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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, hey, Reena.

Reena Van Aalst: Hi Amanda, how are you?

Amanda Farmer: I am great. Let's dive straight into this week's wins and challenges. The bad news first. What's been challenging you, Reena Van Aalst.

Reena Van Aalst: At the moment when you're undertaking major works in strata schemes, you've got to first get the quotes, then normally you have a consultant that's perhaps involved or not. Sometimes the consultant doesn't get involved in the contractual side of things, especially for like smaller type of works.

I would say in the tens of thousands of dollars, normally that's not really an issue where the consultant gets involved, but what I'm finding that is really challenging me is that the quote is in one entity, then the contract is in another entity with a different license. And then I'm getting pressure from the building manager and the committee, I'll sign the contract, sign the contract. I said, but the license is in the name of the individual, yet the quote is from an entity. So they're using the entity name and address and then using, and then you do a license check.

And the license check is then an individual person and not the entity that's given the quote or the contract name. And then of course, then the insurance that we get is also all the insurance policies, et cetera. And this is causing a lot of, I mean, our job at the moment with the current onslaught of emails, as I said in previous episodes, Amanda, that managers are really getting hammered at the moment with just so many different things they have to do, legislation changes, et cetera.

And then building managers are paid, you know, relatively well, they do X amount of hours and they get paid X amount of dollars, and that's all fine. But it's just more about them going back and understanding what's required because then the bottleneck becomes at our end, the strata manager's end. And we're not really the bottleneck. We're actually just trying to make sure that that you cross the I's and dot the T's.

And when something goes wrong, invariably, no one's ever going to say, oh, but the building manager was to blame. They will say, well, you sign the contract and we rely on you to check these things, et cetera, et cetera. And then I'm getting precious. I'm on some committees. I had one particular building where there was some tiling work and we know waterproofing license was required. It was a bathroom in a pool area. So, and there was no one underneath. But irrespective of all that, because they can people can't get quotes at the moment, so contractors are scarce. So whenever you get someone that does give you a quote, oh, and you know, communicating with me, say "Reena, it doesn't matter, blah blah blah." And then you know, if something goes wrong, it's going to matter. And then the owners will then look to the strata committee in the first instance knowing that, that quote and the entity were in different names and license numbers weren't the same and insurances weren't the same.

And then they'll come back to me as strata manager saying well you told them this and they still wanted to go ahead and get used to when inside a contract. So I'm just finding it really difficult at the moment. And with all the remedial works that now are taking place too, Amanda, because of the, you know, there's a delay with all the COVID time, a lot of things had been pushed and pushed and pushed. So now there is a lot of work happening.

Amanda Farmer: Yes. And now you're dealing with the Design and Building Practitioners Act and all of that rigmarole.

Reena Van Aalst: Yes.

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Amanda Farmer: So tell me this. So the building manager is getting the quote saying this looks good, contract eventually issues and it hits your desk when it comes time to sign the contract. You're having a closer look and the name of the contractor doesn't match the name that's on the license or the license number doesn't match the contractor's name. And then the Home Building Compensation Fund insurance has possibly a different name, and a different license number as well. What do you do then? Do you ring the contractor? Do you go back to the building manager? I'd be interested to see what the contractor has to say about this.

Reena Van Aalst: Yes, well, I mean, half the time I've had to do with the contractor directly because the building manager sort of just is out of their depth. And then they say, "But I've always done this." you know, and also that same building managers use them in other buildings that I'm not the manager of.

Amanda Farmer: But what does "I've always done" this mean? Put the wrong license number on my contract?

Reena Van Aalst: Yes, well that, you know, like a different entity. They put the entity name, the commercial name, and the license when you do a fair trading check in an individual name, but they don't understand there's something wrong with that. They think that it's like. "I'm doing the work. It's not someone else. I'm doing the work." They don't understand that the person and the entity are two different legal entities. They're not the same even though it's him doing the work.

And the other thing that this particular comrade has said to me at the time, I remember quite distinctly was that you know, "But that building manager's let me do this in other buildings, and why is it a problem now just with you?" So again, it's like, I'm the one that's causing all the problems.

Amanda Farmer: Something is wrong with you. Difficult person.

Reena Van Aalst: Exactly. It's like, oh my God. Yes.

Amanda Farmer: Yes well, look I'd be interested to hear if this is happening to others from a legal perspective, you should be contracting with the license-holder. So, as I understand it, that's what you're looking for, that the license matches the name that's on the contract. As for who then does the work on the ground, well, sure, a company may have an employee or an owner or director who then physically does the work on the ground, there's gotta be a person who's doing the work, but the contract has to be with the legal entity and that legal entity for certain types of work must be licensed.

Reena Van Aalst: Yes, but I just think, I think there's a lot of, I'm not sure like in terms of building management, like what courses they have to do, or you know how like now with the fire industry, it's now becoming more regulated with accreditation. I'm not really sure about building managers in terms of what courses they have to do or what training they need. I don't think they actually contemplate anything about that.

That's something perhaps that needs to be looked at as, as you know, part one living is increasing larger schemes because larger schemes only are the ones that will have a building manager. And sometimes even smaller schemes, we're finding a lot of our smaller schemes are going for part-time arrangements, because the amount of work is so huge, and you need an onsite point of contact for quotes and or remedial works or whatever. And so it's obviously going to be cheaper to have a building manager, meet with people than to have your engineers on it anyway, or a project manager.

Amanda Farmer: Or a committee member who's just too busy to be meeting with people on site.

Reena Van Aalst: Yes. And so it's becoming more prevalent that buildings are using building managers for that part of the management of the scheme. But I'm not sure if the training is keeping up with the complexity that we all see facing strata managers.

Amanda Farmer: So you'd like to see this nipped in the bud at the building manager stage that the quote that is given to the

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building manager has the right entity on it, the right license number and for building managers to understand that part of their role is to check that.

Reena Van Aalst: Well, they're the ones that have been doing all the legwork. So that's the issue I mean if I was delegated the tasks from the beginning, that's a different situation I wouldn't expect them to know anything but when they're driving everything and they're being - part of their brief is to get the quotes to meet this contractor on site to get the engineer involved, etcetera and then just give me a document just saying "sign it". And then when it goes wrong, it's back and forth and back and forth and sometimes I mean even the Fair Trading contract I sort of insist that be used when people don't have one.

And even when they do have one, I mean, I just say, well, I would, like I got one of those master bill and association ones every day. I said would they reconsider using the Fair Trading contract, which I think is a more balanced one. And the guy was fine. He used it, but they didn't initial every page. It's like, you have to initial every single page. It's like back and forth, back and forth emails, emails. Yes. It's just a lot of work.

Amanda Farmer: Yes, it's a tough gig and I'll be interested to hear from building managers out there, what your process is when you're working with contractors in the way Reena is describing, and strata managers if you are seeing this problem on your desk as well and how you might be dealing with it. But thanks for alerting us to it, Reena.

My challenge for this week relates to EV charging. And I wanna say thank you to a listener who has popped a question in my inbox. As you might know, there is a government program at the moment, New South Wales government program where funding of up to \$10 million in total is available for owners corporations to tap into to assist in getting EV charging up and running in their buildings.

This listener reached out to me forwarding part of an email that they had received from their strata manager. The email was informing owners about the opportunity to apply for one of these grants and providing the links and the process to be followed to participate in the program. And the listener who emailed me said, "Amanda, should strata managers be careful in promoting this kind of program without giving owners (what this listener called) the full story including information about the risks of having EVs in a building and EV charging in residential strata buildings"

Some of the points that were made to me were should strata managers be promoting this as a wonderful incentive, and encouraging their owners to get involved without addressing the impact on insurance and insurance premiums, claims perhaps, increased excess on insurance policies, the risk of EV fires, the need to address the availability of water to extinguish EV fires. This listener clearly wasn't seeing a balanced approach being taken by strata managers in talking about this issue. And I thought it was worth bringing here to the podcast. Reena, have you been letting your buildings know about this program or talking about EV charging more generally and how do you balance these different factors?

Reena Van Aalst: Yes, it's a very interesting question, Amanda, that your listener has posted on your site. So we have received emails from, you know, City of Sydney and government and Waverley Council and various other councils. Actually, more that's prevalent were those two councils. I haven't seen much from other councils, but then again, our sort of management area is more confined to those two. I haven't been promoting it as such, in buildings that I know don't want to have it, because there are buildings that have looked at it and it's too expensive to bring power.

And they've said no for the time being because the decision is going to change and we may have using different types of, you know, power in the future. Although the ones that have expressed interest, I have we have forwarded those emails to them. So I have seen one of the owners send me like a blanket email from another strata management company about EV charging. What about getting the money but that meeting that we went to for that building, they wanted to have like a charger that everyone could use in a certain common area space and that was not agreed to. People didn't want the car wash bay taken up and also logistically it was going to be difficult in terms of wiring etc. So I thought well there's no point telling them here's a 10 million dollar grant when everyone's already set up a meeting.

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But the other issues that you're raising are very important because I think that a lot of risks haven't been thought of. And I'm not really sure about the strata managers, the strata managers role I think is just to try and assist and give some communication about this being available. It's not actually saying, I don't know exactly what the contents of the email were, but as we know, EV charging is becoming more common in requests from owners that they wanna buy into a building but they can't when they think that there's no facilities available, whether they're commercial ones or individual.

But we're getting a lot of stuff now about the bikes, you know, people bringing their bikes and putting them into buildings. And we're also getting, one of my buildings now is looking at getting a by-law to ban people charging their bikes and scooters in their apartments. So I don't know about that. But, and then one of my buildings after that fire that happened in that backpacker place, they asked me to check on the policy wording, our insurance policy wording as to whether or not what it's covered. And to our surprise, it said that they'll only cover, I think, five EV charging power points per bay of parking. This was actually Chubb, so I don't know if that policy wording was related to that building only or was it related to a blanket policy that Chubb has across the board for any type of claim.

But I think you're right that people are going about looking at this but perhaps not looking at the insurance aspect of it and until someone's sort of raising it, you know, then no one's really thinking about it, we don't really have any buildings at the moment that have been able to successfully, apart from individual ones here and there where there's enough capacity to allow a couple here and there. Not on a full-scale owners corporation level have we installed any EV charging points. However, if and when the time does come, we would definitely be getting, prior to anything being approved, getting the insurance policy wording and getting the broker to elaborate more on what is covered and what's not.

Amanda Farmer: Look, I think this is the crux of it. From my point of view, it's not for a strata manager to promote anything. Perhaps compliance with the law, perhaps cooperative community living, promote those things. But I think you do enter dangerous territory where you are in a position where you're encouraging owners to take up a service or an opportunity that really may not be as clean-cut or in the best interest of a particular building. And it does, as you say, really depend on the individual building. So I think it is important for strata managers and you'll be expected to keep owners up to date about what's available out there and letting them know that there are opportunities out there to explore whether it's solar, whether it's other sustainability options, greening your apartment, EV charging.

I think what's happened with this particular opportunity for access to the \$10 million grant is some of the languaging in the emails is making owners feel pressured because some of the languaging is it's only 10 million and that will be available until all applications have been received and granted and then it's run out and everyone thinks that they're going to have EV charging in the future and this is your one chance, your only chance to get some subsidy for that. And I think some of that's come through in some of those emails that are going out and is then leading to these questions. Well, hang on a second. Don't we need to explore these other risks and other challenges we might have in our building? And the answer to that is yes, you absolutely do need to look at this from a holistic point of view. And I think that's the message that should be coming from our strata managers.

Reena Van Aalst: Yes, I think so. But also, Amanda, conversely, there was an email sent to one of to a chairperson of one of our buildings from an owner who's on this sort of team of few that don't like the committee very much and said, Oh, look, you know, this is from another strata manager. "Look, see, they're promoting this subsidy, do you think we should be part of it?" And it was more done, not to be helpful, I don't believe it to be more sort of saying to the committee, "Oh, you're not even considering these things that are available."

So sometimes it could be the converse where people miss and, you know, use it for other means and saying, "Well, you're not providing the information.", but we know for this particular building, we had a vote on it, and people didn't want it. So there's no point in me encouraging things and the committee getting involved when we know that they actually don't want to have it. And things may change in the future. But I think also, this of us fire brigade has a lot of information on all the pitfalls of these things.

One of my building managers sent me some information, which I'm gonna share with other buildings that have had concerns about,

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you know, the bikes going on fire and things like that, and bikes being charged in individual apartments, which happens, I think, quite a lot, Amanda, more than people know. And people say, one community said, oh, but it doesn't matter if they've got a good bike, and it's only those cheap ones that go on fire. But again, I mean, how do you regulate? How do you know what people have paid for their bikes? I mean, it's another difficult thing. Yes.

Amanda Farmer: Yes, exactly. Look, our apartment residents absolutely have to be part of the plan if we are to reach our targets for the future and put our planet in the best position possible. So I don't at all wanna discourage buildings, owners, or strata managers from exploring these opportunities that are out there.

But I do think that it needs to be done in the way that any opportunity is explored, any new service that a building might be taking up, any new professional that they might be engaging to take that balanced view and make a very informed decision. And as you say, Reena, I think there's enough information out there from various sources for our strata managers to be arming owners with these different points of view. Ultimately, it is not for you, the strata manager, to decide it is for your client, the owners corporation to make that decision.

Reena Van Aalst: Yes, exactly, Amanda.

Amanda Farmer: All right, very serious discussion there. Thank you to our listener who the listener knows who they are for raising that one with me.

Reena, over to your win for today.

Reena Van Aalst: This is a very nice win. It's only sort of a partial win because there was a lot owner who actually had lodged a claim against the strata committee. And this is the first time I've actually had a claim against the owners corporation and individual strata committee members that have been named. So out of the committee, five of the nine have been named as respondents to the application, which I haven't really had before. Normally I've had the owners corporation being the only respondent.

Basically, he wanted that one of the orders was that there'd be no capital replacement at all, is it an interim application? No, they can't spend any money in the capital fund. And if it was an emergency, the NCAT members had to make that decision, which is totally, and I think that personally doesn't understand how things work. He also claims that the committee was elected on the proxies that were invalid because I think there was someone's handwriting was the same and the committee members might have just signed it. That's what I think he's trying to insinuate, that these are invalid and fraudulent.

Anyway, the owners corporations lawyer at the time sought leave to have the owners corporation have legal representation, which was allowed. And obviously, the owner could do the same but the minute that the owner knew that the answer question had lawyers and he was told that he could engage a lawyer as well, and then when he was told that, he said "oh no" so he withdrew the application the interim application so there's still a substantive one but at least that part of it was dealt with and extinguished so, and I think I'm getting a lot of feedback from my colleagues and other strata managers that I'm talking to that sometimes because you know NCAT is supposed to be free fair and quick or whatever the wording that they use when they give judgments or they talk about the processes of NCAT.

You know, it allows people like that with no evidence at all, nothing to put on proceedings, to put owners corporations to cost. And also I think, you know, if you're an individual committee member that's not getting paid to do this job, then you're named on a document. I think it adds, I think it discourages people than being on a committee, because I think, well, who needs this? I mean, you know, if I was them, I'd say I wouldn't want to be on a committee where someone like this is apparently it's not the first time it's happened. It happened three years ago and then you know he withdrew it now it's coming back again.

So and sometimes it's people that don't like, say who's on the committee or they don't like something that's being done like they don't want money spent on the foyer or whatever it is and then you have these sort of irrelevant cases being lodged with NCAT. So

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in a sense it, you know NCAT allows people you know with real issues to take to the tribunal and try and get some action taken, as Amanda, you've said on many of our other episodes, a lot of times that you represent have had to get a great length and expense to get works to go on property completed.

But on the converse of that, there are many people that have vexatious maybe might be a better word. You know, there's just no basis at all in any of the allegations yet, you know, because there's not like a quote where there are costs and things where people, you know, and we could get costs later on, I don't know. But it's just, I think sometimes an avenue for people just to make frivolous claims and put unincorporations to a great extent of cost and stress.

Amanda Farmer: Yes, and it sounds like, well, perhaps with the assistance of the lawyer who was acting for this owners corporation, in your example, Reena, it sounds like that was able to be nipped in the bud somewhat. And whatever the lawyer was able to say, whether in submissions or in letters, encouraged that owner to pull back. And I hear there's still a substantive application on but that's been my experience also. It's a rare case that I'm involved in where there is an unrepresented lot owner, but that's mainly because I don't do a lot of work for buildings, I generally do act for owners.

But there's been a couple of occasions where I've acted for an owner bringing an application against another owner that's generally in the context of by-law breaches. And where that respondent owner is unrepresented, I do find that the tribunal often seeing clear points of claim, seeing very clear submissions that I've made with my legal training is able to relay or takes the opportunity to relay quite quickly to the unrepresented lot owner, precisely what the lay of the land is and where the member thinks this is heading.

And that can sometimes result in some, can sometimes result in consent orders being drawn up or an agreement otherwise being reached that will bring a swift conclusion to the proceedings. So I suppose what I'm saying is I do see the tribunal try to assist unrepresented people, whether to assist them to make their argument more clearly or to assist them to understand that they really don't have an argument to make. And I have found that helpful when I'm an advocate in those kinds of proceedings.

Reena Van Aalst: Yes, in this case, Amanda, it was a directions hearing, so I didn't even get to any formal submission of documents or anything. It was just more the procedural aspect of it. And the lawyer saying there's no evidence for an interim order etc. But like I said previously there is this substantive application is still on foot. And I don't know how like at the moment, we're still waiting for more information. But yes, I just think I think that sometimes it does cause problems for the committee members when they're individually named and they really haven't done anything wrong, you know, in their capacities as individuals.

Amanda Farmer: For sure. I'm sure that's very confronting, especially if you don't have experience of the legal system, don't have any expertise, that can be something that would see a flurry of resignations. And sometimes that's the point when people make these applications, which is difficult. Well, good luck with that one, Reena. Hopefully, we'll hear that come up in the wind basket again soon.

My win for this week, I wanted to highlight the fact that the new legislation that is slated for New South Wales, we have our Strata Legislation Reform Bill before parliament and I think soon to be made law, there is a provision in there that is requiring our owners corporations to keep electronic records. Now, I think this has been a long time coming. It's a question that I've been asked before in our member forum, Reena, we may have talked about it on the podcast.

Do owners corporations, do strata managers when they are the custodian of the records for owners corporations, do they have to keep things electronically? Do they have to keep things in hard copy? How do they produce these documents? This question came up a lot during pandemic lockdowns when owners wanted to inspect records and they were told they couldn't because they couldn't attend the strata manager's office and everything was in boxes and folders. There was no electronic system.

So what we're going to see with our new legislation is a revision of section 176. And that section is now going to make clear that the strata role and any other records that are required to be kept by an owner's corporation must be kept in electronic form. Now, the important point to note here is that this section is not retrospective. It is only going to apply to records that are made or that

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come into an owners corporations possession six months after the legislation commences. So you have some time there to adjust, to adapt your systems and procedures as strata managers, and you don't have to go back in my view and scan all your old stuff and your 20-year-old minute books. It is only records that are made or that are being kept from the date that is six months after the commencement of the legislation.

How do you feel about this, Reena?

Reena Van Aalst: Well, I think it's long overdue, Amanda. I mean, sometimes we have take-ons that we have received from other managers and even though they keep electronic systems because their financials come from software that's generated electronically, we still get paper documents. And, and you say, we can't give it to the owner, here's what you know, we've given you legally what we have to give you.

And therefore, then you're a scanner and go through it. And so it's a long overdue recommendation. And I think it's going to probably, I think most people would be electronic anyway, but they probably haven't chosen to transfer their documents electronically or allow inspections to take place electronically.

And it's funny because recently I attended the CHU 45-year dinner and one of the strata manager that I've known for many years said, we remember the years when you used to print up all your emails because you never got that many. And so, you remember like, we had inspections and such as on manually, so you have to make sure all your emails are printed up.

And then if you in the reply, you'd get rid of the first email if there was a reply to you, you know, so trying to reduce the thickness of all your filing because the filing was out of control. And now it's like, I don't, I couldn't imagine any strata manager who does keep manual records even, they never ever print up any emails. So the thing is that you know, today, if you had to print up all your records, which no one obviously is complying with anyway, you would need like, you know, rooms and rooms of storage to be able to accommodate all the emails, just all the ins and outs. And yes, so I think it's a fantastic thing that's now happening, Amanda.

Amanda Farmer: Yes, so true. Look, I remember doing that too, as a young person working in legal practices, a young person working for you, Reena Van Aalst. I think you taught me how to file and you're right. You would say, "Amanda, don't have two copies of the same email in the folder, pull out the trail." And yes, there's just no way that happens now. And I can tell you even for clients of mine who are logging on to electronic systems and attempting to do records inspections, very rarely do they see a lot of emails. So I think emails are just sitting separately on a server, in an Outlook box, in a Gmail box, whatever it is, and they're not even getting electronically filed.

So that's a whole other conversation, but I agree well overdue. And I'm really glad to see this reform on the table and looking forward to it being put into practice.

Reena Van Aalst: Exactly.

Amanda Farmer: As we get closer to that legislation coming into force, I will continue pulling out those parts of it that I think need attention and perhaps debating them here with you, Reena Van Aalst, and seeing how you're gonna be putting those into practice in your business. That'd be great to hear.

That's all we have for today. Time's up, we're outta here.

Reena Van Aalst: Okay, see you next time, Amanda.

Amanda Farmer: Thanks, Reena. Catch you later. Bye.

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