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YSP Podcast Transcript: Episode 262. When the strata lawyer volunteers for the committee

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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 to this week's podcast episode, I am your host, Amanda Farmer. It has been a massive past week here at YSP headquarters. We had two big webinars last week, we launched the Solar for Strata Legal Toolkit, and welcomed many, many new members into our online membership community. I'm still recovering from that big week, and I'm really pleased that this week's podcast episode is a bit of fun for you. I'm chatting with Andrew Suttie, always entertaining. Andrew is a partner at Nicholsons solicitors in Brisbane and practices exclusively in strata law. Now, prior to venturing into the law, Andrew completed a Science degree and an honour's thesis in marine parasitology. Did I pronounce that right, Andrew? Now, Andrew has told me that in completing his thesis, he actually discovered 8 new species of something that I can't pronounce. So I'm going to put this in the show notes, Andrew, so our listeners can find out.

Andrew has also published in the area of developmental psychology and travelled the world as a professional musician. In his spare time, he's composing a musical, which he hopes will accelerate his retirement plans. Two recent notable achievements for Andrew were number one, being elected as secretary to the committee of the body corporate where he lives in Noosa. And number two, resigning from that position. That is indeed what Andrew and I are talking about today. A little bit tongue in cheek, sharing our experiences as strata lawyers serving our strata communities. I thank Andrew for speaking so candidly about this topic. This is a great insight, everybody, into the inner workings of Andrew Suttie's mind. Here we go. I will take you over to my chat with Andrew Suttie. Enjoy.

Andrew Suttie, Welcome to the show.

Andrew Suttie: Thank you very much, Amanda. Good to be here. What's happening today?

Amanda Farmer: It is all happening today. Well, look, I am sitting in my studio, my recording studio, let's call it. I'm looking out the window to a city covered in smoke. It's really a bit gross here in Sydney. There's lots of haze today.

Andrew Suttie: We are the opposite up here at Noosa. It's a beautiful, clear sky day after 3 days and a long weekend of rain.

Amanda Farmer: I am jealous. We will get back there. I believe this haze is a necessary haze for the time being, but we will break out of it. Now, listen, I invited you here on the show because I very much enjoyed your paper delivered to the 16th Annual Conference of the Australian College of Strata Lawyers held online for the first time a few weeks ago. It was through listening to your paper that I discovered that you are a fellow volunteer, as I am, on your strata committee.

Andrew Suttie: Well, I was Amanda.

Amanda Farmer: And then you woke up, snapped out of that craziness.

Andrew Suttie: That's right. Now I was a committee member on that committee for about three years. But it was funny because as I was putting that paper together, there were all sorts of problems happening at my scheme. I don't know if it was because I manifested that negativity through the paper, through that sarcasm, or whether it was just the natural consequences of things. But I got to thinking, and I thought, *"I don't have time for this."* So I resigned.

Amanda Farmer: Well, tell me this, let's go back to the beginning, what sparked your interest, your desire, your enthusiasm to join a strata committee in the first place? I ask you to answer this, particularly with your strata lawyer hat on. What makes a strata lawyer think it's a good idea to join their strata committee?

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Andrew Suttie: Well, I think in relation to this most recent committee that I recently resigned from, the incumbent committee found out through their Google searches that I was a strata lawyer. And so they rang me and said, *"Oh listen, Andrew, you're well-credentialed to be on our committee. Would you like to join?"* In a rhetorical sort of way. So I thought, *"Well, it's probably not a bad idea,"* because we were new owners at the time, didn't really know what was going on at the buildings. So I thought, *"Well, it might be a good chance for me to sit in and just observe where we're at and make sure that everything's happening according to statutory provisions, et cetera."* So, yes, I just decided, *"Why not? We'll give it a crack."* Immerse myself in my own file, as it were. So yes, that's the reason that I joined, I was asked to, and I thought, *"I better do the right thing."*

Amanda Farmer: Very similar to my own experience with the committee that I'm on at the moment. I have a bit of a problem where I can't help myself and I see where things can be different or can be better or can be improved and know that perhaps I have the experience or knowledge or contacts to be able to assist with that, and I just have to put up my hand and jump in.

Andrew Suttie: I was actually on a committee prior to this building, and it was a 5-pack down at Marcus Beach, and we're investor owners there. They'd been running the building the same way since the '80s, I think. And so, I don't think they'd ever read any statutory provisions, information. They'd never had a body corporate manager, they're running it themselves. The way they'd conduct the AGM was you get a phone call on a Friday afternoon saying, *"We've got the AGM tomorrow. So just come prepared, and we'll have it on site."* And so we'd scramble about to get there. No notice, no agenda, and all of the motions were proposed and seconded at the meeting, budgets, everything. There's no sinking fund. There was insurance, which is good. But I guess the good consequence of that dodgy arrangement was that the body corporate levies was so low. It was awesome. But eventually, when they started using body corporate funds to fund owners' renovations at their lots, that was too much for me, and we ended up selling.

Amanda Farmer: But you didn't put your hand up at that stage to say, *"Hey, we should be complying with some law here."*

Andrew Suttie: No, because I didn't want to be the weird new guy, that the know-it-all. So I just let them do their thing, which, again, I was happy to observe. Unhappy that they weren't complying with statutory requirements, but I'd throw a little thing here and there and say, *"Look, guys, we really need to get a sinking fund forecast, And I know these guys who can do it for cheap. If you want to sell your lots in the future, we'll need those because a prospective purchaser we'll be wanting to see those sort of things."* So I gently, gently eased in a couple of things, but they were too far gone, I think, to really assist.

Amanda Farmer: Tell me about this most recent experience though. When you did put your hand up and you did become a member of the strata committee, were you welcomed with open arms and was it all happy families?

Andrew Suttie: Yes, that's a good question, Amanda. Yes, at the beginning I was. Because there's some strong personalities on that committee and its first iteration, a different bunch of strong personalities to the strong personalities that are there now, but yes, they had some preconceived ideas about what they wanted to get done, and I think they were cautious with their approach to me. The building, it's a resort, so there's building managers involved, and it's mostly investor owners. Some of them had personality clashes with the onsite managers. They knew that I was fairly close to the onsite managers, or assumed that I was close with the onsite managers, and so there was some finger-pointing and some questions being asked in the background with that first committee that was sort of odd.

As a strata lawyer, you have to tread lightly anyway. But I was finding myself treading particularly lightly when there were, not factions but people with different priorities in how they wanted to operate the resort and spend their money. But generally speaking, the committee was receptive and they'd always run things past me before they made a decision, which was great. But, and this was one of my complaints and one of the reasons that I ended up resigning, there were emails every single day.

I'm not talking 5 or 6, but 20 or 30 up to 50 emails every single day, including weekends. So very passionate people with strong agendas and wanting to organise everything they could in the amount of time that they've got left on the planet. For me, that was a bit too much, reading emails in the middle of the night and on the weekends, so I ended up just trying to slip away from that.

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Amanda Farmer: You said there, Andrew, you needed to tread lightly as a strata lawyer. What do you mean by that?

Andrew Suttie: Well, we have certain obligations as lawyers under the Australian Solicitors' Conduct Rules, and our insurers probably want to make sure that we're doing the right thing also. As a lawyer, I like to be objective and impartial and sometimes that's difficult when you've got another agenda. It was important for me to be conscious of not providing the committee with legal advice and not being seen to provide that legal advice because invariably they'd come to me and say, "*Andrew, how do we deal with this? Or what's the answer to this question?*" And I'd have to say, "Well, look, this is what the law says. This is what you want to do. And you can do it one of these ways." It wasn't for me to say, "You must do this or my legal advisor is blah." So I had to be very careful about that. And where things required legal advice, I'd refer them away. Or if I thought that there was someone in my firm who could do the job best, I'd say, "*I've got a conflict of interest, but I think that this person is the right person for the job. There's also these other people, so you guys choose.*" Yes, that's what I mean by treading lightly, just being aware of my role as a lawyer and my other hat as a committee member.

Amanda Farmer: Did you ever experience any pushback on that or any disappointment from your fellow owners or committee members where you said, "*Look, I can't or I shouldn't, or if you want, here's someone who can give you a quote to do that.*"? Was it, "*Oh, well, isn't that what you're here for?*"?

Andrew Suttie: It was a little bit of that. Again, when I talk about these factions, not really factions, but there's the committee and there's the building managers. And sometimes the building managers would say, "How do we deal with this?" There's another layer of issues there. I wouldn't call it disappointment or aggravation just because I wouldn't provide legal advice to them, but I've done a lot of legal work. I've rewritten by-laws. I've written occupation authorities, deeds of variation, and not remedial action notices, but by-law contravention notices, so a lot of stuff that's not controversial. And really with the by-laws, it was just any owner could submit a motion changing by-laws to what they want to see. So it was just a suggestion from which the committee could then work off that draft.

At that time, there were some committee members who really didn't like the by-laws that I'd drafted. And to me, they're just standard by-laws about before you go and renovate your apartment, you need to make sure that you've got the committee's approval if you're changing some structural aspect of the building, blah, blah, blah, things that I'd consider non-contentious. Those owners who are on the committee were up in arms about that and said, "*Oh, Andrew, these by-laws are ridiculous. How can you expect us to seek committee approval before we renovate our own apartment?*" So yes, there was a bit of tension there for a little while, but then that committee reorganised itself and those people either sold or didn't get back on the committee.

Amanda Farmer: Do you think that your involvement at that level, with drafting documents and being there... One of my colleagues once said to me when I first started serving on my strata committee, "So you knock off work to go lay bricks, do you, Amanda? That's an odd thing to volunteer for." Do you think part of your decision to resign and maybe the 20-plus emails in a day, if you weren't a strata lawyer and you weren't making that additional contribution, do you think your experience might have been a bit different?

Andrew Suttie: Yes, look, I think the experience probably would have been different. But it's almost as though when you're doing this stuff day in and day out it second nature to you. To me, it's just helping out in a property of almost like-minded investors, but we're all in the same stakeholding. To me, it's just making sure that that group and my investment is secure. Generally speaking, I didn't have a problem with the amount of emails and stuff, but someone just said to me one day... In fact, it was one of the owners there at the resort was applying to the committee to have a little dog that he was picking up from Brisbane just for a few days at the resort. He was talking to me about that and just complaining generally about the committee's position on pets. I mentioned to him my position on the committee and he said, "*Look, Andrew, I'm on these different organisations and I own lots in strata around the place, I would never be on the of those organisations because I just want to distance myself from that and enjoy the club or enjoy the living in that strata environment.*" I thought about that for about 5 seconds, and I thought, "Yes, that's good advice. Goodbye."

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Amanda Farmer: Look, it is a very hard line to walk. I've been serving on one of my strata committees for a few years now and continue to do so, and I'm quite hands-on, mainly because there's only 2 of us on the committee at the moment, so there's a lot to handle. I do find it difficult, particularly when legal issues arise and the committee and other owners who are engaged even though they're not on the committee, look to me and say, "Well, Amanda, what do you think?" And I do, as you have done, tell them what I think. But it's interesting, my opinion is received, I can tell, quite differently to the way they might receive the opinion of a lawyer they were formally engaging, paying. Notwithstanding my experience and my qualification, sometimes what I say is received with, "Oh, well, Amanda, heard that, but we don't agree," which is not what I usually hear when I'm being paid by the hour.

Andrew Suttie: Exactly.

Amanda Farmer: So that's tricky.

Andrew Suttie: Yes. No, I know exactly what you're saying there and yes, I've sort of experienced that in the background. But, yes, maybe the solution is for us to charge for our time, what do you think, Amanda?

Amanda Farmer: Yes. Yes.

Andrew Suttie: On that point, I know that the Queensland legislators, they've been looking at the body corporate legislation over the last too long, I think it must be up to 7 or 8 years now, we're considering at some point, particularly on those in larger buildings, having an ability for the committee to engage paid consultants, experts as committee members, engineers, lawyers, and what have you. Reflecting on that, I think what they really need are relationship counsellors. Because the difficulties that we have at committee level are not issues that are troubling us that people are logically working through, it's just relationships falling down.

Amanda Farmer: So true.

Andrew Suttie: So relationships between the actual committee members or relationships between committee members and the building managers, or even the body corporate manager. I'm not being sarcastic, which is what most people expect me to be when I'm making comments like that, but I think a relationship counsellor on the committee, particularly for smaller buildings. I just find that some of the bigger ones, you're not going to see those people again when they leave the committee, you're not going to pass them in the corridor. But if you've got a two-pack and the relationship breaks down, then it's all over. How are you going to recover from that unless one person sells? I don't know, I'd like to see... Well, it's a shame that there's a need for it, but yeah, some sort of relationship counselling service for committee members. And I guess we've sort of got that here with conciliation, but it's not the same. It's not sitting down and holding hands and trying to get the parties to resolve their issues together, which might be an interesting service for someone.

Amanda Farmer: Well, look, you've got people together, living closely together, putting their hands up and volunteering for a position which can involve hours and hours of additional time, stress, issues that they're not comfortable with having experienced before, legal issues, technical issues, solving problems for a broader community, of course, there's going to be relationship difficulties. I agree with you. One of the things that I say is that if you want a functioning, efficient, thriving community, the number one thing you need is a great committee. That's the heart of your community. And so often, as I'm sure you do too, Andrew, we see these dysfunctional, unwell communities, and it's because of those relationship breakdowns. So get that right and the rest flows a little more easily.

Andrew Suttie: Yes. So the committee is better off without me.

Amanda Farmer: Well, that's what I was going to ask. Are you on a committee for any other property at the moment of yours?

Andrew Suttie: No.

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Amanda Farmer: Would you do it again?

Andrew Suttie: Yes, I would. I mean, I feel like I'm having a nice little break. It was interesting, after I resigned, this weight came off my shoulders. My wife said to me, "*Wow, you just look so happy.*" I hadn't even realised it, but it is nice to not have to go and walk past reception and talk to the building managers about things that are difficult conversations to have between them and the decisions that the committee has just made or seeing the 50 emails from the weekend and having to deal with those issues. I mean, I still feel like I have this responsibility to ensure that the building is being managed as best it can, but it is a nice feeling to have a little rest for a while. But yes, I would go back if they needed assistance. Or if I thought they were doing the wrong thing, then probably time to then step back in if they'd have me back, which I think they would.

Amanda Farmer: I think it's important to give others a go as well. Sometimes we do see rusted-on committee members, not saying that you are one of them, Andrew. But nice to get some other thoughts and skills in the mix. Something that I am finding an interesting experience at the moment is that for part of the week I am actually a tenant in a strata scheme. And so, somebody who is used to living as an owner in a strata scheme and then now spending some time as a tenant, it is a very different feeling to be walking around the building, perhaps seeing things and thinking to myself, "*I actually don't need to worry about that,*" or, "*I don't have a say in that.*" If there's something wrong on the common property or something that shouldn't be done or someone's not parking in the right spot, it's an amazing sense of freedom that I feel that I don't have to care.

Andrew Suttie: Brilliant. It could be you parking in the wrong spot.

Amanda Farmer: It's not, of course, it's not. What? Did you say that CCTV? No, of course not. Now, of course, there are plenty of tenants out there who may not be owners but still take great care and consideration for the building and the common property and hats off to them. But I'm also experiencing on the tenant side the interaction with the building manager, move-in/move out process, the interaction with agents, the interaction with other owners and other tenants, and I'm finding that all quite fascinating. So perhaps I can continue to bring some of my tenancy experience to the podcast as well.

Andrew Suttie: Exploring it from a different level.

Amanda Farmer: Exactly.

Andrew Suttie: Yes. Good one.

Amanda Farmer: Now is there anything that you wanted to add, Andrew, whether it is relevant or related to your strata committee experience or something to do with the Queensland body corporate legislation that you must leave with us, can't leave without telling us? Jump in.

Andrew Suttie: Well, before we started this session and I was thinking about strata and my experiences with it over my lifetime, I rewound the memory banks and I remembered that my first experience was in, I can mention the year without sounding too old, 1995. Well before you were born Amanda.

Amanda Farmer: Ancient, Andrew, ancient.

Andrew Suttie: Yes, mum and dad sold the family home, and we moved into this apartment. It was one of 4. And so we were there from my high school years. And then when I was off studying for the first time at university, we were living in this... Yes, it was quite a lovely apartment sitting up on the hill at Toowong, so that was great. And then a couple of years ago, I got a call from a potential new client telling me about this building and these problems. I said, "*What's the name of the building?*" He told me, and I said, "*Do you know I used to live there when I was a teenager?*" I said, "*I lost something there, and I'm wondering if you can help me, my virginity.*"

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Amanda Farmer: This, everybody, is the burning thing that Andrew needed to bring to the podcast.

Andrew Suttie: That's right. It was so funny, he had a chuckle. So yes, it's just funny, swings and roundabouts and these things come back to not haunt you, but yes, I thought that I'd come full circle when I had that discussion with him. It was quite amusing.

Amanda Farmer: Do you think that strata lawyers and also body corporate managers are missing something or losing something when they say, "*I'd never live in strata or I never have or I never want to.*"? Do you think we gain a particular insight that helps us with our clients because we've had that experience?

Andrew Suttie: I don't know if it's an insight, but this is what I always think about when I think about living in a strata building. For example, where we are now, and we've actually moved into this unit in Noosa, not sure if it's going to be permanent or temporary, but it sits right on the Noosa River, and we've got access. I think I mentioned in my little presentation, we can drag our kayaks from our back deck straight into the Noosa River. There's no way I could ever afford a house that backs straight onto the Noosa River, so that's a massive advantage in living and investing in strata. But no, look, I think that's a throwaway comment, particularly from body corporate managers because they deal with so many issues, and they don't want to be a part of it.

But I can tell you now that you don't have to be a part of it. If you're living in it, you don't have to be on the committee. And although it's great to share your experience with the committee and try and guard the committee in the right direction, you can then resign whenever you feel like it and live happily ever after.

Amanda Farmer: Just as everybody else does.

Andrew Suttie: Yes, that's right. Exactly. Oblivious to what's going on in the background and legislation.

Amanda Farmer: Yes.

Andrew Suttie: Crazy stuff.

Amanda Farmer: I'm not sure, it sounds like a fantasy to me, Andrew. I'm not sure that I will ever be able to fully extract myself from the exigencies of strata management and strata committees.

Andrew Suttie: Even in retirement, I suppose, really, isn't it? Because you're always going to have it, that desire for perfection in the strata world.

Amanda Farmer: Yes, me in particular, I will always have that desire. Now, listen, Andrew, tell us how our listeners can find out more about you and get in touch.

Andrew Suttie: Well, it's funny, we've been working on a new website.

Gosh. Yes. I laugh in jest. It's been going for about 2 years now. We've spent so much money. We've got this product which we can't do anything with. We're endeavouring to come up to speed with our marketing strategies.

Amanda Farmer: Nice.

Andrew Suttie: So one day in the next 5 years, I guarantee that you'll be able to find me on something somewhere. In the meantime, I'm going to stay covert, under the radar, and you can find me at special events and at musical events...

Amanda Farmer: Musical events.

Andrew Suttie: ... which is one of a lot. The marketing activities that go on with the bands that are playing a much more significant

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than the marketing activities at my own firm. So yes, you can hire me as a saxophonist but maybe not as a strata lawyer for the time being.

Amanda Farmer: Love it. That is a breath of fresh air from guests on our show here, Andrew. I can't say anybody has ever turned down my opportunity given to them to plug their firm.

I will find his link and put it in the show notes, guys, even if he won't. Thank you very much for sharing your time with us today, Andrew, and I will look forward to catching up with you at a special event, a very special event in the near future, whatever that may be.

Andrew Suttie: In person.

Amanda Farmer: In person.

Andrew Suttie: That would be weird.

Amanda Farmer: That would be weird.

Andrew Suttie: We can go chink with our glasses.

Amanda Farmer: No. No, we won't, that's a bit too much. Wait another year for that.

Andrew Suttie: Thanks for having me, Amanda.

Amanda Farmer: Thanks for being on the show. See you, Andrew.

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?