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**YSP Podcast Transcript: Episode 082. In conversation: how lot owners can oppose a strata committee decision**

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**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?

**Amanda Farmer:** I'm doing very well. We're recording this on a Friday. I have had a rather large week, and I'm looking forward to the weekend. How's yours been?

**Reena Van Aalst:** Yes, very busy actually. I've had quite a few meetings. This week, yesterday I had an industry association briefing on the new Property, Stock and Business Agents reforms that are coming in next year. It has been quite busy.

Amanda Farmer: Yes. That time of the year, hey? September, spring has sprung up on us.

**Reena Van Aalst:** Yes, literally.

**Amanda Farmer:** All right, let's get stuck into it. What has been challenging you this week, Reena?

**Reena Van Aalst:** This was actually quite an unusual occurrence that's happened this week. I actually had a conversation with one of my colleagues who told me that, in a building that he manages, he was served with a notice from more than one third of the owners of that scheme, who had signed a motion to stop the Committee on making a decision on various motions that were on that agenda.

**Amanda Farmer:** Ah-ha.

**Reena Van Aalst:** I said, "Wow. That's an unusual thing." I know that that's in the Act. For those that are listening, I'm sure Amanda will include this in the transcript or in her notes, it's Schedule two, Clause 9.3, which says that "Decisions to have no effect if opposed by more than specified owners. Decision in Strata Committee has no force or effect if, before the decision is made, notice is given to the Secretary of the Owners' Corporation by one or more owners, some of whose unit entitlements exceed one third of the aggregate unit entitlement, that the making of the decision is opposed by those owners."

From my colleague, he actually was at the meeting and he was served with a notice. He didn't actually know whether or not that there actually was one third. He didn't have the Strata role with him which is, of course, you don't take the Strata role to a Committee meeting. He also didn't know whether the people that had signed the petition were ... There were two owners, if both owners had signed etc. In a sense, he had to take the cautious route and, therefore, he decided that he would accept the notice as being valid. Therefore, the Committee was restrained from making a decision.

Then, yesterday, I had a Committee meeting in writing for one of the schemes that we manage. Next minute, an hour before that meeting was to take place, an owner served the same notice on the Owners' Corporation to stop the Owners' Corporation actually making a decision. That was quite a challenge. I thought, wow. It's funny. I don't think in all the years that I've been a Strata manager that this has ever happened. I've had people calling an EGM, 25% of unit entitlement requisitioning a meeting to take certain powers away from the Owners' Corporation. Two examples in one week, I think, is really unusual.

**Amanda Farmer:** That is unusual. Can I now add a third? I had a question from a member inside the YSP members' only forum, and part of that question went to precisely this point. How do we prevent the Strata Committee from making a decision about this particular issue, which related to the recovery of a debt, which the majority of owners don't agree with, but the Strata Committee is

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going ahead and making this decision anyway? I referred that member to Schedule two, Clause nine, Subsection three of the Strata Schemes Management Act where they could if they had one third unit entitlement, oppose the making of that decision. I set out how to issue that notice. It's a section that I think, Reena correct me if I'm wrong, has always been there. It was in the old Act as well.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Yes. I thought so.

**Reena Van Aalst:** I think there's another difference in the new Act versus the old Act, Amanda, was that previously you couldn't be included in the calculation if you weren't financial. You had to be entitled to vote. Whereas now, the Act specifically says that even if you're not financial, you can actually submit a motion or you can, in this case, you'd be able to sign a requisition. Doesn't matter if you're entitled to vote, your voice can still be heard. Whereas the previous Act, from memory, I think that says, "Any owner who is entitled to vote ... " And obviously if you're financial, you weren't entitled. Whereas now, specifically that there's a clause in this Act that says, "Even if you aren't in financial, you still can sit and vote," and yes.

**Amanda Farmer:** Yes. That's a very powerful avenue for those who don't agree with what their Strata Committee might be doing to utilize and to prevent decisions being made. Here's the thing. This section assumes that you have notice of what the Strata Committee is going to determine. Of course, you should have notice. How does it work these days, Reena? Small schemes, large schemes.

**Reena Van Aalst:** Yes. Small schemes, which are those that are less than 100 lots, they actually don't have to have their agenda issued to owners. Only if they have a noticeboard, that will suffice, putting it on the noticeboard.

For large schemes, which are more than 100 lots, if they have a noticeboard, it should be put up on the noticeboard. They also need to issue it to all owners by either email, if they've been given an email address for that purpose, or by post. The interesting thing, Amanda, in this particular case is that this is a small scheme. Some of the owners that have actually signed the petition, if we hadn't emailed it to all the owners because we think that it's good for all owners to receive agendas and minutes, so those non-resident owners also contributed by seeing the agenda. Then, they were able to make their voices heard.

I think that one of the issues, I think, when we come to this particular clause, and obviously there has to be people rallying around getting people to sign a piece of paper, sometimes I believe that if there is particular concerns, which may or may not be valid, sometimes other owners don't really know what's going on. They're just asked to sign a piece of paper and they just sign it.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** I think, in some cases, depending on who the proponent is of the particular issue, whether it's a really hot topic or it's just in the case that I had, was just accepting a quotation ... And it was not for a huge amount of money, but it was more about the fact that this was for their particular lot. Therefore, the other owners just signing it is ... Especially an owner that doesn't even live in the building and didn't know anything about the matter. In fact, a year ago, had supported the whole renovation of the building. Yes, we'll see what happens with that one.

I just think that it's a very good tool, and I think sometimes when committees are going off track or perhaps not listening to what the owners want, but then sometimes it can be used when people have an agenda. It may not be an issue that the other owners are really concerned about. Sometimes people are swayed to sign a piece of paper that really they don't really understand what the repercussions are or ...

**Amanda Farmer:** Lots in there for owners to be aware of, for Committee members to be aware of and Strata managers, as you said at the beginning there Reena, the example of your colleague who was faced with one of these just before a Committee meeting. He didn't usually have his Strata role with him. He wasn't sure if the one third unit entitlement had been reached with this

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opposition notice. Maybe there's a new best practice there, to make sure you're armed with that prior to a Committee meeting in case you're faced with one of these notices. Certainly, as a manager, to be aware of how this section works.

**Reena Van Aalst:** Yes. I think perhaps some managers may not have ever come across it.

**Amanda Farmer:** Yes. There you go. Now, my challenge for this week. I was surprised recently by a piece of information I hadn't come across before. I think it was Karen Stiles from the OCN who brought it to my attention. From the 1st of October, and I appreciate by the time this goes to air that was probably a few days ago, by the 1st of October, new legislation comes into effect. It is an amendment to the Environmental Planning and Assessment Act, but it affects Strata schemes. It affects Strata schemes in relation to their fire safety inspections.

Now, what this new law is doing is requiring fire safety assessments to be carried out by a competent fire safety practitioner. It is the responsibility of the building to ensure that their fire safety inspection is carried out by a competent fire safety practitioner. There's a little bit of a problem here, at least at the time we're recording this podcast. There is no accreditation framework, so to speak, to actually qualify or accredit individuals as competent fire safety practitioners. Of course, it begs the question, how is a building supposed to know who is a competent fire safety practitioner? Reena, have you heard about this? Is the alarm that's arising from this legitimate?

**Reena Van Aalst:** It's hard to really know Amanda, because, as you said, it's only coming out now on the 1st of October. I've seen a copy of the amendment of the Environmental Planning Assessment Regulation. It says here, it's a new clause 167a, it says, "Competent fire safety practitioners." It says, "A secretary may, by order published in the Gazette, recognise a class of persons as competent fire safety practitioners for the purposes of one or more provisions in the regulation." It says about limiting the classes of persons who may be recognised.

They may include, it says, "A, a class of persons holding a specified category of certificate of accreditation under the Building Professionals Act 2005. Or having that, and having some characteristic or qualification or a class of persons who have undergone particular training, assessment carried out by a specified professional body or a body of an industry regulation or yes. I think the Fire Protection Association, I think, may be recognised as one of those bodies that people could be accredited by.

Amanda Farmer: It sounds like in the enacting legislation, there is some steps there for how you might determine someone is a competent fire safety practitioner. I think I heard you say there, Reena, that it could be published in the Gazette as to how people are recognised. I think, from the information I've seen, that's what we're waiting for is our more readable, if you like, a bit more readable than the Amending Legislation Checklist for who we, as buildings and as managers and sector professionals, might be able to engage to meet this requirement that we have a competent fire safety professional.

I have to say, it's frustrating that the legislation comes into force at a time when we don't have that framework, if you like, of accreditation set up. We're receiving information, I've got a few emails in my inbox just this afternoon about this, and saying, "Look. The legislation's starting, but the accreditation framework is soon to follow." I don't really understand why that isn't in place as of the start date of the legislation. That would just make it a little bit easier for buildings to feel secure that they're complying with the law.

**Reena Van Aalst:** I actually feel quite happy that this is actually becoming recognised. There are so many people that work in the fire safety area and have no real idea about what actually the EPA says and what the BCA guidelines mean. In a sense, there's no qualification needed. Anyone can, up until probably now, can open a company and say that they're a fire safety contractor, do the testing, and you wouldn't even know, Amanda, whether or not they're doing it correctly or not. There's no qualification or licensing like there are for any other types of trades where you're licensed under a certain regime or act or a criteria or a standard.

Whereas with this fire safety thing, I mean I've ... A lot of the times I've had the experience where you can't get access to every single apartment. The fire safety says, 'oh no, we'll issue the fire safety AFSS, which is the Annual Fire Safety Statement, sorry to abbreviate for those that don't know what I'm talking about. Then, I said, "But you haven't gone into every apartment." "Oh it's 80% that we have to get into."

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I said, "Well where does it say that? Take me to the section of the Act that says that it's only 80%." They said, "Oh ..." Some of them went away and came back, "Oh no. It is this amount, our association that said that." I think, well if there's a fire and it was in that 20% that wasn't tested, I don't know how your insurance is going to cover that when the insurer starts to go through all the records and ask the fire safety contractor for all their testing records, which for smoke alarm or fire alarm, they were testing. It's a really good, positive step in the direction especially with fire safety, now with the whole cladding issue that's now emerged for Strata managers to deal with, is a very good step in the right direction.

**Amanda Farmer:** Yes. Look, I agree. Something has to be done. For too long now, buildings have been uncertain as to who is qualified to do this work. The law has, it's not just the buildings that are uncertain, it's the law that just hasn't been there to point us in the right direction. Hopefully, that's where we're heading. We make our way as best we can and stumble along. Fingers crossed that they get ironed out, but we'll continue to update everybody here on the podcast, as we like to do. I do have, even just this afternoon, I've got in my inbox here, a building fire safety regulation fact sheet from the New South Wales Department of Planning and Environment. I'm going to put a link to that in the show notes. That's got quite a bit more detail there if you're interested in that new legislation.

Okay, Reena. Share your win for this week. Please, will you.

**Reena Van Aalst:** I want to just mention the upcoming Women in Real Estate Conference that's [crosstalk 00:13:50] November, which I am attending. I went last year, and it was a great conference. Also, Amanda, you're one of the speakers at that conference. I just want to mention that to our listeners. For anyone that's thinking of perhaps going, you can register before the end of this month to get the early bird rate.

**Amanda Farmer:** Can I just jump in there, Reena? Only because I was on Facebook just this afternoon, and we have a Your Strata Property page on Facebook which I was checking on, and I also went to the Women ... There's a Women in Real Estate Facebook page. The post I was confronted with was a very large picture of my own head I just saw it and thought 'oh, she looks familiar.' Oh wow. It was an advertisement from Women in Real Estate advertising, "Coming here from Amanda Farmer at the Women in Real Estate Conference." I went, "Oh wow. How long has that been up there?"

They're very good promoters, let me say, the REI and Women in Real Estate. It is a very large conference. I think they get a turnout of about 500 women. Yes, I too went last year, Reena, and it was just fabulous. I'm honoured to be invited to go and speak there. I'll put a link to the registration page on our show notes there for any listeners who want to come and have a chat with me.

**Reena Van Aalst:** Wonderful. Yes, I think I'm looking forward to it, Amanda. This year, it's actually at a different venue.

**Amanda Farmer:** It is, yes.

**Reena Van Aalst:** The Australian Technology Park, so that will be quite a good place to go for the first time.

**Amanda Farmer:** Yes. What they're actually doing, it's a different format as well. They're not doing long keynotes. They're doing a series of short 20 minutes, I've been told, 20-minute presentations, more like [TED talks 00:15:20].

**Reena Van Aalst:** Oh wow.

**Amanda Farmer:** Yes. That's really exciting. We've been given a lot of flexibility in terms of what we want to talk about. Soon, we'll be advertising what my topic of the day will be. I'm really looking forward to delivering in that format to all those women.

**Reena Van Aalst:** It's wonderful.

**Amanda Farmer:** My win for this week. I am still, I'm not going to say recovering, I'm going to say I am still having fond memories of the Griffith University Conference, which I attended in Surfers Paradise. At the time of recording this, it was just last week that I

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was back. A fabulous conference that happens every two years, up there this year put on by Dr. Sacha Reid. For the first time, she's taken over the organising of the Conference. I have to say, she did an absolutely fabulous job.

Lots of academics speaking at the Conference, giving us a different view to what you might usually get at industry conferences as to what's happening. We hear more from the social side, the research side, people who are living in multi-owned properties, as the academics like to call it. They've done a lot of survey work and asking people what the pressing issues are for them. It's great for us, as sector stakeholders, to get that on the ground insight. A three-day conference is full-on. It's a lot of time to take out of your business, but Griffith University has a fabulous reputation for that Conference, in particular, and what they do.

It was definitely well worth it, well worth catching up with everyone and getting that good content. I did present there as well, and I did record that content. I'm hoping to be able to bring some of that to you on the podcast.

**Reena Van Aalst:** That's wonderful. Yes, I've been, I know it's on every two years that particular conference, and I've been going to it every two years until this year because I've had to take so much on at the moment. I just couldn't make that time. I'm looking forward to making sure I go in two years time.

**Amanda Farmer:** Yes. It's hard to make the time, especially when you're growing as fast as you are, Reena, and Strata, it's full-on. It is full-on.

**Reena Van Aalst:** Definitely is.

**Amanda Farmer:** All right. Enjoy another full-on week.

**Reena Van Aalst:** Okay.

**Amanda Farmer:** I shall catch you next time.

**Reena Van Aalst:** Thanks, Amanda. Bye.

**Amanda Farmer:** Thanks.

**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](http://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?

