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## YSP Podcast Transcript: Episode 319. Qualified requests | the trouble with 2-lot schemes | the happy strata manager

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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. Hey there Reena.

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

**Amanda Farmer:** I'm doing great. I am ready to dive into our wins and our challenges for this week. First up, what's been challenging you, Reena?

**Reena Van Aalst:** Well, actually this is a challenge from a colleague of mine, and he spoke to me about this earlier today. So the timing is fantastic, Amanda, that I was able to tell him that I'm actually going to be speaking to you today.

**Amanda Farmer:** He must know our recording schedule.

**Reena Van Aalst:** Well, now he says, "I'm going to make sure I get in there before you get on with Amanda." So the issue that he had, he received a qualified request from an owner to hold a general meeting. And apparently it was about two weeks away from their AGM. So he asked the owner whether or not she'd be happy that since there was an AGM that was convened, that they put the motions that she had requested on that agenda. And the meeting was also going to be held in-person for the AGM. They've booked a venue and all the, obviously, having a face-to-face meeting for an AGM was deemed to be the best way to hold it this time. And the owner said, "No, I'm going overseas and I want it held two weeks prior to the AGM. And I wanted by pre-electronic voting."

And the question is, that the owners' corporation doesn't want to have this general meeting by pre-electronic voting. They wanted to have this general meeting first, and then have the AGM straight after as two separate meetings, not even had them on the same general meeting agenda. The question is Amanda, can that owner dictate A, the date of the meeting, and B the method by which the meeting is held? The committee want the meeting to be held in-person, because they believe that having owners present either, even if it's electronic by Zoom. Having a medium by which we can discuss their issues, their gripes. And then at least hear both arguments for and against, rather than having it by pre-electronic voting, where people just vote for or against a motion.

**Amanda Farmer:** Great question. And I just want to fill in maybe some gaps for our listeners who might not understand what a qualified request is. So, Reena is referring to Section 19 in our Strata Schemes Management Act in New South Wales. Which provides that the secretary of an owners' corporation must convene a general meeting of the owners' corporation as soon as practicable, and not later than 14 days after they receive a qualified request. And a qualified request is a request for a meeting made by owners of lots that have a total unit entitlement of at least one-quarter of the aggregate. So it's a way of making sure that owners who want to get an issue before a general meeting can force the owners' corporation, the secretary of the owners' corporation to convene that general meeting. And they don't have to wait until the next annual general meeting.

To answer your question, owners cannot, in my view, whether it's a qualified request or any other request for a meeting dictate the method of the meeting. Whether a meeting is going to be held in-person, solely by pre-meeting electronic voting, partly by pre-meeting electronic voting is a matter wholly within the discretion of the strata committee, the secretary, if they're the ones convening the meeting. And it's often a frustration that I hear from owners, that they have no control over the method of the meeting. There's been a lot of complaints, Reena. I don't know if you get these as well, where owners have been wanting to have meetings in-person and committees have been convening meetings solely by pre-meeting electronic votings or meetings online, rather than meetings in-person. And the advice that I've been giving, "Is there's nothing you can do about that. Because as an owner you don't have that right to direct, to dictate the method of the meeting."

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So even in the situation of a qualified request, in my view, the meeting can be convened in the form that the strata committee, or even just the secretary determines. As for the timing of the meeting, well, Section 19 simply says that the meeting must be convened as soon as practicable, and not later than 14 days after receiving the request. So, as long as the meeting notice is issued within 14 days of receiving the qualified request, then that requirement is complied with. Once again, there's no provision there for the owner or the owners making the qualified request to demand that the meeting notice is issued, or that the meeting is held any earlier than those 14 days after receiving the qualified request.

**Reena Van Aalst:** That's great, Amanda. Yes, that does make sense. But I think the dilemma was, that in the view of the owners that were making the request, in their mind it was their meeting. It wasn't a meeting that was determined by the committee, it's them. And therefore, they can actually dictate the methodology as well as the date. So, that's great news. I think that's the advice that my colleague had received. And I think now that you've just confirmed that, so you'll be very happy to hear that.

**Amanda Farmer:** Excellent! Yes, as I said, I'm often dealing with owners who are frustrated by that inability to direct how the meeting is held. And I get that, I really do. People are wanting to have the opportunity to speak to their motions, to perhaps convince other owners present and voting that they should vote in favour of their motion. And you can't do that when a meeting is conducted wholly by pre-meeting electronic voting. I'm interested in this circumstance that it's the opposite. These owners want the vote conducted by pre-meeting electronic voting and the committee wants a meeting in person, interesting.

**Reena Van Aalst:** Yes. Well, I think, I mean what that says to me Amanda, is that I think they may be concerned that if the meeting was held in-person, that some people perhaps may change their mind if they perhaps hear other people's views. Where I think that would be more of a time when people are talking. If people aren't necessarily fixated on a particular point of view, that there is that ability to perhaps dissuade. Because I think part of the issue is also some motions relating to the appointment of an engineer and other things. Whereas, some people don't want an engineer appointed, some people do. So I think that's perhaps going to be one of the things where if you have speak to that motion, or even may have the engineer there it might change people's minds if people listen to that. Yes, so I'll let you know how that goes actually, but thank you for that.

**Amanda Farmer:** Please do. And in case anybody's wondering, no, our recording schedule is not publicly available. And no, you usually can't submit your questions to prior to the recording.

**Reena Van Aalst:** Please try.

**Amanda Farmer:** That colleague was very lucky.

**Reena Van Aalst:** Yes, yes. "It was a good timing." I said.

**Amanda Farmer:** On onto my challenge for this week. At the moment, I'm working with a two-lot building, or rather an owner in a two-lot building. And interestingly, the unit entitlement for these lots are as follows. One lot has 60% of the unit entitlement and the other has 40%. Now when we're dealing with only two lots, that can be a great situation for the majority holder to be in, but an incredibly difficult situation for the minority holder. And that's the person that I'm acting for at the moment. The minority holder is impacted by some leaks in the common property and needs those leaks to be repaired, so that they can have a dry home.

The majority holder who is the one who has to approve the work is delaying, is refusing to accept that the work needs to be done, is not agreeing to get quotes. And unfortunately this minority holder has had to come to me to find out what their legal rights are and to get things moving along. Now, I don't see this very often, Reena. You might tell me you have a different experience of two lot schemes. Often they are equal unit entitlement, which is a good thing I think. Yes, that can still result in deadlocks, but at least no one is more powerful than the other. Do you see many of these unequal splits?

**Reena Van Aalst:** No. No, actually, and I have not seen them. And I've already actually been involved in a compulsory management of a two-lot scheme. So in a sense, it didn't really matter for, in terms of our context. But I think that tolerance were, I

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think equal. Which I think was part of the issue. Also, I think you're right. Having an equal also means that if one's for and one's against it, the merchants are defeated. So that can also be an issue.

But I think, I always sort of wonder as a consumer, I think when people don't really understand what strata is. When you do buy into these situations, that it is going to be problematic if both owners aren't on the same page in terms of what they deem is to be important. But more so as you, as you mentioned, Amanda, these are common property issues that have to be fixed where there's leak. As long as if it's a beautification or an upgrade disagreement, this is something that needs to be done. So that makes it even harder.

**Amanda Farmer:** Yes. I'm glad you raised that, when people are buying in, it's important to understand how unit entitlements work. And while maybe you might be getting a discount on the property because it is the smaller holding, to understand from somebody experienced in strata law, what that means when it comes time to make decisions. You don't actually have a say in matters that would require a majority vote, because your neighbour can make all of those decisions. Yes, you might have a say when it comes to making by-laws and improvements or upgrades to the common property. Those items require a special resolution. So as long as you have more than 25% of the unit entitlement, you can block those proposals. But most of the day-to-day decision-making that goes on in strata requires majority vote, majority approval.

And if you've got the wrong neighbour, or someone you just disagree with, that can be a really hard position to be in. And what's happened in this circumstance is, this owner with the minority holding has had to come to me, get advice. I've given that advice as to what the available options are. And it may be that we end up before the tribunal seeking an order that the owners' corporation must do this work, because the owners' corporation otherwise, is dragging its feet. And my client is entitled to a safe, dry home. That's a lot of money to have a strata lawyer argue that before the tribunal. And you wouldn't want to have to do that every time you need something fixed around the building.

**Reena Van Aalst:** And also Amanda, the other issue is apart from the cost, it's also the delay. Because I mean, everyone knows it's been involved with NCAT recently, even before the pandemic, but even more so now in terms of the delays that are experienced, because of the fact that the timetable, putting on evidence, hearings, and each party has an equal amount of time to put on their evidence on the other. And therefore, it becomes at least three or four-month process before this decision is made. And that owner is slumming to live with the issue. And I mean, we're lucky that we haven't had rain in the last few weeks, but that can change at any time. So, unfortunately, well it's dry. People forget about it, but you know what I mean? It's not that long ago that we had torrential, consistent rain that was problematic for many people. And now who knows in the next few months, what could happen?

**Amanda Farmer:** Yes. Interestingly, at the same time, I've had somebody approach me, wanting to understand how to reallocate unit entitlements in a small scheme, two lots, once again. This person happens to own both lots at the moment. And they were quite surprised when I told them, "Well, you do still need to go to the tribunal and seek an order for the reallocation of unit entitlements. That's the only way to do it. Even if you are the owner of both lots, or everybody's in agreement, you do still need to get that order. And you need to explain why the entitlements were incorrect at the date the strata plan was registered."

But this is a two-lot scheme where the entitlements are 60/40, and the current owner wants to make them 50/50. And I almost said, "Good on you! Congrats to you! That is an admirable goal, I think. Especially if he's planning on selling these two lots, and wanting to make sure that that's done in a fair way, no doubt to achieve best market value for each of them. But he could just as easily leave that unit entitlement split and let whoever the subsequent purchases are, deal with the problems arising from that. So I thought that was an interesting approach and I'm hoping that that one does go ahead."

**Reena Van Aalst:** Yes. Hopefully, I mean, I suppose you start to show Amanda, when you do go approach a tribunal, that the allocations were not correct at the time of registration of strata plan?

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**Amanda Farmer:** Yes. Yes. So you do have to get a valuer to produce a report of the value of the properties at the time the strata plan was registered. So you have to go back in time, that's often misunderstood. Sometimes valuers come in and they say, "Oh, well this is the value that it is now. Surely, they're equal. They should be 50/50." But you actually have to get the valuation as at the date of the strata plan registration. I will pop the link into the relevant section of the Strata Schemes Management Act on reallocation of unit entitlements, if anyone's interested in looking into that further in New South Wales.

**Reena Van Aalst:** Yes. And also I think, I mean, I had that done for a real large building. Where actually, they can go in and I think, into the LRS and find out the cost, I think at the time. Because you need to find out that the cost I think, at the time it was sold, what the values were at that time. Don't you Amanda?

**Amanda Farmer:** Yes, you can. The valuer of general would have the land values. That's for sure, a history of the land values. As for the market values, I'm not a registered valuer of course. But my understanding is that a registered valuer would go and look at comparable sales during that period. So, it can be quite a costly exercise if you're dealing with a big building, because they're having to look at the market values of every lot in a big building. It's often why these reallocations just don't happen. Owners' corporations can't fund them.

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

**Amanda Farmer:** And if you have a dissenting owner, or a group of dissenting owners, and there's competing valuations, and the tribunal is then having to have a hearing. I know years ago, when I was first starting out as a litigator. I was an advocate for a strata scheme within a community association, that was opposing the reallocation of unit entitlements. There are about four parties to those proceedings and we had a five-day hearing. It ended up going my client's way, which was great. But there were two valuers, two barristers, four lawyers. It was a major event.

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

**Amanda Farmer:** So yes, some challenges there, both on the surface and below the surface for our small schemes. Do remember to check your unit entitlements, and make sure you understand the impact of unequal unit entitlements. Onto your win for this week Reena.

**Reena Van Aalst:** I had dinner with an old client of mine last night. And he said to me, "What do you actually like about your job?" And I'm thinking that's a strange question. I mean, he'd been a client the moment, like 10 years. And he said, "I can't imagine there's anything enjoyable about being a strata manager, because all people do is ring up and complain." And I thought to myself, overall it's a really demanding job requiring a number of different skill sets. But however, there's so much to strata managers that people really don't understand. You've got intellectual challenge that I enjoy. And I think dealing with a wide cross-section of people from different professions and different histories in life. And coming from other houses or other strata schemes, basically most of the communities that I deal with are nice people. Most owners are nice people, even tenants, even when they're complaining, they're still overall, most people are quite nice.

And we also deal with a variety of stakeholders; were dealing with lawyers, accountants, auditors, contractors. We're dealing with a wide range of people. And the other thing I thought of, and I thought to myself, actually, I don't think there's any profession that would have longevity of a relationship. Now, I've managed buildings for like 15 years. And I've had pretty much in some cases, the same committee members. So, I think to myself, as a lawyer, or an accountant, or any other professional, even a contractor. Let's say you might have a client who you've had for many years, Amanda, but you deal with them only on certain when there's an issue.

Like let's say they've got an issue, you deal with them for a certain period of time and then that's it. And then it could be another year later where something arises and you're going to deal with them again. Whereas, I'm actually dealing with people all the time, year in, year out for years. And I think there's no other profession that actually has that. And that I think is part of really what I enjoy about it. I think that you do form friendships. I mean, a lot of my clients now become friends. We don't necessarily socialise. We might have a coffee here and there, or they might ring me about another building that they have something in. And so they feel like

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as a friend you can ring up and pick someone's brain and ask them a question. So yes, I thought of myself in a sense, people think of strata managers, oh, all you ever deal is with complaints. And of course, there is an element of that.

But overall I think for most people, and I think, especially for me, I think it is enjoyable. Because you do get to work with people and be part of their lives in a way, because their home is very important to them, and it's actually quite a long. I've managed buildings for years and years. And, so I think I was I've known you for like you know 15 years. It's like, oh my God! I think about how old I am, I think that's quite a big chunk of my life. So-

**Amanda Farmer:** Oh, that is great.

**Reena Van Aalst:** Yes. Yes. So I just thought I'd share that, actually.

**Amanda Farmer:** Well, thank you for sharing that. I love that. And I love that you were asked that question, and thank you for sharing your answer here. I agree. I think if you are a people person, if you enjoy those relationships, if you thrive on that contact, that communication. Then strata management must be a fabulous place for you to be. And yes, you're dealing with complaints, and people are sharing their problems, but you're also solving those problems. Similar to a lawyer's role, there must be a great feeling that comes from that when you're able to solve that problem for an owner, for a committee, for a building. And that's certainly what I get out of the work that I do. I would see great fulfilment coming from that side.

**Reena Van Aalst:** Yes.

**Amanda Farmer:** And it is tough. It's tough at the best of times. I know it's been particularly tough, the last... Look, I want to say few months because of the weather and because of the difficulty getting contractors. I know. But it's been tough for the last two years, really, let's be honest with the pandemic. And it's nice to take some time to reflect as you've done on why you do what you do, and keep reassure yourself that you do enjoy it, and you're happy doing it.

**Reena Van Aalst:** Exactly! Thanks, Amanda. Yes, sometimes, I mean I have a time think, I'm like, God, why am I doing this? But overall, when I think about it, it definitely is very rewarding.

**Amanda Farmer:** Good to hear. Speaking of nice things, onto my win for this week. Some episodes ago, I think I might have been back in episode number 300. I invited listeners to give the podcast a rating or a review over on Apple Podcasts, or wherever it is that you listen. And I made a promise, and it's a promise that I haven't met, haven't kept up until now. I made a promise that I would thank personally, those who were giving us great reviews for the podcast, particularly after that request. And I haven't done that yet, but today I have a special thank you going out to Bruce and Sharon. Bruce and Sharon have given us a five-star review over on Apple Podcasts. And they say this, "Amanda's podcast is valuable, whether you are new to strata or if you think you are experienced." I like the way that's been phrased. If you think.

**Reena Van Aalst:** You think.

**Amanda Farmer:** You are experienced. "Expert guests intertwined with clear explanation of strata law is very valuable. It's not just about problems but also about future planning." Thank you so much, Bruce and Sharon for giving us that five-star review. Great timing as well to be highlighting, that is not just about problems, it's about future planning, it's about the good things too.

**Reena Van Aalst:** Yes, Amanda. I think that was probably what we were talking about earlier when I was sharing my experiences of being in strata. It's not just about the problems, but it is about improving, having community spirit, understanding how Strata does work. I think it's really important that it's not just about problems, but also it's to me a great way to live if you have a harmonious building. And as your podcast listeners have said, it's also about future planning. And whether, you do want to stay in strata as well, that's another thing you can think about. We just talked about the unit entitlement issue. Another thing about future planning that comes into it. So, understanding what you're buying into, I think is probably very important. And I think it, hopefully, the podcast does help people when they are making those decisions.

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**Amanda Farmer:** Yes, I've certainly heard that it does. And I'm so pleased that we're able to bring that knowledge out into the world. If you do want to leave us a rating or review wherever you listen to the podcast, we would very much appreciate that. Whether it's on Apple Podcast or on Spotify, the team will be keeping an eye out for those reviews. And we're happy to give you a thank you here on the show. The more five-star reviews we have, then the more people we can reach with this important information that we put together for you to improve your experience of community living.

**Reena Van Aalst:** Yes. I think it's important, Amanda, when people do show their thanks in a way such as giving a review, because a lot of people may say thanks to you personally, but it's good to get that sort of public recognition.

**Amanda Farmer:** Yes, and that is just the way that our world works now, isn't it? I'm often saying that on our Facebook Lives. That if you like what you're hearing, if you like what we're doing here on the page, if you like the information and the education that is being offered to you absolutely for free, and with no expectation of anything in return. Share it! Share it to your buildings' Facebook page, share it with your strata manager, share it with your committee members so that they too can learn. And if that's all that happens, if that's all that comes out of this learning that we're sharing, then that is plenty of good work. Absolutely!

**Reena Van Aalst:** Exactly! Totally agree, Amanda.

**Amanda Farmer:** Thank you so much for your generosity in giving your time today, Reena. Enjoy the rest of your week in Strata.

**Reena Van Aalst:** You too, Amanda. Take care. Bye!

**Amanda Farmer:** Catch you next time. 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 via the show notes at [www.yourstrataproperty.com.au](http://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?