

## Friday AAN: 16 August 2024

In today's "Ask Amanda Now" session, Amanda answered a question from Chris: can we make a by-law to prevent individual owners from getting quotes for jobs without the consent of the committee?



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Hello and welcome to ask Amanda now. I am your host, strata lawyer, Amanda Farmer. We're heading out live on this fine Friday to the your strata property facebook page. We're going out to LinkedIn, we're going out to YouTube as well. It's lovely to be here with you. It's lovely to be back at my desk. After a couple of weeks of travel. Some of you joined me in Hobarthe last week.

I was on the Gold coast the week before. Sometimes life in strata is like that, but this week I have been here in my home office catching up on some client work, some desk work, as I call it, feel and organise feeling on top of things again, which is great. I am relaxing back here with my two puppies, who I usually kick out of the studio when I am live.

But they've had a big day and they're both super exhausted. You can only see one. That's Louie and that's Barnaby there. And they are tired little pups and I couldn't wake them up and kick them out, so. Always a risk. But we'll see how we go. Hopefully they'll stay nice and quiet there for us. Those of you who are coming in saying hi. Hello, Sean. Saying hi. And puppy.

Yeah, so that's Lulu, our Louie there. Hey, Josh, how you doing? Hey, Chu. Good to see you. Yes, we do love our strata pups, that's for sure. Yeah, exactly. Let's hope the doorbell doesn't ring. Fingers crossed. Today is our ask Amanda now session. That is the shorter Friday session where I have invited you to submit your strata questions, whether on email or here on the page, and we choose one, one question to focus on and answer for you.

So many great questions today. I was really tempted to just fly through them all. So many great questions, and I would love to be able to answer them all for you. That would become a Friday half day, I think, if I was going to answer all of those great questions. But if your question has not been chosen for today, then I'll definitely be reminding you where you can go to get your question answered in writing by me, guaranteed.

Okay. More of you coming in, saying hi. Hey, Margaret, how you doing? You are most welcome, Margaret. Josh is saying, just do it all. Do it all. Of course, no problem. Easy. I can be here till midnight. Not a worry. Hey, Jeff. Good to see you. Sean O. Saying, mine never gets answered. You know where to go, Sean, to get your question. Absolutely guaranteed answer our members, members of the your strata property online community.

You know where to go. Head over into our members Q and a forum. Sometimes I answer member questions here. Absolutely. If they're great questions that I think everyone will benefit from the answer. But generally I do try to prioritise those who don't yet have access to the Q and a forum where you've got me on call. So indeed, our members and a few member questions have come through today.

If you have a question that needs answering, do jump into that member Q and a forum. If you're not a member, I'll let you know where you can go to join us. Madeline's saying happy Friday. Hey, Madeline. Hey, Maureen. Excellent. I think I have acknowledged those of you who are coming in live. More of you there, I can see those eyes. If you want to say hi, go for it.

But we're going to dive in to the question that I have chosen to answer for you today. A little bit of a juicy one here. Hopefully. I don't regret this. This question is from Chris. Can we make a bylaw to prevent individual owners from getting quotes for jobs without the consent of the committee? This one came through on email, and as I often get in the emails, Chris gave me a little bit more background info.

So Chris is saying that his community has individuals. He said, I'm assuming these are owners. Maybe they're residents. They're not committee members. Contacting trades, getting quotes for jobs without the knowledge or approval of the strata committee. There are also individuals, says Chris, who are continually questioning decisions by phone calls and emails that they send to the strata manager. They're contacting the suppliers of goods and services. Chris's words, wasting their time and the time of other owners, and essentially in the process giving the building a bad rep, tarnishing the building's good name in their local community with a number of tradies and agents.

So seems like a real problem that Chris's community is facing. And yes, it is one that I have heard before. Residents, owners with

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opinions that may be different to that of the strata committee or the strata manager, who feel that trades who are on site are not doing what needs to be done or not doing it the right way, questioning, giving instructions and generally causing problems for those people who are just trying to get their job done on site.

So Chris is looking for a way to solve this and said, Amanda, can we make a bylaw that just says don't do it? And then when owners or residents are off on their tangent, we can enforce the bylaw against them, I imagine is Chris's plan. Some of you are already jumping in here. I've got the sean's going. No. One of whom has added an exclamation mark. No, can't make this bylaw.

Jeff is saying, happy poets day. Oh, okay. I'm gonna have to look that one up. Hadn't heard that one, Jeff. And Josh is sending me Uber eats to keep me going to get through all of today's questions. That's very thoughtful. Thank you, Josh. All right, so we've got a couple of experienced managers here in the chat saying, no, we can't make this kind of bylaw. I'm definitely going to let you know what my view is on this.

So I've said that this is, in my experience, not uncommon. I have heard about this kind of interference on the part of residents when trades and contractors are on site, causing trouble, causing a headache for the strata manager. When I am trying to guide committee members and managers on this, I start from a place of saying, I think your best solution here is in communicating with your trades, making sure that you have had that conversation with a trade that you're sending to site, to quote with a trade who you are issuing a work order, and being super clear with that person that they take their instructions from the committee or from the person who's been authorised to give them instructions, or from the strata manager, and being really clear that they do not, are not authorised, must not, should not, cannot communicate or take instructions directly from other residents or owners who are on site.

This problem can be solved at that level of your contractors. If you've got good strata contractors who are used to working with strata buildings, they should understand that. They should understand that they don't have any authority, any business, any need to be listening to taking instructions from other residents. So when I hear Chris tells me individual owners are getting quotes for jobs without the consent of the committee, that just shouldn't even be happening.

The tradesperson should not be giving these owners quotes. I'm imagining their quotes for work to be done on the common property. Of course, if an individual owner wants to separately engage a tradesperson to do work on their lot property, that's not going to be an issue that the committee or the strata manager, the owners corporation, needs to get involved in. But I would be questioning why these trades are even engaging in this conversation in the first place with owners and whether you've got the right strata experience trades on site.

So have that conversation with your trades, especially if they are people who you respect, who are respected in the community, and who enjoyed working with you, and see if you can't tackle this problem at that end. Of things. Can you make a bylaw? Look, I don't think you can. I don't think you can. Well, look, you can. But whether it will be valid, legally valid and enforceable is the real question.

It is very likely that a bylaw that is in those kinds of terms that you can see on the screen here, simply a bylaw saying, owners, you can't communicate with our trades, can't get quotes that may well be harsh, unconscionable or oppressive. And I would caution any building against making that kind of bylaw where you have residents behaving badly on the common property, for example, approaching trades and contractors, giving them a hard time, harassing them, saying, stop doing the work, or this isn't the way it's supposed to be done.

You probably already do have a bylaw in place that can regulate that. That's probably your bylaw about behaviour on the common property, and it will be something to the effect of residents can't behave in a manner that is harassing, threatening anyone who is lawfully using the common property. So just have a cheque that if this bad behaviour is happening on the common property, it's not already. You don't already have a bylaw that might be being breached there.

And have a think about, Chris, whether this concern, this behaviour on the part of unhappy residents and owners, might all come back to whether there is sufficient transparency in the committee's decision making. Is this about owners who want to be informed about what's going on about decisions that the committee is making? Is there a reason why they're asking these questions? Is it

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because they don't know or don't understand why the committee has hired this trade, why the committee or the strata manager has issued this work order to get the work done?

If you can set up this process correctly, let's say from the beginning with a focus on transparency, I imagine you're going to, as a committee, be having a committee meeting, discussing what work needs to be done around the property, resolving to get quotes, or resolving in the committee meeting to approve quotes that you've already got. This is a formally convened committee meeting, so notice of the meeting has gone out in one form or another.

It's either been sent to all the owners or it's been put on the notice board owners have the opportunity to attend the meeting and be part of that discussion about the work that's happening, to listen in to the decision that the committee members are making, the quotes that are being approved, and to understand why. And then the minutes of that meeting are being circulated to all the owners.

And so owners are aware of the decisions that have been made and that there's going to be trades on site doing this work. Completely understand. And I hear you when you say, Amanda, yes, we may be doing all of that, but no one's reading the notices of meeting. No one is going to the meetings. These are people who just are not engaged and complain later. But the benefit of following that process, having that process in place of quotes being tabled at committee meetings, being formally approved at committee meetings, it means that when your strata manager does get that call from that angry resident saying, I've got questions about this, quote this contractor, what's going on here?

Your strata manager can deal with that really promptly by saying this is work that was approved at the committee meeting that was held on the 30 June. That notice of committee meeting was sent to you by email on this date. You had the opportunity to attend that committee meeting and to listen in to the discussion. I can see from the minutes that you didn't take up that opportunity.

The minutes were sent to you, decision was made and there will be no further discussion about this issue. So that just allows your strata manager or your secretary or whoever it is who's having to deal with these questions and complaints to shut it down. Shut down that discussion, not leave that owner with any room to debate. And to make very clear, this is how we do things around here.

And if you want to be part of how we do things around here, you've got every opportunity to, because we advertise when we're having our meetings. You're invited to attend. It's on Zoom or it's at this location and the minutes of the meetings are there. So everything is open and transparent. I would just be having a think about that. Whether you have that open and transparent process and if there's a reason why owners are getting upset about work that's being done, and why owners seem to have a lot of questions about that work being done, I don't think that a bylaw is the answer there.

I think there's a few people tuning in who have a bit to say on this topic because I can see those comments coming on through, scrolling back up. Hey, Shana. Hey, Luke. Luke is saying this could work both in favour and also against the owners corporation. Yeah, I can see how this kind of bylaw would be a bit of a problem. Josh is saying this is due to the incompetence of the committee if the tradies they sent are either not good or corrupt.

Yep. Josh so absolutely making sure the right trades are on the job. And as I said, strata experienced trades should know that they do not need to, they should not be engaging or taking any instructions direct from residents about common property issues. And perhaps the strata manager can be putting that. Should be putting that in the work order. Your authorised site contact is x. You may only take instructions from X or the strata manager, whoever it is that the committee has determined.

And if this is a community, Chris, where this is a particular problem, maybe with certain residents or with just generally in relation to certain work, just giving the trade that heads up to look out for that. You don't have to name particular residents, but just be really clear that their instruction should only be obtained from a single source. Jan is saying, what if the complainers are right? So not quite sure what the complainers are complaining about there, Jan.

I didn't get that info from Chris. Chris is telling me that these are people who are questioning decisions that have been made and essentially wasting time and resources of the owners corporation and the strata manager. So if we approach this from the point

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that these are baseless complaints and these are decisions that the committee has properly made and this is work that needs to be done, then I think, yeah, some of the suggestions that we've been talking about might be the best ones for Chris to be putting in practise here.

Chu is saying, from the sound of it, transparency of the quotes that the committee members are receiving. Yep, 100% agree with you there, Chu. Shaun is saying there was once a person in strata who thought they were so much smarter they went out seeking quotes from any old factory blokes and then found their suppliers did nada. Oh, my gosh. Can we give Sean a round of applause? Very good.

I like that. Thank you for that Friday. Happy poet's day, as Geoff was telling us. Hey, Kristen, happy Friday to you too. And thanks for this week's podcast. My pleasure. Josh is saying our committee is inexperienced and sent tradies out wasting our money. Even the ones sent out from the strata manager. Oh, okay. We're not going to be mentioning any names here on this public platform, Josh, so we're just going to have to edit that one.

Sean is saying any owner is able to seek, but whether the OC considers them. Yeah, so that's a good point. So it is, you're right. It is open to an owner to go and get quotes for repairs that they think need to be done to the common property. Definitely. So. And put that to the strata committee. And you're right, it's up to the strata committee whether they're going to consider that or not.

Again, it should be made clear to the trades that those requests for other quotes should not be interfering with the work that those trades have been instructed or authorised to do by the committee. And I think it's okay for the committee to tell those trades, we don't want you to, we don't want you to be quoting on behalf of anybody else for work to this common property. You're our contractor.

We've engaged you to do this and we don't want to confuse the issue by having you, our contractor, acting on the instructions of any other owner. Indeed, an owner could seek quotes from an alternate, an alternate contractor. Hey, Leonie. Hey, Desert Ray. Ray saying, in my experience, I would never deal with any owner who requests anything unless it has come from the EC or the strata manager. I'm polite about it, but have to protect my own business and that of my employees.

Love that. Ray. So you're obviously coming at this from the experience of the contractor or the trade. That's great. So that really aligns with what I see with those good strutter, experienced trades being able to handle, you know, handle themselves and handle these kinds of requests. Awesome. Okay, John is saying yes with lots of S's. I assisted another owner in 2015 with the procurement and installation of LED lighting committee, came on board, granted approval, took control at the tail end.

Okay, not sure that that's all that helpful to this conversation. John. I'll go back and read the whole thing. I can't see it all on my screen. Kristen saying more than fair, most contractors I've worked with have the same approach. It saves them a lot of time in preparing quotes. Excellent. All right. Wow. Okay, I was right. Hit a nerve, this discussion. There's lots of comments there. I just keep scrolling down and there's more and more.

I'll come around and have a read of those and let you know my thoughts. My any further thoughts that I may have on this topic, having read those comments, as I said, lots of questions, lots of great, interesting, juicy strata questions came through this week in particular in my inbox, and there's a few here on the page as well. If you're not Chris, this was not your question that got answered.

The place to go to post your question, to get my response in writing, to engage in a background and forth debate with me about it. Lots of that happening at the moment is inside the your strata property online membership community. That's where we have our Q and a forum that's where you can go and post your question and get my views. I can link you to relevant cases, to other resources that we have available to you inside the membership.

Many of you are members, you've still shot me through. Your question hasn't been answered today. Jump in. Jump into the forum and post it there for me. If you're not a member, the place to go to join us and start asking your strata questions is [stratamembership.com](http://stratamembership.com). head over and cheque out everything that's on offer there inside our membership. Lois is saying I'm going to get my two bobs worth in the forum too much for here.

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Okay, sounds great, Lois. I look forward to seeing you over there. I'm going to head out. Hope you have a fantastic weekend. Dogs, as you may have noticed, got up off the lounge, got released by my trusty assistant who's monitoring for dog exit strategies, and I hope that you have a fantastic weekend in strata. I will catch you all next time. Bye for now.