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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.

Amanda Farmer: Hello and welcome to this special edition of the podcast. I am Amanda Farmer and yes, this episode is coming to you outside of our usual podcast publication schedule. I am recording this over the weekend of the 14th and 15th of March in 2020. If your inbox is anything like mine at the moment, it is overflowing with very serious messages about how businesses are responding to the coronavirus. You have probably been told about 14 times now that your well being is everyone's priority, from your accountant to your dog walker to your school principal. I want to assure you straight up that this is not one of those messages. As far as we're all aware so far, this virus cannot be transmitted via audio or over the internet, so I haven't happily had to send out any of those messages, thank goodness.

However, the questions have been coming through on email, thick and fast, as well as among my membership community, about how strata buildings, how body corporates, should be managing this fast changing situation, especially when it comes to convening meetings which for some buildings, depending on the time of the year, may be mandatory because you've got requirements to hold annual general meetings within a particular time period and you can see that date looming.

Now, there will be no scare mongering... Say that again. Now, there will be no scaremongering on this podcast episode. You long time listeners out there will know that is not my style. What I do plan to do is summarise the law for you, specifically the New South Wales law, when it comes to the convening of our meetings, both general meetings and committee meetings, to help you determine if meetings in person are actually legally required for your building or for your committee during this time.

Now, I am going to be pretty strict about keeping this discussion to the law of meetings because there is so much else that I could attempt to cover. But at the end of the day I am a lawyer, a strata lawyer, I am not a doctor, so I'm not going to talk about coughing, sneezing, spit, hand sanitiser, whether we should shake hands or tap elbows. Apparently the tapping elbows thing is a thing now. Can I just say, I'm not sure it's a good idea if we're all sneezing into our elbows? Just saying, have a think about it. Finally, I am not going to talk about toilet paper, so if that's what you're tuning in for, having seen the episode title and noting that this is a special edition, then you are destined to be disappointed. So you're welcome to tune out unless you are here to learn about strata meetings and whether we need to be holding those meetings in person during this time.

Now, having said all of that, I do recognise that this podcast is a platform for the dissemination of information. It is being listened to by many, it is being shared far and wide, so I will say this, at the time of recording, which I have said is the weekend of the 14th and 15th of March, 2020, the World Health Organisation (WHO) advice is that if you are not in an area where the coronavirus is spreading, or you have not traveled from an area where the coronavirus is spreading, or you have not been in contact with an infected patient, your risk of infection is low. You should get the facts from reliable sources to help you accurately determine your risks so that you can take reasonable precautions. You should seek guidance from the World Health Organisation, your healthcare provider, your national public health authority, to find out whether the coronavirus is circulating where you live.

My recommendation is that you please check out for yourself the current World Health Organisation Situation Report. These reports are published, updated each day. I will put a link to the Situation Reports in the show notes for this episode over at yourstrataproperty.com.au/podcasts. As for the Australian government in particular, at the time of recording, the advice is that in Australia, the people most at risk of getting the virus are those who have recently been in a high-risk country or region, and those who have been in close contact with someone who has a confirmed case of coronavirus. Stay tuned to health.gov.au for updates from the Australian government. Again, I will put a link to that particular page in the show notes for this episode.

Enough of that, back to strata. Does our strata law require us to hold meetings in person and is there a way that we can avoid meeting in person during this time when some of us might be concerned about reducing our risk of infection or reducing the spread

of infection generally? Now, I'm going to speak directly to the New South Wales law. I am aware that there are similar provisions in our other states, but do check in with your strata manager or a strata lawyer qualified to give advice in those other states specific to this issue.

Now, I'm going to talk about general meetings as well as committee meetings. When I say general meetings, I mean annual general meetings as well as other general meetings. We used to call them extraordinary general meetings in New South Wales, we now just call them general meetings as opposed to annual general meetings. I'll talk about those general meetings first and then move on to committee meetings. Clause 28 in Schedule 1 of our Strata Schemes Management Act says that a vote at a meeting must be cast in person unless the owners' corporation has passed a resolution at a general meeting determining that a vote may be cast by some other specified means.

That is question number one strata buildings that you should be asking yourselves, have we passed a resolution at a general meeting determining that a vote may be cast by some means other than in person?

Some of you may know this simply because you remember the meeting at which that resolution was passed. It wouldn't have been that long ago. This requirement only came in with our new legislation which started on the 30th of November, 2016. So sometime between the 30th of November, 2016 and now, have you passed a resolution at a general meeting that allows people to vote otherwise than in person.

If you have, then what are those other means of voting? To answer that question, you want to look at Regulation 14 in the Strata Schemes Management Regulation In New South Wales which tells us that an owners corporation may, by resolution, that's a resolution at a general meeting, adopt any of the following means of voting, and it lists those means of voting, voting by teleconference, video conferencing, email or other electronic means, either during the meeting or before the meeting. If this voting is happening before the meeting then it is called pre-meeting electronic voting.

Now, these other electronic means can include accessing a voting website and voting in accordance with the directions contained on that website. So, have you passed a resolution at a general meeting permitting you to vote other than in person? If you have, did that resolution specify the means of voting? Did it say you could vote by teleconference, video conference, email or some other electronic means? I expect that it probably did. I've seen a few of these resolutions and they're generally drafted to include all of the options that are set out in Regulation 14, including the option for pre-meeting electronic voting. If you are taking up that option of pre-meeting electronic voting, you do need to be careful to comply with other provisions in the regulation when it comes to the notice of the meeting, and informing owners in that notice that pre-meeting electronic voting is taking place, and it does have an impact on the way that motions will be dealt with in the meeting. You'll see that set out in Regulation 14 and I'll put a link to that regulation in the show notes for this episode.

That's the legislation you need to be aware of if you are dealing with general meetings other than in person. If you have a strata manager, your first port of call when trying to answer this question is absolutely your strata manager. They should be able to give you this information, whether or not you've passed this resolution, what the approved means of voting are. If you're a strata manager listening to this episode, be prepared for these questions and make sure that you are across the options for each building that you manage.

In relation to strata committee meetings, committees are in a little bit of a different position in that our legislation actually permits voting in writing even if you haven't passed a resolution to do that. We've always allowed our committees to vote in writing. In our 2015 Act that is set out in Clause 9 of Schedule 2 which says that a motion put to a committee meeting is taken to have been validly passed even if the meeting was not held. If notice was given of the meeting in accordance with Schedule 2 and a copy of the motion has been given to each member of the strata committee, which would be the case within the notice, and the motion has been approved in writing by a majority of the members of the committee. Now, many strata managers and committee members listening to this will be very familiar with these provisions and will be used to holding strata committee meetings in writing according to Clause 9 of Schedule 2 in our Act.

So, it is business as usual for strata committees if you want to continue holding these meetings in writing. If you weren't aware of

that power, then there you go. It is there in our legislation, you do not have to pass a specific resolution permitting you to hold committee meetings in writing. You can, however, pass a resolution at a strata committee meeting to permit voting to occur by some other specified means. If you do want to vote via teleconference, by video conference, via voting software, then Clause 10 in our Schedule 2 says that the strata committee can by resolution determine that a vote may be cast by some other specified means, and again refers us to the regulation to identify what those other specified means may be.

Regulation 14 which I just talked about in relation to general meetings, also applies in relation to strata committee meeting. You can by strata committee resolution, choose to vote by teleconference, video conference, or any other electronic means when you are participating from a remote location. But I do think that most strata committees will be exercising the power that they already have under Clause 9 of Schedule 2, to have meetings in writing if they determine that they don't want to meet in person.

Now, a few issues here. As I've highlighted, when it comes to general meetings, you must first resolve to have meetings other than in person. Without that resolution, there is not a way to have meetings other than in person. If you haven't yet passed that resolution. I'll say that resolution itself has to be passed at a meeting in person. If you haven't yet passed that resolution, you might want to do that sooner rather than later, depending on what the situation is like at the time you're listening to this episode. When it comes to strata committee meetings, you already have the power in New South Wales to have meetings in writing. I do query whether we may need a legislative response perhaps at this point in time. That could well have happened by the time you're listening to this episode. Do we need to legally allow general meetings to occur other than in person without first passing the resolution, or just a thought, would lifting the limit on proxies for a temporary period solve the problem here.

At the moment in New South Wales, we have a limit on proxies. In a scheme that is 20 lots or less, one person can hold one proxy. In a scheme that is more than 20 lots, one person can hold the number of proxies that is equivalent to 5% of the number of lots in the building. Because of this limit, it's going to be hard for some buildings to say, "Simply send your proxy into the chairperson, or into the strata manager, or appoint a proxy to attend." Certainly appointing proxies is going to reduce the number of people attending a meeting in person, but when only one person can hold one proxy, there is obviously a limit to that, and they will still need to be a number of people attending a meeting. Now, there is obviously a limit to that. Just thinking out loud, would a temporary removal of that limit on proxies solve an extraordinary problem?

It will be interesting to see this play out. Just a couple of practical ideas, think about whether your building needs to have a general meeting right now. In New South Wales you only need to hold your annual general meeting once in each financial year. There is otherwise no obligation to be holding general meetings. If your meeting can be postponed, that might be an idea. Unfortunately, some buildings may be in a position where they need to strike levies and they are feeling the pressure to convene a general meeting in order to raise money, whether that's a special levy or whether that is your regular periodic contributions. We have talked on the podcast before about the importance of including a motion on each annual general meeting agenda that make sure your quarterly levies rollover at the same amount as previously struck, just in case you can't have a general meeting in time to strike the next quarter's levies. Rena and I talk about that in a bit of detail in Episode 167, so there may be a lesson learned here for some buildings that they do need to have a rolling quarterly levy resolved at each AGM just in case they can't, for whatever reason, convene a general meeting in time. You don't want to have to be convening general meetings just to strike your regular periodic contributions.

A couple of other recommended resources at this point in time, and again I'm recognising that this situation is changing rapidly. I personally suggest that you check out Alison Benson's blog that she posted on Friday, the 13th of March. Alison Benson is a New South Wales and ACT strata lawyer and was actually last week's podcast guest. Her blog that she posted just within the last 24 hours specifically addressed quite an interesting question, I thought, what if we have a doctor's surgery or a pathology lab that is occupying a commercial lot in our strata scheme and we have people who may be infected with the coronavirus passing through our common property? Does this constitute a hazard under Section 153 of the Strata Schemes Management Act? Really interesting discussion. I am putting a link to that particular blog post in the show notes to this episode. On Monday, the 16th of March, Frank Higginson, Queensland strata lawyer and Chris Irons, former commissioner for body corporate and community management in Queensland, together with LookUpStrata, have scheduled a Facebook live event via the LookUpStrata Facebook page, where they'll be discussing some of the issues impacting strata buildings and body corporates as a result of the coronavirus. That is scheduled to happen, I believe, 11:00 AM Sydney time on Monday, the 16th of March. I'm looking forward to tuning into that

Publication Date: 14 March 2020

YSP Podcast Transcript: Episode 204. ****SPECIAL EPISODE**** Coronavirus: can we avoid in-person strata meetings?

and hearing that discussion between Frank and Chris, each of them also previous podcast guests.

As this event unfolds and progresses, so far as it impacts strata living and strata law, I do intend to keep you updated with my guidance from a legal perspective. A good place to get fast, up-to-date information is going to be the Your Strata Property Facebook page. If you're over on Facebook, just search Your Strata Property. I'll put a link to that page in the show notes as well. Do make sure you're on my email list. You can sign up over at the website, yourstrataproperty.com.au. Whenever you request one of the free eBooks on the homepage, you are also automatically added to my email list to receive this podcast direct to your inbox, as well as any special announcements, just like this one today.

We'll be returning to normal programming this week. I am chatting to Reena Van Aalst about record keeping, pets, boundary lines, and more. I will look forward to catching you then. Stay safe. Use tissues, if you can find any to purchase, and be careful of those elbows.



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