



services

## viewpoint



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## Sorry - an opportunity to heal and move on

Recently I concluded a year as the Administrator of a large strata group.

I was appointed by the Supreme Court of SA under Section 37 of the Strata Titles Act.

My appointment followed protracted disputes between unit owners and a commercial interest who also owns units at the group.

I had help from a well respected forensic auditor. He identified failures in corporate governance and serious problems with contracts that favoured some owners. The core issue was conflict of interest.

With the help of the Court, the auditor, lawyers and the owners we developed some tools:

**Articles:** Put in place a new set of Articles and House Rules. The Articles have been accepted by the Lands Titles Office and focus on some of the key areas of conflict and make it difficult for owners and contractors to come to the arrangements that bought the group to the Supreme Court.

**Contracts:** Beyond the new Articles we have put in place contracts for strata management and grounds care / cleaning. The purpose of these is to give

the Corporation time to settle down before any parties vie for contracts.

**Independent Chair:** The use of an independent chair resulted in pleasant meetings where all parties were heard and concerns noted. Given the history of the group we recommended that all their general meetings have an independent chair.

Unfortunately to date some parties have failed to take responsibility for the substantial part they played in the group's troubles and are far from showing any contrition. Their unwillingness to say sorry may well result in the group being before the courts again soon.

Saying sorry and taking responsibility are important steps in reconciling differences in our society. I believe that the leaders in our communities need to set an example. They need to stop listening to their lawyers and start listening to their hearts and the needs of those who look to them for leadership.

Cheers

Gordon Russell CPM

ps: Do you have any friends who need to read our newsletter? Give us a ring and we will post one out.

emergency numbers

Service	Number
Plumbing , Gas, Roof Leaks	8356 2750
Electrical	0411 195 275
Breakins, & Glazing	8299 0050
Police to attend - noise/robbery etc	131 444
State Emergency Services	1300 300 177

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## Leasing Common Property

The Strata Titles Act (STA) Section 26 and the Community Titles Act (CTA) Section 111 allow body corporates to lease common land to unit/lot owners.

Here are a couple of examples of how licences have been useful for UnitCare clients:

an older group of seven units where owners had fenced and built on the yards at the rear of their units. They did not realise that the rear yards were not part of their title to the unit and are in fact common property under the STA. Whilst there had been few problems with this arrangement, the risk was that a new owner buying into the group might demand access to the common property and or the removal of all buildings and structures on the common property rear yards. To secure owners rights to continue to occupy the rear yards we had our conveyancer draw up a Licence to Occupy. This document details the owner's responsibilities and rights along with the term and area of the lease. The outcome had some surprises. Owners, now secure in the rights to their yards, have spent on improvements including paving and plantings. The group's appearance had been substantially improved.

a commercial factory site where the common property includes a block of toilets. One of the owners was reluctant to install toilets in their warehouse and asked that they use the common toilet block. As it was unused by the other unit holders a licence was drawn up and agreed to by the body corporate. The group now earns income from the lease of the toilets and the owner has more time to install toilets.

For the Licence to Occupy to come into force the body corporate needs to agree by unanimous resolution. This requires a general meeting of owners. The meeting notice needs to include the resolution and details of the lease including a strata or community title plan showing the proposed lease area.

Two thirds of all owners need to agree with the proposal with no dissent under the STA and under the CTA the resolution is passed at a properly convened meeting of the corporation without any vote being cast against it.

Following agreement leases are sent to the Presiding Officer or Secretary  
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after hours emergencies - must phone 8364 0022 for up to date numbers

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## Private Water Meters



There has been some confusion at new unit groups that have a water meter for each unit or lot.

People assume that the water meter is read by SA Water. Unless the water meter is installed by SA Water and connected to the street mains supply the unit / lot owner owns the meter.

**Reading:** If this is the case at your unit then your body corporate needs to have all the private meters read at the same time as SA Water reads the street meter to your group.

To make this easy, fair and not cost an 'arm and a leg' we use Strata Water Solutions (SWS). This firm make all the arrangements and bill the respective unit owners for their water use and forward the monies to the body corporate or their manager. The body corporate pays the whole SA Water account. Any difference is water used on common property.

**Faults:** SWS also report on any meter problems. Our experience is that the private meters are subject to more frequent breakdowns than the government water meters.

**Sales:** When a unit is sold it is very important that the body corporate or their manager advise the sales agent and conveyancer how the water bill is paid. With private meters a special reading needs to be undertaken, which can be undertaken by SWS ☐

## Grounds Care Problems

Sometimes lawn and grounds contractors cease business and for whatever reason we as managers are not always aware of this.

The result can be neglected lawns and grounds.

If your group's grounds look neglected after being well cared for, we suggest you call your manager, or contact the officers at your group so they can sort out the problem ☐

## Leasing (cont' from page 1)

for signing under seal. The owner then signs the lease, copies are issued and the matter is noted on the body corporate file so that prospective purchasers are aware of the arrangement as required by law.

Leasing can be of benefit to owners and their body corporate.

We can assist with preparing & issuing the leases ☐

## Low Powered Air Conditioners

Over recent years there has been a dramatic increase in the installation and use of refrigerated air conditioners in units.

In older groups the challenge is the available cabling and power supply. To deal with this we have with the help of Murray Munro at B&T Management, developed some conditions that may help. Here is an extract:

**Split Systems:** Wall split units shall be Single Phase inverter type with heat pump equipment only. This reduces electricity consumption and limits the start up current rating plus achieves the higher energy rating in compliance with AS/NZS 3823 2:2003 and AS/NZS 3823 2:2003 for MEPS and ENERGY labelling. The equipment must comply with Environmental Protection Authority regulations at the time of installation.

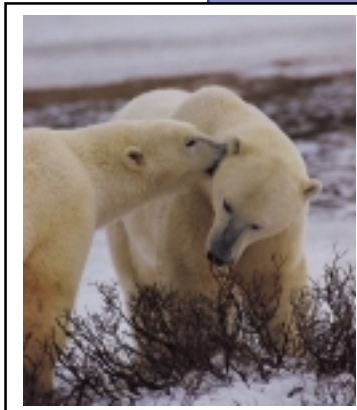
Specification:

Maximum Cooling rating	3.5 KW
Maximum Heating rating	4.8 KW
Power Supply - Single phase	240V
Maximum Running Current	
Cooling cycle	4.2 amps (Start up 7 amps)
Heating cycle	5.5 amps (Start up 10 amps)
EER - Cooling	3.76
COP - Heating	3.84
Air Circulation	191 litres/second
Fan Speeds	4
Compressor Type	Rotary
Compressors to be charged with Refrigerant	R410A

### Portable Air Conditioners:

Modern portable refrigerated air conditioners can be effective in cooling smaller units. The Australian Consumers Association - Choice recommended the Dimplex DAC 9000 for \$1,100 as a reasonable cooling performance with relatively even cooling of a single room. This was the smallest and lightest of the tested models and it was noted that these types of air conditioners were not very stable and the condensation water was cumbersome to drain.

**Policy:** Portable air conditioners are permitted subject to the satisfactory and safe drainage of the water from the equipment. Owners and residents should ensure that waste water is disposed of in a safe and proper manner and does not drain onto the walkways so as to ensure that there is not a slip hazard ☐



LOW COST CHILLING

## Saving Water in the Driest State

The following are some do's and don'ts of water use in SA. It is an extract from information supplied by SA Water.

**Watering gardens, grounds & nurseries:** Public or private gardens, recreational areas, sports grounds or nurseries can be watered:

By hand (through hand help hose/bucket/watering can); or Through a drip-feed irrigation system; or Where the watering takes place through a sprinkler -after 5pm and before 10am on any day (or, when daylight saving is in force, after 6pm and before 10am).

**Hosing down external paved areas:** No hosing down of external paved areas with water at any time unless it is absolutely necessary to do so to:

- Protect public health, or;
  - Ensure the safety of people using the area, or;
- Ensure the health and welfare of animals using the area, or; Deal with Fire, accident or other emergency.

**Cleaning of motor vehicles, boats:** Water must

not be used to clean a vehicle or boat unless the water is applied:

- From a bucket/watering can filled from a tap; or
  - By a high-pressure low volume water cleaner; or
  - From a hand-held hose fitted with a trigger nozzle,
- Motor vehicles/boats can be cleaned at a commercial carwash or by means of an automatic washing system that recycles water.

Boat motors may be flushed or rinsed after use.

**Construction sites:** Water must not be used to control dust or other pollutants resulting from building works unless water is applied from a hand-held hose fitted with a trigger nozzle, or directly from a motor vehicle designed to carry/deposit water ☐



## Articles - How to Change

Recently some of our clients have faced difficulties around tenants subletting. Research has shown that the problem can be helped by a change in the Articles of their Strata Corporation.

Subletting is where a tenant lets their unit out to another party who is not on the written lease with the unit owner. This arrangement can result in a high turnover of tenants and little care by them for the property or their fellow residents.

Our lawyers at Lynch Meyer (Sam Appleyard) have drafted a couple of new Articles that prevent subletting. To add the new Articles a Strata Corporation needs to agree by special resolution under Section 19 of the Strata Titles Act.

A Special Resolution requires:

- general meeting (at least 2 weeks notice)
- a copy of the proposed articles to appear on the meeting notice
- two thirds of registered unit holders must agree
- owners may vote in person or by proxy
- the amended Articles must be lodged with the Lands Titles Office using the prescribed form.

The default set of Articles for strata groups appears on our web site - use the search facility.

If your group needs help give us a call ☐

## The Corporation Seal

Strata and Community Titled groups are required to have a Common Seal. The form and use of the seal can lead to some confusion.

Appearing below are examples of seals for both Strata and Community Titles.



The Strata Titles Act (STA) and Community Titles Act (CTA) both spell out the wording and use of the Corporation's seal. The word 'plan' is not legal

The seal needs to be used when a plan is amended, cancelled or amalgamated. It may also be used when signing contracts. The seal is generally used in the presence of an officer or as directed by a general meeting of owners.

Hint: If you order a seal get the folding type as this can be easily stored with the body corporate's books ☐

Saving Water