

STRATA & COMMUNITY LIVING

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EXPLAINING NCAT

If you've heard the letters NCAT bandied around or someone has mentioned the Tribunal but you're not sure what it is then we may be able to help explain.

The NSW Civil and Administrative Tribunal or NCAT was established by the NSW Government from 1 January 2014 and replaces 22 state tribunals with just one. This one-stop-shop aims to provide a service for everyone requiring assistance for matters that are not meant for the courts system.

NCAT replaces the CTTT or Consumer, Trader and Tenancy Tribunal, which you may be familiar with or just heard of as this was the place where strata disputes were heard and determined.

In the second reading speech introducing the NCAT Bill to NSW Parliament, the Hon David Clarke, MLC, said that "the Government is establishing NCAT to provide the citizens of this State with a cost-effective, informal and efficient forum for resolving disputes and other matters. While the legislation gives the President of NCAT flexibility to run the tribunal's day-to-day business, the legislation also gives clear guidance to the tribunal regarding the need to deliver fast and effective services to its users."

So what is a tribunal? The Hon Justice Garry Downes AM wrote in 2004 that "modern tribunals play an important part in society. Not that tribunals are a new idea. Their origins lie in the Roman tribune whose task was to stand between plebeian citizens and patrician magistrates.

"Tribunals can be Government sponsored or private. They can be administrative or civil. Administrative tribunals are concerned with executive actions of government. Civil tribunals are concerned with resolving private disputes."

NCAT hears both civil and administrative matters as its name suggests. Strata matters are civil matters and mostly involve disputes between private persons. Owners who have a dispute before NCAT will find themselves in the Consumer and Commercial Division. This Division deals with a wide range of everyday disputes such as tenancy disputes and other issues relating to residential property, and disputes about the supply of goods and services. Most of parties in these disputes represent themselves at NCAT and are encouraged to first attend mediation to try and sort the matter out themselves, with the assistance of a mediator.

The NCAT website has a list of case studies that provide a general guide for how a matter may be determined. It is stressed by NCAT that these are not precedents nor are they legal advice.

The cases range from washing on balconies to pets in apartments and of course noisy neighbours. You can view these at http://www.ncat.nsw.gov.au/Pages/cc/Divisions/Strata_and_community_schemes/strata_community_schemes_case_studies.aspx

If you have a dispute before NCAT and need some advice you can either seek some information from your strata manager or go to the NCAT website <http://www.ncat.nsw.gov.au>.



Scam watch:

Neighbours who shatter your peace

Many people won't live in an apartment because they think there are too many rules and want to do as they please. Yet living in a detached home can still mean the neighbours are a nuisance even if they are further away over the fence or the road instead of the wall, floor or ceiling.

Living in a strata or community title property means that if the neighbours are disturbing the peace and quiet you do have some law behind you that can compel them to stop. You don't have this sort of legal clout in a detached house.

Firstly there are the by-laws. If a neighbour is doing something annoying (or if you're the annoying neighbour) then check your by-laws first to see if the action is breaching them. Most strata schemes in NSW follow the model by-laws although some will have changed these or added their own. If the person is breaching a by-law then the executive committee has options open to it to encourage the person to stop. The most extreme is action in the NCAT.

Now in case you were wondering about the model by-laws regarding smoking, we must inform you that presently in NSW there is no model by-law that addresses the issue of cigarette smoke drift from one lot to another.

This has been proposed in the new model by-laws which are part of the strata law reform laws yet to go before NSW Parliament.

But a word of warning these model by-laws will only apply if adopted by new strata schemes from whenever the new legislation takes effect. There is however, nothing stopping an owners corporation from going through the process to pass this by-law themselves without waiting for the new legislation. Your strata manager can provide more information about this process.

So how to deal with issues not covered by the by-laws such as party noise or loud music? These issues and others may be considered a nuisance and there is also a remedy for that.

Nuisance means that owners and their guests must not behave in such a way as to disturb the peace and quiet enjoyment of others. The issue of nuisance is dealt with under section 117 of the current NSW Strata Title Management Act.

Any serious breach of this may result in the matter being brought before NCAT where orders may be issued to curb the behaviour. A breach of those orders can result in heavy fines.

We all want to live a quiet and peaceful life – our homes should be our havens – just maybe reconsider turning up that best of the 80's music and singing Kylie songs on the balcony at 11pm on a Thursday night. It might be best to leave that for New Year's Eve when everyone's awake.

look out scammers about

NSW Fair Trading has a number of scam alerts out at present. Here are some of the things you should look out for to avoid being a victim. If you think you have been scammed then report the matter to the NSW Police immediately and if it involves access to your banking details please call your bank which will help you through the situation. These cases are all from the NSW Fair Trading website www.fairtrading.nsw.gov.au

Bogus bankers

NSW Fair Trading Commissioner Rod Stowe has issued a warning about bogus callers claiming to be from some of Australia's biggest banks falsely advising consumers that they had fallen victim to an overseas credit card or bank fraud.

"NSW Fair Trading is receiving reports of consumers being contacted by people purporting to represent banks based in Australia," Mr Stowe said.

"The bogus callers falsely claim that fraudulent transactions have taken place on their credit card, commonly in New Zealand, and then ask consumers for their personal or banking details to help recover funds.

"Once they've gathered banking or personal details from victims, scammers can potentially hack into their bank accounts and siphon funds.

"Depending on the volume or type of information given, scammers have the potential to commit other types of false representation using the victim's identity.

"Unfortunately banking scams are quite common, though this new variant is particularly worrying as banks and financial institutions do often get in touch with consumers to advise them of irregular or suspicious transactions.

"If you do receive a call that doesn't seem genuine, refrain from giving any details, hang up and contact your bank or financial provider."

Mr Stowe encouraged consumers to alert their friends, family and colleagues of the latest banking scam.

Fake computer virus scams

NSW Fair Trading is also warning consumers of the dangers of falling for computer virus scams, following recent reports of NSW residents being contacted by scammers.

Minister for Fair Trading, Matthew Mason-Cox said scammers often cold-call or email victims claiming they were from a computer software or anti-virus company, like Microsoft.

"Online and computer scams have grown in popularity as more aspects of our everyday life move into the digital realm," Mr Mason-Cox said.

"Scammers pose as representatives from software and technology companies and concoct reasons, like a fake virus, to lure victims into visiting websites that instigate the automatic download of malicious software.

"Once the software has been downloaded the victim's computers or devices are locked by the scammers. Often victims are left with no option but to pay scammers to restore use of their computer or device."

Mr Mason-Cox urged consumers to treat any cold calls or unsolicited emails of this nature with great caution.

"Before taking any action, look up the company or agency's contact details and get in touch with them directly to see if the claims are genuine," Mr Mason-Cox said. "In many cases they won't be."

A similar scam surfaced in late 2014, with people receiving bogus speeding fines via email purporting to be from the NSW Office of State Revenue. Links in the email directed people to download malicious software that locked and disabled their computers and charged users an expensive ransom to restore access.

Events, education and more

SCA (NSW) is again holding Strata Owner Seminars during 2015 to update and inform owners about a number of issues and responsibilities around living in strata.

A Briefing Session about the recent changes to the Home Building Act, which took effect from 15 January 2015, will be held at the SCA (NSW) offices in Chatswood on Tuesday, 17 March from 4pm. Our legal expert will brief owners on what this means if they have defects in their building but have yet to make a claim. You must register to attend. SCA (NSW) members are free and guests are \$20. Please go to our website for more information.

Become an SCA (NSW) member

Strata Owners are welcome to become members of SCA (NSW) and as a number of you know for just \$50 for individuals and \$100 for up to nine executive committee members there are many benefits to be had. These include:

- Free online executive committee training
- Invitations to events at special SOC member rates
- Complimentary invitations to attend Strata Owner Seminars
- Networking opportunities with other strata owners, strata managers and suppliers
- Strata owners monthly e-newsletter from SCA (NSW)
- Access to the online directory of suppliers and strata businesses
- Access to fact sheets
- Input into strata policy development
- Awards recognition
- Templates for agenda and minutes

For more information about joining SCA (NSW) email soc.nsw@stratacommunity.org.au or phone (02) 9492 8200.

Certificate of Registration

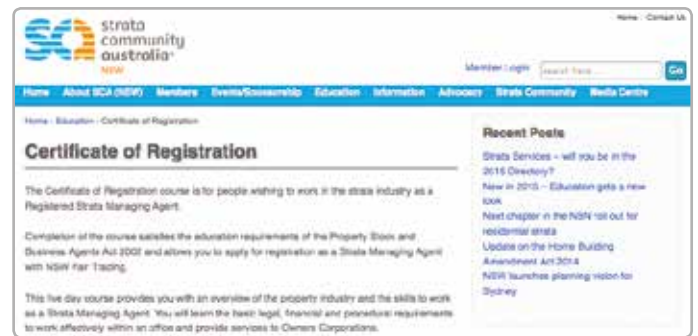
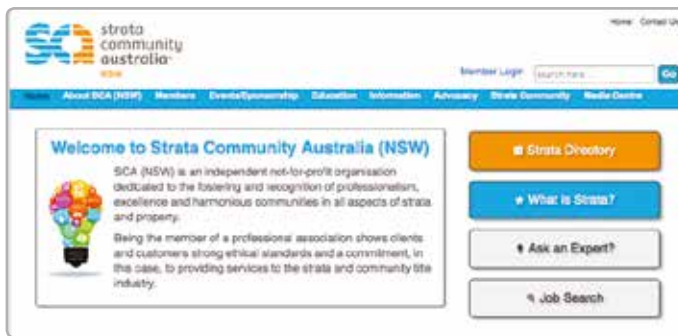
SCA (NSW) is once again offering its Certificate of Registration (COR) course for those wishing to obtain their registration as a strata manager. To gain certification students must attend the week long course and attain a good final assessment by their trainer after which they can apply for registration with NSW Fair Trading.

SCA (NSW) is offering regular COR courses throughout the year at its Chatswood offices in partnership with Real Estate Training Solutions (RETS).

As part of the course you'll learn about the legislative requirements for strata schemes, how to communicate and liaise with clients and deal with all sorts of issues from participating in meetings to getting insurance quotes.

This is an ideal profession for anyone who has some customer service experience or might have worked in the financial services area. Even if you haven't, it may be the change you're looking for.

To find out when the next course is or to enrol visit the Strata Community Australia (NSW) website www.nsw.stratacommunity.org.au



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