

Children and strata

STRATA AND COMMUNITY LIVING IS ONE OF THE LARGEST GROWTH SEGMENTS IN THE HOUSING SECTOR. IT AFFECTS MILLIONS OF PEOPLE WHO EITHER WORK OR LIVE IN STRATA SCHEMES. THIS TREND PLACES AN INCREASING NEED FOR PROFESSIONAL MANAGEMENT AND THE EDUCATION OF STRATA OWNERS AND OCCUPANTS TO BECOME AWARE OF THEIR OBLIGATIONS UNDER STRATA BY-LAWS OR MODEL RULES. THIS IS ESPECIALLY TRUE WHEN IT COMES TO CHILDREN ON STRATA PROPERTIES.



While most of us adore children this may quickly disappear when it comes to them playing noisily in hallways, corridors and other common areas of strata complexes. Whether children are residents or are brought along by occupants' guests, the issue remains the same - what are the rules around children playing on common property?

Advice from a Sydney lawyer who specialises in strata litigation, sheds some light on this issue. The lawyer stated that, generally, the by-laws in a strata scheme prevent children from playing on common property except if properly supervised. By-laws also prohibit children from playing in places of high risk or hazard such as car parking areas.

"Frequently enough, occupants complain when neighbours have visitors who bring their children on site, who then play unsupervised in common areas such as stair wells and corridors, hence it is good to clear up the responsibility of supervision," he said.

"The strata by-laws clearly set out the responsibility that owners and occupiers are obliged by these requirements and as such must control their invitee's children."

In almost all strata and community schemes, there are by-laws and rules to control behaviour by owners, occupiers and invitees when on and around the common property. There have been many cases of tenants being prosecuted for breaching these by-laws, and in some cases offenders have been charged with fines.

"Noise, however, seems to be a perennial problem in strata and potentially the biggest single thing," the lawyer said.

Rowdy parties and floor noise in general are major sources of complaint. Again, there are by-laws dictating how these standards are enforced, but generally, you cannot do something in your lot that interferes with the peaceful enjoyment of another person in the scheme - be it noise from parties, singing and stomping around, or noisy children.

"We have had cases where landlords have been responsible for the problems of their tenants regarding noise problems. In other cases, a piano being ordered by the Tribunal to be used only during certain times and in another a person being told how to use the toilet late at night," the lawyer said.

While by-laws set out obligations and restrictions for strata living by the body corporate, these naturally tie in with general law as well.

"The strata legislation sets up the framework for those involved in the scheme to act and behave, such as meetings, by-laws, funding etc, in an expectable and cooperative manner. However other types of laws equally affect the scheme, such as Work Health and Safety laws, planning laws, for renovations or remedial works, as well as negligence issues and so forth," the lawyer explained.

In the case of complaints, damage or worse injury, these strata laws can be enforced through the Consumer Trader and Tenancy Tribunal. There are also powers under other laws that can be enforced such as noise abatement orders and negligence action for injuries on common property for example.

The original version of this article by Erik Bignalk was published in the April 2013 edition of Inside Strata.

WHAT DOES MY STRATA MANAGER DO?

WHAT DOES MY STRATA MANAGER DO? – IS A QUESTION THAT A LOT OF STRATA MANAGERS HEAR FROM STRATA PROPERTY OWNERS. HERE WE HAVE PRODUCED ANSWERS TO THE MOST POPULAR QUESTIONS ABOUT THE ROLE OF THE STRATA MANAGER.

1. What does a strata manager do?

Strata managers are engaged by the strata scheme's executive committee to manage the day-to-day affairs of the scheme. Strata schemes are becoming larger and more complex. Strata managers provide services and advice on:

- Financial management
- Insurance
- Clerical and administrative support and follow up
- Ad hoc maintenance and contract support
- Ensure requirements of the relevant legislation are met
- Advise on the legal requirements concerning the operation of the strata scheme.

The role varies depending on the size and type of property and involves people management, requires someone who is organised and is able to handle difficult clients from time-to-time.

2. What is the role of the executive committee?

The executive committee is elected at each Annual General Meeting from the pool of strata owners. Their role is to exercise the functions of the owners corporation or body corporate.

The executive committee oversees the management role by monitoring the finances and bringing forward matters for discussion. They elect a Chair, Secretary and Treasurer and where the scheme is self-managed they are also responsible for all the tasks which might otherwise be carried out by a strata manager, including being across all legislative requirements.

The executive committee must also carry out all decisions made at the AGM. They can't ignore the strata scheme members nor can they bring in their own agenda.

3. Can I contact my strata manager direct?

You can but the strata manager works for the strata scheme and not for the individual property owner. If you have an issue that you raise directly with your strata manager they are obliged to pass it on to the executive committee for review.

4. Why does my building need a strata manager?

Some don't need a strata manager. If your property has two or maybe three lots it may be that it can be self-managed.

However as the legislative requirements have become more complex as time goes by many have realised they need the help of a strata professional to ensure they are meeting their legal requirements. If they don't meet their requirements they can end up before the relevant tribunal and may be subject to penalties and orders.

Often many owners don't have the time or expertise to run their strata scheme and the strata manager can help steer the owners on the right track.

5. How do I evaluate my strata manager's performance?

Ask whether your strata manager is providing a proactive service delivery. Are they professional? Do they act in a timely manner? Do they provide the level of care you expected?

If the answers are yes and if your strata manager is also SCA accredited then you have likely found the right person for your scheme.

Strata updates

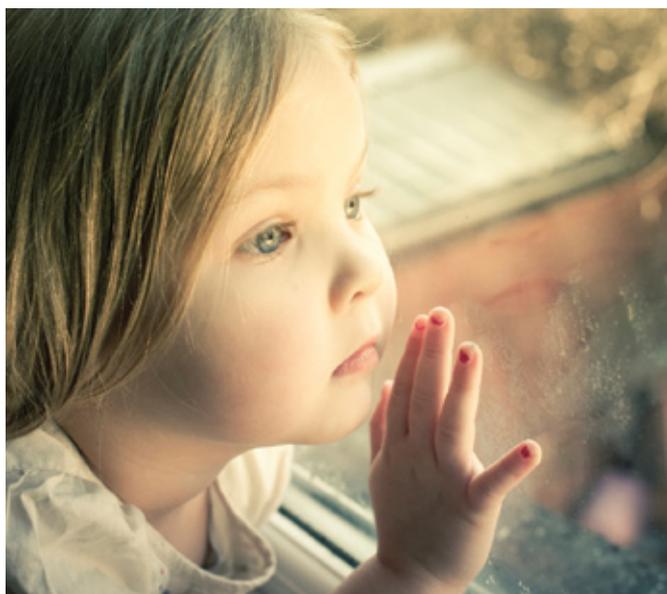
Children and window safety

SCA (NSW) has forwarded a submission in reply to the NSW Government's "Children and Window Safety Consultation Paper". The government's paper is available via the Fair Trading website www.fairtrading.nsw.gov.au.

The government is proposing to amend existing strata legislation to include measures that would help to prevent children falling from windows and had called on the public to submit their views. Amongst the measures is the recommendation that over a number of years, all windows above ground level be retrofitted with locks that open no more than 10 centimetres.

SCA (NSW) has carefully considered all aspects of the government proposal and a copy of our submission can be found on our website www.nsw.stratacommunity.org.au.

We will monitor this issue and update you when the government releases its findings.



New swimming pool register now in force

The NSW Department of Local Government has advised that since 29 April 2013 all swimming pools in this state are required to be registered at www.swimmingpoolregister.nsw.gov.au. This website also has useful information on the new requirements.

Registration online is free and owners have until 29 October 2013 to register their pools or face fines if they fail to comply.

Registration and self-assessment is a fairly easy process. Owners are required to enter their name, address, contact details, the type of pool, and the approximate age of the pool. Then they will need to complete a self-assessment checklist about their pool which also assesses if the pool fence meets the appropriate Australian Standards.

From 29 April 2014 lot owners will need a pool compliance certificate to sell or lease their properties. The owners corporation or strata manager will hold the compliance certificate on behalf of all unit holders and make it available to pool owners when or if required.

Consumer Awareness Seminars

Save the dates:

Wednesday 10th July

Executive Committee Conduct - How to optimise performance on your executive committee

Wednesday 14th August

TBA

All sessions are from 4:00pm-6:00pm in the SCA (NSW) Offices, Level 8, 99 Mount Street, North Sydney.

Bookings are essential so please call 02 9492 8200.

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