

LAWCONSUMERS Incorporated

ABN 57 537 047 005

ADDISON ROAD COMMUNITY CENTRE,
Building 5A, 142 Addison Road,
Marrickville, 2204

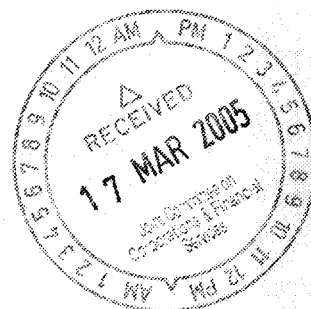
www.lawconsumers.org

23 February 2005

Telephone: (02) 9564 6933

Fax: (02) 9564 2633

Parliamentary Joint Committee on Corporations and Financial Services
Parliament House,
Canberra, 2600



Dear Sirs,

Re: **Inquiry into regulation of the time share industry**

LawConsumers Incorporated has an interest in this inquiry because of its involvement in the development of services for the transfer of title to property for consumers. It is generally limited to the conveyancing of real property as the time share industry is relatively under-developed in NSW compared with Queensland.

In the conveyancing of title to property in NSW there are 3 main categories of title -

- a) Torrens title, (including qualified, limited and strata)
- b) Old system title, and
- c) Company title

Of these forms of title, old system is all but phased out by conversion to the torrens system. Company title involves the transfer of shares in a limited liability company which complies with all of the ASIC rules. Company title was the only alternative available to 'subdivide' a lot of land for multiple occupancy before the existence of the Strata Titles legislation and overcame legal restrictions imposed mostly by local government. A Company title development did not require council consent. Initially, rating authorities could only rate the whole of the land but later found a way to rate each share separately rather have one rate for the whole of the property owned by the Company and preserved their rate income. An unintended consequence of a Company title was the reluctance of financial institutions to accept Company Title shares as a security for a loan. Company title shares were thus relatively devalued.

With the advent of the Strata Titles Act most of the perceived defects of Company title were removed. The Strata Titles Act also introduced the concept of common property owned by an Owners Corporation regulated by ASIC. Financial institutions, probably as a result of deregulation of the banking system are now not so likely to discriminate against Company shares as a security for a loan.

Through an associated firm of Licensed Conveyancers, LawConsumers Inc becomes involved in a relatively high number of Old System and Company Title transfers of title because we do not recommend consumers undertake those transfers themselves and the number of such transfers

does not warrant the publication of a self-help kit to do so.

Given our experience (over 35 years) it would seem that Company title has fitted appropriately into the scope of work for conveyancers.

With the time share of property being a similar amalgamation of company rules and land titles it would seem to be more appropriate to place it within the scope of work for conveyancers who have specific training in both company regulation as it affects Strata title and Company title, and in land transfers.

Fundamentally, in the mind of the consumer, a time share relates to land and is not regarded as a corporate transaction. The consumer would find it more logical to deal with a conveyancer rather than with a specialist in corporate law for the transfer of a time share. In all likelihood, a corporate solicitor given a time share to transfer would refer the matter to the conveyancer within that firm.

Yours faithfully

LAWCONSUMERS Inc

A handwritten signature in black ink, appearing to read 'Max Burgess', written over the typed name below.

Max Burgess