

Publication Date: 01 August 2024
YSP Podcast Transcript: 417. Why the OCN is fed up with the strata “industry”

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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 podcast this week. I'm Amanda Farmer and it is my pleasure to introduce you to our guest. Her name will be well-known to many of you, Karen Stiles.

Karen is the Executive Director of the Owners Corporation Network of Australia, known by those in the know as the OCN. This is the peak body representing residential strata owners and residents. The OCN's goal is to improve strata living through advocacy, education and empowerment of strata owners and residents with a vision to create a better future in residential strata and community living. One where we have resilient, empowered communities living in climate-ready, defect-free buildings.

With that, I'm gonna take you straight over to my chat with Karen Stiles. Enjoy.

Amanda Farmer: Karen Stiles, welcome to the show.

Karen Stiles: Thanks, Amanda, great to be here

Amanda Farmer: Great to have you back on the show, Karen. Thank you for making the time in your busy schedule. If we have any listeners who perhaps are new to strata or they've been living under a bit of a rock, haven't yet encountered the Owners Corporation Network, give us a quick explanation who you are and what you do.

Karen Stiles: The Owners Cooperation Network is the independent voice of residential strata owners. It was established in 2002 when the chair and secretary of a large new building in Sydney were facing numerous hurdles and did a bit of a ring around to see how everybody else was managing and found out it was all very much #MeToo.

They set up a self-help group, if you will, 15 large new buildings. And from there, they then started inviting speakers and making submissions to inquiries on building quality, which was one of the biggest issues that they were facing at the time. Apart from extensive and expensive service provider contracts and also the cost of insurance. So from there it's grown into quite a voice and we have a presence now in Victoria and in Queensland to help owners in those two jurisdictions as well.

Amanda Farmer: And I just want to highlight that you said you are the independent representative, the voice of residential strata owners and OCN members, OCN supporters often take issue. I know with the fact that sometimes SCA, the Strata Community Association puts its hand up and says, we represent strata owners too. Not the case. The OCN is the voice of strata owners. We've got that right?

Karen Stiles: You've got that right, Amanda. That's one of the things that really bothers me. Apart from everybody referring to strata as the Strata industry, when in fact it's about strata owners and the industry that has grown up to service them. That seems to be forgotten. I think it's fair to say that SCA can and does speak on behalf of owners on some issues, but clearly their main focus is as a representative body for strata management agents. And those things are not always aligned.

Amanda Farmer: And that brings us to the topic of today's conversation and the reason why I've invited you here to the show, Karen. It's been a few months now since that first ABC news article, the 7:30 report expose strata managers behaving badly is my shorthand for it at the moment. However, owners are still talking to me about it. No doubt many members of the OCN are talking to you about it. What is the OCN's position on the ABC investigation and this recent, I'm going to call it reporting on Strata manager conduct or misconduct?

Karen Stiles: I think that in the words of David Chandler, the New South Wales Building Commissioner, sunlight is the best disinfectant. There's been a lot of chatter in the industry and outside of it, in member groups, about issues that some owners face.

And I think it's time that those practices are brought to light and dealt with accordingly.

So we certainly welcomed the ABC investigation, which is wide-ranging. They had over 2000 complaints come in after the airing in March on a range of issues that they're still working through. It was interesting. They said that normally when they do a segment like that, about 80 % of the follow-up calls that come in from the community are baseless and 20% are not. And they said in this case, it was the other way around. There was lots of evidence forwarded to them of the issues that were being spoken about. So there's definitely practices out there that I think have evolved over time.

And have become commonplace when they're not necessarily the best practices. And I think members of SCA and others are looking to be and to be seen as professionals. And for that to be the case and for consumers to have trust in the industry, there really needs to be some soul-searching done and some changes to practices.

Amanda Farmer: And I'm going to ask you to share if you can, some of those practices that you're talking about, describe for us what you're hearing from owners. But first of all, it sounds to me like you've got a little bit of insight into that ABC investigation. More than 2000 complaints. You have some awareness of the nature of those complaints. Has OCM been communicating directly with the ABC journals or those leading the investigation? And is that an ongoing conversation that you're having directly with them?

Karen Stiles: Certainly, as the peak body for owners, the ABC has been in touch with OCN and relayed those sorts of statistics to us.

Amanda Farmer: Something that I hear often and am perhaps hearing more often now that some time has passed from owners is, Amanda, what's happening with this ABC investigation? Was this just a one-off story? We've got plenty more to share. It sounds like a lot of people have shared their stories. Are we ever going to hear about those or is this over? Can you give our audience any comfort, any confidence that this is something that is ongoing and OCN's got a seat at that table? Are we going to be hearing more?

Karen Stiles: Certainly, the ABC journalists are working their way through those complaints and ensuring that there is the evidentiary basis for the claims. And that will no doubt end up in further segments to where I don't know where, I don't know when, but there is certainly a dedication by those journalists to continue this conversation, which they see as very important, and obviously, so do we.

Amanda Farmer: Well, that is encouraging. Good to hear and definitely we'll be watching this space. Returning to these practices, Karen, that you are identifying that the owners who are communicating with OCN and perhaps ABC are identifying. What are we talking about here? Is this just about insurance commissions? What else are you saying are poor practices that need to be stamped out?

Karen Stiles: I think if we look at births, and marriages of strata, we can start with the relationships with developers by some strata management companies. It seems that it's evolved that they might do the work for free in return for a guaranteed contract. In the early days, that could be quite a long contract.

And the price might be inflated to cover the cost of the work that was done for free for the developer. There's issues with the contracts that are tabled at the first AGM. OCN's been quite public about that in terms of perhaps unfair contracts, not having choice, related entities, and embroiling unsuspecting owners in embedded networks is a real issue. We've been talking about insurance commissions since 2012, so that's not news to anybody else.

Another issue that is becoming predominant is the vertical integration of these strata management companies with other companies. And I think that's fraught with a lot of danger. Once again, it may not be the practice, but it's certainly the perception that these related entities are feeding each other which is very concerning because it takes away the independence of the service provider that owners are relying on heavily to help them manage these very complex structures.

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Amanda Farmer: And we saw a bit of that in the ABC's reporting. The answer to that, we hear from some strata managers, is disclosure. We have the fine print in our strata management contracts, letting you know about our associated companies, letting you know about our cut of the insurance broker fee and the commission that we take and how that then subsidizes your management fee. It's all there. We've told you, we've been upfront, not our problem. If you don't read your contract or don't understand it or don't agree with it, you signed up to it. What does OCN say in response to that?

Karen Stiles: OCN has a real problem where power is concentrated. And at the moment it's concentrated with in everybody else who knows the rules of the game. So the strata management agreement is set. Owners are often told it can't be changed because it's copyright. They can't cross out clauses. It's definitely not a balanced agreement.

And the other thing that I would say and I think this was to do with the medical industry, but it was shown that once somebody has disclosed a conflict, they then feel free to do whatever they like. It's like it's their get-out-of-jail-free card. So that concerns us greatly. The simple answer is these strata managers are agents of the owners. They have a fiduciary duty and there should be no conflicts.

Amanda Farmer: Do you think owners voices are being heard in this discussion? You know, you've said that this over 2000 complaints have gone into the ABC and it sounds like the ABC is communicating with you, the OCN, which is great. But there's a lot of discussion in for lack of a better word, I'm going to say the industry about strata management practices, there's a lot of lawyers who are weighing in with their opinion. Taking your point that at the end of the day, he's the owners who own these properties and the industry that has grown up around them. Do you think they should have more of a say or should be a bigger part of this conversation?

Karen Stiles: It's interesting. There's an upcoming conference on the Gold Coast that's talking about strata. And it's aimed once again at the professionals. So everybody's having a conversation about the owners and the owners aren't in the room.

Amanda Farmer: So do you say that's a bit of a missing piece then the space for owners to all come together and talk about this problem, these poor practices, their experiences? Are you saying that that's missing? That doesn't exist?

Karen Stiles: I think that the owners are often overlooked in conversations about strata because the focus is on the industry. Because we use that terminology, the owners get lost in the mix. And without them, there is no industry. I think it's time people understood that.

Amanda Farmer: Yes. What does understanding that look like? What would the OCN like to see happen to improve or eliminate these bad practices to engage owners in the conversation to create these spaces? What should we be doing?

Karen Stiles: I think as a starting point, the government needs to take residential strata seriously. There's almost no data collection. Without collection, you can't have analysis. And without analysis, you can't address systemic problems or trends. And none of this is being done at the moment. It's one of the reasons that OCN campaigned so strongly for a dedicated strata commissioner, that we would finally have somebody focused on the rights and consumer protections for residential owners.

OCN also advocated for the establishment of the Strata Hub. That is yet to reach its full potential in what could be done with such a register. And again, I go back to collection, analysis and acting upon data on this sector. It seems everybody thinks it's kind of small when it's not.

What \$ 1.5 trillion in assets. And you've got almost no consumer protections. It's astonishing. So OCN definitely wants to see more attention by the regulator on improving this sector for the owners. Maybe I can give you a couple of ideas and I'm going to just read this. So I had an email from a non-member.

Amanda Farmer: Yes, please.

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Karen Stiles: We've been controlled by PSMG and their appointed building manager. We had a failed attempt with NCAT trying to stop them from controlling our building. NCAT did nothing. There has been no communication informing us of the license cancellation and we're really unsure what the next steps are that should be taken. Any advice would be greatly appreciated.

Amanda Farmer: Okay, PSMG, this is public information. This is a strata manager license in New South Wales that has just been cancelled for 10 years. This is a strata manager that many owners, including clients of mine and me personally have encountered and yes, have encountered. And this is a message from someone currently managed by PSMG? Did you say? They've just read in the paper as many of us have about this license cancellation and have no idea what's now happening to their management service.

Karen Stiles: Yes. So the government has taken years to come to this conclusion. It has had years to develop a plan for what happens, you know, if A then B. And these people read about it in the paper and have no idea what to do because the government is silent. Here's another, and this was a member. It's been a journey, but finally Department of Fair Trading has cancelled the license of and of for 10 years. There was substantial evidence used from six schemes in the making of this decision.

And then somebody responded, it shouldn't be this hard. The point of tribunals is to provide fast, fair and cheaper access to justice. The regulator should have a mechanism so the casework from complaints and the tribunal also acts like a feedback loop into policy and strategic reform. Peacemail reform is still the order of the day and statutory reviews do not delve into systemic issues with sufficient rigor or analysis.

Amanda Farmer: Yes, this is a really good example when we're talking about, strata managers who breach the law. I have seen in addition to this very public example, I've certainly been involved in tribunal proceedings where a strata manager appointed as the compulsory administrator with all powers of the owners corporation appointed to that position by the tribunal has then behaved badly, has breached the law, has not properly served that community, has then been removed by the tribunal at the request of and at the expense of one owner taking them through that litigious process.

And then in separate proceedings, that same strata manager then being appointed again as a compulsory manager. And I know that's part of the history of this public case, but it's also the history in a number of other cases that I am aware of that shouldn't be happening. At least the left hand needs to be talking to the right hand here. And I was hopeful when the last round of reforms came through that was apparently going to give fair trading some power in New South Wales to get involved in this process of compulsory appointments, I was hoping that we might be heading down this path of, I'm going to say tightening up.

That's all we're asking. Tightening up this process hasn't happened yet. That part of our new legislation hasn't even commenced. But it's interesting to hear from you, Karen, on the ground in your inbox. This is a core frustration from communities that are in turmoil.

Karen Stiles: It's astonishing that to be appointed a compulsory manager, the only criteria is the manager must agree to be appointed. Certifiers have, Class A, Class B, and Class C. Strata management industry has none of that. And I think it really does need that.

So there's no criteria. There's no reporting requirements. There's no responsibility. There's no oversight. So that same compulsory manager can reappoint themselves if they want to. And there's no one to stop them.

So when you talk about a managing agent that's been removed from one scheme, but then appointed as a compulsory manager to another, that's the left hand not talking to the left hand. And taking that further, There's no requirement for NCAT to report proven allegations against a Strata Managing Agent to the regulator, which is New South Wales Fair Trading. It's breathtaking. The lack of interest in this process is breathtaking.

Amanda Farmer: I'm with you and I see it myself in the litigation that I take on for owners, many cases where there have been findings made against strata managers. And for the assistance of our audience, when a finding is made by a tribunal or a court,

that is akin to a fact. It is true. It is real. It can then be acted on sometimes in cases where there are findings that relate to criminal conduct. There may be criminal proceedings that are then commenced. Doesn't happen in strata because the left hand's not talking to the left hand. That would seem to me a simple and very effective change that could be made.

Karen Stiles: New South Wales Fair Trading has a complaints portal and they have a register of people who've been complained about. They're very quick to warn people about this fence or that Irish backpacker, but there's absolutely no transparency about the strata management industry as an example.

Amanda Farmer: Moving on from the strata managers for a moment, Karen, and perhaps self-servingly so, whenever I have these conversations with people, including managers and those who being served by managers, inevitably I get the note in my inbox, the comment on the website, not all strata managers. I agree with that, but also what about the others in this industry, the strata lawyers, the contractors, the engineers, the other service providers, they're the ones who need to be investigated and it's their behaviour that needs to be improved. What do you say about that from the owner's perspective?

Karen Stiles: From the owner's perspective, I think everybody in the strata sphere or strata sector needs to consider their practices. I think we could look at other service providers. I often talk about owners being the cash cow to be milked. And owners really do feel like that on so many different levels. Part of it is government-driven. The current fire safety reforms are causing so much chaos and confusion in the industry. And people where once fire safety mechanisms were approved, they're now not being approved and OCN's been contacted by one scheme that's facing multimillion-dollar upgrades to its fire safety services that were approved the year before. And they're trying to understand what's fact and what's fiction. The regulator won't clarify. The industry is struggling. There's not enough training. There's not enough people on the ground. There are so many issues with that. I think the legal profession has been called out on occasion, quite rightly. There are some practices that we see there that are not best practice.

So it's not just the strata managing agents that we're focusing on here, but they are, I guess, the apex of the triangle. And it is absolutely critical that they are not conflicted and working in the best interest of their clients. We both know that many agents at the coal face are doing exactly that. They're working incredibly hard. It's getting harder and harder with everybody flicking emails.

I think the strata management companies need to rethink how they're doing business because they are burning out frontline staff and that huge turnover costs not only the business, but it costs the owners, the clients. I know of one scheme that came to us recently. They've had three managers in a year. How can you possibly have continuity and all the corporate knowledge is gone? It's a really bad situation for everyone. OCN is always been about a fair day's pay for a fair day's work. We want to see strata-managing agents properly remunerated. But there's been a race to the bottom with the fees and that has then created the issue of having to find other income streams. And all of that is complex. It's not necessarily properly disclosed at all and it just fuels concern and mistrust. And that does nobody any favours.

We really have had a wake-up call from the ABC, and I think it's a fabulous opportunity for the good players to shine, to really articulate the benefit of working with them. And it's time for the others to rethink how they're performing.

Amanda Farmer: Karen, you've talked about this race to the bottom and this business decision on the part of some companies to supplement their income with other revenue streams. It's something we've talked about on the podcast before as well. Do you think owners are ready and willing to pay more for their stratum management services if we have management companies who then operate on a fair pay for a fair day's work?

Karen Stiles: Yes, there are lots of them doing just that right now. Others are going to need education, but quite frankly, it's up to strata-managing agents to value themselves and to articulate that value to the owners. And they need to be doing it on a level playing ground. At the moment, you've got some undercutting because then I almost think of it as a loss leader that they can then cross-sell other products.

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Amanda Farmer: So you're saying the strata management service as a loss leader and then they're making their actual money on the other products.

Karen Stiles: So again, that's no good for anybody. And it certainly harms the tier two and tier three, the smaller or the regional strata management companies that can't possibly compete. But there are strata managers out there who charge according to their worth and their clients are very happy to pay that and very loyal. You won't hear those people complaining about the strata management industry.

Amanda Farmer: And that takes us to an important point. I was just thinking about that fact that you wouldn't then be hearing from those people in the same way I don't hear from those people as a lawyer because they're happy. They're not having a problem. They don't necessarily have questions. If they've got questions for the likes of me or you, they're asking their very good strata manager. Do you think these owners need to speak up a bit more about the fantastic service they're receiving and who they're receiving it from? Is there a way that we can find those owners that we can bring their stories to light and encourage them to be champions for their very good strata managers?

Karen Stiles: I think that's an excellent idea. What we would have to make sure is that it's not manufactured.

Amanda Farmer: Yes. One to take to the OCN drawing board perhaps.

Karen Stiles: I don't know that OCN is responsible for this situation or for fixing it. We're certainly more than willing to help. Those good strata managers would have testimonials and maybe they need to be on their websites with a name because those people are willing to put their name to that rather than an initial or a suburb or something like that.

There's got to be a way of celebrating the very good strata-managing agents that are out there but it has to be legitimate. And I come back again to David Chandler's favourite saying, sunlight is the best disinfectant. We have to have a real conversation and we have to have real testimonials and we have to have a real intent to do better.

Amanda Farmer: Well, neat circle to draw. What can our listeners do to support you and to support OCN?

Karen Stiles: The first and most obvious thing is to join OCN. There is strength in numbers. We are small, but we are mighty. That can't last forever. It needs owners to get on board with it, the independent voice, its representative body. So any listeners wanting to join OCN, it's less than a cup of coffee a week. It's ridiculously cheap for the value that you'll get. All you have to do is go to www.ocn.org.au, and click on the membership tab to see the benefits of belonging to OCN. And you can join online again. Again, it's strength in numbers.

Amanda Farmer: Absolutely. And we will make sure that we have that link in the show notes for this episode, OCN for many years. And you mentioned there, Karen, I think 2002, I think I started my career in strata in that year or very close to it. And OCN has always played a big role in my time. I have always admired you and OCN for having that seat at the table with the government for your tireless, absolutely tireless efforts to bring the voices and the stories of owners to the fore.

Always happy to provide space for you and for OCN on this platform to be able to reach more owners. And you're right for what you charge and what you get through OCN. It is incredible value. Anything you want to add or absolutely must share before we wrap up?

Karen Stiles: Our Strata Matters Conference is on Thursday the 12th of September this year. It is 8:30 to 1:30. We'd love to see everybody there. It's in the Sydney CBD and we've got quite the lineup. We're looking at how to sustainably manage the human, physical and financial capital of a strata scheme. It should be a great day.

Amanda Farmer: Sounds like a good theme. If our listeners hit your website, will they see those details and they can register now or jump on a list to hear more?

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Karen Stiles: They can register now. Come on down everyone.

Amanda Farmer: Perfect. We'll make sure that we have the link to the Strata Matters Conference in the show notes for you as well. Karen Stiles, thank you once again for being here to share with us the plight, the experience, and the challenges of strata owners. Please do keep up the good work.

Karen Stiles: Thanks, Amanda.

Outro: Thank you for listening to Your Strata Property. The podcast which consistently delivers to property owners reliable and accurate information about their strata property. You can access all the information below this episode by the show notes at yourstrataproperty.com.au.