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YSP Podcast Transcript: Episode 068. In Conversation With Reena Van Aalst – The Building That Cannot Be Insured

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Intro: Welcome to Your Strata Property. The podcast for property owners looking for reliable, accurate, and bite-sized information from an experienced and authoritative source. To access previous episodes and useful strata tips, go to www.yourstrataproperty.com.au.

Amanda Farmer: Hello and welcome. I'm Amanda Farmer, and I have with me today Reena Van Aalst. Hi, Reena.

Reena Van Aalst: Hi, Amanda. How are you going?

Amanda Farmer: I'm doing very well, thanks. How are you?

Reena Van Aalst: Good, really good.

Amanda Farmer: Excellent. Now we're going to jump straight into our wins and challenges for the week, or perhaps the other way around, our challenges first, and then we shall celebrate our wins. I do just want to remind our listeners that you can access the transcript of this episode by going to www.yourstrataproperty.com.au/068. That's the number 068. This is Episode 68. If you hear some key concepts, terms, anything you want to share with your strata committee, your strata manager, make sure you grab a copy of that transcript. I know there are a lot of you out there who are getting great value from those transcripts. Okay, Reena, what's been challenging you this week?

Reena Van Aalst: Well, this is quite an interesting case, Amanda, that's occurred, which I've never ever had to experience before, but this is a building that cannot be insured.

Amanda Farmer: Wow.

Reena Van Aalst: Yes. They've just managed to get public liability insurance, and kind of there've been disputes between owners. There's been orders from council. There's been litigation. Unfortunately, I think when the agent has tried to seek out quotations for insurance, there's been information that's had to be presented and disclosed, and once that information has been conveyed to the insurer, then no one wants to insure the building.

Amanda Farmer: Wow. That is very unusual.

Reena Van Aalst: Yes, and so it's an interesting one that I've never come across before. I don't actually manage this scheme, so it's just one that's come to me through some lawyers under the lawyer that I work with. Yes, so it's an interesting one that I'll keep our listeners posted.

Amanda Farmer: Has this lawyer approached you saying, "Reena Van Aalst, you would be the perfect strata manager for this troubled building?"

Reena Van Aalst: That's exactly what's happened.

Amanda Farmer: Oh, sure.

Reena Van Aalst: Until the insurance aspect is sorted out, unfortunately, I won't be able to take care into the scheme because that would affect my PI insurance, et cetera, and the company's PI insurance.

Amanda Farmer: Okay.



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Reena Van Aalst: An interesting one, and I thought maybe for our listeners out there, if anyone's ever heard of this before, it'd be great to get some feedback on what occurred, what happened, what the circumstances were, and we can perhaps revisit this in another episode down the line.

Amanda Farmer: Yes, and how you got back on track if you were an uninsurable building and you were able to get some insurance. I know we do have some insurers who listen to this podcast who might be dropping you an email, Reena, to say, "Let me have a look at this one." That might be helpful.

Reena Van Aalst: Yes, yes. Definitely, it could be one that could be a good experience for someone to have a look at and give some advice or ... It does come down to work that needs to be done on the building, and there's been delays, but nevertheless, not to have any insurance and only have public liability insurance, is ... It was uninsured for like nearly three months before any liability insurance was able to be obtained.

Amanda Farmer: Right. I imagine it's a building where if there's a compulsory manager or if the lawyer who's assisting is trying to raise some levies so that work can be done on the building and it can be put into a state that is insurable.

Reena Van Aalst: Yes. Well, I mean there are things happening in that area at the moment as well. Yes, so I'll keep you posted, Amanda, once I find out whether or not they've been able to get insurance, and then what the outcome in terms of what had to be done to get it to that level.

Amanda Farmer: Thank you. Interesting one. Well, I have had a question from a listener this week about security cameras. The question is, "Amanda, am I entitled to get security cameras installed on the front and back of the building? I was told by the strata manager that I'm not allowed to install it at the back of the building because the person who lives behind me is worried about invasion of their privacy. Where do I stand?" I thought this would be great to have a chat with you about, Reena. I know we've both been involved in buildings that have had security cameras installed. It's something that we often recommend for buildings-

Reena Van Aalst: Yes, definitely.

Amanda Farmer: ... that are having, yes, trouble with bad behaviour on common property, harassment or intimidation by particular occupiers, breaches of by-laws, things like that.

Reena Van Aalst: Exactly.

Amanda Farmer: Security cameras are a great way of improving that kind of behaviour. What do owners corporations need to do, and a lot of owners who are pushing for security cameras to be installed, need to do to make sure that the proposal is legally approved?

Reena Van Aalst: Well, normally what I've done in the past is come in an AGM, or have the committee come in an AGM on behalf of the owners to allow the installation of the security cameras by special resolution being an addition to common property. That's been the case ... Is this a community association lot or a strata lot, because-

Amanda Farmer: I don't actually know the answer to that.

Reena Van Aalst: It looks, I think, from what I can see in the front and the back of the building, I think it ... I don't know. It's very hard to ascertain, but I know that I've had some queries from people in a community association about security cameras and, basically, there is an act, apparently, that governs where you can put cameras on a house in a community lot or on any house and or so where it looks at ... I don't know all the laws, but I know there are some restrictions in terms of where a camera is directed.

Amanda Farmer: Yes. I've definitely had that experience, Reena, in multi-story strata schemes where the owners corporation is installing cameras in the common area corridors and stairways. They need to be-

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Reena Van Aalst: Foyers, garbage rooms-

Amanda Farmer: Yes, foyers. They need to be careful to be pointing those cameras at, for example, the lift doors, the entrance and exit areas, and the corridors, and to be very careful that the cameras are not pointing towards the doors of particular units, so that when the door opens, there is not footage of the inside of the lot.

Reena Van Aalst: That's correct.

Amanda Farmer: In my experience, that is something that the installers of the cameras are going to assist you with and to guide you-

Reena Van Aalst: Yes, yes. They know.

Amanda Farmer: Yes, for proper placement. A interesting point that you make there, Reena, if this is a free-standing, for example, townhouse in a community scheme, there may well be other considerations for neighbours of adjoining properties that may or may not be part of the community scheme. Maybe this particular listener is referring to their neighbour who's concerned about invasion of privacy, and that neighbour is in a house as opposed to being part of the strata scheme. Again, that point about where the camera is pointing and what it's recording is going to be an important one there. The installers should be able to cover than one off for you to make sure that you are compliant with all relevant laws.

The other thing that I see come up regularly, as you pointed out there, Reena, what's the threshold for approval for installing security cameras? You are adding to the common property. It is not repair and maintenance, so it's not an ordinary resolution. It's a special resolution that's needed at a general meeting, so make sure the correct motion is especially resolved. These things do cost money, so there might be some money to be raised if you need to fund that process. There may be a bit of lead time there, and definitely getting quotes from different contractors. Yes, and your strata manager should be able to guide you and point you in the right direction of the proper people.

Reena Van Aalst: I think another thing to take note of, I think, for people that perhaps live in community associations or neighborhoods where it's not being done by the owners corporation or on a collective basis, is that a lot of the provisions of the community management statement state that you need to have someone who's qualified, because they do know where you can and can't install a camera, whereas if you try and do it yourself or get a mate or ... Someone said to me, "What about installing a wifi camera?" I'm thinking, "Well, I don't know much about effective they are where there's no wifi or if the wifi cuts out," which, as we know, for those of us working with computers all the time, your internet connection isn't always the best. I think it's important to know that, yes, you need to have someone who's qualified that knows that law that will be installing the cameras because they will be able to tell you where they can be directed in terms of the view of the camera. As you said, Amanda, you can't have it facing into a lot, et cetera.

Amanda Farmer: Absolutely. Well, I hope that helps our listener who had that question and anybody else who is looking at installing cameras in their building. Now, what are we celebrating this week, Reena, or what's going well for you in the world of strata?

Reena Van Aalst: Oh, finally, my website that I've been working on for so many months-

Amanda Farmer: Woo-hoo.

Reena Van Aalst: ... would have been launched by the time this goes to air, so it's been-

Amanda Farmer: Fantastic.

Reena Van Aalst: ... quite a process. It's been a lot of work, but now, finally, I can say that it's been launched.



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Amanda Farmer: Awesome.

Reena Van Aalst: I also wanted to mention, Amanda ... I wanted to congratulate you on your new photos on your website, and your YSP, and even on your emails. They look fabulous.

Amanda Farmer: Aw, thank you. That's so kind.

Reena Van Aalst: Fantastic.

Amanda Farmer: Yes. I had my photography updated recently. I have now short, blonde hair as opposed to medium, brown hair. Kind of got a little bit tired of people not recognising me when I was meeting them for conferences, so yes, I'm more up to date. Thank you for that. Your website, www.stratacentral.com.au.

Reena Van Aalst: Yes.

Amanda Farmer: Head over. Check it out. You have some great resources there. I think you've even got a few of our extra-special videos.

Reena Van Aalst: Yes, I do, on the video section. Also, there's an affiliate section where I've got Your Strata Property as a resource and some other ones. Obviously, I'll be growing that part of the website. In the future, once I've got a bit more time, I'd like to sort of do more lifestyle things for strata living, not just information, and cases, and stuff that everyone knows about, something that more interesting for our listeners and those that use the website. Yes, looking forward to that and getting some feedback.

Amanda Farmer: Excellent. Yes, absolutely. Interesting that you say the lifestyle side of strata living and ... When I started the podcast, I had quite a few people contact me and say, "Amanda, love what you're doing, and the information's great, but do remember, focus on the good stuff." There's so much out there that is the difficult side of strata, the frustration-

Reena Van Aalst: The negative side-

Amanda Farmer: The negative side, people whinging and complaining. While we do need to address those challenges, it's always important to come back to solutions and also to celebrate the good stuff, which I know we try to do in our conversations, Reena. I'm really happy that that's something you're going to focus on your website, too.

Reena Van Aalst: Thank you. Yes, I think it's really important that ... Sydney's a beautiful city, and many people move into apartments for that ease of being able to like go away on holidays, lock up the apartment, rather than having to worry about gardeners, and garbage, et cetera. I think there's so many positive aspects that I think we should all be celebrating, like you just said, so yes.

Amanda Farmer: Yes, definitely. Awesome. Well, I have been able to help out another member in the YSP online community this week, and that is somebody who was having difficulty interpreting their strata plan, and it wasn't just them who was having trouble. It was a dispute between the committee and a particular lot owner, and it was in relation to the upper surface of a garage. The strata plan had a particular notation on it, which strata plans sometimes do, stating where the lot boundary ended and where the common property began. It was a bit of convoluted notation, and I'm not going to give you the exact words of it because I'll divulge the identity of the building, but it wasn't clear to this owners corporation whether or not they were responsible for the upper surface of the garage. They went to Land and Property Information, the LPI, to try and get a determination on this.

Now, LPI came back with a surprising determination, which was that they thought it was lot property, and this was different to what a lawyer had advised the lot owner. The lot owner's lawyer had said, "No, it's common property." Now, that might have been considered a self-serving statement, but this particular member in my community put the question on the forum, told me what the notation was, and asked my opinion. I said, "Look, that sounds like it is common property to me. I think that LPI is wrong. I think the

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lot owner's lawyer is right, but how about this? Why don't you contact the surveyor who drew the strata plan and ask them because it's their work?"

It might be that in old strata plans that particular person is no longer around, but most of the surveying companies who drafted these strata plans ... There's only a handful of them in New South Wales, at least, and they have successors, and whether it's part of the family or someone who's taken on the business, and they do have ... If they don't have notes on the particular drafting of that strata plan, they'll certainly have a view on what their take on the drafting is. This person said, "Thank you so much. Didn't think of that," contacted the surveyor, and the surveyor had a look and gave a very detailed explanation of why they thought that area was common property. The surveyor explained what the notation meant, essentially took a similar view to me and to the lot owner's lawyer, contrary to the LPI let me just add, and gave that owners corporation some confidence that the area was common property and that they could go ahead and pay for the repairs and maintenance.

That was something that I wanted to share. We don't always think about the obvious answer, which is going to the person who created the document and see if they can help out. It's something that I have done on numerous occasions and always got a lot of value from.

Reena Van Aalst: Yes. I have done that also, Amanda. I mean there's like you said, there's only a couple of firms, and even if the person who did the plans is not around, there's usually history there in their files. This garage that you're talking about, was that separate to the building, Amanda, or was it underneath the building? Sometimes you have car spaces that are separate to the building.

Amanda Farmer: Yes. My understanding of it was that the garages were on the ground floor, and then there were units that were overlooking the top of the garages.

Reena Van Aalst: Oh, okay. Yes.

Amanda Farmer: The garages has a certain surface, and it wasn't just a plain concrete surface. It had something else on top of it.

Reena Van Aalst: Yes. I think I know what you mean. There's a scheme not far from where I live that's got that sort of design. I know

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Amanda Farmer: Yes.

Reena Van Aalst: Yes, so instead of in front of it, and it's-

Amanda Farmer: Exactly, yes. Exactly. It wasn't sort of your usual ... You wouldn't look at it and know for sure that's common property, but that's why I believe the notation was on the strata plan in the way that it was. The other thing that they surveyor said was critical to the determination was that this particular surface that was on the top of the garages had been there since registration of the strata plan, so it was an original structure. For that reason, he was quite confident that it was common property.

Reena Van Aalst: Yes. It sounds like it, definitely.

Amanda Farmer: Yes.

Reena Van Aalst: Well, that's a very good outcome.

Amanda Farmer: Yes. That was a good outcome, and it was great to be able to give that opinion to one of our community members. I know that that member felt that she could then go back to her committee and say, "Well, look, we sort of have three opinions now that this is common property. Sad but true, we're gonna have to pay for these repairs and maintenance." So there you go.

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Reena Van Aalst: Actually, I wasn't aware, Amanda, that the LPI actually gave advice on strata plans.

Amanda Farmer: Yes, they can. I think what you do is apply to the Registrar General for a determination. I'm not 100% sure on the process, so what I suggest is, if anybody wants to do that, just go and check out the LPI website, which is lpi.nsw.gov.au. Have a little search around there, but have a think about it before you take that step because you might not get the determination that you're looking for depending on the outcome that you're after.

Reena Van Aalst: Yes, exactly. I think that I mean, sometimes people make mistakes. With that one, it didn't seem like that it was a very difficult-

Amanda Farmer: No, I didn't think so. That's why I wanted to share this story because I would have felt going to the Surveyor was the first step, rather than going to the LPI. Interesting how we all think differently. That's why it's good to draw on different experiences.

Reena Van Aalst: Yes, definitely. Yes, I'm sure there's many times when they have been correct, but anyway.

Amanda Farmer: Well, thanks a lot, Reena, once again. Don't forget, if you would like a copy of the transcript of this episode, head over to www.yourstrataproperty.com.au/068. Catch you next time, Reena.

Reena Van Aalst: Okay, Amanda. Take care. Bye.

Amanda Farmer: Bye.

Outro: Thank you for listening to Your Strata Property, the podcast which consistently delivers to property owners reliable and accurate information about their strata property. You can access all the information below this episode via the show notes at www.yourstrataproperty.com.au. You can also ask questions in the comments section, which Amanda will answer in her upcoming episodes. How can Amanda help you today?

