

Publication Date: 11 January 2024
YSP Podcast Transcript: 392. The Top 5 of 2023

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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 our first podcast episode for 2024. I am your host, strata lawyer, Amanda Farmer. It is my job here each week to help you demystify the legal complexities of apartment living. Happy New Year to everybody. The week that this episode is going to air, I know many of you are returning to the office.

Having said that, I also know a few strata managers who were unofficially working through the break. That is not something that I like to hear. It is so important that we take time off, take time out, especially when we are barreling straight into another huge year in strata.

We have new strata legislation for New South Wales that commenced at the end of last year, 2023. We've got more of that on the horizon, more new legislation to come this year. I'll talk about that a little bit more today.

For me personally, I'll be doing a little bit of travel next month in February. I'm heading over to the US, Las Vegas in particular. I'll be attending the annual conference of the College of Community Association lawyers. That is the US equivalent to our College of Strata Lawyers. And indeed, I am attending that conference as a lucky representative of the Australian College. Exciting times. I can't wait to be sharing some insights from that US conference with you. I've been to Las Vegas before either so that'll be fun.

As soon as I get back from the US in February I'll be hosting our one-day CPD event for strata managers in my hometown of Mudgee.

That's all happening on Friday the 23rd of February. We still have a few spots available for that day. If you are a New South Wales strata manager, keen to spend the day with me and a small group of other strata professionals in a very unique location, I would love to hang out with you. This is a first-of-its-kind event. I'm delivering all of your compulsory CPD hours over the course of the day, as well as bringing you special guest experts.

People who you might have heard here on the podcast previously will be joined by Dr. Nicole Johnston, Helen Cowell, Michael Tey, and of course, it wouldn't be complete without Reena Van Aalst. We'll all be out in force in Mudgee on Friday the 23rd of February.

If you haven't secured your spot yet, you can find out more and grab a ticket over at yourstrataproperty.com.au/CPDevent. That link is in the show notes for you. If you are a pro member of our online community, you know who you are and you want to access your 50% discounted pro member ticket for the Mudgee event. Just drop me an email, amanda@yourstrataproperty.com.au and I will send you the secret pro member link to book in.

So that's a busy February 2024. In early March, I will be in Sydney attending the Australian College of Strata Lawyers annual conference. That's being held at the Four Seasons Hotel from the 6th to the 8th of March. I'll also pop a link to that conference program in the show notes for you. Any strata lawyers, aspiring strata lawyers, strata managers, other strata sector supporters, you are all welcome at that conference. We have a stunning program lined up. Head over to that link in the notes and you can check out all the details. That is a huge first quarter to come for me. I'm sure yours is shaping up to be similar.

If you are new to the podcast, we publish a podcast episode every week, sometimes with a special guest, sometimes it is a solo episode from me. This is the eighth year of the podcast and we are getting very close to episode number 400, if you can believe it.

Today, as I do at the start of every year, I am sharing with you the top five episodes of the past 12 months.

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Of all the episodes we published in 2023, the five that I'm going to point you to now were the five most listened to. Now this exercise is not quite an exact science. We do have a look at how long the episode has been published as well as the number of times it has been downloaded. We do a bit of a balancing act with those numbers but having crunched the numbers, these are the results.

Now I'm going to talk about these top five episodes of 2023 in the order of their publication. If you haven't yet listened to these episodes or you want to go back and have a refresh, something pricks up your ears about the topic that we discussed. Maybe it wasn't relevant last year but it is now. The links to these episodes are in the show notes for you.

Show notes, if you're not sure you might have heard me say that word in previous podcast chats and you'll hear it in the future, the show notes are on our website over at yourstrataproperty.com.au/podcasts that's where you will find the almost 400 podcast episodes tucked away in the library there. Click on today's episode number 392 and you will see a list of links under the image that is where we link to any of the resources that I mentioned in an episode, previous connected episodes, that's also the place to access the transcript for each episode. If you're a reader rather than a listener as I know many of you are or you'd like to share the content of the podcast with others, with your strata manager, with your strata committee members, with neighbours or you just want to refresh on some of the more detailed legal information that you will find in these chats, the transcript is a great way to do that.

So onto our top five of 2023. What were they? First up episode number 344. This was a solo episode from me. I covered what I call the three types of renovations in strata and how they are approved. Unsurprisingly a popular episode. I get questions about renovation works all the time. I know our strata managers do too, and our committee members can be a little bit confused by the process. Those who buy into strata often for the first time aren't always aware that they need to get approval for certain types of renovation works. And even if they do know that approval is necessary, they're not quite sure how to go about that.

So this episode is both for owners who are carrying out renovation works as well as those who are guiding them. That's our strata managers, our strata committee members.

In the chat, I talk about how I structure my own thinking as a strata lawyer about renovation work in strata from internal painting to installing air conditioning units to doing a complete bathroom renovation where waterproofing is going to be impacted I share some access to some helpful free resources I share access to some helpful resources for owners, for committees, for managers to make sure we can smooth out these projects for everyone.

The idea for that episode actually came from an educational webinar that I've been delivering and delivered a few times throughout 2023 for strata managers. I do quite a lot of one-to-one online training with strata management companies. Those who are pro members inside our online community.

And I make a point of planning those training sessions around what it is that managers need, where the gaps in knowledge are, what the challenges are that managers are facing, the questions that are being asked on the ground by owners that managers aren't quite sure how to answer and time and again, this topic of renovation work was coming up. And managers asking me for a framework through which they could better understand the approval process for different types of renovation works in strata and how they could better relay that to their owners.

So I put together a one-hour webinar for those managers who were looking to improve their skills in that area and having delivered that a number of times now, it has been really well received. And what you're hearing in podcast episode number 344 is a very high-level outline of that framework and looking at the numbers on this episode, that too has been a helpful resource for you.

So if renovation works are on your list for this year as an owner or you have owners in your building, you're a committee and you've got owners in your building who are looking to carry out renovation works, podcast episode 344 is a great place to start.

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Next on the list of the top five podcast episodes for 2023, episode number 352, How to Sack Underperforming Committee Members. That title alone got you clicking.

This was actually a live chat that I had with you over on our Facebook page. If you're not yet following us over on Facebook, just type your strata property into the Facebook search bar, you will find our public page there, which you are most welcome to like and follow. It is my usual practice to go live on the page each Friday afternoon around about four o'clock Eastern time.

And that's where I have the opportunity to have a chat with you, answer some of your questions live. And sometimes I pick a topic to go a little deeper on.

Now this particular Friday chat that was then turned into podcast episode 352 was about the legal and the practical steps that owners can take to deal with underperforming or misbehaving committee members.

It's a question that I receive a lot. "Amanda, how do we get rid of a committee member who is just not up to scratch, not complying with their duties, not carrying out their functions? Being the bottleneck when it comes to decision making, being the reason why the community can't move forward and can't make decisions."

In this chat, I talk about some of the steps you can take to deal with that kind of behaviour. I do talk about a section in our New South Wales legislation that allows an owners corporation by resolution at a general meeting to vacate all positions of the strata committee or maybe just to select few positions of the strata committee essentially resolving to sack committee members. At the time we had this chat last year, the resolution that was required at a general meeting to sack committee members was a special resolution.

A special resolution passes if no more than 25% of the votes cast at the meeting are against the motion calculated on a unit entitlement basis. That's a bit of a confusing way to express it. I know a bit legalistic. That's how it's expressed in our legislation.

I say if you have 75% of the votes cast in favour on a unit entitlement basis, you are going to achieve a special resolution. That's another way to think about it. But that law changed. This was part of the changes that came into force in New South Wales in December 2023. The change is that committee positions can now be vacated if the owners corporation passes an ordinary resolution at a general meeting vacating those positions. Could be all positions, could be one or more positions, but a special resolution is no longer required. An ordinary resolution is the new law that has a lower threshold.

An ordinary resolution passes if you have more than 50% of those attending voting in favor of the resolution and ordinary resolutions are conducted on a show of hands. We don't need to look at unit entitlements when passing ordinary resolutions.

So it has as of the 11th of December was the date that the new law commenced. As of the 11th of December, it has become easier for communities to sack their underperforming committee members. I'll be very interested to hear if there are any of you out there who have already relied on this new law or have a general meeting coming up where you intend to rely on this new law to get rid of committee members that you feel have not been performing.

The other thing to remember with this new law is where a position is vacated on the committee because an ordinary resolution has been passed, vacating that position, the committee member who was serving in that position cannot serve on the committee for the next 12 months. They're essentially suspended.

After that 12 months is up, they can put their hand up again to serve, but they have to go on a little vacation, a little holiday from their committee duties. Go away and have a little think about their behaviour, their performance, how they might improve.

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I do often get asked, Amanda, how do we stop this particular person from ever being a committee member ever again, how do we ban them? Not possible under our current law, but this new provision does allow for suspensions of up to 12 months. Interesting. I'll be looking forward to seeing how that plays out in our communities. Do reach out to me if you have any specific examples to share.

Next, another one of our top five, episode number 369. This was a chat between my and often co-host, strata manager, Reena Van Aalst.

You'll hear Reena on the podcast at least once a month, sometimes more often, depending on our schedules, our time to get together and record a podcast episode. We like to share our wins and challenges from our week in strata. Reena from the perspective of a strata manager, and me from the perspective of a strata lawyer. We hear from managers all the time how useful they find those chats. Reena bringing that really practical day-to-day perspective of strata management to the podcast.

In episode 369, a popular one, Reena and I talked about hard flooring by-laws. How much detail is too much detail when buildings are implementing these by-laws, attempting to enforce these by-laws? How can too much detail get us into trouble? when looking at hard flooring. We discussed a checklist process for approving remedial works quotes.

Reena shared a win relating to her finding a cash windfall, hiding in the accounts of a new client. A great way for managers who are taking on new buildings to immediately show their value. And we talked about why we think real estate agents need to stop seducing purchasers with promises of low strata levies. I talked about the myth of the typical strata levy referring to a question I was asked by a journalist. "Amanda, what is the typical strata levy?" And I said, there isn't one. Every building is different.

And this idea that there is a typical levy is one that I think and Reena agreed with me in this chat is perpetuated by real estate agents trying to sell strata properties for the best price for their vendor clients and that myth is harmful.

It is skewing the perspective, the expectations of strata owners and putting managers and committees in difficult positions when they have to try and explain why levies are increasing and why the levies for their building might be different to what looks like from the outside, a similar building down the road. That conversation with Reena Van Aalst in episode number 369.

Next up in our top five, episode number 377. Why you might want to self-manage your strata and how to do it successfully. David Glover was my guest for that episode.

David is a long-time member of our online membership community and experienced strata secretary, a person with both strata management and building management skills. David has been at the helm of his self-managed strata building for many years. In this chat, he shares how the decision to self-manage came about for his community. He does talk about the strata manager from hell, which I know resonated with a few of you. He shares how his community remunerates him for his services and is generous in giving his top tips for those who might be thinking about self-management. He shares the specific software that he's building users. Since this chat, I know David has been contacted by many of you, both publicly in the comments under this chat. A few of you have reached out to be connected to David. Privately, he continues to assist many of the members inside our online community, answering questions in our Q&A forum.

If self-management is something that you've been thinking about or maybe you haven't ever turned your mind to it, it's all seemed a little bit too scary, have a listen to this episode. Moving away from the professional strata management model may not be as difficult as you think. This is also a great episode for strata managers to listen to, to understand why some owners make this decision.

While David's experience was particularly poor, I have to say, I hear from many owners on a weekly basis who are not receiving the level of service that I believe they deserve, they should be receiving, they could receive from professional strata managers or could even set up for themselves if they put in place some of the processes and the strategies that David and his community have put in place. That's episode number 377 and finally, in our top five for 2023, this is a recent episode but the number of listens

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already tells us that this was a popular one. It's episode number 383 New Strata Laws Proposed for New South Wales the need to know.

Solo episode from me, I covered the biggest changes that I saw for owners and for managers coming out of the strata legislation amendment bill in New South Wales, that bill has now become law. The new law commenced on the 11th of December, 2023, a range of amendments to our Stratus Schemes Management Act in New South Wales.

I won't repeat them here. Head over to episode 383 if you want the essentials. Now almost all parts of that bill commenced on the 11th of December. There are two parts that haven't yet commenced and I was answering some questions for our members in our Q&A forum over the holiday break about this, so it's fresh in my mind. The two provisions that haven't yet commenced.

Firstly, fair trading is now going to be given the power, the right to apply for a compulsory appointment. Previously, only lot owners, creditors, those to whom an owners corporation owes money, I believe mortgages. Those were the limited applicants for an order appointing a compulsory manager. That's going to be broadened to allow fair trading, specifically the Secretary of Fair Trading to be an applicant for a compulsory management order. That part of the legislation hasn't yet commenced and I suspect it's because we need either some supporting regulations or some other internal procedures established at fair trading to make that work.

And to put some flesh on these provisions. One of our members was asking me this question in our forum, Amanda, how does that work? Does that mean fair trading can become a party to an application that an owner makes and can support an owner's application or does fair trading have to make their own application? The short answer to all of that is I don't know. And I suspect that's why the legislation hasn't yet commenced. We're going to see some supporting regulations or some other instruments around that legislation that will assist with its implementation.

Now that change is proposed for the community legislation as well, our Community Land Management Act which governs our community associations. The Secretary of Fair Trading is going to be added as a person who can make an application for a compulsory appointment for a community association as well.

That change to the Community Land Management Act hasn't commenced yet either. And the other section of the bill that hasn't commenced relates to the keeping of animals in community schemes. It is proposed to add a section to our Community Association Law. That's the Community Land Management Act.

That is essentially identical to the strata legislation, whereby by-laws that unreasonably prohibit the keeping of an animal are invalid. We can't have by-laws that unreasonably prohibit the keeping of an animal. The community legislation hasn't yet caught up with the strata legislation in incorporating that provision. It's proposed to do that now with this 2023 amendment bill but that section hasn't yet commenced. Again, I suspect it hasn't yet commenced because it needs some supporting regulations that explain what "unreasonably prohibit" actually means and the kind of situations where an unreasonable prohibition may be found. We have that regulation in the strata context, we don't yet have that regulation in the community association context. So once we do have that ready to go, I expect that provision in the Community Land Management Act will commence.

When is all that going to happen? Million-dollar question? I don't know. Not sure about that. But certainly, if you are here tuning in to the podcast, if you are following our Facebook page, you will be one of the first to know when these new provisions take effect.

Those are our top five most listened to podcast episodes for 2023. If you haven't heard them yet, head over to the website, check out the show notes for this episode. You'll find the links there for you. If you did have a listen, and you're reminded just how juicy they were and want to go back and have another listen, now's the time.

I'm looking forward to sharing another fabulous year in strata with you all. I've got some great guests lined up for you over the next few weeks and I'll be bringing you insights from these conferences that I'm attending over the next couple of months.

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Might even let you in on some of the fun and games I get up to in Las Vegas. Thanks for joining me today. I will catch you next time. Bye for now.

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