

**Publication Date: 7 July 2020**  
**YSP Podcast Transcript: Episode 221. How to avoid a renovation disaster**

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**Amanda Farmer:** Hello and welcome. I'm Amanda Farmer, and I have with me today, Reena Van Aalst from Strata Central. How are you doing Reena?

**Reena Van Aalst:** Hi Amanda. How are you going?

**Amanda Farmer:** Wonderfully. Wonderfully this week.

**Reena Van Aalst:** Wonderfully.

**Amanda Farmer:** Especially so, because I actually got to see you in person this week. We were in the same room at the same time. It was very exciting.

**Reena Van Aalst:** Yes. It was actually quite a unique experience now pre post-COVID.

**Amanda Farmer:** Yes. Exactly. To be with each other in person, but even more interesting I thought, we were actually on opposing sides in a mediation. Wasn't that fun?

**Reena Van Aalst:** Yes. It was actually obviously an interesting mediation in terms of the subject that we were mediating about, but also the fact that yes, I had to speak to you in that capacity. Yes. It was very interesting.

**Amanda Farmer:** Well, I thought you were very professional of course, representing the owners corporation and I was representing a lot owner and that's just how it goes sometimes.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** We are all in this rather small pond, I find, together and we do cross paths with our friends and colleagues. Particularly happens when you're lawyers on opposing sides of a bar table. No. We got through it.

**Reena Van Aalst:** Yes. I mean, overall it was quite very, very civil. There was no voices raised or anything like that. It was actually probably one of the most somber mediations I've had for a long time, I would say.

**Amanda Farmer:** Not boring though.

**Reena Van Aalst:** You can't say that about mediation.

**Amanda Farmer:** Not boring though. We kept it interesting.

**Reena Van Aalst:** No. Not boring, but not inflammatory in terms of voices being raised and fists being smashed on tables and things like that.

**Amanda Farmer:** No. Well, I hope that doesn't happen too often, but you're living in this crazy world that strata is. People do get emotional.

**Reena Van Aalst:** Exactly.

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**Amanda Farmer:** Our listeners, I'm sure have had their own experiences of times of high emotion. That is what we try to do here on the podcast. To arm you with some knowledge, some information, resources to help you get through those emotional times, perhaps with more precision and insight and foresight than emotion to solve problems for you. Let's get into it. You are here with me this week to share your challenge and your win. Let's kick off with your challenge this week, Reena.

**Reena Van Aalst:** Yes. My challenge this week, Amanda, comes from by-laws. A lot of owners obviously doing renovations, I haven't seen that slowing down in COVID, I must say. I'm not sure if it's the government \$25,000 grant for people that are doing renovations if they're equaling \$150,000. We've had some by-laws that have been put through by owners and the usual restrictions apply in terms of identification and yeah. Usually wording ... Sorry, not restrictions. Wording.

For the first time actually, I was asked a question that, in a sense, I couldn't really answer apart from the part that related to the by-law wording. Most by-laws will include reference to an owner providing a copy of an order or consent or approval from a statutory authority for the renovation, if required. Now, the strata committee and even the strata managing agent, we're not really qualified to know what those consents should be, unless they're very obvious.

Like if you're doing a major work and people can see it from the outside and a DA is required. Normally the person would have submitted a DA documentation for us to execute. One of the questions I was asked was, in an apartment that's being currently proposed to be renovated, the owner wants to install a washing machine in the kitchen. You know, those ones that you put under and you can cover, et cetera.

**Amanda Farmer:** Yes. I believe they call it a European laundry.

**Reena Van Aalst:** Correct.

**Amanda Farmer:** Very sophisticated.

**Reena Van Aalst:** Anyway the question was, does the National Construction Code allow for that to occur? If so, what waterproofing does someone have to install in the kitchen? Now, when I got the by-law, and I'm thinking, "I don't really know." I'll have to now ask the owner. The problem is, Amanda, if an owner is not using an architect and they're just doing this to ... Well, not cosmetic, but like new kitchen, new bathroom, a few walls here and there. Nothing of major consequence in terms of changes per se.

Then, how does a strata committee and a managing agent navigate the questions when you think to yourself, "Well, hang on. What if I don't get the consent? What if they can't do what they want to do?" They haven't got an architect who's advising. What's your recommendation on that Amanda?

**Amanda Farmer:** Yes. It's a good question it comes back to, you don't know what you don't know. I had a similar example in a building I was working with where a new owner was doing a renovation. They were doing what you might call the usual, the new kitchen, the new bathroom. They were wanting to alter their laundry to include a shower and a toilet, so to turn it into a second bathroom, if you like. It was only that the resident who was below said, "Look, I don't actually think you can do that in our building because of the way the plumbing works and the sewerage. We've never had toilets in this particular place."

That the strata committee was prompted then to go and speak to their own plumber and to say, "Oh, we've got a resident who wants to do this. This is how they're proposing to do it. Can you have a look and see if it's possible?" Then the owners corporations own plumber said, "Well, no, it's not actually possible to put a toilet in this location for these reasons." If the committee hadn't been alert to that issue, because the resident below hadn't raised it and this by-law came through and said, "Yes. We're going to put a shower and a toilet in. We're going to do waterproofing. We're going to do everything according to Australian standard, go ahead."

Only to realise down the track that there was then a problem with the plumbing. Well, that could be disastrous and that is what happens in buildings. It's only those buildings with the highly engaged owners or committees, perhaps who understand, who know first of all, that the work is going to go ahead. Number one, there is a by-law and there is some communication from the lot owner

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that they're going to be doing this work. Then can consider it with some level of experience if they've been through this process before. If they haven't, you're right.

**Amanda Farmer:** They're often stabbing in the dark and relying on the fact that this lot owner has said in the terms of their by-law, that they are going to do all work according to the National Construction Code, according to the Australian standards. Then the question I would think in your example, Reena, is, we know that there is a standard for waterproofing. Is a laundry a wet area that falls within that requirement for waterproofing? My understanding is that it is.

Just my own experience with renovations and bathrooms in strata schemes, laundries in strata schemes that they are waterproofed. Then I would have thought, but again, said with no technical knowledge or reference to any particular standard, that if you're putting a laundry then in a kitchen, then yes, it would need to be waterproof because it is a laundry, and-

**Reena Van Aalst:** But Amanda, and again, to ask the right questions then. Then someone was saying, there were other things like if you take out all this, technically that requires a CDC. People will often ... Well, I've never known people that have taken out non-load bearing walls or load bearing walls apart from having a by-law to allow beams, et cetera to be installed with their load bearing. Again, I think it's a very complicated area, I think, for strata committees and strata managers in terms of being presented with proposed works to understand whether or not do those consents need to come from council?

Because sometimes people do things without getting consent from council and they do need some form of council consent, even though they may not realise that they have to. We don't even know that they have to.

Amanda Farmer: Well, I can tell you what I always put in my by-laws that I draft for owners corporations and just by default they end up in by-laws I draft for lot owners as well, is a clause in there that says that the lot owner must provide any other documentation, do any other thing, comply with any other reasonable condition or reasonable requests that the strata committee may make. My advice to strata committees would be if you are not sure because no one's ever done this in your building before, it's the kind of renovation you haven't seen before, then you are entitled to ask the lot owner to inform you.

To tell you, "Yes, council approval is required or no, it's not and this is why not. Here I am pointing to the exempt development provisions in the planning instrument that say that I don't need a development consent. It can be done with a CDC." Or, "No council approval is required whatsoever." I think it has to always come back to the lot owner who wants to do the work, who is there asking for the approval to prove to you, strata committee, that they've got all their ducks in a row.

**Amanda Farmer:** You should have in your document of approval, which is your by-law, a term in there which allows you, the strata committee, to ask the lot owner to provide you with that confirmation.

**Reena Van Aalst:** Yes. Yes. Well, I mean that terminology and provision is included in the by-law, Amanda, that has been presented. I think for us now as managing agents and strata, we need to be more, I think, on the front foot of asking for that documentation and not assume that the owner will provide it to us. Of course, we always get the insurances and licenses of their contract as well as those other tick box little items. This, I think has not really come across my radar until now when there was something that was a bit out of the box, like you were referring to Amanda, where you're having to add a toilet in a laundry.

This was like a washing machine in a kitchen I'm thinking. They going, "Well, hang on." I thought, "Yes. You're right." It's really up to them. We have to make sure that they provide us like anything that's out of the ordinary, or even if it's within the ordinary, we need to make sure that all those consents, whether they're needed or not are provided to us so that the owners understand, so if anything happens in the future that the owners corporation is covered. Otherwise, if we don't ask for the right stuff, then I suppose, in a sense, we're going to be complicit in any future issues that may arise.

**Amanda Farmer:** Yes. It does complicate things. Of course, when the washing machine, ultimately, when the hose bursts and there's a water leak and there's a leak down to the kitchen below, and there's been no waterproofing. When you go back to the terms of the by-law, you can see that the lot owner was supposed to install that laundry in accordance with all standards. You find out that the standard was that there should be waterproofing, regardless of the location of the washer dryer. There should be

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waterproofing, hasn't happened. It is so much harder to fix things after the event.

**Reena Van Aalst:** Exactly.

**Amanda Farmer:** Of course, then you've got the owner below who is suffering from a flood. You're having to then deal with an owner who says, "Hey, but you approved all of this and you should have known."

**Reena Van Aalst:** Exactly Amanda. That's exactly right.

**Amanda Farmer:** Yes. I can see that.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Yes. Front foot. I think that's the lesson for our managers and our committee members listening in. Don't forget. You are, and you should ensure that you are entitled to ask for the lot owner to prove their compliance with all relevant planning requirements. If you're not sure, just ask. You don't know unless you ask.

**Reena Van Aalst:** Exactly. Like you said, Amanda, you don't know what you don't know.

**Amanda Farmer:** Yes. Yes. Always assume that you're missing something.

**Reena Van Aalst:** Exactly.

**Amanda Farmer:** I often say that. Often to my colleagues, when we're in a difficult situation, I say, "Well, this is what I think it is, but what am I missing? Filling the gaps for me."

**Reena Van Aalst:** Yes. I like that. Thank you.

**Amanda Farmer:** Okay. Well, changing gears a little bit. I'm going to talk about parking. This is a question from one of our podcasts listeners. Suzie sent me in this question. She has said that in her building, they no longer allow residents to park in their visitor parking spots. That sounds like a good decision. However, and I assume Suzie, that is because you have a by-law in place that says visitor parking is just for visitors. However, from time to time, Suzie does have particular residents who are parking in the visitor parking spots.

They asked the strata manager to send out a letter, reminding all the residents, you're not supposed to park in the visitor parking. Usually it stops, but that's a pain in the backside. We don't want to have to keep doing that. Suzie's asking us, Reena, what actions can we take to deal with this? Suzie is also asking, interestingly, when does a visitor become a resident? For example, some visitors will stay for long weekends, a Friday through to a Monday, and they will park in the spot for the entire time.

Are they still a visitor? Are they entitled to park there? Do we have any suggestions or some guidelines around this? Now, of course, parking in our strata buildings, a perennial problem across the nation. It is one of the big P's along with pets and parties. Buildings are dealing with this in all different kinds of ways, Suzie. I can say from my experience, and then I'll hand over to you, Reena, by-laws definitely are the first place I would say to be regulating your parking, to make sure that your owners and your residents are aware of what the rules are when it comes to parking.

Particularly when it comes to visitor parking, some buildings do say the visitor parking is for a maximum eight hours in any 24 hour period. I've seen that as well. You can decide what best suits your building when it comes to restrictions on visitor parking. Some buildings like to say that residents can use the visitor parking for drop-off and pickup 5 minutes at a time. That's not generally something I recommend because it can get a little bit messy because how are you going to enforce that or know that a resident has only been there for 5 minutes or has been there for 5 hours? That becomes a little bit sticky.

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**Amanda Farmer:** What I prefer to do is simply say, "Look, we know who the residents are, who are only here using these spaces to drop the kids off or to pick up or to drop off the shopping." We're of course not going to enforce the by-laws against those people. That's not what it's there for, but definitely having very clear by-laws about what your rules are around the visitor parking spots is a good idea. Then secondly, when it comes to enforcement, number one, do you have CCTV? That is always the cure-all I find when it comes to monitoring what's going on, on the common property and being able to then identify and communicate with repeat offenders.

Or, do you have a committee member or 2 who are able to keep an eye on the area? People who may be at home more often than not, and are willing to pop out and put a note on the windscreen. I know in our building, we have some template notes and we've printed them up on very bright, fluorescent A4 paper. They get placed on cars when we know that those people are not residents, are not visitors. We live in a very busy urban area across the road from a park, so there's often people trying to quickly nip in and grab a spot while they head over to their kid's sport.

We do have a note that we put on the windscreen and we do find that we don't see those people come back once they realise, "Oops, yes, someone is watching and I'm not supposed to be parking here." Reena, what are your thoughts on this problem?

**Reena Van Aalst:** Yes. I like the idea, Amanda, you suggested about the CCTV cameras, but I think I would caution in relation to that only so far as make sure that the camera then follows the person into the apartment or there's coverage further along. Because what we found in some of our buildings where we have cameras, but then we don't have a camera near the lifts therefore we don't know where that person went to.

Obviously if they're a visitor, we need to make sure that if you do have cameras, and that's one of the best thing to do in terms of noting who's actually abusing it, is to have cameras that will then trail the person to their final destination being their apartment. In terms of taking action, I think that if you have the serial offenders that you've mentioned, they probably need to get the normal 3 letters. Then I think perhaps go to have a notice to comply or even go to mediation.

I think people need to know that you can't just keep writing letters and then they stop and then you write another letter and then they stop. It just becomes so arduous I think for the managers and for the community members who are trying to establish some fairness across visitor parking, which Amanda earlier you said is one of the 3 P's that we all complain about. Unfortunately, I think in newer buildings, there's less visitor parking than there used to be in the older buildings.

People now have more cars. It's in a sense the converse of what you'd expect. You got more cars, less spaces. Hopefully I think having a consistent approach, but I think addressing those people in particular, like we've said have cameras. I think cameras are the best thing for a building, even a small building. I mean, I live in a block of 6 apartments and we have cameras. It's funny, the reason we had them wasn't because of parking, but it was because of an incident we had with a former tenant who was actually known to the police.

At least then it sort of gave it ... but we now use it for other things because now it is like a deterrent in terms of behaviour modification. I think it's a good tool to use.

**Amanda Farmer:** Yes. Have a think about that, Suzie. Have a close look at the terms of your by-law that deals with parking and make sure that it is comprehensive. A reminder to residence of what those terms are and a reminder perhaps of what the options are available to the owners corporation if there's a breach of the by-laws, including a notice to comply. If you're in New South Wales, that can turn into a penalty order from the tribunal. Sometimes just reminding residents that that is the path that they could be on.

Particularly if they are repeat offenders is a good idea. Notes on the windscreen are also a good idea. I find, and CCTV, number one. I say it again and again. When I have a client building that has CCTV in place, then they fast become my favourite. Makes my job a little bit easier.

**Reena Van Aalst:** Yes. Exactly.

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**Amanda Farmer:** All right. Heading over to your win for this week Reena.

**Reena Van Aalst:** Yes. This is an interesting one, Amanda, because we decided to resign from a building because unfortunately the strata committee didn't want it. They'd raise enough funds to do some work on balconies and then they didn't want to start doing it. They got another report that said what they wanted to hear, that nothing had to be done. People were complaining to us and we're just sort of finding like we're the meat in the sandwich. We can't help them. The money's there.

The committee doesn't want to spend it, and that was it. We ended up resigning, which was all fine. Then in the meantime, the treasurer asked for the strata roll, which I thought was a bit strange. Anyway, so we get in the strata roll and a managing agent proceeded to hold a general meeting to appoint themselves, which is fine. Sorry, it's not fine, but I mean, obviously they needed a new agent. There was no issue with that, but the agent proceeded to hold a general meeting and do it electronically, even though this is pre-5th of June, where you could do that, on his letterhead.

The building didn't even have electronic voting allowed. I'm thinking like I think this is more probably not a win as such. I would say that more I think a bit of a warning to strata managers. Now, end of day, we had resigned, there's no issue, but really their appointment. They had no right to actually even hold the meeting. We were still managing the strata scheme. We would have happily given the strata roll to the secretary, but for a strata manager to actually put it on their letterhead and then to use electronic voting, which wasn't even allowed at the time they did that.

I just thought, I suppose, in a sense, the reflection, I think of the strata committee, and who they've now since engaged. I think a bit of a caution to strata managers. I think just be careful when someone asks you to take over another building and you actually aren't yet appointed to do anything until the expiry of our appointment, which I think was about another couple of weeks or so. Yes. I mean, it was a win for us that we got rid of this building that wasn't basically doing any work that they needed to for the owners' balconies that were leaking.

I think I'm adding a bit of a sort of extra little tinge there in terms of, agents be careful because really their appointment was really actually invalid. If one day someone wants to then cause a problem for them, it won't be very hard at all, to be honest.

**Amanda Farmer:** Yes. There's a few issues there, isn't there? There would certainly be nothing stopping the secretary from convening the meeting as they're entitled to do under the Act. It doesn't have to be the agent who does it with their delegated authority. I too am very uncomfortable hearing that a strata managing agent, not yet appointed has issued that notice on their own letterhead. I find that a little bit unusual. Indeed, I am sure when a building perhaps is parting ways from its current manager or the agreement has expired and they are looking to appoint a new manager, that new manager I'm sure is in the background, helping perhaps free of charge.

Helping the secretary to put together the notice of meeting to convene the meeting, making sure that they do so validly, in accordance with all the relevant legislation. I think it is a step too far then to be placing that notice on your own letterhead with no authority. As you say, convening it electronically without the legal resolution that was required before our new COVID laws commenced in New South Wales.

**Reena Van Aalst:** Yes. The thing is, Amanda, also like our term was coming to an end and we just decided that this was actually good timing for us because we just weren't getting anywhere in terms of getting the work done. It wasn't as if like it was not amicable or in a sense we were quite comfortable. As you said, there's always another agent in the background holding someone as you've said, but when there's no need for that discretion, you can be more transparent. Yes. I'm not sure if managers understand they can't do certain things until they're the actual agent.

**Amanda Farmer:** That's right.

**Reena Van Aalst:** They have no legal authority. Yes. The secretary, definitely.

**Amanda Farmer:** Was this an experienced managing agent or somebody maybe who-

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**Reena Van Aalst:** I don't know. I've never heard of the company.

**Amanda Farmer:** Okay. There you go.

**Reena Van Aalst:** There are so many companies out there, so yes.

**Amanda Farmer:** Yes. Yes. Maybe they're new on the block and hopefully anyone else new on the block you can learn from this experience. Yes. It does sound like a win from your perspective.

**Reena Van Aalst:** Definitely a win. Definitely.

**Amanda Farmer:** A good one to share for others too, to avoid ending up in that predicament. All right. Well, we are going to finish up with my win for this week. I want to share with everybody the new report that came out within the last couple of weeks, that will be when this goes to air. It is the Australasian Strata Insights report of 2020 published by City Futures Research Center, which operates out of the University of New South Wales. This report came out towards the end of June, and it sets out for us comprehensive national data on the strata sector in Australia.

This is a report, I believe, was first published in 2018. This 2020 version is an update and City Futures partners together with Strata Community Association to put this together. I will put a link to it in the show notes, so you can go and check it out. It has some wonderful infographics. It's super easy to read, but it goes through on a national level and then digs into each state. Some really interesting strata data. It tells us the percentage of people who live in strata, both nationally and in each state.

Tells us the language that apartment residents are speaking. Tells us how many people are employed in the strata sector. One number that I will call out is the total insured value of strata schemes. This is estimated at \$1,117,350,632,387, I just said that twice.

**Reena Van Aalst:** Jesus. Wow.

**Amanda Farmer:** That is a lot. I posted it on Facebook recently. If you write that down, there's a lot of commas in there. That is-

**Reena Van Aalst:** Yes. How many numbers are there altogether Amanda? Is it like-

**Amanda Farmer:** 3, 6, 9, 12, 13.

**Reena Van Aalst:** Wow.

**Amanda Farmer:** Did I say that right? Yes. That's a heck of a lot of money in this sector. Really fascinating. As I said, go and check it out. Reena, I'm not sure if you've had a chance to glance over it, but you might [crosstalk 00:24:08] for you-

**Reena Van Aalst:** No. I haven't actually Amanda.

**Amanda Farmer:** ... the 2018 report. Just hats off to the researchers involved in this. It includes Hazel Easthope, Sian Thompson, Alistair Sisson. I do know that Dr. Nicole Johnston, Sacha Reed and Laurence Troy were also involved in the project in their capacity as academics servicing our strata sector. Check it out. Some really interesting numbers in there.

**Reena Van Aalst:** Sounds amazing Amanda. I think managers should all have look at that too. I think in terms of just getting some stats outside your own little bubble, I think is really important.

**Amanda Farmer:** Yes. One interesting stat in there that jumped out to me was that the top 3 most common professionals servicing our strata schemes are lawyers, engineers and valuers. Keeping us all busy.

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**Reena Van Aalst:** Wow. That's funny, because today I was at an exercise session with my trainer this morning and lady that asked me, "What do you do for work?" I said, "I'm in strata." She said, "Oh no, I can't believe it." She said, "Why?" Oh my God.

**Amanda Farmer:** This is really interesting to me. The reputation, I suppose, that strata managers have, and I'd put it down to a misunderstanding really of what strata managers do and who they are and the importance of the work that they do. God, you'd think you were a used car salesman by that response that you get.

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Yes. Perhaps let your trainer know next time you see her.

**Reena Van Aalst:** Oh no, it wasn't her. It was a lawyer that I was in ... like there were 2-

**Amanda Farmer:** Oh, was in the group? Right.

**Reena Van Aalst:** In the group. Yes. It was the trainer. It was the lawyer.

**Amanda Farmer:** It wasn't a lawyer turned personal trainer?

**Reena Van Aalst:** No, no, no, no. That's wasn't a lawyer turned personal trainer.

**Amanda Farmer:** Hey, that's understandable. That would be.

**Reena Van Aalst:** Exactly. Or maybe a strata manager turned personal trainer is more understandable.

**Amanda Farmer:** Yes. Perhaps. All right. Okay. Yes. We're off down a rabbit hole here.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** Let's come back. Thank you very much Reena for our chat today. Indeed, as Suzie did, if you have questions that you'd like Reena and I to cover, to work through for you on the podcast, feel free to pop them under this episode on the website. There is space there for your comments, [yourstrataproperty.com.au/podcasts](http://yourstrataproperty.com.au/podcasts), you will see there our last 4 years' worth of podcast. Lots and lots of strata information there for you. Let us know what else you need to know. We don't know what you don't know. How's that?

**Reena Van Aalst:** Exactly.

**Amanda Farmer:** I will see you again soon Reena.

**Reena Van Aalst:** See you next time Amanda. Bye.

**Amanda Farmer:** 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?