



ENERGY TIPS FOR A COLD WINTER

This Winter has turned very cold. With the rising cost of electricity and gas we thought the following tips may be useful.

How to save energy and money this Winter.

Begin by insulating the roof of your home, starting with the main rooms which are heated. This will reduce heat losses as well as heating bills.

- ✓ Wear warm clothes, so that you don't have to use a heater as often.
- ✓ Close windows and doors to the areas being heated, and close curtains (except on north facing windows during the day), to help keep the heat inside.
- ✓ Keep your heating system clean for maximum performance and efficiency.
- ✓ If the heater has a thermostat, set it at the lowest temperature setting at which you still feel warm enough 20c -21c should be adequate.
- ✓ Fit weather stripping around door frames and draught excluders at the bottom of external doors, and doors to high ventilation areas like the bathroom and laundry.
- ✓ If you are purchasing an air conditioner with a heating or cooling capacity less than 7.5kW, use the Energy Rating Labels to help you choose an energy efficient model.
- ✓ If you are purchasing a gas heater, use the Australian Gas Association's Gas Energy Rating Labels to help choose an energy efficient unit.



Ensure the safety of your family and home by following these tips:

- Never hang clothes over heaters to dry
- Keep heaters away from curtains
- Beware of open flames
- Don't store wood next to a slow combustion heater
- Always ensure adequate ventilation for unflued gas heaters

Further information on Energy Saving can be obtained from Energy SA at www.energy.sa.gov.au

BULLYING ON THE RISE

We are experiencing a rise in bullying. Bullying of owners by their fellow owners and bullying of our staff by unit holders or more especially their relatives.

Bullying is abusive treatment, it is the use of force or coercion to affect others to agree with the perpetrators demands.

We understand that unit owners can be upset or distressed over a matter. Owners in such a state may have legitimate reason for complaint. What is not acceptable is verbal abuse of others at a meeting or over the phone, be they staff or fellow owners.

Bullies are destructive of the goodwill that is so necessary to the success of a body corporate. Being bullied can damage lives. The long-term effects of on-going bullying can damage a person's health and well-being. It damages self-esteem, increases anxiety and can cause serious depression.

The bullying we have observed appears to be a symptom of persons who are frustrated with their circumstances. They seek to blame others for their unhappiness.

Examples of bullying include, unwarranted or invalid criticism, blame without factual justification, being sworn at, being shouted at or being humiliated

Whatever the cause it must be confronted. We strongly recommend that owners not give into the bully else it encourages further destructive behaviour.

Regain control by: Recognizing that you are being bullied; realizing that you are NOT the source of the problem; and recognizing that bullying is about control, and therefore has nothing to do with you.

Take action by: Keeping a diary detailing the nature of the bullying (e.g., dates, times, places, what was said or done and who was present); and obtaining copies of harassing / bullying paper trails; hold onto copies of documents that contradict the bully's accusations against you

Other actions: Expect the bully to deny and perhaps misconstrue your accusations; have a witness with you during any meetings with the bully; report the behaviour to an appropriate person.

Our staff have been instructed to hang up on callers who are abusive.

Goodwill and trust are necessary ingredients for a successful unit community. A place where owners feel comfortable living and investing.


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

emergency numbers

Plumbing , Gas, Roof Leaks	8356 2750
Electrical	1300 130 229
Breakins & Glazing	0437 818 449
Police to attend - noise/robbery etc.	131 444
State Emergency Service storm/flood	132 500

BODY CORPORATE REFORM LEGISLATION EXPECTED BY AUGUST

The Attorney General's office has advised us that they expect the new reforms to the Strata & Community Title Acts to pass through the Parliament by the end of August this year.

The legislation before the Parliament seeks to improve protection for South Australia's 100,000 plus unit owners.

The reforms include:

- that each member of the corporation has the right at any time in business hours to inspect the records of the corporation in the possession or control of the manager, and how inspection can be arranged
- an advisory service provided by the Legal Services Commission
- prohibiting people with criminal convictions, or who have been banned from another regulated occupation and undischarged bankrupts, from acting as strata managers
- requiring deposits for off-the-plan purchases to be held in trust;
- limiting body corporate management contracts to a maximum of two years
- enabling a corporation to terminate a contract with a strata manager at any time
- requiring managers to maintain professional indemnity insurance throughout the life of the contract
- that the manager certifies that he or she is eligible to act as a body corporate manager
- enabling strata corporation's to impose fines for breaches of their Articles - up to \$500 for residential groups and \$2000 for commercial groups
- forcing body corporates and their managers to provide a list of owners and contact details upon request by an owner
- relaxed requirements to pass special and unanimous resolutions for strata corporations
- Compulsory fidelity guarantee insurance for corporations to cover theft or fraud of corporation funds.
- Participation in meetings remotely.
- Court power to convene strata corporation meetings.
- Rights to revoke a proxy at any time as well as limiting proxies to no more than 12 months, and requiring disclosure of proxy documents.
- Better disclosure of conflicts of interest.



Hon John Rau, Attorney General

- Streamline timing of meetings of secondary and tertiary community corporations.
 - A penalty notice system for by-law and article breaches.
 - Extend the right to apply for help to the Magistrates Court where a by-law is made that reduces the value of a unit or unfairly discriminates against the owner to strata unit owners and persons who have contracted to purchase a community lot or strata unit.
 - Provision to agree to insure some or all of the buildings in a community scheme through the agency of the corporation.
 - Requirement to keep and make available a register of owners' contact details.
 - Enhanced requirements to provide information and access to records, including for lot or unit purchasers.
 - Requirements to prepare sinking fund budgets (or plans).
 - Audit exemption for small community corporations and other minor audit changes.
 - Enhanced Court powers to resolve disputes.
 - Making it clear that the developer and an associate of the developer are not 'different persons' for the purposes of a first general meeting.
 - Making it easier to enforce development contracts.
 - Applications to cancel or amend plans to be heard in the Environment, Resources & Development Court.
 - Clarify that local councils' powers to require building rectification under the Housing Improvement Act apply without need for corporation approval.
- We understand that the Attorney General is planning to introduce legislation to establish a tribunal system that will see body corporate disputes removed from the Courts in the first instance.
- We are further advised that from July 2012 there will be licensing of body corporate managers in all states and territories of Australia.
- Go to our website for progress reports

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after hours emergencies - must phone 8333 5200 for up to date information.

MAGISTRATE ADMONISHES MANAGER

April 2011: Owners in a group of four approached us following receipt of a demand from their manager for a large levy of \$13,000 plus. The levy is to pay for works in adjacent buildings not in their strata corporation. A review of the documents revealed an agreement (Indenture) the developer had put in place back when they were building the groups in the mid 1980s.

Owners have been advised by their strata manager, over the life of the development, that under the developer's indenture, they share a financial responsibility for the maintenance of the adjacent groups of units and the two 2 storey townhouses on the adjacent street.

We reviewed the Indenture that was enacted on December 18th 1985. It was noted that under 'Definitions' common property was defined as areas "A" (parking at the north end of the group) and Area H and Area F (walkways and driveways) on the two adjacent strata groups.

The indenture goes on to state that "Total Common Property" shall mean the aggregate (sum of) common property of the respective groups. The owners of the 4 unit group are only liable for their share of the maintenance of the "Total Common Property" being walkways, driveways and parking areas as defined being Areas A, F and Area H.

It appears that the manager has confused the common property under the indenture and common property under the Strata Titles Act.

Deep concern was expressed that over the last 25 years owners have:

- paid out a lot of money to look after other groups' property
- been misled by the strata manager over the intention of the Indenture
- failed to receive proper advice on the correct legal implications of the indenture
- not received a proper and transparent account of their funds
- led to a failure to maintain their group's common property.
- suffered reduced sale prices as a result of a failure to maintain the common property at their group.

Owners resolved that:

1. The manager provide a ledger and supporting invoices for works undertaken on "Total Common Property" being areas A, F & H over the last 10 years.

2. The manager provide a ledger of all payments made by their corporation to maintain the "Total Common Property" being areas A, F & H over the last 10 years.

3. The manager provide a ledger of all payments made for maintenance works at their group over the last 10 years.

That should the manager fail to supply the above information within 14 days the Corporation will make an application to the Magistrates Court under section 41a of the Strata Titles Act for an independent audit.

Further the Indenture prescribes a Management Committee to collect and manage the funds to maintain areas A, F & H. Owners advise us that the manager has not caused meetings of the committee to be held.

We believe that only a thorough audit will uncover the extent of the problems created by a failure to seek proper legal advice on the meaning of the Indenture compounded by poor management advice and practice.

May 2011: The matter went to Court in May. The strata manager failed to show up in Court. The magistrate rang the manager who explained that his supervisor was supposed to attend. Following questioning by the magistrate it was revealed

that the manager had not kept separate records and funds for each strata group and had not done so since they commenced in 1987. They have treated all 3 groups and the townhouses as 1 group, which they called a 'hamlet'.

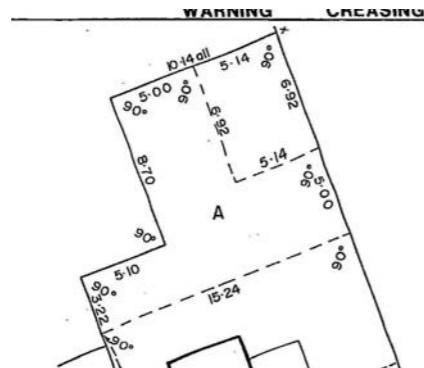
The magistrate ordered the manager to make the records available and to supply the owner list. The manager protested, he claimed that they would have to supervise the reading of the records and have to charge for this. The magistrate told the manager that they would not charge and would cooperate.

The magistrate expressed concern at the state of affairs and advised the manager that they had poorly advised their clients on the intention of the Indenture.

The matter has been adjourned to enable the owners to investigate the records. We wonder how the egg will be unscrambled.

The matter may result in a claim for negligence against the manager with a claim against their professional indemnity insurance policy.

The matter is due back in Court this June. We will keep you informed of developments ☐



SOME COMMON MANAGEMENT MYTHS

There appear to be some common misconceptions about our management of body corporates:

Contractors:

- no, they are not on our payroll
- no, they do not pay us a commission or 'kick backs'.
- no, we do not engage contractors, the corporation does
- yes, we check for current insurance, and licences when required by law eg: builders, plumbers etc.

Maintenance

- no, we do not organise works when the Presiding Officer tells us to do so. Unless it is an emergency the law requires committee or general meeting minutes.
- yes, fence repairs require a fencing notice unless both sides are common property, else risk paying twice as much .

- no, individual owners are not our clients, their Corporation is the client.

- no, we do not deal with relatives of owners, unless they prove in writing that they are the legally appointed agent of the owner.

Money

- no, you are not paying us. The money goes into the audited Trust Account.
- no, your levy is not our management fee. We draw a much smaller amount every month from the Trust Account fund for your group.
- no, we receive no fees or commission for banking with bank SA or for keeping your funds in Trust.

For the full details of what we do for our client corporations our contract is available online at...

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

ELECTRIC HOT WATER SYSTEM PHASE-OUT EXEMPTS BODY CORPORATES

National phase-out of inefficient hot water systems

Water heating is the largest single source of greenhouse gas emissions from most Australian homes. To address this, various levels of government across Australia are working together to phase out inefficient and greenhouse gas-intensive electric resistance hot water systems throughout the country.

Agreement to implement the phase-out for existing homes has been reached by Federal, State, and Territory Governments. Implementation dates will be confirmed however, the phase-out is likely to commence during 2011.

The proposed changes will result in the reduction of greenhouse gas emissions of almost 30 million tonnes over the ten years from 2010-2020.

The phase-out will affect existing residential, detached, terraced and town houses that are replacing their electric water heater, with apartments and units exempt.

The decision, once implemented, will prevent the installation of greenhouse gas intensive electric resistance hot water systems. Homes with a working electric water heater will not be required to install a new hot water system until their current heater needs to be replaced.

The availability of rebates and incentives provides assistance for householders to switch to more energy efficient hot water systems like solar.

Article & photograph courtesy of OCV Victoria ocv.org.au



SMOKING IN STRATA - TRIBUNAL RULING

A tribunal in Queensland recently ruled that smoking in a strata scheme may be irritating to other people living next to the smoker hence he or she may be breaching strata and community title laws and regulations that permit the use of the lot or common property in a way that causes nuisance or hazard.



Unreasonable behaviour that interferes with other lots in a scheme is classified as a nuisance, but in addition to that, cigarette smoking also causes bodily harm to neighbours that could be minimised by some small steps to be taken by the smoker.

Interestingly, the tribunal also considered further issues that may be encountered in strata schemes

such as toxic fumes, dust, noise, vibration, sewerage odours and light. Unreasonable interference will depend on the circumstances of each case but the inconvenience must materially interfere with commonly accepted levels of behaviour. The Queensland case shows that it depends on quantity and character as to how much it interferes with your neighbour's rights.

Editor's Note: In South Australia the standard Strata Corporation Articles state...

- 2(b) must not use the common property in a manner that unreasonably interferes with the use and enjoyment of the common property by the other members of the strata community, their customers, clients or visitors; and
- (d) must not interfere, or allow his or her customers, clients or visitors to interfere, with others in the enjoyment of their rights in relation to units or common property.

These articles would appear to cover nuisance caused by smoking. There are fines up to \$500 in the new legislation currently before Parliament - see page 1.

Community corporations need to check their By-Laws to see if they cover nuisance behaviour and/or smoking.

Some material courtesy of the NCTIA newsletter. www.ncti.org.au/docs/newsletter_2011_42.pdf

DEB BROWN JOINS OUR TEAM



We are excited about our new member of staff.

Debbie Brown joined us in May this year. She is responsible for reception and client levy payments.

Deb has qualified in:

Strata Management Level 1 & 2 at the REI of SA.

Conversation 1, 2, 3 Auslan Course, Royal South Australian Deaf Society

Sports & Community Chaplaincy Course, Global Care

She was a Director and owner of a strata management firm and manager for Mott Property Services here in Adelaide.

Debbie undertakes volunteer work at the Royal Adelaide Hospital Kiosk where she is President of the RAH Auxiliary

She also enjoys walking; table tennis; reading and travel.

She was born in New Zealand. Welcome to UnitCare ☐