

Publication Date: 06 April 2022

YSP Podcast Transcript: Episode 307. Arming strata owners with the basics

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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 and strata law guide, Amanda Farmer. This week, I am bringing you an edited version of my live chat over on our Facebook page last Friday. I'm over on Facebook every second Friday or so with a one-hour live session, sometimes with a special guest, sometimes it's just me. Last Friday, I spent some time digging into the new online strata resource recently published by the New South Wales Government. You'll hear me describe it here in this episode. Our Facebook live chats are conducted over video, so I took the opportunity to share my screen with viewers and walk you through the new website. What you're going to hear now is an edited-down version of that exercise.

I do encourage you to head over and watch the video whether on Facebook. You can also see it via my LinkedIn profile or on our YouTube channel. The links to all of those places are in the show notes to this episode. You can access the show notes via yourstrataproperty.com.au/podcasts. Find this podcast episode number 307, and you'll see the links set out under the audio file on that page. In this live chat, you will hear me welcome in the many viewers we had with us live on Friday. If you do check out the longer form unedited video, you'll find that I spend about another half an hour digging a little deeper into this new online government resource and answering some viewer questions. You'll hear me at the opening of this chat refer back to Episode number 306 of the podcast, that's last week's episode, and the discussion between me and Reena Van Aalst about whether or not a person who has been declared bankrupt should be permitted to serve on a strata committee.

That's a topic that received quite a bit of attention in my inbox and on our various social channels in the week since we published Episode 306. So right now I'm giving you a little more background information on the specific scenario I was speaking to in my chat with Reena. If that topic peaked your interest, then you are in for a treat. Now I would love for you to join my next Friday live session, the best way to make sure you know when Friday live is happening is to like or follow our page over on Facebook. That's at facebook.com/yourstrataproperty. That link is also in the show notes for you. I do send an email or two in the afternoon when Facebook live is happening. If you're not on our email list, join us via our website at yourstrataproperty.com.au.

Just opt-in for one of our free eBooks that you'll see there on the homepage, and we will have you on our list. Even easier, drop an email to me at amanda@yourstrataproperty.com.au. Let me know if you want to be added to our mailing list, and I will make that happen. I'll take you over right now to the edited version of last week's Friday live chat. Enjoy.

So, in this week's podcast episode, episode number 306, Reena and I were having a chat about a few things. We were covering off our wins and our challenges as we do every few weeks, and I shared a challenge that was drawn to my attention by a listener. It was about a committee member in that listener's community that was undischarged bankrupt. So that committee member the listener was telling me about was bankrupt, and that bankruptcy was continuing. Now at the time that this was being drawn to my attention. I talked about it briefly on the podcast, and Cristina has the link here for us that she'll pop into the comments.

If you haven't had a listen go and check it out. But I put it on the list to talk about today on live as well because I had a few of you in my inbox letting me know your views on whether or not our law should allow people who are or have been bankrupt, or perhaps people who have come to the attention of ASIC for the wrong reasons, whether they should be allowed to serve on our committees. A couple of comments on Facebook as well about that. And if you've had to listen to the podcast, you'll hear me say that currently, as a matter of law, there is nothing that prevents people who are bankrupt or have been from serving on committees. There is no fit and proper person test like we have when lawyers want to be admitted to legal practise, we have to be careful that we don't have any black marks against our name in order to be accepted into the profession.

We don't have anything like that for committee members and Reena and I in the podcast this week, we're debating whether, in fact, we should have those requirements. We thought that it might be putting the threshold a little bit too high, raising the bar a little bit too high for volunteer committee members. It's hard enough to get people to put their hand up to serve on our strata committees and putting more blocks in the way may not be a good idea. I did query whether if such a requirement was going to be introduced,

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it might be a requirement for larger buildings, more complex schemes, where multi-million-dollar budgets being administered. Perhaps there may be a higher standard or perhaps there should be a higher standard for the committee members who are in control of the decision-making in those communities. But I thought today I'd share a little bit more background to this story that this listener was sharing with me.

And that I only very briefly touched on in the podcast episode. Sometimes there's just not enough time to get into all the details, but I wondered what your views would be, what your thoughts would be, on this situation if you had a little bit more information and I do hold back sometimes information to protect the innocent, or maybe even it protects the guilty sometimes. Change names, change genders on the podcast so that you may not be tipped off as to which building I'm talking about in case you might be part of it or managing it, but a little bit more background information on this situation of this listener. The bankrupt committee member that I was talking about on the podcast was not actually an owner. So this was a circumstance where an owner had nominated their partner to sit on the committee. And it came to the attention of the listener who was communicating with me that this person was an undischarged bankrupt and indeed it was their second bankruptcy.

So the second time they'd gone down that path, not an owner nominated by an owner to serve on the committee. And apparently, this person was also the sole director of a company that was in the hands of liquidators with debts to unsecured creditors of more than \$1 million. And there had been a liquidator's report that was quite damning, apparently, that referred to insolvent trading. So it is with this knowledge, with this background, that this listener is reaching out to me and saying, Amanda, this is a person who is making decisions about how our owners corporation funds should be spent. Is there some rule that would prevent this person from making these decisions? Looking deeper into the situation, the listener found out that there were more than 10 companies of which this committee member had previously been a director and all of them had been de-registered.

Most of those de-registrations occurring after liquidation. This person was on the disqualified person register held by ASIC and had been slapped with enforceable undertakings by ASIC and fines of more than \$20,000. So all of this had happened in 10 years before this person was nominated for nominated by an owner and elected to the committee. So I do sympathise. As much as I express my opinion on the podcast saying we don't have these thresholds and I'm not sure that we should have these requirements of our volunteer committee members. I sympathise with this listener who was doing this research about a committee member that perhaps was making some unpopular decisions in the community and uncovering this publicly accessible information about how they had previously managed corporate affairs and failed to meet their duties, their responsibilities as a company director. And I can understand how that would cause some concerns, some serious discomfort, and lead someone to start asking those questions.

Is there anything that we can do about that? So short answer remains in New South Wales, as I believe it is around the country, but if someone will let me know if it's any different, I'd be fascinated to know if there's another jurisdiction around our country that prevents committee members with such histories from serving on committees, but nothing in New South Wales that would stop a person like that from being nominated for and elected to the committee and then managing our owners corporations affairs. All right. More of you coming on in and saying hello here to me and lots of people here live. It's great to see you. If you want to drop me a hello, feel free, it is us today. It is a solo live with me. So we have time to dig a little deeper on some important topics. Things I've been working on. Things I've been looking at this week and I'm happy to answer any questions that you have arising from what we're chatting about today.

Just post them here on Facebook, or if you're on LinkedIn or YouTube, I do come back around and have a look at those questions when I can. Zlata is giving me a hello. Great to see you here today Zlata. Edward is here. Great to see you, Edward. We have our friend Qpootle. I don't know who this is, but I like this name. It is cute. I've seen you a few times Qpootle. Good to see you saying hi there. And Gladys is saying scary to hear no such safeguards. Yes. I understand how that's scary Gladys. And those are the messages that I was getting in my inbox that we've seen in the comments under Facebook. Absolutely there should be a fit and proper person test. Why don't we have these requirements of our committee members? And I'm hearing that from owners. I'm hearing that from people who are on the ground, who are living in these buildings, who perhaps suffering may be firsthand from poor decision-making that's going on in their communities.

I accept completely that my opinion comes from a place of being a lawyer from being a strata manager and having a different point of view. I'm also an owner on a committee as well, but bringing my lawyer hat to the conversation and having perhaps a different point of view to what owners have when you are struggling in difficult communities with challenging issues. So I can see how so many of you that episode resonated with, and that discussion resonated with you. And you were sympathetic to that listener who is uncovering this uncomfortable information about their committee member. Now, I have promised you that I would pressure test, is the word that I used in my email this afternoon, pressure test this new online information resource that our New South Wales government has put together for strata owners, for strata managers, for committee members, for people who are thinking about buying into strata and have some questions.

I am indeed going to take you over to have a look at that webpage. It's actually a number of different web pages. And at first, I think I was incorrectly referring to this earlier this week as a resource produced by New South Wales Fair Trading, not Fair Trading, New South Wales government. It is a nsw.gov.au website. Previously taking the limited information I think it's fair to say and not controversial to say limited information that we had on our New South Wales Fair Trading website and putting it within the New South Wales government website. And there's a lot there, a lot more to share, a lot to get value from. If you are looking for some basic, it is basic, but there's a lot of it. Basic information about strata living in New South Wales. So I'm going to take you over to that page. Cristina has very helpfully posted the link already in the comments on Facebook.

So I will share my screen with you, but you can jump over and have a look directly there as well. Whether you are already living in strata, you're on the committee, you're managing strata, or you're looking to buy, the idea with these web pages is that it should have information that will answer your strata questions quickly. There was some public consultation and definitely has been quite a bit of public consultation in New South Wales as we look at building our strata hub and also reviewing our New South Wales legislation. And the feedback from that consultation has been that people want more information, more access to information, accurate information. There is a section about strata committees and a who's who in strata, what is a strata committee? What's an owners corporation? What is a strata manager and how do I contact them? That was flagged as one of the number one things that people wanted to know, roles and responsibilities.

It has been reported that there was an average of 20,000 monthly visitors to the New South Wales Fair Trading website looking for strata information. So there was a real need for that information to be more accessible, a little more detailed for there to be an easier way to get questions answered. So herein lies the result of this consultation and this suite of web pages that has been put together by the New South Wales government. I am going to share my screen with you and take you on over to the relevant webpage. Okay. That is looking like it is sharing there to you. If you're on a mobile, that might be a little bit small, but do come back and check out the replay when you're at your desktop. The web address is nsw.gov.au/housing-and-property/strata. So you probably want to pick up that link written down in the comments here or under this video where you are watching them. Advice for living in or buying into a strata community.

As a member of a strata community, you own an individual lot. And owners decide collectively how to best manage the property they share. This is the homepage and then there are links to find out different aspects of strata living. We're going to have a little poke around a few of those. I just wanted to take you down a little bit further where the page is reminding our New South Wales owners corporations that from the 30th of June this year, this is creeping upon us. Owners corporations will need to provide information annually so that this online tool that the government is building can be kept up to date. So this is our mandatory annual reporting. I was talking about this earlier this year, I'll come back around and post the link to the podcast episode where I was talking about mandatory annual reporting for owners corporations that is happening from the 30th of June this year.

And I'll show you, this is a good example here, I'll show you how this information is going to be used once the mandatory reporting system is in full swing. So we have just a little snapshot of it here on this search function. Already live, already going here on this part of the website. We can type an address or a strata plan number and get some limited at this point in time information about that strata plan. I'll type one that I am familiar with and I'll show you what comes up. So this is strata plan number 13385 and it gives you the address of the strata building. It tells you how many lots are there and when the plan was registered. That's all we can get at the moment. But once we have our mandatory annual reporting and our owners corporations are answering that long list of questions, filling out that long online form that I have talked about previously and I'll let you know where to get that podcast

episode, then there's going to be a lot more information here to access about a building.

So you can search by a strata plan number or address, it's helpful if you've got an address and you want to know what the strata plan number is or vice versa, you can see that information is available. Just be careful with your address searches that you know the actual address. I was doing this earlier today, and I had to be careful that I put in this range of street numbers to be able to get the actual strata plan number here. So if I had just typed 37, I got no result. So if you're looking for strata plan numbers, just be aware that it may have a different street address. So that's clever and that we're starting to see now how we are going to be putting information obtained through the mandatory annual report into use in our online system.

Okay, so let's have a closer look here about the things we might be able to learn when we hit this website. A few different ways to navigate. There's our links up the top here, text links, and then also a swipe-through information option here. Serving on the strata committee, how to run a strata meeting repairs and maintenance. This is interesting trending topics. I'm not quite sure how the website measures what's trending or popular pages, I suppose, but this may be a place to go if you are wondering maybe as a strata manager, as a strata service provider, what are the hot topics that people are interested in and that they're searching for on this website and that may then direct you as I would like to see it direct me with the content that I produce in the education that I produce. If a lot of people are asking what's a strata role, a great topic for a podcast.

I am just keeping my eye on some comments coming through as well. I can see your comment there, Henry. I might come back to that one. Michael is saying also helpful is the way of going to newsouthwaleslrs.com.au, which has a map and clicking on the property as some properties have two or more addresses, range of numbers, or different street names used. Yes, a great tip. Thank you very much, Michael, for that. Sometimes we are just trying to find out a strata plan number. We want to find out who the strata manager is, what the address for service is, a couple of free avenues for working that out in New South Wales, which is good. So if we have hit this page and let's say we want to find out about strata meetings, we can click through here, I'm trying and do this in a way that I can come back to this if I need to.

Strata meetings learn about the different types of meetings including annual general meetings and strata committee meetings and why you should get involved. An incredible amount of work, incredible amount of work has gone into these web pages. I certainly haven't read every page, but I have dipped into a few and there is some detail here. It's basic stuff, but there is an attempt to cover most aspects of what people will be experiencing in strata. You can see we have key information. Every now and then there's a little snippet of a fun fact, fun fact popping up here on each page, which is interesting. Why should I attend meetings? Topics that meetings can cover. The different kinds of meetings. So if you're a strata manager and you have someone who is new to strata, perhaps you have a right sizer.

As our friend, Sam Reese from Australian Apartment Advocacy would call it another down-sizer, a right-sizer. Someone who's come from a freestanding home, a larger home move to strata has no idea but would like to do their own research about exactly what is involved in strata living. I think this is a really good place to be directing them to have a poke around. Pre-meeting voting, proxy voting, getting a little bit more detailed there. Tenants at meetings. Perhaps a good place to direct tenants who are asking questions about strata. If they are, I was talking to a strata manager today for a podcast, which you'll see come up in a few weeks' time. This interview being published. And she said her introduction to strata was being a tenant in strata. She was there for 10 years and she never heard the word strata. She was a tenant for 10 years and never actually heard anyone use that term strata.

So many of our tenants are unaware of this structure that's happening behind the scenes. How voting works, voting power, types of votes, referring here to general resolutions, special resolutions unanimous. I've just noticed that says general resolution. We would probably say ordinary resolution, a sustainability infrastructure resolution, a unanimous resolution, raising matters for discussion. And then popular pages, once again, telling us where most people are going to look for their strata information, lots of crosslinking here happening on the page as well, which keeps people learning, keeps people engaged in learning more. There was something else that I wanted to show you. I'm just heading back to my notes. I think it was the who's who section. Who in strata understand the roles of the owners corporation and strata committee, strata manager, and building manager? So another good place to be directing new owners who may not know very much about strata.

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Here's another fun fact, more than three and a half thousand people in New South Wales are employed directly by strata schemes. Owners corporation previously called body corporate made up of all the owners in a strata scheme. The owners corporation makes decisions and manages the overall scheme. There's a reason I wanted to show you this page because where we talk about, here it is, where we talk about a strata committee and this is something to be careful of. This information is helpful. It is, however, very basic and quite high level, let's say high level, and be aware that directing people to this information may in some cases give rise to more questions and the need to go deeper. And I see this here in this page about what is a strata committee and what decisions can the strata committee make? Under this heading, what decisions can the strata committee make?

It says a strata committee helps the owners corporation make decisions about the strata scheme. The owners corporation chooses exactly what the strata committee can decide on. That is actually not the case. It works the other way around. Our strata committees can make decisions about anything that is not otherwise restricted to the owners corporation. So our strata committees have very, very broad, far-reaching powers. A strata committee can make a decision about whether an item of common property should be repaired and maintained and they can send contractors out to start doing that work. It is more correct in my view to approach the difference between a strata committee and an owners corporation by looking at what a strata committee cannot make decisions about, it cannot pass special resolutions, for example. What needs a special resolution? A by-law. A by-law needs a special resolution. It cannot appoint a strata manager, that must be done by the owner's corporation.

It cannot strike levies, that must be done by an owners corporation. But when you start to look at it, there are not too many things on this list that a strata committee can't do. And while an owners corporation can restrict a strata committee's decision making by passing a resolution at a general meeting to say the following matters are limited to the owners corporation to decide on and not the strata committee, it is not the case that the owners corporation chooses exactly what the committee can decide on, which is what this website says.

So there's a few areas there that it's a little bit high level and I think we just need to approach those high-level summaries with a little bit of caution because this is what leads owners into a misunderstanding of the power of their strata committees, and owners can be incredibly surprised when things are happening around the building that they have no knowledge of or feel that they've never approved and have a sense that they should have knowledge of it and should have had a say in whether or not, for example, the roof membrane was to be repaired or replaced.

But the fact is a strata committee depending on budgets and whether you're a large scheme and whether you've got the money in the account, a strata committee can make those decisions without going to a general meeting. So overall helpful information, but high level, and there will be no doubt within for an owner that is experiencing a problem or there's a dispute or there're some conflicts, or they're looking for a specific answer, they may not find that answer within these pages and may have to go a little bit deeper, but definitely a good starting point.

Alrighty, I am going to stop sharing that screen there. Now, we do have the link to this page. Do have a poke around strata managers. Absolutely have this in your toolkit to share, especially with new owners. I think of many strata managers I've come across have a pack that they send out or at least a form to get contact information for new owners to get addresses for service. It might be a good idea to put this link to this information here as part of that pack so that new owners can go and have a read and gain some understanding of exactly what it is strata is and the basic knowledge to help them ease into strata living.

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 comment section, which Amanda will answer in her upcoming episodes. How can Amanda help you today?