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**YSP Podcast Transcript: Episode 261. Handover of hard copy files | beware the work email address**

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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.

**Amanda Farmer:** Hello and welcome. I'm Amanda Farmer and I have with me today, Reena Van Aalst from Strata Central. Hi Reena.

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

**Amanda Farmer:** I'm doing well. It's lovely to be here with you. It has been a little while since we have been able to get together and record an episode. I've missed you.

**Reena Van Aalst:** I've missed you too. But I've been enjoying listening to your other podcasts, Amanda, so it's been quite good, especially the one about strata managers aren't a punching bag. I've actually had quite a lot of feedback about that one.

**Amanda Farmer:** Oh, good. I'm glad I have too. I've seen a lot of strata managers giving it some love on our social feeds and also contacting me to say thank you and how useful that was. That was all about how we as owners and committee members can be communicating a little better with our strata managers. So I'm glad that was useful. Back to our wins and challenges for our week in strata, Reena, what's been challenging you this week?

**Reena Van Aalst:** So recently we took over a large scheme, Amanda, and the strata managing agent had sent us the number of boxes. It was about 7, I think. We actually had to go up and collect it ourselves. It's not a local building. It's a couple of hours away. And so he wouldn't release the check unless someone from our office came up there, even though most strata managers would know that when schemes are being collected, normally a courier just comes and collects it and there's no issue there. Anyways, so we did that, and when I went to open the boxes just to see if it was the USB or CD-ROM, which is still being used by some managing agents, which is quite surprising, but anyway, there was no CD-ROM or USB. So I emailed him, I said, "*Oh, is there something missing?*"

He said to me, "*No, I'm giving you everything on paper.*" And I thought, what? So I started going through all the boxes and he actually hasn't given me everything on paper. None of the owner ledgers were there and a lot of the financial information wasn't there. And I said to him, "*I need the owner ledgers.*" I actually had a 184 certificate that I had to issue. He said to me, "*Well, I've given you the levy position report.*" Which is what each owner, are they up-to-date in credit or has levies, which is at the time that they closed the accounts. And I said, "*Yes, but that doesn't tell me their history. So if someone wants to query why their levies are what they are on the ledger at handover, we need to look at the source documents. And also of course, for audit purposes that would also be required.*"

**Reena Van Aalst:** Anyway, and then his answer to me, which was legally correct was, "*There's nothing in there that tells me that I have to give you anything electronic.*" I said, "*I understand it isn't in the Act,*" I said, "*But you have it all electronic.*" I said, "*As managing agents, we need to work together. It doesn't really matter. Clients come and go.*" There're issues obviously. I think he was upset about being terminated, but nevertheless, I said, "*We all have clients after some time, perhaps where there's a falling out in the relationship. That doesn't mean that as colleagues and agents, we can't work together to try and help each other.*" And so, because there was a 184 and I said to him, "*Well, basically, if we can't issue this, you're going to be held responsible.*" He sent us all the ledgers and they were coming in lots of 10 emails and everything else, nothing is electronic. So we're having to go through all the boxes and scan things and even then everything's not there.

And so the strata committee is considering its options in relation to taking action against the agent. Because as we've discussed previously, Amanda, we as agents can't do anything, but the strata committee or lot owner can.

YSP Podcast Transcript: Episode 261. Handover of hard copy files | beware the work email address

So yes. Have you come across that at all in terms of any complaints from other managing agents that have had this issue?

**Amanda Farmer:** Well, I do know that this handover period is ripe for difficulty, but in my experience, it's been a matter of the electronic file from one strata management company not being compatible with the software that another strata management company receives. I can't say that I've heard of a manager ever being handed 7 boxes of hard copy material and told that was it. As you've said, Reena, it is legally correct that an owners corporation can keep its records in any form that it determines to keep them, that's in Section 176 of our New South Wales act. My question is this, the hard copy documents, are they complete in hard copy or are there actually things missing even from the hard copy?

**Reena Van Aalst:** No, things are actually missing from the hard copy, which is why I had to ask him, Amanda, to email me those other documents electronically, which were sent in like 10 subsequent emails, but unfortunately I still don't have everything and he hasn't responded to any of the emails that I've sent requesting. So I've actually asked the auditor that did the last audit to send me all the source documents that he received, so at least I'll have the financials, but unfortunately, the auditor has been quite busy as well so I haven't got those. So I've got enough at the moment just to get me going and I've asked the strata committee to send me some documents like agendas and minutes electronically because it will just save time and cost going through all the minute books and folders. The other thing also, I think when people know we were trying to have a strata search and we said, "*We're sorry, but we don't have all the records.*" And they were saying, oh, but... I said, "*You can come down to our office and do it in person with paper.*"

And they go, "*No.*" They said, "*Our office is hours away and the building's hours away, so why should we come to your office?*" And I said, "*I agree, but I don't have it in any other format at the moment until we start receiving bits and pieces from the strata committee and scanning what we have.*" Then that also delayed such as being undertaken. So it's quite a few ramifications I think when records aren't provided, even though, as you said, Amanda, there's no legal requirement to keep them in an electronic format, they are kept electronically. That's the irony. It does have an electronic copy, which could be provided. So...

**Amanda Farmer:** Yes. And if they are kept electronically, then they exist and they must be handed over. And that's where your new client, I suggest has an important conversation to have with their former strata manager. They're being billed by you to obtain and to rearrange and rescan all of these hard copies when the electronic record actually exists. It does not belong to the strata manager, it belongs to the owners corporation. It's their file. It's their records. Those electronic documents should be handed over to you. Different if electronic records did not exist. And this was perhaps a self-managed scheme where the secretary kept everything in an arch lever binder or in a shoebox, and there was just no scanning, no emails, nothing at all. They don't exist. Fair enough. Section 176 says that's fine. An owners corporation can keep records that way. But if the electronic file exists, it must be handed over.

**Reena Van Aalst:** Yes. Thanks, Amanda. And that's what we tried to tell him that even though it doesn't have to be handed over electronically, you've got it. So why can't we just work together as colleagues and try to sort of make life easier for all of us? So yes. So I'll keep you posted in terms of the committee's next steps as to whether they're going to take any action regarding this.

**Amanda Farmer:** Perhaps being clear with the former manager of the costs that the building is incurring because of you all having to take those additional steps might get the conversation going.

**Reena Van Aalst:** I hope so.

**Amanda Farmer:** Okay. Thanks for sharing that challenge, Reena. The challenge that I'm bringing to today's chat also relates to records of an owners corporation. I recently read a case from the New South Wales Civil and Administrative Tribunal, NCAT, appeal panel actually. This was a decision that was handed down in January this year, and I thought it was worth bringing to the podcast because it confirms that a third party, like an employer perhaps, may be ordered to produce email communications, where there is a strata dispute going on that involves one of their employees. Now let me explain this further, this was a case involving Sydney Water and a lot owner who was in dispute with their strata committee.

Publication Date: 27 April 2021

## YSP Podcast Transcript: Episode 261. Handover of hard copy files | beware the work email address

This lot owner was aware that the secretary of the strata committee was an employee of Sydney Water and had been sending emails about strata business from their work email accounts. And the lot owner, who was in dispute with the strata committee, couldn't get their hands on emails through the usual owners corporation avenues. So he issued a summons to Sydney Water to produce the emails of their employee relevant to the strata business, and Sydney Water had to produce those emails.

**Reena Van Aalst:** Wow, that's amazing, Amanda.

**Amanda Farmer:** Yes. The case is Brazel, B-R-A-Z-E-L, and Sydney Water Corporation. I will put a link to it in the show notes for this episode so you can go and have a read. The lesson that I want to share is particularly for committee members, secretaries, those busy people who may have a lot on their plate with the day-to-day management of their strata committee and their owners corporation and they're firing off emails from the office, be aware that you may be implicating, involving, burdening your employer down the track should there be a dispute and should a clever lot owner want to gain access to those communications through that other means.

**Reena Van Aalst:** Yes, Amanda, I've always been amazed that lot owners actually use their work email address to actually email us. I've always thought to myself, well, first of all, it is a work email, so it really should be used for email for work purposes. But the second thing I've always wondered is that one day you're going to leave that job perhaps, it's not your own company, and therefore what happens to all those emails that you've sent? How are you going to get those back if you ever need them again? I've always thought it was strange that people would actually use their work email. And I can understand if it's your own company, that doesn't really matter because that's your own company and obviously you have control over the emails. But when you're an employee and you're using, like you said, a Sydney Water email address... I actually had one day this owner write to me because she was quite upset about something that happened at a meeting, and she actually I think used her police email address and she was sort of threatening me.

And I said to her, *"Well, you're writing from this email address because you think that you're trying to intimidate me."* And then she actually then never wrote to me again and I never heard from her. She just went missing in action. I never heard from her again. She never wrote in response. She never turned up to a meeting. I think it's like something happened. And I think that I sort of thought to myself, if you're in a position of authority especially, and you're using that email to write to someone and you're threatening them, it's like, well, are you trying to intimidate me by using your police email address?

**Amanda Farmer:** Yes. That's a really important message for lawyers, and it's something that I have had to be very careful of when I'm communicating as a lot owner in my own building or a committee member that I always use my personal email address because lawyers are often criticized, and I think rightly so, for using work email addresses or titles when they're not actually acting in that capacity-

**Reena Van Aalst:** Capacity. Yes, exactly.

**Amanda Farmer:** It can be intimidating. And I issue the same message to strata managers. If you are on your own committees, whether it's your investment property or you live in the community and you are not the strata manager, then I think it's important not to confuse, of course, the intention I'm sure is not to intimidate, but that can be the effect, particularly in a high conflict situation. So stick to those personal email addresses wherever possible. I know I try to, but every now and then something sneaks through, whether from a colleague or a strata manager, with that I'm in their address book in my professional capacity. So I have to be careful about that. But yes, good message all around.

**Reena Van Aalst:** Yes, definitely, Amanda. So that's what I also do. I use my personal email address for my properties or for anything that's outside of my work. Yes, I think it's sort of... Because otherwise you are using your position to try and, or it can be perceived that you're trying to use your position to try and gain some leverage.

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**Amanda Farmer:** Yes. For sure. Okay. Switching over to your win for this week, Reena.

**Reena Van Aalst:** Yes. So the win this week that we've had is for the last sort of 9 months we've been trying to obtain the consent of a lot owner in a scheme, which is primarily residential but has some retail restaurants down the bottom. And we have a signage by-law that's been in place for some time, but we wanted the owner to consent to some amendments in relation to maintaining the terrace area and the fencing and all that sort of thing. So running back and forth, back and forth. And finally, last week we received the consent forms where the owners, and they're actually was 3 of them. We had to get them to reassign the consent form, but it was actually good.

The strata committee and the building manager spoke to the lot owner, trying to explain why we wanted to change the by-law. And once that happened, then they were happy to then sign the consent form and consent to the by-law being amended which I think if you didn't have a really good committee and you didn't have a good building manager, it would have been much harder because efforts that we've been trying to make have really not worked by email. And so having the lot owner meet with the strata committee and in particular, the chairperson and the actual building manager helped a lot. So I think it's a good message for us sometimes perhaps were using emails back and forth, sometimes just having a quick meeting with the lot owner can achieve a lot more than those emails, even though the intention was clearly explained in those emails as to why the by-law should be amended. So yes, that was a great win, which has taken 9 months, but we got there.

**Amanda Farmer:** Well, congratulations, excellent result, and indeed a good reminder that different forms of communication are available, everybody. Email is not necessarily the only answer. Look, I'm guilty of that too, Reena. We're busy people and I find it much easier, much more efficient from my perspective, to communicate by email. And I'm also very much into text messaging, as my clients will know, but sometimes getting on the phone or convening that meeting, which we can also now do virtually, we are all comfortable with that, does get to the bottom of an issue much, much faster than the back and forth emails. And you know, we don't get the tone, the context, the emotion necessarily that we are supposed to get, or that is meant in an email and having that phone conversation can avoid misunderstandings.

**Reena Van Aalst:** Yes, definitely, Amanda, and I think I agree with you. When we talked about efficiency when you're going to work in your own time, you can send an email, it doesn't mean the other person being available at the same time that you are. And sometimes on the face of it, it does appear to be more efficient, but sometimes it's actually not. Because when you think of the time back and forth, it would have even been better for me to go to the building myself and meet with them. And the time it would have taken would have been probably less. Yes.

**Amanda Farmer:** Yes. I'm reminded of when I was a junior lawyer and learning all these new communication skills and I would sit with my principal lawyer at the time and we'd be debating an issue back and forth. And how do we craft this email? And do they read? What do they really mean? And he was the one who taught me, Amanda, just pick up the phone. Just give them a call. Let's give them a call and let's get to the bottom of it. And we always did. There are definitely times where that is the best option.

The win I would like to share this week, Reena, is our upcoming event for women in strata. Now, if you haven't heard about Women in Strata, this is a group that I started, oh, I was going to say 5 years, but I think it's 6 years ago now, supporting women working in the strata sector, strata managers in particular. Last year was a little quiet for us at Women in Strata with our lockdown, and we weren't able to get together as much as we would have otherwise, but we have an event coming up on Thursday, the 20th of May in Sydney. And in true Women in Strata style, it's not your usual event, is it Reena? It's something a bit different.

**Reena Van Aalst:** No, definitely not. It's definitely different. It's a nice venue.

**Amanda Farmer:** It is Drag Queen Trivia. Yes, we have questions, we have lip-synching, we have full glam. We are going to be at the Kittyhawk in Sydney, as Reena said, awesome venue, from 6:00 PM on the 20th of May. We invite all walks of life from the strata sector, strata managers, in particular, we like to connect with through our women in strata events. And you don't have to be a woman, we love men.

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Men can come along too particularly those who support equality in our strata sector. You can find out more about the event and secure your spot over at [womeninstrata.com.au/events](https://womeninstrata.com.au/events). You will see our posts there for the Drag Queen Trivia event on the 20th of May. I can't wait, Reena.

**Reena Van Aalst:** Yes, me too. It's just been such a long time since I've actually seen anyone in person. I haven't really gone to any events at the moment, even the SCA one. So it'd be good to actually finally get out and see people physically rather than just reading about them in LinkedIn posts or seeing them on various things in socials and actually enjoy ourselves and sort of let our hair down for a change.

**Amanda Farmer:** Yes, exactly. We all are getting our wigs out. And I think many people are feeling the same way, Reena, because spots are filling up fast. We do have limited space available. So if you're thinking that you'd like to spend an evening with us and fellow women in strata and supportive men in strata, do grab your spot over at [womeninstrata.com.au/events](https://womeninstrata.com.au/events). So Thursday, the 20th of May, Drag Queen Trivia at the Kittyhawk.

**Reena Van Aalst:** Wonderful. Looking forward to it.

**Amanda Farmer:** Thank you, Reena. I know you were about to head off to a virtual AGM, so I will let you go and get ready for that and I will see you next time. Good luck with-

**Reena Van Aalst:** Thanks, Amanda. See you next time. Thank you.

**Amanda Farmer:** Bye.

**Reena Van Aalst:** 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 by the show notes at [www.yourstrataproperty.com.au](https://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?