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YSP Podcast Transcript: 404. How We Can Get Strata Management Right, Right Now

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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 the podcast. I'm your host, strata lawyer, Amanda Farmer, and this week, my guest is Daniel Holt.

Daniel is the Licensee-in-charge at Strata Sense, a strata management company that focuses on large, complex, and mixed-use developments in Sydney and surrounds. Daniel was first exposed to strata as a lawyer working in the strata space and has since then worked initially as a strata manager with a portfolio of his own clients, now growing into a leadership position within StrataSense. Daniel is passionate about supporting his clients, supporting his team, and he has plenty to say about the industry right now, in light of recent reporting on some concerning issues in strata management. That's what he is here to talk to us about.

Daniel is a previous guest of the podcast, if you like what you'll hear from Daniel, I suggest you tune in to Episode 194 as well, "The Art of Crisis Management". Daniel shared how to stay calm in a crisis. Daniel knows. He was the manager who received the phone call on Christmas Eve 2018, informing him that Opal Tower needed to be evacuated. In that chat, we talked about a little bit about his shift from strata lawyer to strata manager, and whether strata managers should receive the same professional recognition as strata lawyers. Now that chat is some years ago, we're still talking about professionalism in strata management. I'll take you right on over now to my chat with Daniel Holt.

Daniel Holt, welcome to the show.

Daniel Holt: Hi Amanda, pleasure being here.

Amanda Farmer: Good to have you back with us, Daniel. You have been a guest of the show previously, sharing your experience, your expertise as a strata manager. And I'm going to say former strata lawyer, do you still keep a practicing certificate?

Daniel Holt: No, I don't and I've now been a strata manager. I've worked in strata space for nearly twice as long as I was ever a lawyer. So that's a bit longer than the past now. It's been eight years since I made a move over and never want to look back.

Amanda Farmer: And you took the words out of my mouth. You never looked back.

Daniel Holt: So there's a lot that we'll talk about here, which are the negatives of working in strata management. I think some of the bad rap we get, but it's actually quite an enjoyable, fulfilling job to do. And I could talk for quite some time on that, but we've got much to get into, so I'll throw it back to you.

Amanda Farmer: We sure do have a lot to get into. I want to start here. Where were you? What were you doing when the news broke on Thursday, the 21st of March?

Daniel Holt: Shall live long in memory. I had just woken up I'd had about five hours of sleep because my kids were being a nightmare the night before and I was drinking my coffee and reading the news on my phone and I saw it, and The coffee was a bit superfluous at that point.

Amanda Farmer: You're awake.

Daniel Holt: Oh yes.

Amanda Farmer: What was your gut reaction reading that ABC News article?

Daniel Holt: Yes, look, “good”. I think it was the first thing I thought. I think anyone who's looking at thinking, “oh, this is tabloid nonsense”, or “this is not good for the industry is killing themselves”. There was nothing in there that was actually terribly surprising to me at all. Maybe some of the amounts that they were talking about, I'm not really seeing the intimate details of what other companies are doing in terms of the dollars. But I think lots of this stuff is reasonably public knowledge about, well, within the industry about what does happen out there.

So my gut reaction was to say, “look, this is good that there's going to be some sort of open discussion on this and good that it's coming from the national broadcaster who's got some reputation for serious journalism and hopefully chase this down a bit further.”

Amanda Farmer: Now, Daniel, you work for Strata Sense, well-known, long-standing strata management company. Does Strata Sense receive commissions, payments or benefits from insurers, from brokers or from other third-party service providers?

Daniel Holt: Yes, so we do not as a rule receive commissions. Our default position for our owners corporations is we'll take the commission and rebate it back in full in a prompt manner. We also don't have any relationships with any brokerage companies. We've got authorised representative relationships with several of them and we work effectively with some, but we don't have any commercial incentives to work with them. And that's been the arrangement we've had since the get-go. Honestly, our preference would be to not be receiving the commissions at all, but we receive and rebate them. So we can get some sort of visibility and ensure the benefits actually go to the OC rather than the insurer or broker just pocketing the amount that otherwise comes to us.

Amanda Farmer: And we're going to talk a little bit more about that model because it's one that very few, I think, strata managers have at least been talking about. I don't know from my experience, very few use that model. Certainly, few have been putting their hand up and saying that that's how they operate.

You came to my attention, Daniel because you commented on a LinkedIn post where I had mentioned - it wasn't my post, might've been one of Michael Tey's posts. I had mentioned that I expected strata managers who were operating on a fee-for-service model who were not taking or rebating commissions. I expected them to be jumping up loud and proud right now, making sure owners know who they are and that they exist. And Daniel, you posted in reply saying Strata Sense has been operating in this way for the last 13 years. Is that uncommon in your experience for strata managers to operate that way?

Daniel Holt: Yes, it is uncommon. It's not unheard of. I know of at least two other companies who operate with that sort of model. Interestingly, those two other companies, and again, I don't know the intimate details about how they operate, do operate with a similar target demographic to us. So, Strata Sense, we're focused on larger, more complex, often premium buildings. And for us, the messaging around a clear transparent fee resonates with those particular clients.

And I think the other two companies that I know of who follow a similar model often compete in that space. Outside of those three, I don't really know any other strata manager company who approaches it without commissions as a default position. I know most of them will start from the position of saying, well, we're happy to negotiate toward a model where we charge appropriately and don't take commissions as in charge the actual cost of running building, take commissions.

That seems to be an option that's only available on request or it's not the standard position they'd take to the client. The overwhelming majority of our competitors, as I see them, quote, a base fee which doesn't actually reflect the cost of service of the building, then they supplement that with additional income, primarily through insurance commissions, but certainly another series of ways we can talk to in more detail.

Amanda Farmer: Yes, we will get into that. But this decision on the part of Strata Sense to operate this way, is that just something that when the business started, that was a decision that was made, this is a stand we're going to take, or has it been led by these premium level clients who've been saying, this is how we want to operate? Why operate this way?

Daniel Holt: Yes. So firstly, we've operated this way since before I was involved in the business, Mark Gibson set up the business and he came from an accounting background. Or I think for those in our team who come from outside the industry and about half our strata managers like me, we're not strata managers before this job. It just speaks to us as the natural way of doing things.

And for all those in the industry trying to say that this isn't a problem. I think most people, when they hear you are placing insurance and getting paid a commission based on how much of that insurance you pay for, hear that and think that is not a range that makes any sort of sense. I think that's always been Mark's approach to it. Certainly approach I agree with. Outside of taking it from an ethical point of view, it obviously makes sense with the target demographic we're working with. It's always been a good kind of way of positioning ourselves against the competition. And when we explain to clients, almost all of them understand it, the challenge has always been getting to that discussion.

Lots of owners - and this is kind of the root of the issue - lots of owners who are on their committees aren't that engaged. They're only turning up at the AGM. They're often reading the agendas they're walking in. And I know maybe listeners might take exception to that, but I'd say your listeners are the exception, not the rule.

Our challenge has always been getting past the shock that owners often have when they see our base fee and see it's appearing to be substantially higher than what the competition are charging. We've also always stuck with this model and it has been tempting to move away from it at times because it would be probably financially advantageous to us in the short term because of what's happening with premiums and the commissions are going up with that.

But one of the other reasons we're stuck with it is because pragmatically we don't think the current arrangements are sustainable and I think for many strata management companies that don't operate in our space. you would probably be inclined to say, well, it's not worth making the change because we'll lose clients over it.

I think what the industry should be thinking of is that this is not sustainable. It will invariably change. I think hopefully by way of government regulation. And if you are a business who has already made some steps to move in this more sustainable direction, you'll be much more well-positioned to do well through that change rather than scrambling to adjust all your contracts.

So that's some of the reasons that Mark set up the way we have and why we've persevered with this model all these years.

Amanda Farmer: And you have been around for all these years. So obviously you've found a way to explain your model to owners and to convince them that you're the better option. How do you do that? How, how do you get past that?

Daniel Holt: Look, get us into a room with someone and we can explain it. It's pretty straightforward. We say that this is the amount of time it takes to run a building. Here's how much it costs. And we're going to charge a base fee that reflects that. And we're going to reserve additional fees for things that we can't predict at the start of the contract. And we are not going to take commissions because it creates a perverse incentive where even if we are not pursuing an option that suits our commercial advantage, we don't want a world in which owners are constantly doubting that because it would be in our commercial advantage to get a greater premium if we got a commission based on that premium. And we can put together some spreadsheets that show here's what it looks like on these different models and here's how in effect we are more cost-effective for you. Or we don't even say we're cheaper on the whole, we are a premium provider so you pay a little bit more but it's not 50 % more, often it's 10, 15 % more, which I think is a reasonable variance within the marketplace.

So owners do generally understand it when you get through that discussion. What can help that is again, getting through those discussions because if you're time-poor and I've resigned from my strata committee because I just don't have time for it anymore. And lots of strata committees, the committee members are just there because they're the only ones who'll do it. They'll issue out requests and proposals to four or five strata managers. And then they'll shortlist a couple. The danger for Strata Sense is we get ruled out at the first instance because of just looking at fees.

The other danger we have had a few which we've missed out on over the years because the strata committee say, look,

your model makes perfect sense to me, Daniel, love it, but we got to go before all the owners and they're just going to look at this fee. And they're going to say, we've got a problem with this. In some cases we've said, okay, well, in that case we'll offer to take the commission and reduce the base fee to reflect that.

Honestly, those buildings where the committee members feel like they can't explain this to the owners. They're not ones that typically end up signing with us anyway.

Amanda Farmer: No buildings that you would want, I guess.

Daniel Holt: Yes. We're here to help anyone, but sometimes there's buildings out there where it's just so cost-focused, they're losing sight of the ultimate value of the building and also the role of the owners corporation, which is exercising functions on behalf of the owner as required by law, not just cut costs, cut costs, cut costs, which is unfortunately some of the mentality out there.

Amanda Farmer: Yes, let's talk about that because I put a question out to my audience recently. Would you pay more? I asked them for your strata manager and got lots of responses on our social channels and in my inbox and including responses from strata managers. What's your response to that, Daniel?

Daniel Holt: Yes, I gave you a reply because it's like that touched something within me got me a bit worked up because I just actually day before rewatched a webinar from a year ago about insurance commissions where senior people in the industry got together and all agreed that it wasn't a problem and warned everyone that if you do away with commissions, you will pay more. And I felt like there's all this industrial-level gaslighting in there.

And the message to owners is you are already paying it. If you are paying higher premiums to allow for a commission, you are already paying more. If a provider is providing a kickback to your manager, which I will leave that story out of this because their message to their owners is that reporting was quite grossly inappropriate and headed up by someone with an ex-employee, disgruntled ex-employee with an agenda against their firm. That's what they're telling their clients.

However, if there were some providers out there receiving kickbacks, that is inflating the cost of the services you are receiving from your contractors, and you're already paying more. I think if I can just get to the heart of my challenge with this industry where we're at right now is that there is an effort out there to disguise the actual cost of servicing your building.

Strata managers don't want to be honest, or the industry as a whole isn't being honest, that it is much more time-consuming and costly to manage buildings than owners expect. And owners are still wanting lower base fees. And rather than being honest about that, the industry is presenting lower base fees and trying to supplement their income in other more clandestine ways, knowing the most owners won't pick it up. So yes, if you would go with Strata Sense and not receive, and ask not receive a commission, your base management fee would appear higher, but you are already paying for that commission. You're already paying that.

Amanda Farmer: Well, what are, if you're willing to speak to them, some of these clandestine ways that you say strata managers are receiving revenue.

Daniel Holt: Yes, happy to drill into those. And some of those have always been talked about. It's been interesting. And over the years, it feels like there's a lot of innovative zeal from strata managers that's been directed to more creative ways to derive their revenue. And that might just be me getting more exposed to the way others operate. It used to be we'd look at the insurance commissions and think, okay, that's easy to explain to clients. But I just want to reiterate the one that's been discussed about what Michael Kleinschmidt, I think, referred to as the black box companies and how this operates.

What is happening out there is that there will be brokers out there who will offer to enter into joint venture arrangements with strata management companies or strata managers setting up insurance commission, insurance brokerage firms, where there is a profit paid by way of dividend from that joint venture to the strata management company. That could be in addition to the strata management company also receiving any commission or it could just be in lieu of it.

That can lead to a situation where we are up against another strata management company and their pitch is we were evading insurance commissions. We need to get in front of the committee and say, well, look at this clause in that contract. That particular company will be receiving a dividend from the broker that they are appointing through this joint venture arrangement. Or it might not even be the company, it might be the directors or the shareholders.

And then we're explaining to those owners that means that either the broker is going to take a cut on their portion of the commission that they're getting from the insurer, or the total package of commission is going to be higher because the broker doesn't want to take a cut. The strata manager wants to get their income either way. All this gets really, really complicated. And the question one might ask is why do this? Why not just take a commission if you believe the commission is the way to go? And the answer is because it is complicated.

It is easier to create this arrangement and know that for 90 % of the clients, they're not going to notice or question it. They keep going in with the commission model where most owners do understand it.

I've been a manager for a number of years, a building that's, it's got two strata plans within it. It's governed by what you would know as a BMC. Some of you listeners might know as a BMC. So two strata plans, over acting management agency. I manage the retail, strata management company manages the Rezzi scheme, and then a third strata management company, very prominent, manages the BMC. And this happened to us. We got the insurance renewal proposal one year, and it was a new broker.

And I called up the manager and said, who is this? Have you heard of these guys? And she said, no, no idea. Never heard of them. We started clearing it, and the only response we got from the BMC manager was this was a decision made at a company level was decided at the corporate level. And we kept pressing it until eventually there was a call from the boss of that company to my boss who came over to my desk and had a chuckle and said, I've been told to throw a bucket of cold water on you which is the response that seems to be rather prevalent in the industry, but it's not helpful to talk about these things, criticize one another.

Let's set aside that it was a bit late for that particular building. My committee member wouldn't have let it go even if I'd wanted to. They negotiated a good deal with that strata management company, good for the owners corporation having seen it. But for I've said that that business is clients. They never would have picked it up and that was four years ago. And it's only gone more convoluted since then.

That's one example I'd give and I'll just pause in case you guys have follow-up questions before I go and tell this.

Amanda Farmer: Yes, few. Now, Daniel, these are quite sophisticated arrangements that you are very skillfully explaining to us.

Daniel Holt: Hopefully skillfully.

Amanda Farmer: You're talking about dividends that get paid through joint venture arrangements. I mean, I don't want to be disrespectful to strata managers here, but surely there is someone or a group of someones who are qualified and experienced in setting up these kinds of arrangements. And yes, I'm talking about lawyers. Maybe I'm talking about accountants, business advisors who are advising strata managers on how to set these up. And maybe there's a group of people who are giving this advice to strata manager after strata manager after strata Manager. Do you have any concept of where all this is coming from?

Daniel Holt: Yes, I mean, in terms of who's actually recommending to do this or who's administering it, those are different questions there. Strata Sense has never gotten to the point to talk about who, which lawyers are actually assisting saying this up because we've been invited, would you like to do this sort of thing? And we've said, no, thank you. We don't think this is going to last and we don't want to do business this way. But it's certainly prevalent enough within the industry that we know that people in the industry talk to one another. It may not be straight out collusion, but people are sharing their experiences. If I get together with an strata manager, I might share my experience of how we missed a particularly difficult meeting last night. I think at some level people are getting together and saying, we need to keep our base management fee low, even though we've got cost overheads going up because recruitment is so damn hard, the time we spend managing buildings is going up. What are you doing to see how

we can arrange this?

Or it could be some sort of form of conversion, evolution, where everyone is independently getting to these arrangements. But it is noticeable that these aren't outliers in the industry. These are pretty significant players. That's about the answer I can give you on that. It's significant.

Amanda Farmer: So apart from talking about this, which I feel as listeners will know because we've been talking about it for a while, I feel is incredibly important. You obviously feel is incredibly important because you've agreed to come and have this chat. I think that goes a long way to working through resolving these problems, improving strata as a whole, hopefully helping us to come out the other side, but it's not going to be the solution to all of this. It is part of the solution. What do you say if you're able to share your thoughts should be happening? What else should be happening to address this?

Daniel Holt: Yes, it was interesting seeing the ABC report and coming out and having that moment of hope and thinking, all right, we're going to have some change in industry because this clearly can't go on. It's such a prominent example. It can't go on. There's going to be change. And then very shortly after, I saw a press release from a law firm saying that it's ridiculous to suggest something unlawful could be unethical. And this is scandalous reporting. I'm not going to quote those exact words.

That was certainly the tenor. And I thought that's a bit of a weird take. And then I saw a number of strata managers coming out saying similar things or saying, well, this isn't about commissions, it's about something else. And I don't think the strata management industry is in any position to dictate what this story should be about. And then we had comments about the SCA going to be reviewing this. And then since then, I've got an email saying the SCA Golf Day is coming up. Get ready.

And I started having this worrying feeling and I'm not prominent in getting out and having to do these sort of interviews Amanda, but I thought, no, we got to speak up here and be real about this because I was starting to feel this was all going nowhere. There's a reason the industry is doing this. It's because consumers want a low base management fee and they are time-poor and they're not investing the time they need to understand these sophisticated arrangements to pick them apart and punish those putting them in place.

That's not going to change anytime soon. And it's really important we get this right because the strata manager side of things is not the greatest challenge in the management of strata schemes right now. We get huge cost overruns, owners corporations making at times, dare I say, questionable decisions. But unless we can fix it and have strategy managers be to some level trusted by their owners corporations, we're just going to run into more and more problems.

The market's demanding this, it's pushing strata managers to do this and I'm not excusing anyone from doing it. You have a choice, but we're seeing lots of people make the choice to do these things this way. Even if everyone within the industry decided tomorrow, we're going to change the way they're doing it. We're doing things. The market forces are there that another innovative player without a sense of morals would just say, well, I can get an advantage by doing something similar. Where the market's operating this way, that's where you need government intervention.

That's when you'd say the market will continue to deliver these unsustainable management arrangements. So the government should just step in and legislate to change things. I don't see the industry doing it by itself because it's not in the interests of the majority of the industry or certainly a large number of them to change it.

Amanda Farmer: What have you been hearing if anything from owners about this? Acknowledging that you're in a position where you probably only hear from your client owners. I hear from owners who are clients of lots of different strata managers. So I do hear different points of view. How are your owners reacting to this story?

Daniel Holt: Yes, so look, we had, as you'd imagine, questions, the story before I got into the office that day. And Strata Sense was in a position where I'd drafted some initial communications to go out before I got off the bus on the way in, because ours was a very clear message we could put out there. So the feedback from our owners has been overwhelmingly positive, because we're

able to reassure them quite quickly. In terms of owners outside of those with whom we directly interact, I mean, I quote what Netstrata saying to their clients. I'm not able to tell you that because they're writing to us and saying, we're happy with this response. There's certainly been a lot of movement. Owners requesting change. And I think, you know, when you explain this sort of stuff to people outside of the industry, they're aghast at it. I remember talking to my in-laws explaining this and they just look at this and say, this doesn't make any sense whatsoever.

So, I can't profess to say what all owners are thinking of this. I think there's probably a lot of owners out there who have read the story and moved on. But I don't think those who are engaged are buying the idea that this is a time-honoured practice and there's nothing unethical about doing what the law expressly permits. I don't think owners are accepting it.

Amanda Farmer: You mentioned briefly there, Daniel, some of SCA's response. I chatted to Reena on the podcast recently about that. You've mentioned the sponsored events that are continuing, which I agree have come across. You're not the only one to mention to me that they have come across as a little bit tone-deaf.

Daniel Holt: Bit tight there, eh?

Amanda Farmer: As a membership organization and many listeners tuning in will be members of SCA, what do you think they should be doing differently or is there something that you would suggest that members of the organization do if they are also uncomfortable with this position?

Daniel Holt: Yes, so two questions there, what the organisation should do and what members should do. Look, when we got into the office the morning the story came out, we went into the management room and Mark led the discussion about, okay, well, let's park any sort of sense of shout-out in front of your competitors' trouble and start by saying, what can we learn? What's Strata Sense doing that may be considered dubious, maybe something we need to defend and reflect on any changes we need to make. And we came out of that room pretty comfortable with it.

The SCA has been pretty quiet since. I'd like to think and hope that their response was to similarly sit in a room and say, whatever our positions irrespective of the Trowbridge report or insurance commissions were last year, whatever we've done about elections of different members in the past, where should we be standing now when we see this in the Coalite Day? I don't know where that's happening or not. I'd like to hope it is. In terms of what members should do, personally reflect on your own business practices, but we'll be realistic, and I'm realistic that for lots of providers, not necessarily in our sort of space, and small providers, if they just said tomorrow we're doing away with commissions, it'd be potentially disastrous to their companies. Write to the SCA and let your families be known. I will give credit that I sent some emails to the SCA in light of everything that happened and lo and behold, I got a call on my mobile from the CEO of SCA and he said all the right things about them reviewing what they're doing.

So they were at least that level listening and engaging. But I think we should let be known that we're feeling this way. And I expect a lot of strata managers on the ground to be feeling the same. And I think if you're a strata manager working for a company, you should be entitled to write to the SCA and express your opinion in a personal capacity, even if it's not officially endorsed by your company. Because I think there'd be a lot of strata managers feeling pretty disheartened after that reporting and thinking, how am I going to go to the next meeting and explain this? Or even understand this. I mean, to go back to the reporting, there was a recording of strata managers saying there was no connection between the strata management company and the brokerage company. It could be that they don't understand the relationship.

Amanda Farmer: Yes.

Daniel Holt: I'll feel incredibly uncomfortable if I was going to an AGM and they disclose, okay, we don't receive commissions, but we've got a JV with this particular company where my managing director happens to be a shareholder in that JV arrangement. So we do get some commission through that. It's we're flat out explaining budgets and capital works fund reports. Sometimes I don't think strata managers need the pressure to try and explain in very delicate ways, quite complex arrangements.

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Amanda Farmer: Oh yes.

Daniel Holt: So I think, maybe they should be reaching out to the SCA. And if they don't get anything, we'll reach out to the government and say, look, we think this needs to change.

Amanda Farmer: That's where we're going to leave it. Daniel Holt, thank you so much for taking the time to first of all, communicate your thoughts to me and now to be here on the show, communicating them with our wider audience who really need to hear them. I wish you all the best with continuing to take on the day-to-day challenges of strata. I mean, that's the thing, isn't it? This is a big overarching problem to be solved for us in the space. But at the same time, I know you guys are just head down, just trying to get through your inboxes.

Daniel Holt: This is something I'm passionate about, but it actually is a small part of my day and I'll be going back to working on some templates and systems to live for our clients. And I hope we can all be focusing on that in due course, but we're going to have this discussion first. So pleasure to be here. Happy to chat anytime.

Amanda Farmer: Thanks, Daniel.

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