

**Publication Date: 14 February 2017**  
**YSP Podcast Transcript: Episode 048. In Conversation with Reena Van Aalst –**  
**Overly Eager Agents and Extended By-law Registration Periods**

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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](http://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.

**Amanda Farmer:** How are you?

**Reena Van Aalst:** Good. How are you?

I am excellent. Now, if anybody is new to the show, a few weeks ago, Reena and I started a new episode format. Episode 046 was our first go at this. It is Reena and Amanda in conversation. Having a friendly chat about our week in strata, what our frustrations had been, what our wins have been and we are hoping that this is something that is helpful to you as strata managers, strata owners, and committee members.

Hearing from two relatively experienced professionals; what our bumps in the road had been dealing with the world of strata and where we have had our wins and how you might be able to have some too. So, Reena how's your week in strata been?

The day I spoke to you, Amanda is actually gotten quite busier now.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** Because it's back to school, back to work so it's usually pretty busy actually. I'm quite enjoying but just trying to get used to being busy again after having a good break over Christmas.

**Amanda Farmer:** I know. It's sort of feels like a bit of slap in the face. You sort of wake up and think, 'yep, Okay. Got to work now. It's going to February. Time to actually get the wheels in motion'.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** I am really excited about a project I'm working on at the moment. As you know we have our Women in Strata group which you are a member of the steering committee and Queensland is about to launch its own branch of Women in Strata. And I know by the time this goes to air that will all be live and I'm really excited about that. So that's what I've been working on this week.

**Reena Van Aalst:** Oh, it's fantastic.

**Amanda Farmer:** Yes. Yes, lovely bunch of ladies up there who are very keen on promoting the position of women particularly in strata management and making sure they get up there to those high levels where they should be and it's going to be great things happening up there this year in 2017.

**Reena Van Aalst:** That's wonderful. Looking forward in hearing more about it, Amanda.

**Amanda Farmer:** Yes. Definitely. Alright, well, let's get stuck into it. Reena, what has been frustrating you this week? Lay it on the table.



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**Reena Van Aalst:** Well, what's been happening in the last few weeks actually, Amanda is that a lot of clients that has been coming to me for pre-proposals and in relation to strata management for their scheme.

They've been telling me that a lot of managers are putting pressure on them now to sign up new agency agreements because of the change in legislation.

So, a lot of them are actually calling AGMs without actually having any authority to do so from the committee and submitting agency agreements that haven't even been shown to the committee members beforehand. And so this whole thing of having agreements in by 30th of May has been I think the catalyst for this type of behaviour by some agents.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** So that's been a very common thing that people had been coming to me about it in the last few weeks.

**Amanda Farmer:** Yes, if I can just put some flesh on that for our listeners who might not be familiar with that part of the new law.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** The new law does say that if you are on a month to month or a rolled over strata management agreement, that agreement will automatically end within 6 months of the new law coming into effect. So new law came into effect here in 30th of November 2016.

So a lot of those agreements are coming to an end the 30th of May 2017. Sounds like some strata managers maybe are being a bit opportunistic there and jumping in and putting some pressure on their buildings to sign up no doubt for year agreements.

**Reena Van Aalst:** Yes and I think also another point that has come up too, Amanda the fact that they haven't really asked about the duration of the agency agreements.

So I think the maximum now as we know is 3 years and some of them are after in the maximum. So think again it's really important for managers listening to this podcast that in a sense, your agency agreement is an instrument by which you are engaged and you need to be very careful how you approach that.

Because if you seem you are coming across in a very forceful way without giving any sort of consideration to perhaps the fact that they might want to read the agreement and they want to put some KPIs in. A lot of the schemes that I'm managing we are discussing you know KPIs or Key Performance Indicators in terms of service requirements.

And at least then I think both parties can work towards an agreement that is mutually beneficial and not sort of weight one or there are KPIs that just can't be met.

So you need to sort of work together. I think the pressure is being put on by the principles of strata management companies because again in terms of what your business is worth it's based on the fixed term agreements.

**Amanda Farmer:** And it's a good point. It's helpful to the incumbent strata manager who is assisting the committee to negotiate that new agreement to bear in mind that just because the committees out there getting other quotes and talking to other managers it doesn't mean that they are not going to stay with you.

And that should be in front of your mind I think for managers to say, yes, there's competition out there but I have a long-standing relationship with this particular building.

And I need to show them why that's important, why that matters and what value I can continue to add, what are those other



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competitors in the market offering that perhaps I'm not, where can we improve our service. And it's not unusual for buildings that go out to tender strata management services to stay with their current manager.

**Reena Van Aalst:** Yes, that's been my experience historically, Amanda. If the manager has provided exceptional and you know high-quality service.

I think that the only point I would add in terms of schemes getting new quotes is that for a lot of companies where agency agreements were executed and signed many years ago and had been rolling over. Not necessarily just on a month to month basis or a period of number of years based on the older contracts that I assume had which is the form of a SCA where there's a 5% increase in the escalation of the base management fee.

And that 5%, so basically any scheme you've had 15 years if you have a 5% increase per annum that would mean that the management fee would have doubled in that time.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** So therefore what has happened in some cases for some strata management companies is that the fee has become way out of the market. It's like compound interest.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** It's 5% on a new higher base going forward.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** And I think that's some managers are a bit worried about their clients going out to get other quotes not because they don't know that their services is been great but sometimes you can pry yourself out of the market inadvertently by not keeping an eye on these types of things.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** So, again, as a manager, I would recommend that people look at their agency agreements moving forward.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** Using CPI or 2% or 3%, something that's more palatable and keeps the management fees in check.

**Amanda Farmer:** And is that what you are seeing when you have buildings approaching you to issue a fee proposal that their concern is cost or?

**Reena Van Aalst:** mainly the first thing has been lack of service.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** So people always come to me and I think therefore whether you are paying whether it's a lot of money or little bit of money- there's no value for money. I think that the main problem I think that I'm getting is that people are just sick and tired of getting poor service.

Another person that spoke to me last week said that you know, 'I have had 3 managers in 6 months' and there's a high turnover of and the latest manager you know was trying her best but again she didn't have any experience, which is probably the case.

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**Amanda Farmer:** Yes.

**Reena Van Aalst:** And therefore, this is something that a lot of strata management companies face and when my previous employment when I was GM at Dynamic you know just trying to get good quality strata managers is a really hard thing to achieve in the marketplace at the moment. So there's a big shortage of managers.

**Amanda Farmer:** I know Karen Stiles from the OCN was trying to hit up the law society to encourage new law graduates to look at strata management as a very good career and I said to her that's a fabulous idea go for it because there are a lot of law graduates just coming up there are less and less jobs in the law with a lot of firms downsizing and a lot of processes becoming and more automated and more systemized.

And for a new graduate strata management is actually I think more lucrative if you are looking at the financial side than coming out and getting a law job let me tell you and I think all those skills.

**Reena Van Aalst:** I had actually a strata manager when she was a lawyer before she become a strata manager so.

**Amanda Farmer:** Right.

**Reena Van Aalst:** Some people had made the change. I think also what I was doing when I was working at Dynamic was in terms of our property assistance and even now in my current company I'm using a pool of universities to obtain people who are graduates unfortunately that can't find work in their current field like accounting is another big one.

There's an oversupply of accountants and their attention to detail I think also makes them good candidates for good strata managers. I mean, some people that I know have been promoted into management roles from being a property assistant having that previous university degree of some sort.

**Amanda Farmer:** Yes, something that I think the strata sector has some work to do in promoting itself and good jobs for strata managers.

**Reena Van Aalst:** I agree. Yes, basically what I advise them to do was not to panic or worry that the committee could actually extend the appointment of the managing agent for specific periods of up to 3 months after the term otherwise expired.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** But not passed the AGM. So this allows the owners corporation and the committee to obtain other proposals if they wish to.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** And then if they decide not to reappoint their agent they need to give them at least 1 month of that decision so at least it's giving both parties time to prepare for the upcoming decision.

**Amanda Farmer:** Yes and I think that's a great inclusion in the new law that the committee can basically have that statutory option we would call it as lawyers to increase the term incrementally but certainly not pass the annual general meeting so keep your eye on those dates.

**Reena Van Aalst:** The other thing, Amanda that another one of my clients mentioned to me was that the strata manager was trying to push up the AGM date this year in order to extend their appointment.

So, again, just be careful lot owners out there that if you're managing agents are trying to do that they shouldn't be doing that they

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should really– now that the Act says you have to hold your AGM once in a financial year there's no stipulation of a date.

**Amanda Farmer:** Yes, that's right. So I suppose technically that's legal considering whether it's ethical or moral.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Alright, let me tell you a little bit about a kind of frustration from my part this week. I have just recently discovered that the LPI Land and Property Information here in New South Wales just before I think it was the day before the new legislation came in issued a direction on their website that related to the registration of by-laws.

Now, under the old law, you have 2 years to register a by-law with the LPI. 2 years from the date of the meeting where it was especially resolved so a nice long period.

Under the new law that period has been retracted all the way back to 6 months. So under the new law you resolve your by-law especially resolve your by-law in a general meeting and then you have 6 months to get it registered. So generally, strata managers are going to be moving pretty quickly to get those across to agents and we do registrations ourselves and everybody has to be aware of that short time frame.

Now, on my reading of the legislation that applied to by-laws had been resolved prior to the 30th of November. So if you have a meeting on the 20th of November and a by-law was passed the 6 month period applied to get it registered and that's what we have been advising our strata managers and our clients.

I then find out only recently that the LPI has issued a direction which says if your by-law was resolved under the old law; so pre 30th of November your 2 year period still applies and this has caused a little bit of confusion amongst strata managers who had been told different things by different lawyers.

But I'm here today to clarify that. Definitely, if your by-law was resolved pre-30th of November the 2 year period applies and I will put a link in the show notes to that direction from the LPI that sets that out. Now, Reena was I in the dark? Are you aware of this?

**Reena Van Aalst:** No because I recall when I was still working at Dynamic that we are rushing to have all our by-laws–

**Amanda Farmer:** Yes.

**Reena Van Aalst:** Registered before that 6 month time that we are now passed, and I know that one of them we thought had already lapsed.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** It was actually passed in 2015 December. And We thought that we were stuck. It's good news.

**Amanda Farmer:** Well, yes it's good news for those who thought they might have missed out and we're thinking we have to call a new meeting to resolve the by-law again. But it's a little bit frustrating only that it wasn't expressed in the legislation so generally, where legislation is not retrospective.

So for example, if the legislation doesn't apply to things that happen before a certain date it says that in the legislation and I've read it, my colleagues have read it specific to this issue and we can't find where it says that in the act or the regs or the regulations. It has only come out in a direction from the LPI which we had to scrounge about and find, once a fellow lawyer pointed it out to us. It's frustrating.

**Reena Van Aalst:** Very frustrating.



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**Amanda Farmer:** But I think we are back on track and I'm trying to get that message out certainly to all of my clients and those who are receiving my content.

Okay, so my win for the week that I would like to share with you. I have a building that has been in the throes of building defects, defects, litigation, the defects as usual centered around water penetration, lot owners becoming disgruntled because their problem has not been fixed fast enough or to the standard that they've required it.

Basically, this building has been going through this process of trying to get defects rectified for about 4 years and just this week they held a general meeting, put forward their preferred contractor and their preferred scope of work and finally have their project approved.

And this came after a piece of litigation that was brought against by a lot owner in the Tribunal and this particular lot owner was alleging that the owners corporation had not properly maintained and repaired the common property simply because the process of rectification was taking such a long time and in the opinion of this lot owner the proposal that was put forward to deal with the issues was not to his particular standard.

I raise this as a win because in the phase of all that adversity this committee and committee members did change from time to time. This committee was able to source quotes, get expert reports, hold information evenings, keep the lines of communication open by issuing email circulars, plenty of email communication to lot owners.

And they developed over this time a lot of trust from their fellow lot owners. And that all really came to fruition at this recent general meeting where they just put the motion forward. Owners look at it they said 'yes, we can see that you guys have done the work, yes it's taking a long time but we trust you. You've got the experts' opinion we trust that you're preferred contractor and preferred quote is what's best for us. And the motion was resoundingly approved and let me say this, it was approved by the disgruntled lot owner as well who had commenced the litigation.

So my congratulations to that particular committee and I want to recognise the committees that are out there doing very similar work- recognise that it is a long, hard process and you might be 3 or 4 years into it and you're still not seeing this light but keep it up. Because you will get there and you will have those problems fixed for your lot owners and be adding value to your building. It is all worth it.

**Reena Van Aalst:** Yes. It's very tedious process, Amanda trying to get quotations and I remember when I was managing some defects trying to get quotes you know from engineers then having meetings to discuss the quotes making sure that there were apples for apples.

And then once you appointed an engineer or a consultant and they go out to tender with their scope. Then those scopes have to be assessed, money might have to be raised. So it's quite of a protracted process in terms of fixing defects and I think that sometimes people have other agendas. In this case, the disgruntled lot owner suffering the loss of rent for their apartment or.

**Amanda Farmer:** Yes.

**Reena Van Aalst:** Unfortunately, these things take time and you really can't rush them if you want to ensure that you've exhausted all avenues and investigation and you know, raise the money and then proceeding with the work and all the distraction that comes with that as well.

**Amanda Farmer:** Yes. Absolutely and the committees that I see go through that process successfully are the ones- and I know I harp on about this- but they are the ones who keep the lines of communication open.

**Reena Van Aalst:** Yes.



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**Amanda Farmer:** They tell their lot owners, tenants and you know we shouldn't forget about the tenants they are the ones who are making the claims when their carpet is wet and they are the ones who have to move out.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Letting them know hey we are working on this. We are not just kicking back and fixing the little things. We are looking at the bigger picture but it does take time. This is what we've done this month. This is what we are doing next month and that's all owners and tenants need to feel comfortable that the project is heading in the right direction and I see so much upset come from misunderstanding of what the committees are doing.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** And the committees not working in their best interest well in fact if the committee did a better job at communicating and it's so easy this days. If you've got a website, fabulous for the building but just emails, group emails. Keep everybody up to date on how it's going and you'll avoid all of that heartache.

**Reena Van Aalst:** Yes. I think, Amanda you are absolutely right there. Communication is the key and if perhaps there are issuing monthly updates then you know perhaps that it will be less chance of anyone trying to make issue but yes communication is the key.

**Amanda Farmer:** Yes. Awesome. Okay, so anything else to add from the week, Reena?

**Reena Van Aalst:** No, it's pretty easy but no all good.

**Amanda Farmer:** Busy. Keeping your head above water.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Amazing to think that it's already February and–

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Another year is passing us by.

**Reena Van Aalst:** Exactly.

**Amanda Farmer:** Alright so I invite all of our listeners please do let us know what you think of this kind of format. Go back and have a listen to Episode 046 if you haven't already and that was the first. Reena and Amanda in conversation.

We are hoping to do this a couple of times each month. Something a bit different to my usual format and we really hope that you feel you are getting a behind the scenes look at the everyday workings of strata land from a very experienced strata manager. Reena's new company is Strata Central and a strata lawyer as well. And let us know what you want us to talk about, what are

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your questions, what's your frustration at the moment, have you got a win that you want us to acknowledge let us know. My email [amanda@yourstrataproperty.com.au](mailto:amanda@yourstrataproperty.com.au) or pop your comment in below this episode at <https://www.yourstrataproperty.com.au/listen-to-podcasts/>. Catch you next time, Reena.

**Reena Van Aalst:** Thank you, Amanda. See you later.

**Amanda Farmer:** Bye.

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