

Publication Date: 11 November 2020
YSP Podcast Transcript: Episode 239. Join me for Strata Boot Camp

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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 the podcast. I am your host, Amanda Farmer. And I am here to help you demystify the legal complexities of apartment living. Today, I want to talk about by-law health. Whether you call them by-laws or rules maybe where you live, these are the legal instruments that govern our every day experience of community living. They can tell us anything from whether we can hang washing on our balcony, to how we get our renovation approved. And whether we're allowed to keep a pet in our home. Now, this year 2020, we have seen quite a lot of buildings, communities, get into a bit of trouble. Because of what I call, bad by-laws. By-laws gone wrong.

I want to talk a little bit about that today. And as I always like to do, let you know, how you can avoid being in or being one of these buildings that makes a very expensive error, simply because of bad by-laws. Getting by-laws wrong can be a huge source of conflict. Sometimes leading to litigation, which can lead to thousands, if not hundreds of thousands of dollars spent on those pesky lawyers. Not to mention the fact that this conflict completely undermines any sense of community you may have, or may be trying to build, around your home or your investment. When we get by-laws right, they are the foundation for harmony and for smooth operations within our communities. It is within our by-laws that we hold the power to keep the peace, and even to ensure profitability.

When we're talking about this incredibly important investment, that is our property. I bear in mind here, that we can have some pretty valuable rights enshrined in common property rights by-laws, or exclusive use by-laws. Done correctly, those definitely have the power to increase the value of our properties. Now, at a time when more people than ever before are spending more time than ever before in their homes and using the common areas, putting pressure on services and facilities, it has never been more important to get our by-laws right. Within just the last 12 months, we have seen a number of communities involved in our tribunals and our courts, plus in the media. Communities that seem to be in all sorts of trouble, simply because of a dispute about by-laws.

Now, I predict that because of this increased pressure on our communities at the moment, more people at home, more people concerned about maintaining the value of their investment, we are going to see more of these types of cases into 2021 and beyond. Now, what are these cases and disputes I'm talking about, if you're not already across them? Well, we've had the Cooper case on pets here in New South Wales. Telling us that a blanket ban on pets, is harsh, unconscionable or oppressive. And your ban on pets may well be invalid. This case also raises questions about by-laws that ban smoking for example. What about by-laws that ban hard flooring within lots? By-laws that regulate clothing? The types of things we can wear in our gyms and our swimming pools. By-laws that deal with behavior on common property.

While that Cooper case was just about pets, it definitely set some broad principles about by-laws that will impact these other areas. And I expect we're going to see this play out in 2021. We've also had from our New South Wales appeal panel, a decision about common property rights by-laws. This is the case of Strata Plan 63731 and B&G Trading. A case that I have been involved in on the periphery, as a consultant to one of the parties. This case has identified the confusion that we have inherent in our New South Wales legislation. When we have by-laws that grant rights to use the common property, as well as rights to do things on the common property, to improve or enhance the common property. That is a very interesting case that had seen lawyers recommending to buildings, that they go back and review by-laws that fall into that category. To make sure that they are doing the job that everybody thinks they are doing.

We had a case this year called Byron Moon, which was about by-laws that make some lot owners responsible for particular expenses but not others. This is common in a setting where you might have commercial lots and residential lots. How do we use by-laws effectively to make the commercial owners responsible for particular expenses, and the residential owners free from those expenses?

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Amanda Farmer: What about by-laws that may not be drafted as clearly as they could have been, and we have interpretation issues? This has come up in the cases of Veney, as well as the case of Yoolee. When drafting is not clear, buildings and owners can find themselves involved in drawn out litigation with associated exponential costs, that could have been avoided if a by-law was more clearly drafted and indeed actually said what the parties intended it to say. Now, the case of Veney was about a very valuable right to park on the common property. And Yoolee, was about a development application. So, these are good examples of where significant rights can lie within our by-laws. And owners will and should put particular effort and time into defending and retaining those rights.

Now, very recently in New South Wales, not a case, but some new legislation that's about to start here next month in December 2020. A code of conduct for short term letting. This has got a few buildings going back to their existing short term letting by-laws. Whether they prohibit short term letting altogether, or permit it with some conditions and making sure that those by-laws are in line with the provisions set out in the code of conduct. It's so important to be aware and on top of these changes to our strata law, wherever you may be across the country. To make sure that your by-laws are reflective of those changes, incorporating them where appropriate. And really empowering you and your building to make your community a place you want to live in, invest in, and others want to live and invest in also.

Now, when you're hearing me talk about these issues in a very summary form, you may have some alarm bells ringing here. Does your building have by-laws that deal with pets one way or another? A ban? Permitted with approval? Particular conditions? Do you have a by-law about smoking on the common property? Smoking within lots? Do you want one? Do you deal with short term letting? Do you have common property rights by-laws? Often, these are the types of by-laws that are put in place by the developer when the strata plan is registered. Do you have by-laws dealing with renovation works? The recovery of expenses, perhaps? Has it crossed your mind to get some of these by-laws in place? What do they need to say, or even not say, to make sure that they're safe from challenge?

Now, to help you work out if your by-laws are healthy and if they would pass if put to the test, I've created just that test for you. It's called the By-law Pressure Test. And I'm going to let you know how you can access it and test your by-laws today. The By-law Pressure Test contains a series of questions prepared by me. Which if you answer them honestly, will lead you to my diagnosis. After taking the test, I'm going to give you one of three results. Either your by-laws are in the healthy zone for now, and your focus should be on keeping them there. Or your by-laws are under some pressure, and could use a health check. Or your by-laws are exposed to significant pressure, and may be about to crack. You can take the test for free over at yourstrataproperty.com.au/test. I will put the link to the test in the show notes for this episode. I am really interested to hear your results from the test. I'd love for you to let me know what result you get. Feel free to post your result in a comment under this episode. Now, I do need to give this important disclaimer. Your result from the test is not legal advice. You guys know that, right? This is general guidance that's going to help you I hope, make the decision to take action on your by-laws, after this very eventful year. The test is a downloadable PDF. You can take it on your computer screen, and it will auto-fill for you and add up your score. Or you can print it out, and do it manually.

Now, regardless of your test result, whether you're in the healthy zone and you need to maintain that good by-law health, or whether you're under significant pressure and need to take swift action, I am here to work with you on the next step. And I already have that step ready for you. I am running the By-law Bootcamp. And I would love for you to join me. The Bootcamp is happening online on a few different dates and times. I'm going to give you those shortly, and let you know where you can go to secure your free spot in the Bootcamp. Those attending the By-law Bootcamp, will discover the 4 hidden dangers lurking inside your by-laws.

We are also going to dig deep on these court and tribunal cases, that I believe are putting your by-laws at greater risk of successful challenge. I'm going to let you know the single question that you can apply to test the validity of any by-law, anytime. And you'll learn how to unlock the power of by-laws, to ensure your community thrives in 2021. I am running the by-law bootcamp on 3 different days and times, because I really want to make sure that you can attend at a time that suits you. There will be no replays of the Bootcamp. Little bit different to webinars that I may have run in the past. There will be no Bootcamp replays.

So, listen up, to make sure that you secure your spot on one of these dates and times.



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Amanda Farmer: The Bootcamp runs for one hour. And you can attend on Thursday the 19th of November, at midday. These times are all Australian Eastern daylight time. Or Friday the 20th of November at 4PM. Or Sunday the 22nd of November at 8PM. Now, these dates and times are all set out for you over at stratabootcamp.com. Head over there to secure your free boot camp spot on one of those days and times. As I said, no replays. So, if you do want to attend, get involved, you really need to lock one of those in. There will be a chance for Q&A of course, as I like to do at the end of each Bootcamp session. So, this is your opportunity to come armed with your by-law questions. And I will answer them live for you.

The Bootcamp is for you, if you're confused about pet By-laws. And you want to know if pet bans are still legal. If you're worried about how to manage short term letting in your building. And maybe you've heard that this has become a little more difficult after these recent cases. You want to regulate the impacts of smoking, and you want to do that legally. You want to save hundreds of thousands of dollars in legal fees, avoid costly litigation. The Bootcamp is for you. If you are ready to take meaningful and effective action to improve your community, head over to stratabootcamp.com.

You'll see the three different dates and times there again, for you to join me online. I really hope you can join on at least one of those occasions. I'm sure I'll see some of you on all 3, which is awesome too. You are most welcome. And don't forget to do your By-law Pressure Test. So, you can come into Bootcamp knowing how healthy your by-laws are. Or how healthy they are not, perhaps. And be ready to take action, to set up you and your community for a fantastic 2021. We certainly all deserve one. See you over at Bootcamp everyone.

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. You can also ask questions in the comments section, which Amanda will answer in her upcoming episodes. How can Amanda help you today?