



unit/update

viewpoint

SERIAL COMPLAINERS

The new scourge for strata management

17 May 2018 by Eliot Hastie www.realestatebusiness.com.au

The main issues for many strata complexes are pets, parties, parking and passive smoking, but apparently another item should be added to the list.

Grant Mifsud, a partner at Archers the Strata Professionals, said that another headache for body corporates and residents are serial complainers — those who complain for the sake of it.

Mr Mifsud said that most residents are good to deal with, but serial complainers were a constant challenge for body corporates.

"It's a fact of life that we have to deal with serial complainers, constant whiners and people who are just angry at the world," the Archers partner said.

Mr Mifsud said that body corporates are made up of unit owners and not government officials, despite making decisions that affect people's living arrangements.

"Bodies corporates are like a fourth layer of government, except it's the unit owners and not public servants that make up the committee who make the majority of decisions. These decisions deal with situations that affect people's living arrangements, making even the smallest of issues seem very personal to the resident," the partner said.



Residents complaining can breach corporate by-laws by making repeated and lengthy complaint correspondence, Mr Mifsud said.

"There have been instances where serial complainants have had to have restrictions imposed on the number of times they can write to the body corporate and the length of the individual's correspondence, with one complainant restricted to 1,000 words per week," Mr Mifsud said.

Mr Mifsud added that serial complainers can have a negative impact on committee members if they make their lives too difficult.

"Unfortunately, many volunteer committee members get worn down and decide they no longer want to deal with the local village idiot who makes life hell for everyone including the strata manager, so they simply resign."

Mr Mifsud's tips for dealing with complainers was to stay impartial and calm, empathise, listen and take notes, set boundaries and work to solve the problem.

"When dealing with a difficult person, you must remain detached and calm, knowing your response can either exacerbate or diffuse the problem," the Archers partner said.

EMPTY THREATS

Recently an extraordinary letter came across my desk. An agent forwarded me the letter. They were most concerned over the Body Corporate Manager's (BCM) threats. Putting aside the shocking grammar, the author is wrong at law. This letter should never have been sent. 'We will start to impose fines ... If any bins are left out we will issue \$100 fines per bin.' The BCM has no authority to impose fines. That is the role of their client body corporate (BC), the Strata or Community Title. The BC can only apply fines if their by-laws or articles allow them to do so. In addition there must be a breach of an article or by-law.

Both the Strata and Community Titles Acts have a regulated Penalty Notice. Strata Titles Act Section 19 (3b) The following provisions apply in relation to a penalty imposed on a person for contravention of, or failure to comply with, articles:

(a) the penalty is (despite section 29 of the Acts Interpretation Act 1915) payable to the strata corporation in accordance with this subsection;

(b) subject to the making of an application under paragraph (e), the penalty is payable by the person on the date specified for payment in a notice served by the corporation on the person;

(c) the notice must—

(i) be in writing in the form prescribed by regulation; and
(ii) specify the amount of the penalty payable and a date for payment (being not less than 60 days after the notice is served);

The Penalty Notice wording is spelt out in the Regulations.

Section 34 of the Community Titles Act contains similar requirements.

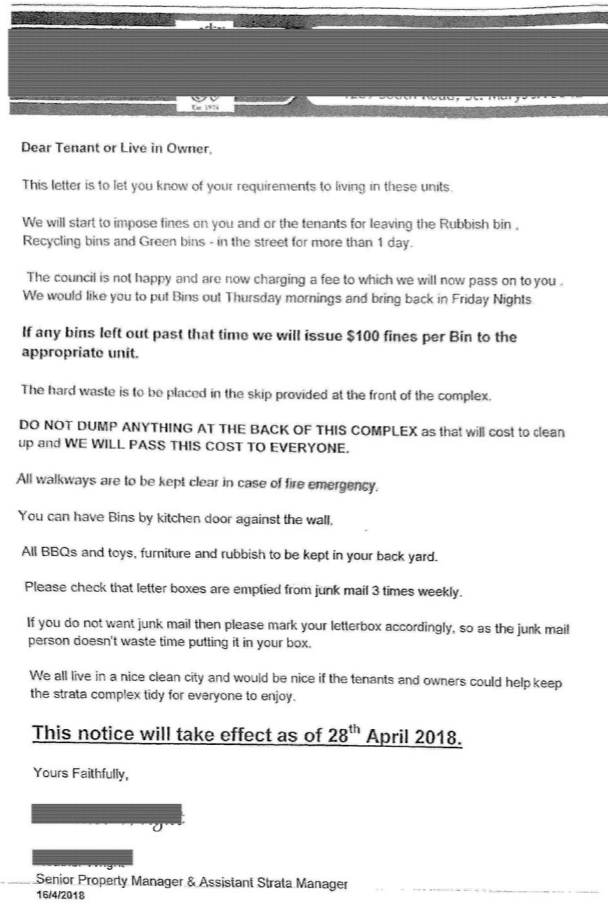
This letter is an empty unenforceable threat.

This BCM failed to apply the law. This is another example of BCMs making it up as they go. The lack of any legislated training requirement continues to put owners and residents at risk and undermines the reputation of all managers.

Cheers

Gordon Russell

ps: Do you have any friends who need to read our newsletter? Ring and we will post one out or they can download it from our website

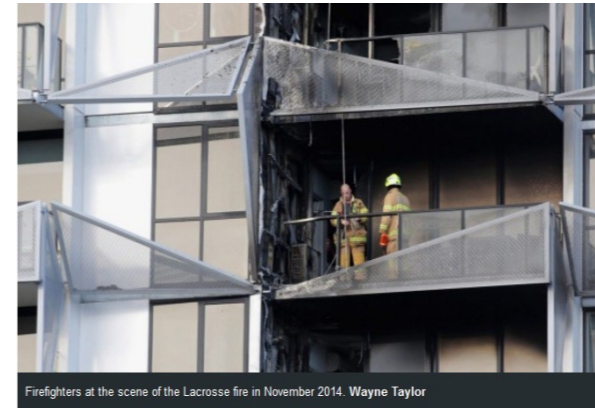


ALUMINIUM COMPOSITE PANEL BUILDING AUDITS

Unit owners and residents in modern aluminium clad multistorey buildings in South Australia have been concerned about the fire risk at their respective body corporates.

The Department of Planning Transport and Infrastructure (DPTI) is leading a building audit with councils in response to concerns regarding the use of Aluminium cladding.

Composite Panels (ACPs). ACPs are frequently used as external cladding on buildings, insulation and signage, and can be produced in a range of finishes. They usually consist of two thin foil-coated aluminium sheets bonded to a non-aluminium core.



Firefighters at the scene of the Lacrosse fire in November 2014. Wayne Taylor

The DPTI advise that the material is not unsafe or dangerous when installed in accordance with the National Construction Code (NCC). Incorrect use or installation may compromise the safe use of ACPs and render them non-compliant, which may pose a risk in the event of a fire.

Photo taken by Wayne Taylor - Financial Review



The Parliament has recently released a new report on its Inquiry into Strata Titles. As part of the Inquiry 22 submissions were received and five witnesses were heard. Submissions and witnesses included key players from state government and industry. The broader perspective and ideas came from the many phone calls and submissions from owners and occupiers of strata title units.

The information provided to the Inquiry was very often supplied by people who wanted to be heard but were fearful of reprisals. Some of these people provided their name and contact details but directly requested anonymity. Others did not understand that the normal practice would be to publish details of those making submissions. On this basis the Inquiry determined that it would not publish identifying details of individuals who phoned or made a submission.

Hon Tom Kenyon MP extended his thanks to those who prepared submissions and presented evidence to the Committee over this period. Being able to discuss issues first hand with the relevant stakeholders is most important for the Inquiry's understanding of the issues.

The full report can be found on our website at.

www.unitcare.com.au/pdfs/ERD_Strata_report.pdf

PEACE OF MIND FOR UNIT OWNERS winter 2018

The audit is now in Phase 2. Forty five Councils have self reported that they have no buildings of concern, they are..

- Yorke Peninsula Council
- Wakefield Regional Council
- Alexandrina Council
- Port Augusta Council
- Whyalla City Council
- District Council of Tumby Bay
- District Council of Lower Eyre Peninsula
- The Barossa Council
- District Council of Elliston
- City of Mount Gambier
- Regional Council of Goyder
- District Council of Grant
- City of Tea Tree Gully
- District Council of Robe
- District Council of Cleve
- Kingston District Council
- District Council of Peterborough
- Wattle Range Council
- District Council of Barunga West
- Renmark Paringa Council
- District Council of Coober Pedy
- Naracoorte Lucindale Council
- Light Regional Council
- Loxton Walkerie Council
- Mount Remarkable
- Adelaide Plains Council
- District Council of Orroroo Carrieton
- Berri Barmera Council
- Wudinna District Council
- District Council of Streaky Bay
- City of Mitcham
- City of Prospect
- Coorong District Council
- Clare and Gilbert Valleys Council
- Northern Areas Council
- Tatiara District Council
- Southern Mallee District Council
- District Council of Kimba
- Port Pirie Regional Council
- District Council of Karoonda East Murray
- District Council of Franklin Harbour
- District Council of Ceduna
- District Council of Yankalilla

For more information on the process and fact sheets please go to www.saplanningportal.sa.gov.au/current_planning_system/building_policy/aluminium_composite_panel_building_audits

emergency numbers

Plumbing , Gas, Roof Leaks	1300 700 200
Electrical	1300 130 229
Building repairs	0412 034 173
Police to attend - noise/robbery etc	131 444
State Emergency Service storm/flood	132 500

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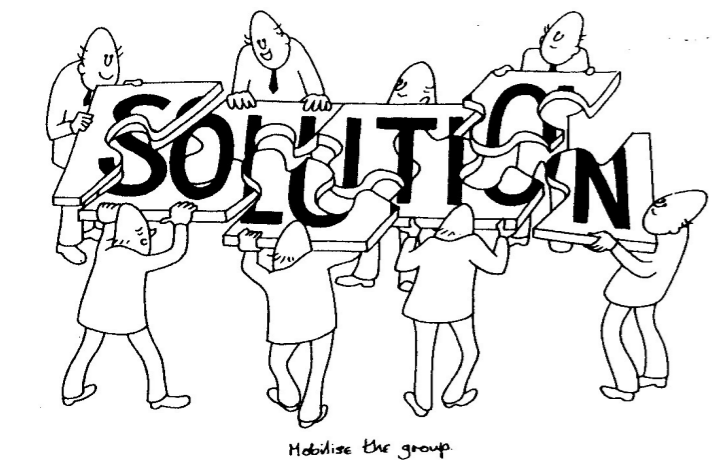
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THREE LAWS OF MEETINGS PART 3



Meetings: The Three Laws

In this article we explore an approach to managing the meeting members. Much of this content appears in the Video Arts training film More Bloody Meetings. It centres around the Three Laws of Meetings.

Link to training video web site www.videoarts.co.uk where you can preview the video and support material.

Mobilise the Group (Part 3 - Final)

Chief danger	Squashing
Techniques	Protect the weak Check around the group Record suggestions Build up ideas

The Third Law of Meetings is 'Mobilise the Group', get them moving in a positive direction, together. The chief threat or danger is 'squashing' — the tendency to shift to the negative rather than the positive end of the spectrum, ignoring or belittling contributions which anyone else might want to make.

PROTECT THE WEAK: Sometimes this is known as 'solutionitis' — jumping too quickly to one conclusion without considering all the alternatives and without giving adequate airing to the problem itself. Active listening is again important here, forcing everyone to concentrate on what's being said and exploring the positive aspects of a contribution to help build towards a positive solution, rather than just 'plump' for one. Four other techniques are also very helpful for effective mobilisation.

Control the strong and protect the weak. Make sure everyone who has something to say gets to say it, and that everyone else listens. Otherwise why bother having a meeting in the first place?

The dominant, garrulous ones need slowing down. But don't shut them out altogether. Just make sure that once they've had a turn, someone else gets a chance.

"Hang on a minute Doug. Brenda, you look as if you'd like to get a word in."

You can even make it a formal rule that no speaker is allowed to interrupt or disagree with a previous one until they have summarised what the last speaker said. This will always slow the fast ones down, and make the meeting more lucid for everyone. It will save a lot of time in the long run if 'testing' and 'paraphrasing' techniques are used to keep everyone on the ball and on the same wavelength.

Drawing out the quiet ones is just as important as restraining those who always jump in quickly. You may need to probe to find out why they are quiet, especially if normally they would not be. If the silence is caused by apathy or hostility, then perhaps time should be set aside for general discussion on the meeting itself and how it could be improved. Silence could also mask aggression. But don't bend over backwards to get contributions from people who say nothing because they have nothing to say.

Never try to compete with the strong, talkative ones, or with the abusive or sniping ones. Question them on their facts, bring in others, but don't turn it into a battle of wits. This will merely terrify the weak and drive them further into their shells. If necessary, have a private word afterwards with anyone who gets a bit out of hand. And again, don't take sides. Don't protect the weak to such an extent that you become their spokesman.

CHECK ROUND THE GROUP: Remember at all times, the aim is to motivate and mobilise the group as a whole, not just one or two participants, even though the implementation of decisions may ultimately fall to particular individuals later.

It can therefore prove helpful to call a pause occasionally, and check round the group to see what everyone thinks.

"Right. Let's see where we all stand on this so far. Winnie, you first"

This can also help control the strong and protect the weak, especially if you start with the least rather than most dominant participants — or in meetings of mixed levels of responsibility, with the more junior members of staff.

Everyone should be encouraged to chip in, and this is one way of letting them do so. Even if their comments don't seem very good, they might spark off something better, and together you build towards a solution.

RECORD SUGGESTIONS: It will help enormously during the building process if you write down all the suggestions and contributions, preferably so that everyone can see them. The ideal method is to use a flip-chart. If you fill one 'sheet, you can rip it off and blu tack it onto the wall, and continue on the next.

Using a publicly visible flip-chart encourages everyone to be more positive, especially if you write down every suggestion. Once you begin to evaluate, you can continue to use the flip-chart sheets as your building-blocks, taking all the suggestions put forward and beginning to group and analyse them. Again, it's important that this should be a process in which all participate. The chair should not simply take on the task of awarding Brownie points to some ideas but not to others.

Recording ideas for all to see ensures that you don't lose the minor contributions which in themselves might be trivial, but which when added to others build towards a very constructive outcome. It also reassures the contributor — once he sees his suggestion recorded he doesn't feel he has to keep repeating it.

The aim is not to impose a decision, remember, but to achieve a commitment to a consensus. If no consensus is possible, then when the decision is finally taken, those who opposed it will be much more disposed to try and make it work if they feel they were given a fair hearing first.

BUILD UP IDEAS: This runs through the entire meeting. It's often called 'creative thinking', but this term can put people off because they think 'creativity' is a special skill in the gift of a few talented individuals.

It's not so. We're all creative individuals. The chair's job is to harness and exploit that creativity by fostering the conditions in which it can flourish. It's all a matter of being positive, rather than negative, about every contribution no matter how small; and of letting nobody be critical until all possible ideas are out in the open and made as strong as possible.

The Chair should be firm on this, and can follow a few simple rules for sound building.

Don't allow anybody to criticise any idea, whether their own or someone else's, no matter how silly the idea may at first seem, until all ideas have been put forward.

Encourage diversity, and let people be adventurous, even outrageous, in the ideas and suggestions put forward.

Give the same initial status to every contribution, and write them all down, to stimulate more ideas.

Make positive noises throughout. "Good." "Any more." "Anybody add to that?"

Once you've exhausted the supply of ideas, you can begin to evaluate and compare them. Not until then.

Commence evaluation by looking at the positive elements in every idea. Make an idea as strong as possible before looking for its weaknesses and pitfalls.

Try and build up several practicable alternatives before you start to choose between them.

Add together as many positive bits as possible, from as many different suggestions as needed. This will help you build that decision to which all can be committed.

Throughout this process, and indeed throughout the meeting, the chair should be seen to be as impartial as possible. Supporting some ideas rather than others without letting them be fully explored, will merely discourage further contributions.

For more information and other useful tools visit

http://www.unitcare.com.au/bp_strata_meeting_laws.html

BEST PRACTICE - MEETINGS: APPOINTMENT OF MANAGER PART 5



Legislation. This part applies to Strata groups. See our Best Practice Manual for Community Corporation meetings. www.unitcare.com.au/bp_community_meetings_manager.html

23(6) A strata corporation may appoint or engage a person to assist any person appointed under this section as an officer of the corporation.

35(10) A strata corporation may appoint or engage a person to assist its management committee in the performance of the committee's functions.

Appointing a manager

This item follows the passing of the financials. An extract from our pro-forma minutes follows...

APPOINTMENT OF MANAGERS:

That _____, and/or their nominee, is appointed to assist the Corporation by undertaking all those functions, powers & duties as contained in the Strata Titles Act 1988 at an annual primary remuneration of \$_____ including GST.

Additional recoverable charges may be made for meeting fees and audit, government fees including GST, bank fees, stamp duty, postage and photocopying charges will be debited to the Corporation as actually expended.

Duties of the appointed Managers:

General: To provide, so far as is reasonably necessary, general advice and assistance to the Corporation and its officers, and to assist them in the performance of their responsibilities under the Act.

NEW SOUTH WALES CAPS AIRBNB RENTALS

Tom Rabe Australian Associated Press

People renting out their empty Sydney properties through online homesharing services will soon be subject to harsher restrictions under new laws that will also empower strata corporations to ban the practice in their buildings.

The proposal, announced by the NSW government on Tuesday, specifically targets vacant and investment properties using services such as Airbnb.

Owners that don't live in their property will only be able to use it for short term letting for a maximum of 180 days a year within greater Sydney. Properties in the rest of NSW will be left uncapped.

The laws will also impose a "two strike" policy, meaning home-share users will be banned for five years from any platform for committing two serious breaches within two years.

Meetings: Arrange the General and Management Committee meetings, prepare and distribute notices, including agenda of meetings. Attend General (and Management Committee meetings if needed) and assist the Presiding Officer in the conduct of meetings. Assist the Secretary in the recording & preparation of minutes of meetings and distribute such minutes.

Maintenance: Advise upon and arrange for the maintenance, repair and replacement of the common property in accordance with the Corporation's instructions. Organise emergency maintenance works.

Insurance: Place and renew insurances in accordance with the Corporations instructions and have any claim promptly processed.

Accounting: Collect, bank and account for maintenance contributions, levies, interest accruing or other amounts due to the Corporation. Send notices levying maintenance or other contributions and pay accounts and outgoings. Prepare annual financial statements of accounts of the Corporation and arrange an annual tax return & GST/BAS returns as required by law.

Secretarial: Promptly deal with the Corporation correspondence and requests for Searches (section 41). Ensure that all appropriate and proper records of the Corporation are maintained and keep secure and confidential all books, records, common seal, certificates of title, strata plans, specifications, reports, schedules and the like.

Public Officer: To act as the Corporation's Public Officer for the purpose of signing Tax Returns and other matters as required by statute.

Commissions: The manager may receive a commission for placing the Corporation's insurance.

Note: A management agreement will be posted to the group's Presiding Officer for signing.

Moved _____ / Seconded _____ Motion carried.

Hint: As chairperson: if the manager is present ask him/her to leave the room while owners discuss their appointment, ask the manager to supply a copy of their management agreement if considering a new manager, clarify fees, length of agreement (suggest max 1 year) duties, performance standards, professional indemnity insurance and termination arrangements - see checklist link below.

For more information and useful tools visit.

www.unitcare.com.au/bp_strata_meetings_manager.html

www.unitcare.com.au/pdfs/checklist_manager.pdf

Next edition: Insurance