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YSP Podcast Transcript: Episode 156. How strata managers can meet client expectations

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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 good. Welcome to April. Did you get fooled on April Fools' Day?

Reena Van Aalst: No, but I nearly did.

Amanda Farmer: You nearly did?

Reena Van Aalst: How about you?

Amanda Farmer: No getting past Reena. No, I am safe. So far, so safe.

Reena Van Aalst: That's good.

Amanda Farmer: Let's jump straight into it. What has been your challenge this week, Reena?

Reena Van Aalst: My challenge this week has been, Amanda, dealing with strata committees and the informal meetings that some of them like to have. So, in a sense they're not putting out agendas they just send it like informal meeting agenda to me. And then after that meeting, and they then start to say Reena can you issue this work order or can you accept this quote from this engineer or can you do this or can you do that? And I'm thinking well it's a bit hard because it's not really a valid meeting. To me in a sense there's no transparency for the other owners in the building.

Firstly, as we've discussed I think in previous episodes you need to include the agenda on the notice board. That hasn't happened 'cause it's an informal meeting. I think they actually advertise it to the other owners if they want to come, as far as I know, but I think by email. But then again not all owners have email. So, I'm not really sure exactly how much people know about the meeting. But as far as I know from their attendees, it's never anyone but the committee anyway. It's not as if people are coming. I was wondering what would be your recommendations in terms of dealing with this strata committee?

Amanda Farmer: Yes, well we talked about it back in Episode 149 of the podcast, why we thought strata committee should be meeting regularly, and the interesting thing is, and we cover this off in the webinar last week as well, there is no express requirement in our Act for strata committees to meet unlike the requirement to have an Annual General Meeting at least once in each financial year, we don't have that same requirement for strata committees however strata committees, I say can only make legal decisions when they are in committee meeting.

Unless it is something urgent, or there is a danger, safety issue. Those kind of things are generally delegated to your strata manager anyway to do that day to day stuff, but there is no reason why you shouldn't convene regular committee meetings and making formal decisions that are, as you say Reena, notified to owners and minuted.

So if we think about a committee in the situation that you have outlined Reena that is not doing this and how do we encourage them to do this, what I have seen work well, perhaps unfortunately, buildings learning the hard way, is when something goes wrong, it's when an owner commences litigation, points out to the Tribunal that this committee, this building has not been following the legal requirements, points out that there's no transparency, that they don't know what is going on, that their issues are not

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getting dealt with or there is some allegation that the committee is not being above board, even if they might be they think they doing everything right and everything is in good faith. It's just not a good look, it doesn't look good and when that litigation happens and is resolved either way that committee then realizes the importance of having these regular formal meetings or complying with the legislation and they start to do it.

Amanda Farmer: So is there a way to send that message to this committee, that, "Hey guys, this is putting you at risk. This is exposing you to personal liability, because there maybe some allegation down the track from a lot owner that you are acting negligently, that you are you being self serving, that you are not acting in good faith and we know you are not doing all those things but unless there is a written record, a paper trail of agendas and minutes and proper decisions it's very hard to answer that allegation and you don't want to put yourself in that position."

Reena Van Aalst: Yes , I total agree Amanda. What I suggested, I think also just as partly a way to mitigate this risk is to have a committee meeting in writing where we can formalise the adoption of certain quotations and fee proposals just as a minimum, so at least people can see what money is being spent and for what purpose. But I totally agree Amanda, that people don't realise that everything is fine and dandy when everyone is happy with what is going on, but the minute something goes wrong where an owner is unhappy with an outcome, it can even be, for example, like a pet approval.

In the Dame, there is a by-law that says that some of the schemes that they can have option A and the owners corporation can't withhold consent, it's all about the person being aware that an application has been submitted. If it's their neighbour on the side of them or above them, I think it is important that transparency and the risk that's also based on those committee members, that the person liable that you mentioned, I mean if they are being told, Amanda, that they shouldn't be doing something in a certain way and then they obviously act contrary to that advice, then I am not sure if their office bearers liability policy will kick in if ever it came to such a serious consequence, where you had to call on an insurance so.

Amanda Farmer: Yes, reminding them of that risk, I think will go a long way towards changing behaviour. That's my suggestion.

Reena Van Aalst: I think also what I find difficult Amanda, is if like other strata managers have let them do this in the past, this is where I find that people get into these habits and then you are trying to explain, "No this is not right," and so it's like changing peoples behaviours which obviously is always you know difficult and time consuming, but hopefully we can get there eventually with this scheme.

Amanda Farmer: Yes for sure.

Reena Van Aalst: Well, thanks for your advice, Amanda.

Amanda Farmer: No problem, see how you go.

My challenge for this week, I am bringing an NCAT case to the table today, Reena, for a challenge and this case is about tenants breaching by-laws.

It was a case that was reported back in November 2018, so the end of last year. I will put a link to the case in the show notes, it is called Faletti and Eales, a Tribunal case, as I said in new South Wales Civil and Administrative Tribunal. And in this case the Tribunal found, in short, that a landlord is not responsible for their tenants breach of the by-Laws.

Now, this is really interesting, and I list it as a challenge because I think buildings really need to be aware of this now, and I do have a suggestion of how you might want to deal with it.

What happened in this case was that the tenants were breaching the noise by-law, so interfering with peaceful enjoyment, and the owners co-operation pursued both the tenant and the landlord, the owner of the lot, saying there was a breach of their noise by-law.

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Amanda Farmer: Now that's something that you probably heard me suggest from time to time, when it comes to enforcing by-laws, that it is important to involve the owner. The owner being the one with the financial interest in the lot, and the one who is most likely to take notice of letters from the owners co-operation and deal with them and bring their tenant into line, but in this case the Tribunal held that there was no evidence that the landlord themselves creating the disturbance and disturbing the peace, so there was no basis for the tribunal to find that the landlord had breached the noise by-law.

So the by-law that was in place, was the standard noise by-law. An owner or occupier of a lot must not create any noise likely to interfere with the peaceful enjoyment. Now the owner of course said, "Well I didn't create any noise likely to interfere with the peaceful enjoyment." And the lesson that I think that is here for buildings and for committees is that if you do want to have the option of pursuing an owner together with a tenant for a breach of the by-law, then you need to make sure that your by-law expressly make owners responsible for the actions of their tenant because otherwise, the authority of this case is likely to be used to get the owner off the hook, if you like.

What do you think, Reena?

Reena Van Aalst: So Amanda, who is taking the action against, was it, sorry I don't understand the case was, with people, was it owners corporation was not involved in this case at all.

Amanda Farmer: It was the owner and occupier of another unit sort orders against the owner and occupier of their neighbour.

Reena Van Aalst: Oh okay, so that makes sense, 'cause I was going to say that really, we have never, ever recommended that an owners corporation take action against the owner when there is a by-law breach for the very reason is that the owner is not the one that is committing the breach, it is the tenant.

What we do ask the owner to do and this has worked on pretty much on every occasion I have had to use it, Amanda, is we write to the agency, here are 3 breaches, letters, notices, reminders, clearly your tenant is actually breaching the lease because the lease contains all the by-laws which have to be now attached and that's what a lot of the agents do now, when they taking on a new tenant, can you send us all the by-laws because they have now attached them to a lease and they form part of the residential tenancy lease.

So therefore, when they're breaching any of the terms of the lease which include the by-laws and that is the breach of their lease. So sometimes we have asked the landlord through their agent or directly to assist us in terminating the lease based on these breaches.

Amanda Farmer: Yes perfect.

Reena Van Aalst: So concurrently, you go down the end cat route where the owners corporation takes action against the tenant and then side by side we then run to the owner and through their agent or directly and seek their help, because again it does make sense that you can't, I mean the landlord may not even live in the country for example, I mean they could live overseas. But what they should do is obviously assist the owners corporation or the Lot owner or another party within the scheme to help use whatever tools are at their disposal, which is the residential tenancy lease, to try and help deal with their tenant who they really have the contractual relationship with.

Amanda Farmer: Indeed, and that might be what your by-laws says.

Reena Van Aalst: Yes.

Amanda Farmer: I would recommend but it actually sets out that the by-laws have to be attached to the lease, well that is in our act isn't it?

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Reena Van Aalst: Yes.

Amanda Farmer: And that if a tenant is breaching the by-laws then it is for, then the owner should be looking to the terms of that lease and doing all things necessary to assist the owners corporation with the enforcement of that by-law and take active steps to enforce the terms of their lease noting that by-laws are a next to forming part of the lease.

Reena Van Aalst: Exactly. Well I mean you know, company title schemes some of them Memorandum Articles of Association Amanda, do actually put pressure on the share holder to take action and they could also be held liable including like their shares being forfeited etc. So I think -

Amanda Farmer: Interesting.

Reena Van Aalst: Yes. So I think there are company title schemes especially the older ones, in where I live for example, I mean we had that already, where in a sense apart from just the tenant being responsible we actually can make the owner get involved. It is a much bigger stick there for the owner to not be the head in the sand and take action to assist the company, remedy any breaches of the by-laws, or company rules in this case.

Amanda Farmer: Yes, excellent. Very interesting topic. So I will put a link in the show notes you can go and check that one out.

Moving to your win for this week, Reena.

Reena Van Aalst: This is a win in relation to a NCAT Application that we had in a hearing where the owners corporation was given the authority to remove items that were stored in car space, which is contrary to the By Law. But an extension of that order was that we sought that the owners corporation be allowed to store the items in an off site storage facility and that we would be able to actually pass those costs on to their levy account and we had an enforcement costs by-law which, I think there has been some people that have you know, that have sort of been listening to the various owners speak at on forums where they are challenging the whole motion of having a by-law where enforcement costs can be added to a lot, but in this case that was presented as part of our requests and the member at the time said, yes that is fine I will allow the costs to be put on as per the by-law and they can be recovered you know, like an outstanding levy.

While it was really good that the member sort of took that view, but I am not sure in a sense, at the moment they haven't yet paid that so we don't know how it is going to go, we tried to enforce it but anyway. I thought it was a great outcome for the scheme because you know despite so many reminders and requests like you said Amanda, and writing to people sometimes people don't, they don't even turn up to the Tribunal even, so I was a bit, sort of thinking, didn't even make any attempt to come to the hearing so. I don't know if they just MIA or what.

Amanda Farmer: Yes. It's good to know that the Tribunal has essentially upheld a by-law that permits an owners corporation to charge enforcement costs and to put them onto the loan account because there are many of those by-laws, and as far as I am aware any lawyers out there will send me an email no doubt if I am wrong, I don't think we have a reported case that makes clear, that these by-laws are being upheld, so this is the frustrating thing that is happening with our Tribunal at the moment is that we not getting a lot of these decisions reported, so we not reading, we don't know about them. I am assuming, Reena, this case was not reported, we cannot read about it somewhere?

Reena Van Aalst: I don't think so, no, I can look it up and see if I can find it publicly, but the other thing you said because the enforcement costs in this by-law do allow us to recover costs for the mediation and NCAT etc and he said well no mediation says that so everyone has to pay their own costs.

Amanda Farmer: Yes, that might have been going a little bit too far, because you are then trying to recover your legal costs which is always separate.

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Reena Van Aalst: Yes. But some lawyers Amanda do want you to go that far. They want you to -

Amanda Farmer: Oh don't worry, I have drafted by-laws that say that, but I don't think when it comes down to it.

Reena Van Aalst: Yes. You can barely enforce those, but at least in a sense we had a chat about the different aspects of the enforcement and he agreed that the hiring facility charges could be passed on and that was part of the orders.

Amanda Farmer: Excellent. And then you will just enforce that if the lot account, the levy and the expenses on the lot account are not paid when they are due, then you will enforce that through the local court and see what, see if there is any defense.

Reena Van Aalst: We'll see how it goes. I will keep you posted Amanda to see what happens with that. I haven't had it yet so that was at the end of January I think.

Amanda Farmer: Very Interesting. Okay the win I would like to share this week, this comes from a strata manager who emailed me, and it started out as a challenge, but I am reframing this Reena as a win.

The challenge was around strata managers being able to effectively manage client expectations. And this strata manager had said to me, "Amanda this is one thing that I struggle with, that I see my colleagues struggle with. How do we set the expectations of our clients? How do we manage them when sometimes those expectations are unreasonable, or we simply can't meet them?"

And I am framing this as a win this week, because I know there are strata managers out there who are successfully managing their client expectations and I know one of those strata managers and that is you Reena van Aalst.

I see you very often, whether I am attending meetings or whether we are working together, one way or another communicating with your clients and doing just that, managing their expectations. And I was going to ask you, if you don't mind me putting you on the spot, how you do that and what is this special skill? How do you set expectations as a strata manager? How do you make sure that clients aren't unreasonable, that they know what it is that you are there to provide and therefore avoiding that disappointment, I guess, when unreasonable expectations are not met?

Reena Van Aalst: I think the first thing I think with any sort of relationship is to sort of set up from the beginning Amanda, what your company policy is, and that should be clearly articulated from the beginning so people know there is a time frame in which you respond to emails and telephone calls in the first instance. Then at least they know, okay, well, that is being met as a minimum.

Then the other thing I try and do also is, when there is something that is urgent for a client, you just really got to drop everything and attend to it, and I find that you know in a sense, even a quick text can help, or a quick email, even if you can't get to it straight away. I know most people think that, you know I got so many emails and that is true but that is why you need to have good support systems within your office, so that you know if you are unable as a manager because you got other urgent matters to attend to, or other meetings and all of us are always in meetings both day and night. If there is someone else that is there to assist the manager, when they are not around so they can actually write back to the client or deal with an urgent matter.

The other thing I am always try to instill in people that I have worked with, at a support level especially, is that when you issue a work order for example or quote request, whether it is for a professional person or a contractor, you know send the email and then send a copy to the strata committee.

When you accept the quote, send the copy to the contractor and then send it to the strata committee. And then that will reduce so much email traffic, because people actually then know that you have already done what they have asked you to do, they don't have to say "Reena have you done this or have you done that?" They know it's being done.

So that is one way I think of trying to meet client expectations. Half the time the clients don't really know what you are doing for them in the background, and it is funny, I think Amanda you and I can share this story about a mutual client of ours and colleague,

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who still is a lot owner and dealt with me when I was his strata manager, but now he has become a strata manager and he understands on the other side the amount of work that is done behind the scenes.

Reena Van Aalst: And so people really sometimes don't understand what you are doing and so part of that is sort of communicate that and then people can understand.

One thing I do find is that everyone thinks that their issue is the most important, and that sometimes I think is to do with personality types and I think, what I have done also with certain people that are unreasonable Amanda, because there are unreasonable people in the world, which is part of life.

You sit down in the beginning, I had someone today send an email, he rang yesterday. I even remember the time, it was 12:45 because we had the email come through from our receptionist, 12:45 and I wasn't in the office and my colleague wasn't able to return the call until 4:59 pm, when she left a message on that person's voicemail and the next day, today, I get this large email, this and that and the person describing themselves as being unreasonable anyway and wanting immediate attention, which is part of the personality of who I am referring to but, I just write back "You called this time, I responded this time, I'll ring you back later on this afternoon."

And that was it, I thought not going to because sometimes as a manager you got to just set down perimeters and demarcate you know what is urgent, and what is not urgent because sometimes there are times you got to drop everything and attend to something and sometimes it can wait. Sometimes if you always responding quickly all the time, I think people start to also assume that expectation so I think, it's just, it's one of those things like juggling so many balls in the air it just becomes, I think using resources more effectively in your office trying to ensure that as a manager that people do have another person that can step in. I know a lot of offices don't have that because of the way that they're structured and how they, how managers are remunerated and how, what fees they charging, but I think certain things do go a long way in trying to assist the manager, to try and deal with the client expectations and I think people just like communications. I think people don't really like those emails where it says you know, "Like we got you." Those automatic ones, I find after a while, they just start to annoy me.

Amanda Farmer: Yes, yes, I think just to that point about communications I know with those auto responses, what I suppose the companies are trying to do is educate the client to not expect their reply in 5 minutes and you know I have a lot of emails and I will get to it or I am in a meeting or whatever it is.

Reena Van Aalst: I don't mind those ones when you are in a meeting, the ones I am talking about Amanda is, "We will respond to you in 3 business days." It's like a standard that you get with every email you send.

Not like when you out of the office, it's just an every email you send, you can get that first thing back.

Amanda Farmer: Yes, it is definitely one way, and it is not everybody's way. I know with my clients, I attempt to set the boundaries and set the expectations early and one of those is, I am not always available to speak on the phone because I might be in court or I might be in a meeting or I am recording podcasts or maybe I am parenting. Whatever it is, I am less likely to be found on the phone, then I am on email or on SMS.

So what I do on the voicemail on my mobile telephone, and I get lots of calls through to my mobiles because I have to share that number far and wide, my voicemail says, "I would prefer it if you don't leave a voice message, you will get a faster response from me if you send me a SMS or an email." And that means that whether I am standing in the middle of the park with my little boy or I am walking out of a meeting or I have got a break between Tribunal appearances I can send you a quick SMS in reply to say I got that, and this is what you should do next or I have got that and I will ring you at 5:00, when I am done.

But it is otherwise difficult for me to answer the phone and speak so I have found that over time my clients, whether they are new clients or long term clients because that has been their first encounter with me, they then start texting me and they start sending me emails and they realise that Amanda actually responds faster if we text her or email her and it's wonderful because that is how I

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like to communicate and my clients then have a realistic expectation about those communications.

Reena Van Aalst: Yes. No, that is a very good suggestion Amanda, I think sometimes too, there are demographics that come into play, for certain people that are a little bit older, they don't know how to text or they like to ring, because that's just their preferred method of communication, that is how they have always communicated and I suppose in a sense it is just trying to manage different types of people's communications styles and then try and make it fit in with what you are doing. Even if I get a message and I can't ring them back, I know they don't have a mobile, I will just ask someone to say can you just call them back and tell them I will ring them back later Amanda.

Amanda Farmer: Exactly, yes. And that's where your team comes in to be able to help you return calls.

Reena Van Aalst: And I think people don't mind as long as people know that you not ignoring them, not that you ever were but -

Amanda Farmer: Yes.

Reena Van Aalst: You will say that, "Yes. Reena is on to that." She, or someone else in the office will, can deal with that.

Amanda Farmer: And sometimes that's what it is, an email that says, "I am not ignoring you, but I have been in conference for 2 days, I have been presenting at an event, I have got your email, I am not ignoring you, I am going to look at this." And I do that often.

Often that I just send that one line "I am working on it, I am looking at it, you can expect this the next day." And anyone who is listening who has worked with me will be able to, that will sound familiar to you because -

Reena Van Aalst: Yes.

Amanda Farmer: And it is so helpful, it gets it off your shoulders that burden of, oh my gosh have to do that or I have to get back to that person.

Reena Van Aalst: Yes exactly Amanda.

Amanda Farmer: And that person then knows, that's okay they don't need it done, they just need to know you haven't forgotten about it and they are not being ignored.

Reena Van Aalst: Yes, or that it is in progress. Exactly. So thanks Amanda

Amanda Farmer: No I am so glad that I raised that topic and thank you to that strata manager for reaching out with it.

Always important to share, I think what we are doing and our respective professions and to be able to share those actionable tips I hope, with our listeners, whether you are a manager or an owner whose juggling your own burdens, or committee member helpful for all I think.

Reena Van Aalst: Exactly.

Amanda Farmer: All right. I think that is it for this week Reena. Thank you so much as always.

Reena Van Aalst: Thank you Amanda. See you next time.

Amanda Farmer: Catch you next time.

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Reena Van Aalst: Bye.

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