

Publication Date: April 11, 2017

## YSP Podcast Transcript: Episode 056. In Conversation With Reena Van Aalst The Role of The Chairperson and a Successful Council Parking Agreement

Listen to this podcast episode here: <https://www.yourstrataproperty.com.au/056-in-conversation-with-reena-van-aalst-the-role-of-the-chairperson/>

**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](http://www.yourstrataproperty.com.au).

**Amanda Farmer:** Hello and welcome, I'm Amanda Farmer and I have with me today the lovely Reena van Aalst. Hi Reena, how are you?

**Reena Van Aalst:** Good thanks, Amanda, how are you?

**Amanda Farmer:** I am not too bad. I have had a particularly busy week, I have to say. I am preparing to jet off to Hamilton Island for the Australian College of Community Association Lawyers Conference, which will have been done and dusted by the time this goes to air. But having that week off means that the week before is just crazy! So that's where I'm at, at the moment.

**Reena Van Aalst:** Yes, I understand, I'm actually going up to a conference on the Gold Coast which is pharmacy related and yes I know the feeling. You have to try and get everything done before you go!

**Amanda Farmer:** That's right. See some of our listeners might not know that you were a pharmacist in a past life.

**Reena Van Aalst:** Yes I was.

**Amanda Farmer:** And you're now a Director on a board?

**Reena Van Aalst:** Yes of a pharmacy franchise company, the people that I actually used to work for sixteen years ago.

**Amanda Farmer:** Wow.

**Reena Van Aalst:** So it's funny how these things come around in circles. But I think doing my extra education, getting my Masters of Professional Accounting obviously helped me in that area because now I've got a lot more knowledge in terms of company law and financials and accounting. So yes extra study does actually come in handy sometimes.

**Amanda Farmer:** It sure does, good on you. We need more women on board so that's awesome. I know you're doing a great job there.

**Reena Van Aalst:** Thank you.

**Amanda Farmer:** Okay so, your week in Strata Reena, what has been a frustration for you this week?

**Reena Van Aalst:** Yes, so actually, last week I had a call from one of the owners of a scheme that they want to actually come on board and join my company but in the meantime, they're having problems. It's a bit of a two faction executive committee, or sorry Strata Committee, I should start getting used to that terminology, and there's been some friction and a meeting was convened, the committee called a general meeting and on the morning of the meeting, the chairperson for some reason decided to cancel the meeting on the premise that there was going to be another general meeting in two weeks time to consider other matters, which were not related to the current agenda.

The strata manager was actually there and apparently all the owners were waiting outside, no one really knows what happened but I think the reason I'm actually raising this is not to do with that particular building per say but it's more about a very general question that I think a lot of the strata managers receive and probably should answer and know but what I've found in this case is



The podcast for property owners looking for reliable, accurate and bite-sized information. from an experienced and authoritative source.

Publication Date: April 11, 2017

## YSP Podcast Transcript: Episode 056. In Conversation With Reena Van Aalst – The Role of The Chairperson and a Successful Council Parking Agreement

didn't. I think in other cases that's been prevalent where the role of chairperson's now defined in the Act to chair a meeting only and that obviously includes declaring the ability of proxies etc. But when you're actually chairing, you've got to make sure that the motions are put correctly and the voting procedure takes place and that they're either carried or defeated.

But what tends to happen, I think people tend to confuse the role of chairperson in a Strata Scheme with the role of a chairperson in a company. Which is much different and usually the chairperson in the company usually has a bit more power in the older constitutions especially. So, the strata manager should not have allowed that to happen and a chairperson also can't convene a general meeting either so the converse applies where they actually don't have the authority to convene a meeting and nor do they have the ability to actually cancel a meeting.

Sometimes meetings get cancelled because of various reasons but normally there's advance notice given to owners via email.

**Amanda Farmer:** Yes. So this is distinct from adjourning the meeting?

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Which we know under the new legislation here in New South Wales a chairperson can decide to adjourn a meeting in the absence of a quorum or to proceed with the meeting that is now the chairperson's call. What you're saying is this particular chairperson just went 'nah the meeting's cancelled'.

**Reena Van Aalst:** Yes, basically. I mean people still don't know what happened. But the strata manager did turn up to the meeting and then people were told 'Oh no we're having another meeting in two weeks time' apparently or three weeks time, therefore what's the point of having two meetings when the committee had convened the meeting, the agenda had been issued correctly in the right timeframes and also another matter I had recently, the chairperson decided just to issue an agenda and do the same thing. So again, the converse applies as well. It's got to be a proper meeting or majority decision by members of the committee to proceed with an AGM or in some cases if there's a reason why you want to cancel it, I mean I've had one that was canceled in a scheme that I managed last year because of the fact that they wanted to raise more money than what they had previously thought. So rather than having another special levy just increase the special levy amount rather than having two lots of special levies.

So I think that's where, that's obviously a good decision because in a sense you don't want to have two meetings and have two levies but on the whole, meetings really should be cancelled by the committee and in this event not by one person.

**Amanda Farmer:** Very good point for both our chair people, committee members and Strata managers to remember because they are there to guide and to an extent advise within their skills and qualifications and that is something that a strata manager should across.

Okay, thanks for sharing that one Reena. My frustration for this week, I have been contacted by a lot owner in a commercial building and she is a medical professional, she runs her medical practice from this building. For a number of months, really since before Christmas last year, she has been experiencing problems with the air conditioning system and there have been certain suites in her medical rooms that just haven't been getting cool air and if you remember back in January we had a few very very hot days and she and her staff and her patients were really suffering. She had contacted the strata committee to inform them that there seemed to be a problem, they had sent a couple of contractors out and the upshot of it all was that the entire system that services the building needed replacement because it's an old system and it was reaching the end of its life.

Long story short, the strata committee did not want to consider replacement, because that was going to be in the order of some \$250,000. The committee said that the reason they wouldn't consider it was because they were currently in discussions with a developer who wanted to purchase the building under the new collective sale provisions in our law here in New South Wales. And they said 'Why would we go and spend \$250,000 upgrading the air conditioning system when we're just going to sell the building in a couple of years time.'



Publication Date: April 11, 2017

## YSP Podcast Transcript: Episode 056. In Conversation With Reena Van Aalst – The Role of The Chairperson and a Successful Council Parking Agreement

**Reena Van Aalst:** A couple of years time is the actual point of the whole thing.

**Amanda Farmer:** Exactly! Exactly. This lot owner came to me of course very frustrated saying exactly that, 'How am I expected to sweat it out for two years? Don't they have some kind of obligation to deal with this?' To which I said, 'Absolutely of course they do, owners corporations have a duty under the legislation so we call it a statutory duty, it is a duty under a statute, to properly repair and maintain the common property. And this air conditioning system is part of the common property.' And they promptly got a letter from me setting out their duty and the reasons why I thought they were in breach of that duty. The last I heard on this, they were out getting quotes to repair the system. So it's looking like that lot owner might be getting somewhere but how frustrating that she had to come to me and have a letter sent and spend money on that to get her owner's corporation to meet its obligations.

**Reena Van Aalst:** Yes I think under the new act now there's actually more powers for lot owners to actually individually go to the tribunal when common property is not being repaired or maintained. But yes it's unfortunate that someone would have to feel the need to go to the extent of engaging a lawyer cause obviously they don't feel they're being heard, Amanda. Which I think happens in lots of buildings where there's the mentality of, I mean there's nothing wrong with trying to maintain costs and keep them under control but like I said I'm sure if it was one of their suites that was being affected and their livelihoods. See the thing with commercial schemes I find is, it is your livelihood, this is how you earn income so this affects your business. So it's not just a matter of saying, oh well y'know can you put up with it, it's not like your home which sometimes you might put up with more things but in your place of work that's definitely not acceptable.

**Amanda Farmer:** Yes, absolutely. And the potential for there to be significant loss and damage suffered by this lot owner, because she can't use her suites and she can't book in her usual appointments, is quite serious for an owner's corporation because of course my letter said, 'Should my client suffer loss and damage because of her inability to run her practice, she will be looking to the owner's corporation to recover that loss and damage'. So when committees are hearing those kinds of things they do start to get a little bit nervous but that kind of a statement is made with all sincerity. Because we have had to go down that path before and as you said when you've got commercial lot owners, they're the kinds of considerations that they're having to bear in mind.

**Reena Van Aalst:** Yes, very true.

**Amanda Farmer:** Another interesting aspect of this particular matter was this issue about a future collective sale of a building and what happens where you have, for example, a capital works fund forecast that says you should be raising money for these kinds of things and you should be planning for ten years down the track. But what if you are in discussions with a developer who's looking like they are going to purchase the site, they're going to knock it down, they're going to build something else. It's understandable I think that lot owners would become concerned that they're contributing all this money to what end. And at what point do they perhaps get a refund of that money? How is that all taken into account? So that was a really interesting aspect on a different path about that collective sale process that I think buildings are going to be coming across how they deal with that money that they're raising but possibly never spending.

**Reena Van Aalst:** Yes, that's very interesting Amanda that you raised that point because I suppose the act hasn't taken that sort of thinking or that scenario into consideration when they were drafting legislation. So I suppose in a sense, I mean the money that's sitting there, would be part of the overall end of-

**Amanda Farmer:** -The assets-

**Reena Van Aalst:** The scheme that's terminated. Yes so it's part of an asset, I mean in a sense it's not.

**Amanda Farmer:** It would eventually-

**Reena Van Aalst:** -get it back but you're not, it's also the opportunity cost that I think a lot of people look at so a lot of schemes will say to me, 'We don't care about the levy, cause when the time comes we'll pay \$20,000-30,000 per lot if we have to, but we'd rather keep the money in our accounts and work our money and get the benefit of that than putting it into a fund.'



Publication Date: April 11, 2017

## YSP Podcast Transcript: Episode 056. In Conversation With Reena Van Aalst – The Role of The Chairperson and a Successful Council Parking Agreement

**Amanda Farmer:** Yes. But at the same time, you've got to meet your legal obligation to prepare and to follow that forecast the money into the capital works fund.

**Reena Van Aalst:** Yes. And I find that commercial owners especially the big corporations that find themselves in part of BMC's and their stratum lot owners they're the ones that really don't want to put money into capital works because the way that these companies work is that they only put what they need when they need it, they can't just have it sitting there. So in a sense, I've had that struggle with some of the commercial managers like JLL and Cushman & Wakefield and obviously instructions from their principals that 'We don't want money sitting in a BMC sinking fund or capital fund, we want to have access to that money now and then just contribute when necessary'. So you actually raise another sort of point that I just remembered about BMC's and the need for capital funds and things like that.

**Amanda Farmer:** Yes, interesting topic that's for sure. Let's move onto what's been going well this week Reena, what's your win?

**Reena Van Aalst:** Well last night, which is the 7th of March by the time this goes to air it'll be a few more weeks to go, but I actually was asked to speak with two other people at the City of Sydney Greensgren Network and the topic was, 'What to do when things go wrong in your Strata building' and one of my committee members that I used to work with at Eastgate, Steven King, he was actually speaking on behalf of a resident's point of view and he gave a fantastic and very thorough presentation.

**Amanda Farmer:** Steven's been on the podcast.

**Reena Van Aalst:** Yes, that's right for those that remember him. And then I gave a presentation in relation to the strata managers role in that and then we had BAC Insurance brokers that also attended and gave extra added input with regards to insurance. But I think what came out of that and I think it's good for me to share that without listeners is that, first of all, people should look at their insurance policy and make sure it's adequate and again you'll need some advice from an insurance broker because strata managers aren't qualified or allowed to actually give advice in terms of what insurance policy a scheme should take. Also I think the other thing that came out of that which is another takeaway and learning is for strata managers to make sure they have a very good database of contact details such as email addresses and mobile telephone numbers because when things go wrong and people can't get back into a building and you need to contact them, then that's really a hard thing to do if your records don't actually show those details.

The other thing we talked about was elderly owners and perhaps when you do go to meetings and you do see them perhaps getting a next of kin they carry his phone number because at the Eastgate explosion that we had in 2009 they were the most affected and so it was actually good for owners to sort of think about and strata communities to think about when you're seen at your AGM every year confirming your insurances to be a bit more proactive and not just sort of go for the cheapest quote.

Sometimes in strata communities, they make that decision ahead of time but in any event, I think it's important for people to question and understand what the policies covering and the detail which is where the fine print is where it all sort of comes out and unravels when you have a claim.

**Amanda Farmer:** Absolutely, all good advice. Was it a big turnout there of mostly owners or?

**Reena Van Aalst:** Yes, we had about 35 people we had at the library down there at Greens Square and we actually had some building managers that came to the presentation which I think is really would be at least, if they're involved that actually helps to understand what could go wrong and Steven King's presentation definitely showed us what could potentially go wrong in the worst case scenarios of destruction in a single event.

**Amanda Farmer:** Yes, you've definitely had some hands on experience there dealing with that explosion in 2009 and in Bondi Junction here in Sydney, that was a big one.

**Reena Van Aalst:** Yes, it was.



Publication Date: April 11, 2017

## YSP Podcast Transcript: Episode 056. In Conversation With Reena Van Aalst – The Role of The Chairperson and a Successful Council Parking Agreement

**Amanda Farmer:** All right well thanks for sharing that Reena, my win for this week, I want to share with you a little story about a community scheme. It's a large community scheme here in Sydney and I met with them recently and they were filling me in on how their relationship with the local council is going since they entered into a parking agreement. Now, these kinds of agreements are now dealt with under the Strata Scheme's Management Act, our new act here in New South Wales, but being a community association this particular scheme actually entered into one of these agreements nearly 2 years ago now, or at least they started talking about it 2 years ago. They got some advice from a different lawyer at the time but I certainly agreed with it by the time they came to me that it was and it is legal for community schemes to enter into these kinds of parking agreements with local councils, even though it's not mentioned in the community schemes law unlike the strata schemes law now.

So they went ahead and had a chat to their local council about handing over essentially what you do is you hand over control of your community property parking areas to the local council, the council comes in and puts up signage, puts up markings and essentially governs the parking within the community scheme to make sure everybody's parking where they should be and where it's permitted and everybody is parking safely and within marked areas and things like that.

Now it took a while to get the agreement together, to get the arrangements off the ground we did have a challenge from a lot owner in NCAT which is where I became involved and we won that challenge. Just meeting with them recently and hearing that now everything's underway, councils parking inspectors are there on the property and people have been, interestingly enough, falling into line. They have been parking where they need to be parking, they don't have the extent of the parking problems that they had 12 months or so ago, and they're really happy with the arrangements.

So that's just something I wanted to share with my listeners if you are whether you're a strata scheme and you're thinking about this now that it is expressly provided for under the New Strata Schemes Management Act or you're a community scheme and you're thinking about doing this, it is certainly legal as long as your council is on board and willing to enter into this kind of agreement with you, then it might be something that really suits your community and you get a great benefit from.

**Reena Van Aalst:** I think probably it does work better maybe better in a community because they have more open spaces usually for parking and therefore it's more prone to be abused and therefore it's easier for councils to be involved on that level. Yes, that's a great outcome, Amanda.

**Amanda Farmer:** Yes, so they're doing well. So I think that is it from us today, anything else you want to add Reena?

**Reena Van Aalst:** No, all good thank you.

**Amanda Farmer:** Excellent, well enjoy your trip to the Gold Coast and I'll be thinking of you when I'm on Hamilton Island just next door.

**Reena Van Aalst:** Lucky you!

**Amanda Farmer:** See you soon.

**Reena Van Aalst:** Okay 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](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?

