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YSP Podcast Transcript: Episode 338. Dealing with a cyber fraud fallout | amending meeting motions | levy success

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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'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 going?

Amanda Farmer: I'm doing well. I am looking forward to our chat. It's been a few weeks. No doubt you have experienced many challenges and hopefully a couple of wins in that time. Let's jump in to your chosen challenge for this week. Hit us, Reena, what's been challenging you?

Reena Van Aalst: Well, with the environment that we're talking about in relation to hackers and Optus and Medibank, we had one of our engineers who was hacked recently. It actually transpires that someone had hacked into his email account and asked us to change the bank account details of the invoice. Now, the way that it was written... As I said, it was from the same email address and the same style of writing. So sometimes when people get a different email from someone else and hang on, it doesn't sound like that person the way he wrote. Obviously, the hacker had seen how he'd previously communicated, so therefore he was able or she was able to copy exactly what had been done.

So then I said, oh, that's strange. So then I sent that to our accounts manager. We actually had the invoice on the hub and had been approved, and I had to basically stop the invoice from being approved. Went back and said, can you please make sure that you change the bank account details? We wrote back to the engineer saying, thank you for letting us know, it's been approved but hadn't left the account yet. So we've made the changes and we're arranging payment. And so I would say about maybe two weeks later we received an invoice from the engineer saying, "I haven't been paid." And I'm thinking that's strange because I do recall seeing it on the hub and everything like that. It had come through the banking and I said, "We've already approved it, we paid you." You told us that you had a new bank account, and we'd swapped it.

He said to me, oh no, I've been hacked. Anyway and so now since that time his wife rang and sort of got really angry and sort of started screaming at me and saying, "You need to pay this invoice again." And the committee said, well we don't believe that we need to pay it again because it was paid under the assumption that the email came from the person who had sent the invoice, which was his email address exactly. There wasn't any... Sometimes with hackers, I think we've been told, and you can see it, there might be a slight difference in the address, it could be a missing letter. And anyway, he wants us to now pay it again and we're saying... The owners corporation is saying no and I'm actually saying to him, well, can you provide the legislation that provides the proof that you're entitled to pay again?

And of course, he says, "Well, I don't have to do that but that's up to you. You've got to pay the invoice again." So that's where we're at at the moment, Amanda. We're at a bit of an impasse. So have you had any issues or experienced a matter with any clients that have come to you about these types of things?

Amanda Farmer: No, I haven't. Not yet. I'm sure it's coming. Just to clarify, you've said that the invoice was on the portal, your committee was about to approve it, you then got contacted by the engineer who said don't pay it, we've changed our bank details, these are the new bank details. You then upload the new bank details, approve the payment of the invoice to the new bank account, and it turns out that that is the hacker's account that they have set up to receive the funds.

Reena Van Aalst: That's correct. Amanda.

Amanda Farmer: Look, I find it difficult to understand why this would be the owners corporation's problem, let's say, to put it bluntly. I would hope that this contractor is insured for this kind of event and it's a good reminder to all of us to make sure we have

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this kind of insurance because if we are hacked, if we are the subject of cyber fraud, which is what this is, then indeed our clients are not to know and maybe paying money to the wrong account through no fault of their own. And if we want to get our money, hopefully, there's a policy of insurance we can claim on.

Reena Van Aalst: Yes, exactly, Amanda. I mean, many years ago I remember I chose the wrong bank account details when I was making a personal payment. The person had changed company names and I chose the old company name rather than the new one. And then I realised when I was told that they hadn't received the payment, then I realised, oops, I've chosen the wrong one and the money went into someone else's account, which obviously then I could not retrieve. So even if you make a legitimate mistake and the person has profited by your mistake, then the bank really at the time said to me they had no recourse to make that person pay it back. And that's sort of a legitimate mistake as opposed to a cyber incident as you've said, which has been the hacking thing. So I think the committee will be happy, Amanda, to hear that. I mean that was always our position, but we just wanted to make sure that we were on the right track.

Amanda Farmer: Look, I think you're on the right track. If it's something that is pressed, then indeed seek some legal advice on the point. But I would be surprised, do let me know. I'd be surprised if the owners is on the owners corporation to pay that amount again. Something for us all to be aware of. There's a lot going on at the moment in that respect, isn't there? I don't want to say too much about that and nobody is safe. Let's say that either from a corporate perspective and protecting your own customer's data and in respect to your personal data, I think we all have to accept that it's not a matter of if, but when.

My challenge for this week comes from a listener who has posted a question under one of our past podcast chats Reena, over on the website. Richard tuned in to podcast episode number 333, which was our chat about a few different things, but including the taking of minutes at meetings and we had a bit of a debate as to how much information should be included in meeting minutes. That sparked lots of very insightful comments over under that episode on our website and a few more questions, one of which is this.

Richard has asked, what do you think of general meeting minutes which record that the diagram annexed to the minutes relative to an air conditioning installation in this example is actually different to the diagram that was circulated as part of the notice of meeting. So what happened at this meeting is that the diagram was amended to correct a technical error and the minutes record that indeed the diagram was amended and that the amendment does not change the purpose or the intent of the by-law. And the amended diagram is minuted as being annexed to the minutes. Reena, I imagine you have been in this situation before as a strata manager where maybe a by-law or a document attached to a by-law was amended by agreement at a meeting and therefore what is in the minutes is different to what was in the notice. How do you approach this?

Reena Van Aalst: When normally there's an amendment to the by-law, let's say in this case, if there's a reference to a diagram, then that should be then reflected as an amendment in the minutes as well. So that amendment should have been put to the vote as well as the by-law. So therefore there were two aspects to this and it shouldn't just be noted as a correction when you get the minutes as opposed to having that discussion and that proposal being put forward to all owners in relation to the change. Here's what we do whether it's a technical error or not, I mean that's not really relevant. I've got at the moment actually a by-law that was passed last year in June to allow changes to be made to two apartments and the external facade, they're taking out the sliding doors and making them bigger and both apartments are going to do it simultaneously.

So there's the uniformity with the building. That was approved by council, but since that time, there's [inaudible 00:09:09] that have been discovered where some drainage goes into that, therefore those plans now don't apply to that by-law. Now we're actually having another meeting to actually resolve by special resolution to amend those plans so that the plans that were applicable for the by-law last year are no longer applicable now and therefore we're going to have to change the plans that were annexed to the original by-law. So yes, I mean if I'm understanding it correctly, Amanda, that should have been put to the meeting if there were any technical issues relating to the diagram. That should have been put forward and that should have been all minuted as part of the resolution when it came to the by-law. So that the lawyer would not be asking when they're doing the consolidation for a copy of the agenda in the minutes. And I would hope that they would also pick that up.

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Amanda Farmer: Yes, it's a good point. That's an important distinction you're making there, Reena. It's not entirely clear from Richard's comment here whether owners were surprised by this amendment when they received the minutes or whether this amendment was actually discussed in the meeting. So I do agree with you. If there is going to be an amendment to a motion or the terms of a by-law or a document annexed to a by-law, then that amendment should be put to the meeting to vote on. And then if the amendment is accepted, then the amended form of the motion or the by-law with the amended diagram is then voted on. That is indeed the correct way to go about it. I'm not sure that's what happened in Richard's building and therein lies the benefit of detailed meeting minutes.

Reena Van Aalst: Yes. That's always the case too. When these things happen, Amanda, and people all the time don't think much of it, but later on something does happen or there's someone's not happy with something or another owner buys it and changes it or whatever maybe the case. That's when you find, yes, the minutes are really important or if you're in NCAT, that's definitely somewhere you'll find how you minute things are really important. So I think sometimes people don't realise that they think, oh, oh, they're just minutes or they don't take... Even signing minutes. I mean people don't sign minutes. And that's something I really find strange when the chairperson doesn't sign it. I mean even now electronically we always ask the chairperson to send us a signed copy of the minutes. Because before when you were at a physical meeting, you get them just to sign the minutes there then.

But now obviously when meetings are held by Zoom it's a bit harder. But you know have to sign your minutes. I mean again, if that ever goes to NCAT or court, the first thing that they're going to ask for is signed minutes. And I remember years ago at my previous work where a manager had left and he was the chairperson at a number of meetings then when in a court case arose and we had to basically get those minutes to him and get him to sign them because the lawyers on both sides wanted signed minutes. So yes, another sort of thing that gets forgotten I think when it comes to minutes.

Amanda Farmer: Yes, interesting. And at the very least, if not signed minutes, which I appreciate may be difficult in our modern ages, things are getting flicked back and forth over email, and people don't have printers or scanners. The ability to insert electronic signatures perhaps for our strata managers. I think at the very least it's incredibly important to have a clear written instructions from the secretary is really the correct person approving the minutes because I know most strata managers who are attending meetings will draft the minutes of the meeting. I know some strata managers who then simply issue the minutes, saying these are the minutes, everybody without seeking that instruction from the committee or the secretary in particular. But I know other strata managers who do make a point of doing that. And it's so important for your own protection as a professional and should the minutes be questioned to have at least that email from the committee or the secretary saying, yes, the minutes are right, they're good to circulate. And indeed at the next meeting there is a motion put to everyone present at the meeting to resolve, to adopt the minutes of the past meeting.

Reena Van Aalst: I think also in this case, Amanda, perhaps even if the secretary was provided with a copy of the minutes before they were disseminated, they may not be aware of the requirement to minute amendments in the way that amendments should be minuted. So as a layperson, the secretary may not be aware that that's what should have happened if it hadn't been provided in draft form. So yes, it's not under consideration, I think as lay people, they obviously would rely on strata managers to provide that expertise in relation to minute taking.

Amanda Farmer: Yes. Lots to think about there. More on the plates of our strata managers and our committee members. What's your win for this week, Reena?

Reena Van Aalst: Well, my win for this week, Amanda, has been two recent AGMs for buildings that are actually small. One thing is 6 lots and one is 9 lots, where both buildings raised special levies in excess of 120,000 just without any dissension. So it was really quite surprising that some people, I think some buildings are taking their obligations to repair and maintain common property quite seriously. And also realising that if you do this drip feed sort of way of trying to raise levies when there's clearly so many outstanding issues... In this case, one was a roof replacement or repair, perhaps. The other one.... Also, they didn't have enough money when we took them over. So we've been obviously double their normal levies and then we put on I think two special levies and they said no, we need an extra instalment of another 30,000. And I'm thinking, wow, this is good.

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And then another building, I just did draft budget and I thought, oh, they're going to probably say no, because I increased their last quartre of their levies by a hundred thousand. So it's a lot of money for a scheme of nine lots and after all that... Then there was special levies required. And I said, oh, maybe half that. They said, no, no. Double that. And I'm thinking, okay. And at the meeting there was not one person that dissented... Because people could see that the work was needed. But you always have people that don't want to pay and they know that work is needed and it's the first time I've come away thinking, wow, that was easy compared to having to really explain to owners why they needed to raise extra money.

And also these levies are just... Special levies only due I think a month after the regular levies. So it wasn't a long time in between payments, but I think people are realising... I know obviously, this doesn't apply in old schemes, but it was just refreshing to see that some of the issues that are being raised, I think in different forums like if you can't pay for it, don't own it. I think Michael Teys mentioned on your podcast recently, Amanda, which was music to many of our strata managers' ears. I think seeing that sort of play out in meetings is really a wonderful experience for a strata manager.

Amanda Farmer: Yes, that is great to hear and I have my own example of having a similar experience recently which I'll share. Before I do though, I do want to point out to our listeners that for once that is not my dog barking in the background. Reena Van Aalst, do you have a dog?

Reena Van Aalst: No. I thought it was your dog, Amanda.

Amanda Farmer: No.

Reena Van Aalst: Let me just take my...

Amanda Farmer: Can you hear a dog barking?

Reena Van Aalst: Yes, I thought it was your dog. There's a dog in the Amanda, when I pull these out, I don't hear a dog. Oh, hang on. No, I can hear it now. Must be outside. Sorry, everybody. Yes. I don't have a dog but there is a dog in the vicinity.

Amanda Farmer: Oh, that's a shame. I thought maybe hell had frozen over or there were pigs flying outside your window. Reena got a dog.

Reena Van Aalst: See, with the earphones. I just can't, I couldn't. I thought, oh, that must be Amanda's.

Amanda Farmer: Yes, everyone does. That's why I had to point it out and say it's not my fault this time.

Reena Van Aalst: Sorry. Sorry listeners it's my environment.

Amanda Farmer: All good. All listeners are welcome including the canine variety.

Now, yes. At my AGM this year, we had an increase in levies, as I have to say we do most years and it was significant. We're looking at replacing our lift in a couple of years' time. We don't want to be facing a special levy or needing a strata loan at that stage. So the committee had looked at the budget and there was... I think it was about 80 grand extra going to the capital works fund saving towards that lift replacement. And a couple of committee members were cautious about that, a little bit anxious that it wouldn't be supported. And the same as your experience, Reena, it went through unanimous approval, no questions asked. Of course, we explained the budget and explained what the additional amount was for and everybody understood, accepted and approved it. So indeed refreshing and I hope this is a sign of the future attitude that some, if not most of our strata lot owners are going to have towards their corporate responsibilities. Another term used by Michael Teys when we spoke about this topic.

Reena Van Aalst: Well actually, Amanda, I didn't even have to explain anything. I just said, "Oh, like anyone has any questions

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about the budget or the levies?" And they didn't ask anything. So I think it was even easier than your experience. I didn't explain anything, which is again, I think a sign that people are looking at... They looked at the financial, that they considered that we haven't spend so much money this year in the capital fund that we had not foreseen and therefore we had to do something about it. So it was just good that people didn't have to be reminded of their obligations, Amanda, and at least I think it is definitely a step in the right direction, I think for schemes if they're now thinking like that.

Amanda Farmer: Excellent. My win for this week also has to do with meetings and good governance and corporate responsibility. I like it when our topics line up, Reena, a strata manager, listener of ours and also a member inside our online community recently shared with me an article that he thought may be of interest, his name I know he doesn't mind me mentioning is Russell Young from Young Strata Management, a long time supporter of what we do here. And Russell let me know that he was recently listening to one of our member calls, which is one of the benefits our members receive. They have the opportunity to have a one-on-one one-hour chat with me. That chat is recorded and then the video goes inside our member library for our members to watch and to learn from. And in this particular call, I was chatting to a group of strata committee members who were looking to change strata managers.

And I talked them through that process and also we discussed some of the processes that were happening in their building. I made some suggestions and recommendations as to processes that weren't happening in their building and why they might have been having some trouble communicating with their strata manager and getting their strata manager to do what they believe needed to be done. And Russell had watched that call and reached out to me and said that it was a great call and it reminded him of an article that he wrote a few years ago on the same topic and it led me to click through and have a read of that article on Russell's website. I'm going to link to that in the show notes for this episode too, so you can go and check it out. It is titled, *Solving Under Investment in Strata Governance and Meetings*.

And amid a number of good points Russell raises, I've pulled out a few to share with you here today. Russell says that whether you realise it or not, your owners corporation has an identity and a reputation. Tradespeople remember their experiences. Strata managers will have a view of each owners corporation and so will the owners and the residents based on their experiences. If there is no prevailing management culture, ideally from a committee of benevolent and rational members who invest a bit of time having meetings, and making good decisions, it is easy for one or two people to step into the power void and end up making life hard for everyone, either through indecisiveness, corrupt use of authority for personal gain, ego satisfaction, financial constraints, preventing proper repair and maintenance, or many of the other forms of dysfunction. Those risks are higher without a good committee continuing over time and bringing new members into the right culture.

Russell also concludes his article with a recommendation to stay match fit. His words, keep having committee meetings. He says, even when there aren't major problems, even infrequently if you don't need them more often, those meetings foster a sense of community and keep up the knowledge and practices of proper governance. They provide transparency and the opportunity for other owners to contribute when issues they care about are being considered. And this reduces the risk of disharmony.

Being familiar with meeting practices means that your owner's corporation will be more agile when it needs to act quickly against unauthorised renovations, behavioural problems, or any other time-critical issue. Now those are just a couple of gems from that article and I do encourage everybody to go over and have a read of it, maybe even share it with some of your neighbours, fellow committee members, and clients. Russell, as he said in his email to me, is echoing many of the things that we say here on this podcast about functional committees, peaceful communities, and how we can all strive to be better in strata.

Reena Van Aalst: That's very interesting, Amanda. I think it's a great article and I think that some strata schemes don't really see the value of having the strata manager at the meeting. So that's something that I've been sort of observing in some of the chats that I come across, not obviously within the circle of schemes that we manage because I think most of our buildings do see the value in having a Strata manager at their meeting. But I know that from other chats I've observed where people think that it's a waste of money having a strata manager there or they don't add value.

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So yes, I think that's one of those things that I think the value of the strata manager and perhaps in guiding the strata committee is an invaluable one because as we talked about just before now meeting, taking minutes, I mean, sometimes I've seen minutes of committee meetings where there hasn't been a manager attending and you just kind of make sense of what they're saying because it's all just like point form and dots and you think, well, reading minutes from the perspective of someone who's an outsider that wasn't at the meeting, you wouldn't really understand what was happening.

So I think that the value definitely, I think is there to have regular meetings, but also to have, even if it's not necessarily a strata manager some buildings do have good minute takers. So someone that has the skill of being to articulate just the decisions and some background discussion that may give more context to a decision being made for certain matters on an agenda and minutes.

Amanda Farmer: Indeed, one of the points raised by Russell in his article is that regular meetings and detailed minutes are a great defence against misinformation and unfair accusations. And that bullies in strata often thrive on a lack of transparency or secrecy and on misinformation having regular meetings with detailed minutes, meetings that all owners are invited to attend and contribute to can prevent if not quickly stamp out that kind of antisocial, harmful behaviour. So really great way to think about things.

Reena Van Aalst: Yes, that's definitely the way, Amanda. That's a good reminder I think to us all in terms of that, where you have that sort of disharmony in some schemes where there's certain people that trying to wage their own agendas, so to speak.

Amanda Farmer: Great to chat with you here today, Reena. We have covered a fair bit of important strata ground as we like to do. I'm going to let you go now because you have a hungry canine to deal with somewhere outside your apartment.

Reena Van Aalst: You know, Amanda, I've never had a pit in my life.

Amanda Farmer: I know, that's why I'm teasing you.

Reena Van Aalst: All right.

Amanda Farmer: Thank you for joining me. Looking forward to catching up with you next time.

Reena Van Aalst: Thanks Amanda.

Amanda Farmer: Bye for now.

Reena Van Aalst: Bye.

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