

# The bad apple

The phrase one bad apple spoils the barrow is particularly relevant to body corporate communities.



Legal eagle Simon Bennett of OMB Solicitors is an expert in body corporate matters. Simon says most body corporate communities run into issues occasionally but most are easy to resolve.

“Sometimes a lot owner will see themselves as the sheriff or the victim because their views on how the body corporate should operate may differ from the majority of lot owners,” he says.

“When we decide to live in a body corporate community, most of us accept the convenience of having access to facilities compensates for the minor inconvenience of sharing those facilities.

“Experience shows that at least one lot owner will believe the body corporate should be run in accordance with their wishes rather than the wishes of the majority. They become the bad apple by frequently submitting motions and trying to call extraordinary general meetings.

“This is not necessarily in the best interests of the body corporate. Constant complaints about the committee’s alleged failure to enforce body corporate rules and by-laws can lead to petty indiscretions resulting in a breach notice. It is a waste of time and money.

“Some people may send copious communications to the body corporate. These busy bodies often use the committee secretary’s home, personal, or work email addresses. They also may send letters to the body corporate manager or to lot owners.

“Bad apples create disharmony and spoil the work of those who serve their community. The body corporate must support the committee and bring bad apples to heel.

“The body corporate can support the committee by providing information about legal rights and obligations. Bad apples often misrepresent the law in order to support their own agenda. It is important to recognise the legal facts.

“The best way to deal with an aggressive bad apple is to remain calm. An emotive response encourages bad apples. All responses should come from the committee rather than individual members. Committees need strategies to deal with bad apples.

“Legal advice should be sought before responding to a formal application filed against the body corporate. An application filed before the commissioner equates to the body corporate being sued. Responses from the body corporate or a committee member opens the possibility of a claim for negligence.

“A frivolous, vexatious, or misconceived application may give the body corporate the opportunity to seek an order for legal costs against the bad apple. This may act as a deterrent against future unsubstantial applications.

“Bodies corporate are made up of different individuals, they probably won’t all get along but it is essential to keep a cool head and seek sound advice,” Simon says.



O’Keefe Mahoney Bennett

Level 1, 9 Seabank Lane, Southport Q 4215 Australia | P 61 7 5555 0000 | F 61 7 5555 0055 | E info@omb.com.au