reduce expenses rather than a focus on generating additional revenue.

Now, more than ever, business owners must dedicate time each day, to working 'on their business' and not be caught up 'working in the business'. There is only a certain amount of expenses a business owner can reduce. If a business owner's eye remains firmly fixed on 'cost cutting' and not the 'top line', revenue will decrease over time, and today's woes will become tomorrow's disasters.

The better performing complexes we have as our business partners are those who employ staff or contractors to do the mundane work. By paying \$15 - 20 per hour for those room and common area cleans, maybe the pool maintenance and, if within your budget, the mowing and landscaping, the time saved can then be re-directed to marketing initiatives. Review previous year on year monthly performances, tariffs, average stays, occupancy levels, where this business came from, what are my competitors doing to attract clients, etc. Use this 'saved' time wisely to seek out the thoughts and opinions of your key industry advisors (agents, accountants and bankers). Given the current market conditions faced within the tourism market, most are more than happy to chip in and offer ideas and successful strategies used by your peers. Treat this time precious to ensure you are covering the expense of those staff / contractors you have engaged to enable the opportunity to 'work on your business'.

It is no coincidence that those resident managers currently weathering this financial storm better than most, ensure they keep abreast of industry activities. As mentioned above, stay close to your trusted advisors, attend industry functions, subscribe to and read industry newsletters. I never thought I would see the day, when at the last ARAMA meeting on the Gold Coast, an industry veteran thanked the presenters (Jake Clarke of MR Sales being one) and stating "I have learnt so much from tonight's presentation. Thank you so much" One thing is for certain, we should know more tomorrow, than we did today.....so please don't feel like you're in this 'battle' alone. *We are all in this together.*

Ask your banker, agent or accountant to introduce you to an experienced resident manager. I'm sure all those successful resident managers out there would only be too happy to provide an insight as to their marketing activities and provide you with some ongoing mentoring.

At a recent seminar, I saw a presentation slide which really resonated with me: *It is not the strongest nor the smartest person, but the person who embraces change will ultimately be declared the winner.*

While those in the tourism aligned sector have faced some inconsistent and frustrating times of late, the Corporate and Permanent sector are now enjoying their 'day in the sun', which is great to see. When the GFC onslaught began in late 2008, the Corporate market was decimated when the large companies stopped incurring employee travel and accommodation expenses. It wasn't until January 2010, that these embargoes were lifted on most large companies and since, the Corporate complexes have bounced backed with some record occupancies.

Another casualty of the GFC onslaught were the permanent complexes. As part of the Federal Government strategy to create jobs, the First Home Owners Grant was increased. Units and townhouses exited the letting pool as a vast number of first home buyers secured these properties with their increased deposit.

This highlights that the 'planets' of Corporate, Tourism & Permanent complexes are rarely aligned. There are good times and some not so good times.

The highly acclaimed business owners, regardless of their industry, are regularly quoted, saying you are best to focus on matters you can control. Interest rates, poor weather and a high Aussie Dollar are not things any of us in the Management Rights industry can control. But as business owners, we can control the time we dedicate to the key areas that make a real difference, and right at the top of that list is income.

Focus on what makes you money.

In future publications, I will provide some commentary around the increase of Receiver / Manager appointments within the Management industry and how, as a business owner, you may be able to de-risk in today's economic climate.

Until then, very best wishes to all for a successful and healthy FY2011-12.

Peter Child
Senior Manager – Management Rights & Accommodation
Bankwest Business



PRESTIGE HOLIDAY HIGHRISE

- Situated in a premier location on the Gold Coast
- Rarely will you purchase a better business location
- As new presentation with the majority of apartments with ocean views
- Excellent agreements and remuneration

Nett Profit \$900,000
Asking Price \$5,900,000

Vendor instructions are to sell!

Exclusive Agent Jake Clarke 0418 663 661

MEDITERRANEAN STYLE HOLIDAY RESORT



- Central Surfers location
- Stroll to beach, surf club & shops
- Good multiplier
- Well maintained established business

2 bedroom Managers residence, lifestyle location
Vendor says sell!

Nett Profit \$199,600
Asking Price \$1,300,000

Contact Wal Karlo 0412 200 362

SUNSHINE COAST LIFESTYLE HOLIDAY COMPLEX



- Boutique style accommodation
- Low maintenance gardens
- 3 bedroom Managers townhouse, light and spacious, 2 courtyards

Located 80 metres from river and a choice of restaurants in a quiet and relaxing environment

Nett Profit \$90,000
Asking Price \$913,000

Contact Judi Handscomb 0449 141 373

NORTHERN BRISBANE PERMANENT COMPLEX



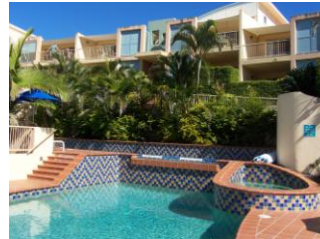
- As new in popular rental location
- 24 years on agreements
- Minimal garden maintenance – no pool
- Great salary

23% return on investment. Vendor willing to trade for house on the Gold Coast

Nett Profit \$160,000
Asking Price \$1,050,000

Contact David Rotheram 0414 706 600

MOTIVATED VENDOR SAYS SELL!



- 4 star holiday resort in beautiful Lennox Head
- Long agreements
- No on-site owners
- Stroll 100m to beach, cafes & shops

Superb holiday resort with everything to offer holiday makers from couples to families

Nett Profit \$338,400
Asking Price \$2,180,000

Contact Warren Oliver 0416 216 625

R.U.M.A.S.
 Resident Unit Managers Advisory Service

The RUMAS seminar that was held on Tuesday, 17 May was fully booked. Due to the popularity, we will be holding a second session on Tuesday, 21 June at 4pm.

If you own a management rights business and are thinking of selling in the next 12 months, don't miss this session conducted by industry professionals; Damien Moffrey – Baker Affleck Moffrey Accountants, Frank Higginson – Hynes Lawyers, Mark Ryall – MRM Finance and Jake Clarke – MR Sales.

Register now to avoid disappointment. Call Amy O'Meara on 07 5555 8200 or email info@mrsales.com.au