

## The Job Interview: Assignment Strategies Explained

When buying a management rights or leasehold accommodation business such as a motel there is an interesting dynamic at play that many purchasers fail to pay sufficient attention to.

The fact is that outside the core group comprising the purchaser, the vendor and their associated advisors there is a third-party lurking. In the case of leases it's the landlord and in the case of management rights it's the body corporate. In both cases this third party has a vested interest in the professional capacity of the purchaser and their likely prospects of success. In both cases character, financial standing and qualifications will be important considerations. However, the key drivers of this interest are vastly different, as we shall see.

Let's look at leaseholds and landlords first. The landlord is primarily interested in the capacity of the tenant to pay the rent and keep the property in a well maintained condition. If we recognise that motel freehold investments are valued on a yield as applied to sustainable and reliable rental income then it becomes clear that any risk to rent could have a negative impact on the value of the landlords asset. In many ways the landlord will be interested in the same things as the leasehold lender because both will suffer should the leasee fail. It's important for an incoming leasee, particularly an inexperienced one, to be prepared to present their case to the landlord and be transparent and honest in outlining background, financial resources and plans for the operation of the business. We recommend an incoming leasee be guided by the landlord in terms of what documentation may be required but be ready to provide CVs, personal references, a summary of your business plan and strategies, a statement of assets and liabilities, details of how much you are borrowing and your financial obligations, details of your capacity to fund appropriate improvements and maintenance and your fall back and risk mitigation plans. This should include your insurance strategies for risks such as personal injury, key man, sickness and death cover as well as the usual business and property insurance generally required under the lease. Ultimately the landlord has the power to approve or decline the assignment of a lease albeit it's difficult for an approval to be unreasonably withheld. A last tip, know what's in the lease and be ready to talk about the content with the landlord, particularly your obligations as tenant.

Management rights agreement assignments share some similarities albeit for very different reasons. The body corporate committee who will ultimately interview an incoming manager and approve the assignment have a duty of care to ensure that the new resident manager has the capacity to perform the duties of the caretaker and provide professional on site property management services. I have had incoming operators talk about this in terms of feeling like a job interview and to be fair, it is. Unlike leasehold motels where the operators pay rent and maintain the physical property at their expense the reverse is true with management rights. The body corporate pays the resident manager a salary to undertake caretaking and there is in fact an employer / employee dynamic in place. The legal arrangement is that of contractor but I think it's important for the incoming resident manager to see the assignment as a job application. Of course, there's a bit more to it than that and the body corporate will often request very similar information to that outlined in our explanation of lease assignments.

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Again, we see no need to volunteer information but be ready to table the sort of documentation we have outlined and to promote yourself at the assignment meeting as a wonderful new resident manager who understands the industry more broadly and the business specifically. Know what's in the agreements and by laws, particularly your caretaking duties and be ready to talk in detail about how you intend to discharge those duties. If there has been any history of dispute within the scheme understand what happened and be prepared to outline how you would manage the situation differently.

If you are new to the industry surround yourself with experienced industry professional advisors and mentors and seek their support in terms of the assignment. Your industry expert lawyer should be your right-hand person throughout the process and will most certainly be a source of valuable advice and support. We can also support you with a bank reference and any other financial documents you may need for the body corporate.

Many people think about risk when buying a business but fail to articulate this to the body corporate or landlord. We strongly advise all new managers to review insurance and financial risk and make sure the body corporate or landlord understands that you have put strategies in place should you become ill or have some other unexpected personal or financial event that could impact your capacity to operate the business. Of course, there are certain insurance risks which you are obligated to cover under your agreements or lease and you simply must have these in place prior to settlement. Still worth telling the body corporate or landlord that you have consulted an industry expert insurer and you are receiving the right advice.

Our observation is that the assignment process for management rights has moved from a pretty relaxed and somewhat informal process to a much more rigorous and robust examination of the financial standing, experience and professional capacity of the proposed new manager. Incoming managers should not assume an automatic approval and should be fully prepared to provide the body corporate with a convincing and compelling case to approve the assignment. Yep, sounds a lot like preparing for that big job interview.

One last tip. After settlement grab the BC chairman or landlord and go for a walk around the property. Discuss duties, upkeep and maintenance and your vision for the business. Including key stakeholders gives them an element of ownership in terms of your plans and goes a long way to ensuring you are all on the same page.

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