

Question: Our Committee has granted our caretaker permission to use an area of common property. Should this have gone to an AGM for a vote without dissent?

Our Committee has granted our caretaker permission to use an area of common property to use as a nursery including right to use common property water.

Our caretaker has a landscaping business on the side. The committee uses the “excuse” that the caretaker supplies some plants at no charge in the complex.

The committee has also constructed a colour bond enclosure on common property that was partly used previously as a car park for the caretaker to store equipment.

Should this have gone to an AGM for a vote without dissent?

Answer: Granting an occupation authority requires an ordinary resolution at a general meeting.

The Committee cannot grant the Caretaker rights to the common property. The Caretaker can only be granted permission to use an area of common property via an ‘occupation authority’ for purposes associated with the caretaking and/or letting. Granting an occupation authority requires an ordinary resolution at a general meeting. This can be either an EGM or an AGM, not a Committee meeting. The motion will be approved if a majority of those who validly vote on the motion vote in favour of it. The occupation authority will only last while the caretaking and/or letting agreements are in effect.

If the Caretaker does not have an occupation authority in respect of either area, then I recommend that you raise your concerns with the Body Corporate Manager and/or Committee. If the issue is not resolved, I recommend that you proceed to conciliation in the Commissioner’s Office.

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