



The By-Law Boot Camp

with

Amanda Farmer



You're in the right place:

- You're confused about pet by-laws and want to know if pet bans are still legal...
- You're worried about short-term letting in your building...
- You want to legally regulate the impacts of smoking...
- You want to save hundreds of thousands of dollars in legal fees...
- You're ready to take meaningful and effective action to improve your strata community...
- You want some free legal 'guidance'... 😊



Me?

- 17 years in the strata sector
- Lawyers Chambers
- Your Strata Property podcast
- Strata owner and resident
- Owner advocate
- Knowledge is power...and happiness



- Give you as much as I can
- Q&A at the end
- Tell you where to go to get more

What if you could...

- Have a smooth and effective process for pet applications
- Avoid harmful passive smoking
- Be free of the impacts of short term letting
- Implement a “user pays” system
- Avoid parking problems
- Only get 1 letter per week from THAT owner...

Momento
Member

July 24, 2020 at 10:28 pm

#233776

Hello again!

A quick note to let you know that 2 days after a date was advised for mediation the strata committee approved my request for a pet dog and asked me to withdraw my application for mediation.

Thanks for all your advice.

Momento

Amanda
Farmer
Expert

July 26, 2020 at 7:57 am

#233828

Yessss! Excellent news. Thank you for sharing that win, Momento.

Enjoy your new family member!

Amanda.

Most fail...



Most fail because...

- Don't have the right by-laws in place
- Don't enforce the by-laws
- The by-laws that *are* in place are unclear
- One or more of the 4 hidden dangers are lurking inside the by-laws...

By-laws not in place

- Recovery of expenses - not without a by-law!
- Exclusive use of common property - what about work in the area?
(The Owners – Strata Plan No 63731 v B & G Trading Pty Ltd [2020] NSWCATAP 202)
- Making a by-law only when there is a dispute:

“At the hearing on 3 May 2019 it was apparent that the parties were in agreement that there should be a by-law to address the fact that the lot owner had carried out work to the strata scheme’s electrical switchboard without Owners Corporation’s consent, but could not agree upon the wording of the by-law. I assisted the parties to agree upon the wording of the by-law.”

[Gisks v The Owners – Strata Plan No 6743 [2019] NSWCATCD 44)

Don't enforce the by-laws

- At all, or correctly
- How many notices before a Notice to Comply ??
- NONE!
- Failed penalty applications - strict requirements

Unclear by-laws

- Does the exclusive right to park on common property mean the owner has given up their right to park in their own space?
(The Owners Strata Plan No 2245 v Veney [2020] NSWSC 134)
- Documents outside of the by-law will rarely be taken into account
- A by-law intended to allow flexibility of development should be carefully drafted
(The Owners – Strata Plan No 91157 v Yoolee Holdings Pty Ltd Limited; Yoolee Holdings Pty Limited v The Owners – Strata Plan No 91157 [2020] NSWCATAP 6)

The 4 Hidden Dangers

- 1. Blanket bans**

(Cooper v The Owners – Strata Plan No 58068 [2020] NSWCA 250)

- 2. Prohibits something the legislation permits**

(Gurram v Owners Corporation SP 36589 [2018] NSWCATCD 39)

- 3. Is not for the benefit of other owners/occupiers**

(Cooper v The Owners – Strata Plan No 58068 [2020] NSWCA 250)

- 4. Prohibits an ordinary incident of the ownership of real property**

(Cooper v The Owners – Strata Plan No 58068 [2020] NSWCA 250)

The Single Question is...

“What job is this by-law doing?”

Who is getting by-laws right?

- **SP 76830**: recovery of hot water system costs from commercial owners only
(*The Owners – Strata Plan No 76830 v Byron Moon Pty [2020] NSWCATAP 186*)
- **OC PS714612M**: induction process for new tenants leaves STL host frustrated
(*Lim v Owners Corporation PS714612M (Owners Corporations) [2018] VCAT 1995*)
- **Tank Tower**: communications by-law restricts recalcitrant owner to 1 letter per week
- by post!)
(*Tank Tower [2015] QBCCMCmr 322 (9 July 2015)*)
- **Sydney Chair (?)** Parking...

SydneyChair
Member

July 29, 2020 at 12:39 pm

#234095

A thought: rather than charging for placing/removing a clamp, why not charge for the parking? If someone parks in a privately owned spot, they could certainly charge for it. Just put up a sign "Parking without prior approval \$40/hour, minimum 4 hours" (this is what parking stations do all the time!). As for common property...a by-law? Amanda...?

Or charge for taxi/Uber fares for owners who can't get their cars out?

Flotsam – do they know who the offender is and/or which lot they're in? If not, CCTV is your friend.

Good luck!

SydneyChair

Summary...

- Most don't get this and fail...
- But we know why and we can avoid those mistakes
- Get the necessary by-laws in place
- Enforce them!
- Make sure they are clear
- Identify and remove the 4 hidden dangers
- You can do this!

