

Winter
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2010



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stratachoice
Associates

Welcome from Strata Choice Associates



Welcome to the Winter 2010 edition of "Strata Choice".

It has been an eventful three months for the company with the annual Strata Choice Conference held in early March.

One of the benefits of having joined the Strata Choice group is that our personnel get to share ideas and experiences with people performing similar functions in other member firms. This years event saw close to 90 delegates gather to discuss issues impacting their working lives.

Strata Choice also welcomes a new member, Freshwater Management Pty Ltd . Moving forward the business will trade as Strata Choice Northern Beaches.

This edition provides our client owners with useful information in three areas and again we are thankful to

our partner contributors for their efforts in compiling these articles.

Tony Vatner from BAC Insurance Brokers reminds us of the important interplay between insurance cover and general risk management planning in the administration of a strata scheme to ensure optimal protection for the insured. Bannermans Lawyers provide a summary of the obligations of strata schemes with regard to approval of expenditure relating to legal fees. Strata Choice presents some useful tips to those of our readers who are considering home renovations.

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Strata Associates Pty Ltd trading as

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Strata Choice Associates has a new website. View it at www.stratachoice.com.au/associates

Legal Costs In Strata Schemes

(Excludes Community Associations)

Given the complex nature and value of the assets of the owners corporation, lawyers are frequently engaged to provide services.

Initial contact with lawyers

The managing agent or the executive committee of the scheme can make initial contact with lawyers for the purpose of obtaining legal services.

The lawyer may provide some free preliminary guidance without the need for formal engagement.

Receipt of costs agreement and disclosure

Normally, if the lawyer or the scheme wants to proceed with formal engagement, a brief description of the issues with some relevant attachments would be supplied to enable the lawyer to determine the issues and the extent of assistance needed to enable a fee proposal to be issued. If the legal fees exceed \$750 it would not be unusual to find that a lawyer would issue a detailed costs agreement and disclosure which complies with the *Legal Professional Act 2004*.

Section 230A of the *Strata Schemes Management Act 1996* ("the Act") provides that the scheme must give a copy of such a disclosure to each owner and executive committee member within 7 days of the disclosure being made.

Approval of the engagement

If the advice, provision of services or taking action does not exceed \$750 per lot or \$10,000, whichever is the lesser, it may be approved by the executive committee (see section 80A of the Act and Clause 15 of the *Strata Schemes Management Regulation 2005* for more details).

If legal costs exceed the above amount it needs to be approved at a general meeting in accordance with section 80D of the Act.

Section 80B of the Act, requiring 2 quotes for large schemes where expenditure exceeds \$25,000, does not apply to the engagement of lawyers.

There may be other methods and issues to consider regarding engagement of lawyers, such as, the delegated authority of the managing agent.

David Bannerman

Bannermans Lawyers



Adequate Cover

Committee members often ask me, do we have adequate cover?

This question needs to be answered with the preface, “How long is a piece of string”?”

Committee Members all too often believe that the question of the adequacy of cover translates to “Do we have an adequate sum Insured”? Committee Members may not realise that adequate Insurance goes hand in hand with risk management. Good risk management begins with the committee’s awareness and realistic attitude towards risk.

A simple and common adopted risk management strategy is risk transfer i.e. taking out insurance cover. Unfortunately, taking out insurance is not all it takes to ensure that all areas of exposure are covered. For example, failure to comply with a Duty of Disclosure may render an insurance policy void and result in a substantial financial loss for the Owners Corporations.

A successful insurance program requires open communication channels with your advisors or Insurer and, the committee to be involved in the process. A well thought out risk management plan is necessary in order to properly address the question of adequacy of insurance cover and to minimise the risk of financial loss.

Owners Corporations can fall into the trap of selecting insurance based on price alone, with little consideration

to the cover provided and risk which is actually transferred. Selecting an insurer based on price criteria alone, can be self defeating and have catastrophic results.

There are numerous insurers offering Strata Insurance policies which are specifically designed for Owners Corporations. The cover provided by each insurer can appear similar however, each have subtle or, in some cases, major differences in policy conditions and benefits. Each insurer’s policy has its own strength and weakness depending on the type of claim.

Given the variety and mix of policy conditions and benefits it is not always easy to say which policy is best suited without identifying your specific needs, risks and concerns before purchasing cover and a detailed investigation of needs is usually required.

Common examples of risk for Committee members

Taking the position of an executive committee member we have highlighted below some of the common problems regarding risks that many people may be unaware of.

Committee Office Bearers

Although the role of a Committee Member is accepted on a volunteer basis, the position carries enormous responsibility and personal risk for individuals. As responsible officers, Committee Members potentially risk their personal assets and savings in the event of Civil Actions or Regulatory Breaches.

The level and type of insurance cover taken out is extremely important in consideration of the politics, legalities and complexities in managing the affairs of a large Owners Corporation.

Office Bearers or Management Liability cover is crucial in protecting Committee Members however; you need to be aware of the strict policy conditions in respect to claims reporting and duties of disclosure.

Your duty of disclosure

The term “Duty of Disclosure” is used quite frequently when purchasing or renewing your Insurance. Executive committee members may not be aware of common issues that should be disclosed, so that an Insurer can make an informed assessment of your risk.

For example, you must notify the insurer of any significant changes to your risk, otherwise your cover may be prejudiced /or inadequate in the event of a claim. Some examples of matters that must be disclosed (but not limited to) concern the following issues however, the list in reality is significantly longer

- ▶ Defects Report received but not disclosed;
- ▶ Outstanding OH&S issues;
- ▶ Construction work or major repairs which are about to commence;
- ▶ Waterway leases with legal obligations and conditions (not previously disclosed);
- ▶ Office Bearers or Legal Expense claims not notified to Insurers before expiry;

- ▶ Water or recreational feature installed within common property;
- ▶ Claims which have occurred but are unreported; and
- ▶ Known civil proceedings albeit as defendant or plaintiff

Adequacy of Loss of Rent &/or Temporary Accommodation Cover

Strata Insurance policies generally provide Loss of Rent and or temporary accommodation as a policy benefit. This cover is calculated at an arbitrary 15% of the Building Sum Insured.

Because there is no correlation between the amount of cover automatically provided and what might be your actual loss, there is a real possibility that you may not be adequately covered.

Tony Vatner

BAC Insurance
Brokers Pty Ltd

The advice provided within this article is of a general nature only and you should consult with an insurance specialist when deciding on the adequacy of your insurance cover.



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Add Value To Your Property

Renovating doesn't have to be expensive

Painting and carpeting a two bedroom unit may cost as little as \$6,500, depending on the quality of the carpet and to what extent you paint. If you have an investment property your accountant can also provide you with information on the taxation advantages of improving your investment property.

In the event that you are thinking about renovating, it is important to always speak with your Strata Manager, and if you are altering your lot, your local council first.



Permission may be required to undertake certain improvements to your property. For instance, if you plan to install an air-conditioner then permission will be required from the owners corporation and possibly by the local council. However, if you are only planning on painting and carpeting and there is no structural work required, permission may not be necessary.

And finally, always remember that if your property is within a strata scheme, speak with your strata manager first as they will be able to guide you through the strata approval process.

3 quick renovation tips

Have a budget

Renovation costs can quickly escalate. Have a budget, call for quotations and include a buffer for unforeseen expenses and of course stick to the final amount. Keep in mind: whatever you think it will cost to renovate, it may cost considerably more.

Paint with care

The colour sample you see in a brochure can look very different when applied to an entire wall. Take the time to get pots of sample and of course wait till the paint dries and review the colour in different light conditions.

Nice floors make a big difference

New carpet dramatically increases the appeal of an older-style apartment at a relatively low cost. Choose a durable carpet and avoid light colours that will show stains.

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Q and A's

Question:

A unit is damaged by fire. The kitchen fixtures have been damaged beyond repair. The unit walls have been smoke damaged but no structural damage. The kitchen window has been damaged beyond repair. How will the insurance policies come in to play?

Answer:

The kitchen fixtures and the kitchen window will be covered by the owners corporation insurance. Although the walls have smoke damage, there has been no structural damage and repairs will be confined to cleaning and painting. This damage will be covered by the unit owner's insurance policy.

Question:

I live in a unit and was late in paying my strata levies. The owners corporation has charged me interest, can they do that?

Answer:

The Strata Schemes Management Act requires an owners corporation to give a 30 day interest free period from the date the levies are due. After this period interest is charged at 10% simple interest per annum. An owners corporation may on an individual case or generally by special resolution resolve to reduce the interest payable. The owners corporation cannot increase the interest payable.

Question:

My owners corporation is having a valuation carried out to work out the amount to insure our units. Do we have to do this?

Answer:

The Strata Schemes Management Act and Regulations require a Strata Scheme to have an insurance valuation carried out at least once every 5 years by an appropriate qualified person. This is a long time between valuations and as such most Strata Managers recommend valuations more frequently. This practice ensures your scheme is adequately insured.

Question:

The tree roots from a rather large tree in the common grounds of a strata scheme have extended underneath the concrete driveway and pushed the concrete up, splitting it, which will require the driveway to be removed and replaced. Where does the owners corporation insurance policy stand on such a matter?

Answer:

Owners corporation insurance policies cover the common property only for accidental loss or damage. Damage caused by tree roots will not be covered in the policy, and in fact, may be included in the exclusions. The owners corporation would need to carry out replacement from its funds.



Executive Committee Seminars

Q and A's (cont)

Question:

A unit is damaged by fire requiring the landlord to find alternative accommodation for his or her tenant. Is this alternative accommodation covered by any insurance policy?

Answer:

The owners corporation is not bound by legislation to carry a policy for "loss of rent". A landlord should have their own loss of rent cover. However many owners corporation policies do include "loss of rent" cover and, subject to an insurable incident, a claim can be made for a landlord on the owners corporation policy in such instances.

Question:

An owners wishes to install an air-conditioning system in the roof space. What should they do?

Answer:

- Any private installation on or in the common property is a 6 step process
- ▶ All details should be supplied to the owners corporation.
- ▶ A by-law of exclusive use will need to be drawn up by a Lawyer at cost of the applicant.
- ▶ The owner should provide written authority to accept the cost.
- ▶ A general meeting will need to resolve the by-law.
- ▶ Prior to the forward motion being put the applicant will need to give written consent to maintenance of the installation.
- ▶ Subject to passing the resolution minutes are issued which is the authority to proceed.

Executive Committee members are invited to attend an evening seminar, at no charge, to be held at Strata Choice St Leonards offices.

The presentation, delivered by the company education Consultant will provide participants with information regarding:

- Meeting conduct;
- The duties and obligations of the Executive Committee;
- The powers of the Owners Corporation;
- The role of the Strata Managing Agent;
- Issues relating to risk management for Owners Corporations.

Yes I am interested in receiving EC Seminar dates

Name

Strata Plan Number

Email address

Phone.....



If you would like to attend an Executive Committee Education Seminar please direct your request to education@stratachoice.com.au