

Publication Date: 17 March 2016

YSP Podcast Transcript: Episode 003. 6 tips for dealing with criminals in strata properties

Listen to this podcast episode [here](#).

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 this is Your Strata Property. Today, I want to talk about living with criminals in your strata scheme or, more specifically, how we might get rid of criminals from your strata scheme.

I want to start by defining what I mean when I talk about criminals in strata. This is a resident, maybe an owner, maybe a tenant, and it's not just someone who's breaking the law by breaching the by-laws. It's someone who engages in some pretty serious, anti-social and illegal behavior. I'm thinking of things like drug dealing, property damage, theft. These are people who might be out on bail, they might be under police surveillance, they might be known in the community for their criminal activities, and certainly people who are known to police.

Now, this was quite a hot topic when I spent some time last year delivering workshops to strata managers across Sydney, and the topic of the workshop was "How to deal with difficult residents" and in the workshop, we covered six different types of difficult resident. Now, the criminal was just one of those six and if you are interested in finding out more about the other five, I will put the link to my article on this topic in the show notes. It's an article that Jimmy Thomson, writing for The Sydney Morning Herald in his column Flat Chat, recently quoted and I'll include a link to Jimmy's article in the show notes as well if you want to check that one out.

So why were criminals such a hot topic in my workshop? I think it's because of the serious consequences of having an active criminal living in your building. First and most seriously, these people often engage in threatening behavior – physical threats, verbal threats, intimidation, the intimidation of other residents, the intimidation of committee members, your building manager, security guards, trades people visiting the property and your strata manager. In my experience dealing with buildings that have these types of residents living in their communities, I've seen building managers resign, basically walk away from their contracts, strata managers resign and owners and investors sell up and move on. That's the impact that these kind of people have on our communities. They create a dysfunctional community, they eliminate the joy that comes from living in and maintaining your own home. They affect the value of your investment. Where they're engaging in things like property damage, they're affecting your insurance premiums. I've seen insurance premiums sky-rocket when there are recurrent incidents of property damage in a building that is very clearly contributed to one resident. Things like smashed mirrors in lifts, graffiti on walls, smashed security cameras – to put it quite bluntly, insurers don't like that kind of thing and they certainly don't like paying for it when, from their point of view, it's something an owners cooperation should take responsibility for. Of course, the owners cooperation takes a very different view.

So the consequences of having a criminal living in your strata building are significant and serious and that's why I want to offer you six tips, drawn from my own experience as a lawyer advising buildings, advising committees and strata managers in some very volatile situations. So let's get into it.

Tip number one: involve the police. If you feel harassed, threatened, or intimidated, the first place you should be going is to the police. Always take threats to your physical safety seriously, and the same goes for threats to anyone else's physical safety. If you are a committee member, and you know that there is somebody living in this building who is harassing, threatening, or intimidating other residents, then from my point of view, you have an obligation as a committee member to do something about that. That means ringing the police, making a report, providing a statement, and to the extent you have any evidence, providing that evidence. And with the technology available these days at our fingertips with our smartphones, it's not hard to gather that evidence. I'm talking about photos of bad behavior, videos of bad behavior. It helps the police immensely if you are able to give them a detailed documentary record of the incident that you are reporting and remember to instruct your building manager, if you have one, to be doing the same: keeping a detailed record of any incident involving threats to the physical safety of residents in your building.



Publication Date: 17 March 2016

YSP Podcast Transcript: Episode 003. 6 tips for dealing with criminals in strata properties

Now, this is something I completely accept is very scary to do. Going to the police and making a statement about someone who could be your neighbor, who is a known criminal, who is known to police and may well be known to have committed some violent offences. It's very scary and difficult to give your name, your address, and provide evidence against this person, and this is a really a key point that I want come back to at the end of this episode, and I'm going to talk about why I think it's important to garner the support of your fellow residents when you are dealing with these people. I believe there is safety, and there is power, in numbers.

Okay, so that was tip one. Involve the police. It might seem obvious, but it is often the very first piece of advice that I'm giving when I'm telephoned by a committee member or a strata manager complaining about this kind of behavior. Have you called the police? If you haven't, do it now.

Tip number 2: Don't forget to go through the usual enforcement procedures. Where these people are damaging the common property, they are breaching the by-laws. Why should they be treated any differently to any other resident who breaches the by-laws? Why shouldn't they get a notice from the strata manager requiring their compliance with the by-laws? Why shouldn't they be served with an application for an order of the adjudicator? Why shouldn't tribunal proceedings be commenced against them? These are all of your usual enforcement procedures, and all too often I see buildings that forget to engage in these procedures when they are dealing with criminals. And from my point of view, there is no reason not to be taking these steps. In fact, I believe it's vital to be taking these steps if you want to change the status quo, if you want to have an impact on this person. You might think that if they receive a by-law breach notice in their letterbox, they tear it up. When that notice is ignored and it progresses to a tribunal application and a fine from the tribunal, maybe the attitude will be different, maybe it will be the same. But taking these steps is certainly better than doing nothing. In fact in my view, an executive committee has an obligation to be taking these steps to be enforcing the by-laws, to be doing whatever it can, whatever is in its power to protect the building's residents. And I think a committee that doesn't take these steps or instructs its strata manager not to take these steps, is exposing itself to liability, maybe personal liability that's not going to be covered by your office bearer's insurance policy. When you are taking the usual enforcement steps, the other thing you're doing is recording that fact in the minutes of committee meetings, in the minutes of general meetings.

And this takes me on to tip number three, which is to publicize the bad behavior. I believe that publicity is a criminal's worst nightmare. I think criminals are nothing less than bullies, and bullies thrive on fear: other's people's fear. When people are afraid, they stay silent. Brave people don't stay silent. It doesn't mean they are not afraid, it just means that they are brave. They report bullies, they report criminals, they report bad behavior and they publicize it. In the case of a strata scheme, that means recording in the minutes of your committee meetings that this person has breached the by-laws and what exactly it is they've done. That this person has damaged common property and the cost that has incurred for the owners corporation. The insurance excess that has to be paid, the potential increase in the insurance premiums. What you're doing by publicizing the bad behavior is gathering support. You are letting other residents know that this is happening and who's doing it, and as long as you are only relaying the truth, in order to ensure the safety and security of residents, there's nothing wrong with naming this person. You are letting investors who don't live in the building know what's happening. They have the right to know, and the minutes of meetings is the perfect place to expose this person for who they really they are: a perpetrator and a bully.

Now I understand there is very likely to be concerns about retribution. If a committee publishes in their minutes the steps that they are taking to deal with a criminal, that committee is going to be concerned for its members' personal safety. A strata manager might be concerned for their own personal safety, where they are asked to carry out instructions from their committee that this criminal doesn't like, and I have to come to know a number of strata managers who are in that position. What do they do? Well, there are ways to protect identities. That can be by communicating through a third party. It's possible to make an anonymous complaint to police. It's possible to engage a lawyer who can communicate on behalf of the strata manager or the owners cooperation and not disclose who it is that's giving them instructions. Whatever it is that you have to do to ensure that you feel safe and you feel that your family is safe, do it. Instruct your strata manager to communicate on your behalf. If your strata manager won't do it, see if your strata manager has some recommendations for professionals who can conduct that communication for you.

Tip number four: increase security. Now, many buildings these days have professional security guards on site twenty-four seven. And I have come to learn over my time dealing with colorful characters in buildings that there are different levels of security. Your basic level being a security guard that might open and close the gate for you, open and close the front doors, say good morning

Publication Date: 17 March 2016

YSP Podcast Transcript: Episode 003. 6 tips for dealing with criminals in strata properties

and good night, and will let you in when you've left your swipe card in the office. That's not the kind of security that you need when you've got criminals in your community. You want the tough guys, you want the guys who are ex-police, ex-military.

There are companies out there that provide that level of service. I've seen buildings engage high-level security on a short term contract to send a message to these criminals and these bullies that if this is how you want to behave in our community, then this is what we've got for you. Not only are you protecting your residents, but you're also getting experienced professionals into your community who can do an audit for you. They can and will tell you where your current security is falling down. They'll tell you the mistakes that you're current security service is making, that your building management is making. They'll tell you what doors are being left open and allowing the associates of criminals to enter your building. They'll tell you when you've got lifts that are accessing all floors instead of only accessing the floor that a resident lives on. They'll tell you when you've got swipe cards in use that shouldn't be. This is all really valuable information when you are trying to make your community a safer place to live. Get the tough guys on the job and get them to do an audit for you.

Tip number five: get help. Don't think this is something that you have to deal with alone or that you can deal with it successfully alone. Certainly involve your strata manager, certainly involve building management. Remind them that you want regular reports. You want to know what's going on the building. You don't always know what building management sees and hears and sometimes they forget to tell you. They need to be prompted. I've mentioned security and I've also mentioned police. Lawyers can also help you, not just with correspondence and with communicating with the police, but practical things like attending meetings, chairing meetings. I've certainly done a few of those for chairpersons and strata managers who have been so harassed that they simply aren't confident enough, that they simply don't feel safe enough, attending meetings. The meeting can be held at the lawyer's office and preferably in a room where there are security cameras. I certainly have security cameras in my office, and it's amazing the change in behavior when you are sitting around the table with a bunch of bullies and you point out the security cameras in the room. Suddenly they all become alter boys. The security camera is a valuable tool.

And the final tip: engage your fellow residents. I touched on this in tip one. Standing up to a bully is a scary thing to do on your own, especially when they are a known criminal, I accept that. But there is safety and there is success in numbers. I believe that the key element in deterring criminals and other perpetrators from misbehaving in a strata scheme, is that as many as possible of the residents stand united against the perpetrator. Make the community a difficult place for the perpetrator to live, and they will soon move on. That house two blocks away is looking like a much more peaceful option than this strata scheme where the police are constantly knocking on my door, where I get letters in the mail, fines from tribunal, my name plastered across the minutes, and the tough ex-military security guards checking on me. That criminal is thinking 'why do I want to stay here?' and that's when you've succeeded.

So those are my six tips. As you've heard, I believe there are means available to effectively deal with criminals living in strata schemes. There are legal processes, but there are also a few practical common sense measures where you've got clear communication, consistent approaches to enforcement, and the confident assertion of rights and obligations. I believe that a committed strata manager, a committed executive committee, with the support of other residents and appropriate advisers, can effectively deal with criminals in their strata scheme.

So I'm interested in hearing about how you deal with these types of characters in your building day to day. Do you have criminals living in your community? How are you dealing with them? Share your comments, let us know about your successes or ask for some guidance. I look forward from hearing from you.

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 by the show notes at www.yourstrataproperty.com.au. You can also ask questions in the comment section which Amanda will answer in her upcoming episodes. How can Amanda help you today?



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