

# STRATA & COMMUNITY LIVING

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WINTER 2015



## WELCOME TO STRATA

A lot of new apartments have come online recently meaning there is likely to be a lot of owners/investors new to the strata and community way of life. So welcome to strata and community living.

Every now and then we publish the Ten Commandments for living in strata and thought now might be a good time to do so. Here is your quick guide on how to live in strata and enjoy it:

- 1. Love Thy Neighbour**  
Recognise that when you're apartment living that your neighbour is not across the street but can be on the other side of your living room or bedroom wall.
- 2. No Pets Allowed**  
Find out if your owners corporation allows you family cat or dog to live in your new strata apartment. Don't necessarily take the word of the selling agent when he tells you the block is pet friendly.
- 3. Know What You're Buying Into**  
Have an "Identification" survey undertaken to make sure that the car space, garage and unit you were shown, is in fact the one you are actually going to buy.
- 4. Know Your Rights**  
Acquire a full copy of the by-laws that are specific to your owners' corporation, so that you understand the "rules" that you will be required to live by.
- 5. Do Some Sleuthing**  
Have a professional search the books and records of your owners' corporation so you know the finances and any other issues the owners' corporation is facing.
- 6. Make Sure Your Sinking Fund Isn't Sinking**  
Have a good look at the condition of the building and make sure that the funds in the "sinking fund" match the long term maintenance planned for the next few years
- 7. Budget for Levies**  
Each quarter it is likely that you will have to pay levies to fund the annual running expenses of the owners corporation and its long term maintenance. Ultimately this will protect the value of your financial investment.
- 8. Be Informed**  
Educate yourself, as to your rights and responsibilities of living in a strata title property by joining Strata Community Australia (NSW) and coming along to our free owners seminars.
- 9. Know Who To Call**  
Find out who on your executive committee you can contact when something goes wrong with the building and its services.
- 10. Be Active**  
Take an active interest in what goes on in your building, attend the annual general meeting so that your voice is heard and consider becoming a member of your buildings executive committee.



## Your questions and our answers

Here are some more of the questions and answers covered at Strata Owners Day late in 2014. These are general advice only and you should always seek professional advice in relation to your specific circumstances.

**Q:** We have completed \$350,000 worth of major works in the past year in a building of 8. It was caused largely by the previous executive committee negligence and mismanagement. What action can recent owners take against the previous committee?

**A:** Obviously specific legal advice is needed here. However, advice we have from an insurance broker is that if you sue the committee, if you have office bearer's liability insurance, it is likely the insurer would defend it, and then it will all come down to what you can prove.

What you may see as poor management, may not be negligence, which is what it is required to be for the office bearer's policy to fight your claim.

You will need proof of that. Only a lawyer can advise you of your chances in court based on the evidence you have. You can't sue over how you feel or think on this type of matter.

**Q:** How can we get AGM motion rescinded?

**A:** You would write to the secretary/strata manager and give them a motion to put on the agenda, as is provided for in the Act:

### **36 Requisition for motion to be included on agenda for general meeting**

(1) Any person entitled to vote at a general meeting of an owners corporation on a motion that does not require a unanimous resolution may, by notice in writing served on the secretary of the executive committee, require inclusion in the agenda of the next general meeting of the owners corporation of a motion set out in the notice and the secretary must comply with the notice.

(2) The secretary must give effect to the requirement of the notice.

(3) Subclause (1) does not require the inclusion of a motion on the agenda of a general meeting for which notices have already been given in accordance with this Schedule but in that case the motion must be included in the agenda of the next general meeting after that.

(4) For the purposes of subclause (1), an owner of a lot who, but for the fact that the lot is subject to a mortgage or covenant charge, would be entitled to vote at a general meeting of the owners corporation is entitled to vote at that meeting.

You need to clearly reference the resolution you wish to rescind, for example, resolution 6 of the Annual General Meeting held on (here you would insert the date), regarding what it was the resolution related to.

**Q:** What can we do when a strata manager repeatedly acts against the interests of owners and in favour of tenants? All lots except one is leased to a tenant - tenant runs building as serviced apartment and in 2013 they submitted an invoice for air-conditioning 2007-2013 with documentation and one further invoice also for air-conditioning with no further documentation.

**A:** The agent/manager is required to act on minutes of meetings from the AGM to meetings of the executive committee. The agent has a duty of care, when he is not instructed, to act in the best interests of the owners corporation. However in the end it is up to the committee to instruct the agent/manager and, providing what is instructed is legal, he or she must act on it.

The question to ask is on what authority did the agent pay the invoices? Did the Executive approve them in a meeting to be paid? Or does it fall under their agency agreement. If they cannot answer these questions, then the matter could be referred to the Office of Fair Trading. Any agent should be able to advise the authority on which they paid money as it belongs to the scheme.

## Why you must repair the cracks

Regular readers of Strata and Community Living will know that we regularly try to explain various aspects of living in strata and why you must to do certain things and not others.

For those who are new to strata – be it as an owner/occupier or as an investor - or if you know someone who is, one of the things owners disagree on the most is maintenance of the common property.

Data provided in a research project by the City Futures Research Centre at UNSW, and funded in part by SCA (NSW), indicates that almost 1 in 3 owners surveyed are concerned that budgeting for repairs and maintenance in their strata scheme is inadequate.

For investors the expense of property maintenance diminishes their returns and for some owners they just don't have the additional capital to make repairs. But there are two really strong reasons why owners must attend to property maintenance and these are outlined below:

### **Because you must**

Maintenance of the common property is compulsory and enshrined in the strata laws in each state. The owners corporation is liable under the strata laws to keep the building in good repair. Failure to do this can result in legal action and fines being imposed. There is also the potential for injury or loss of life if there is an accident on common property and it can be shown that the accident was due to poor building maintenance.

Recent cases have shown the trouble that owners corporations can get into when property maintenance is neglected. In one case a person tragically died when an awning that needed repairs fell on the person. The owners corporation was found liable because it knew about the danger the awning posed and had not done anything to rectify it. They were subsequently, fined and ordered to pay compensation to the man's family.

This is why you must address maintenance issues.

### **Because it's wise**

Regular maintenance protects your most valuable asset and should not just be seen as an expense as the return on investment in maintenance is much better than not doing the work at all.

Having common property that is in good repair, or well-maintained increases the value of your private property meaning tenants will pay top dollars to live there. Then when it comes to the resale value you are likely to be on track to reach a sales price that meets your expectations. We all want to make money on our investment no matter whether we live in it or not.

### **I'm convinced what do I do now?**

The best way to keep on top of any maintenance issues is to ensure your owners corporation is having regular building inspections carried out and that it prioritises repairs according to the level of risk of injury or further damage being caused to the building.

Make sure the inspections are carried out by a reputable specialist (not a friend of a friend) and ensure any trades employed on site are adequately qualified to do the works.

If your owners corporation is following this general advice then rest assured your asset is being taken care of really well.



# Strata snip-its

## City Futures: The Strata Experience Survey

Researchers at City Futures at UNSW Australia are calling for strata residents to complete a survey. It asks what you like and dislike about strata living, whether you feel at home in your property and how well managed it is.

It takes 10 minutes and you can enter a draw to win 1 of 5 \$200 Visa Gift Cards.

The information you provide will help to understand how the needs of different people living in strata schemes can best be accommodated and what can be done to make strata properties attractive places to live for everyone.

If you're over 18 and live in a strata property in the Greater Sydney Metropolitan Area then they'd love to hear from you.

To complete the survey, go to [www.cityfutures.net.au](http://www.cityfutures.net.au) and follow the 'Strata Experience Survey' link.

You can read more about the project on the project website: <http://www.be.unsw.edu.au/high-density-living/projects/City-living-urban-consolidation-and-social-sustainability-cities>

## Strata Owners Seminars

These are free to SCA (NSW) Strata Owner members with non-members also welcome for a small fee.

At our last seminar we looked at the Five P's of strata living: pets, parking, parties, politics and puffing. These are the areas that cause the most conflict between residents – owners, investors and tenants.

Those who attended the seminar were advised that there are several ways to resolve conflict including communication, being concise and not raising people's hopes and expectations.

Other recent topics have included dispute resolution and insurance.

To attend a Strata Owners Seminar check the website and make sure you register. Go to [www.nsw.stratacommunity.org.au](http://www.nsw.stratacommunity.org.au)

Each year SCA (NSW) also holds an annual Strata Owners Day with guest presenters, exhibitors and your chance to meet and speak with strata experts. Details for the 2015 event are being finalised. More information will be available on the website soon.

## Swimming pool – extension of time, again

The NSW Government announced in March that it was yet again extending the time for swimming pool owners to gain certification of their pools because there were not enough resources at the local government level to carry out the necessary inspections to gain certification on swimming pools by the deadline of 29 April 2015. The deadline has been extended another 12 months.

Residents and landlords who want to sell or lease their apartments from 30 April 2016, must have certification for their common property pool. If you haven't yet complied take the opportunity the colder months afford to get it done as there may be a waiting list to get inspectors to your property. Don't leave it until the last minute.



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Strata & Community Living is a joint initiative brought to you by SCA (NSW); the peak industry body representing strata managing agents and others committed to the continual improvement in standards of strata management practice in NSW and your strata managing agent.



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