

Publication Date: 29 August 2024
**YSP Podcast Transcript: 421. How Michael Teys is Helping Strata Managers Find
Their Courage**

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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 this week's podcast episode. I'm your host, Strata lawyer Amanda Farmer, and my guest this week is Michael Teys.

Michael is a Strata management business consultant who advises managers throughout Australia on improving profitability through professionalisation. Try and say that three times fast. He has more than 30 years experience as a strata lawyer and academic and has owned 11 strata management agencies across the country. Michael has a Master of Philosophy, Built Environment and a Bachelor of Laws. He lectures and writes widely about strata management issues in Australia and internationally and publishes a weekly newsletter called The Strata Professional.

Many of you will know Michael's name. He is a past popular guest here on the podcast. You can head back and listen to episode number 366 with Michael sharing strata lessons from around the world including why some banks in the US are now looking at governance practices within condo communities before lending to purchasers. And episode number 331. Michael's now famous in our circles. Quip, if you can't repair it, don't own it.

Michael and I in that chat were talking about some extraordinary new laws that were proposed for New South Wales to hold owners corporations to account for their failure to comply with their repair and maintenance duties.

Now there is just so much that I could cover with Michael and I know so many of you love hearing from him. This week I invited him onto the show to help unpack some recent law coming out of the New South Wales Supreme Court specific to workplace health and safety obligations in strata. This is a tragic case that I did speak about a couple of weeks ago during a Friday live session over on our Facebook page and I promised more of an in-depth look at this case through a discussion with Michael so here it is for you today.

Since Michael and I recorded this chat the Supreme Court has delivered another decision and you'll hear Michael mention that the decision was on the way it has now arrived. It is the sentencing of the Strata management company that was involved in the incident. The decision was delivered on the 22nd of August and the fine to be paid by the strata management company. It's close to what you'll hear Michael predict, \$200,000 but with a 25% discount applied because the company pled guilty to the charges. That took the fine down to \$150,000. I strongly encourage you to have a read of that most recent decision. It's relatively short, it's easy to read. I've got a link to it in the show notes for this episode for you.

The judge looks at the internal processes and procedures of that strata management company. What could have been done differently? Why the court thought that the owners corporation was actually more culpable than the strata manager. And you'll see what kind of factors the court takes into account when determining an appropriate penalty for this kind of offense. Now, fortunately, in my view, this year, the topic of workplace health and safety and how it impacts strata communities is a compulsory CPD topic for New South Wales strata managers. CPD stands for Continuing Professional Development and licensed strata managers must do this training as a minimum each year to be able to retain their licenses.

This case should certainly be on the list for anyone training New South Wales strata managers in this area for the balance of the CPD year. At our CPD event which I host in Mudgee each year we are lucky enough to have secured expert workplace health and safety lawyer Bill Kritharis to come and speak to our strata manager attendees on this subject. You might recall Bill is a previous guest of the podcast episode 295 if you want to check out what Bill has to say.

He has the unique combination of experienced in both strata law and workplace health and safety and he will definitely be available to speak to the nuances of this legislation and clarify what has changed for Strata. What has changed for Strata now that we have these Supreme Court decisions. If you've already got your ticket to Mudgee 2025, that is awesome. You can look forward to

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hearing from Bill. If you are a New South Wales strata manager and you don't yet have your ticket to complete all of your CPD in person with me and my special guest like Bill in Mudgee, then you better get a move on.

At the time of this recording, I only have five spots left. It is all happening on Friday, the 28th of March, 2025 in my hometown of Mudgee, New South Wales. That is central west New South Wales. If you're not sure, a lovely three-hour drive from Sydney. I'd love to show you around for all the details of the day and to book in you can head over to yourstrataproperty.com.au forward slash CPD event. With that, I'll take you over now to my chat with Michael Teys.

Amanda Farmer: Michael Teys, welcome to the show.

Michael Teys: Thanks Amanda.

Amanda Farmer: Lovely to have you back here with us. It is always a pleasure to receive your insights. And I have to say, whenever I have you on the podcast, when I have you on live, I hear often from managers, I've got to say saying, yes, Michael's telling it like it is. I'm taking Michael's words and I'm delivering that to my strata committees. So kudos to you.

Michael Teys: That's good. That's nice to hear.

Amanda Farmer: I want to start today is actually with a recent New South Wales court decision. It's one that my members have been discussing in the membership. Lawyers were talking about at the conference we were at on the Gold Coast a couple of weeks ago. It's a decision involving a tragic situation where a worker was killed on common property. There are a lot of lessons there for strata managers. I read an article that you wrote last week, Michael, with a great summary of the case. And I thought, let's bring it to the podcast. Tell us what's this case all about.

Michael Teys: Amanda, this is, as you say, quite a sad case. An eight lots commercial scheme in Berkeley, Sydney, where someone drove into a gate, a large gate, an 8.5 metre gate, sliding gate into the light industrial centre. They broke the gate. Some of the owners that worked on site did some makeshift repairs. And one of the owners said to his employee, look, each morning, can you just open this gate manually until we get it fixed through the strata manager. The strata manager put a work order out straight away to get it fixed. However, before it could get fixed, the gentleman was opening it one morning as instructed and the gate fell on him, crushed him and he died. As a consequence of that, work safe.

New South Wales, brought proceedings against the employer for failing to have a safe place of work for the person and for instructing the person to do this job in an unsafe way. And as a consequence of that, they were fined \$419,000. The owners corporation as the occupier of the common property was also prosecuted and pleaded guilty and they've been fined 265,000 and it remains for the strata manager to be sentenced. Now the strata manager has pleaded guilty as well and the sentence is yet to be handed down but in these matters, there's a parity principle so the sentencing judge will be looking, I think, at a fine in the order of \$200 to \$300,000 against the strata manager.

What's really sad about this case is that I think this probably could have been any of us. This was a workplace accident that was accidental. There was no malice involved in the way in which the worker was being instructed to perform. It wasn't being done in a shoddy way for any sort of commercial gain on the part of the employer. And I think, having regard to this sort of pretty understandable set of facts. Of course, you can always be wise with hindsight when you're looking at these things. But I think this is a conversation. These are some things that any number of us could have been a party to.

And here we are in this very sad case where the sentencing judge in the owner's corporation case said that the strata manager had made a significant contribution to the creation of risk and death of this person. And I think that's a very heavy burden to have to live with. Quite apart from fine and in these cases, Amanda, the fines are not covered by insurance. It is a provision of the Insurance Contracts Act and the Work Health and Safety legislation that there is no indemnity available for these fines.

So this is a really serious matter for anyone that has any commercial strata in their portfolio, any owners that have commercial

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property within their scheme. And of course, you and I, I think, have discussed in the past there's something of a grey area about the residential exemption. So residential strata schemes are exempt from some of the provisions of the Work Health and Safety Act. But the grey area is what is residential.

And if you've got one commercial lot in your scheme, you might have a shop at the bottom of your tower, then that exemption is not going to be available to you. There are also questions about whether buildings with caretakers and letting arrangements work from home schemes, all those sorts of things are probably workplaces and cause workplace health and safety standards of care to apply.

Amanda Farmer: Michael, you've said there that the court in the owners corporation decision made some comments about the actions of the strata manager. The strata manager immediately sent a work order, seemed to respond quickly to get that gate fixed. However, the court still said that the strata manager contributed to this tragic event. How does the court work that one out?

Michael Teys: So the areas of criticism of the sentencing judge in the owners corporation case were that the strata manager didn't attribute any urgency to the work order. There was another work order put out on the property on the same day to fix a water meter and it was given urgency and it was fixed the same day. So the strata manager failed in that regard. And there was also criticism that the strata manager and others didn't tag the gate as being out of commission didn't instruct people not to use it and there was a number of findings about those sorts of things.

And as I say, all of that's perfectly sensible with hindsight, but in the cut and thrust of a busy day, it's easy to forget some things or not to take things as seriously as perhaps they might be. And of course we know that strata managers very rarely go to their sites. They're not paid to do that. So, you know to make an assessment of the danger of something whilst you're sitting at your desk running your strata management practice with 200 emails from cranky people from the night before. You know, these sorts of mistakes happen. And here it's had a very tragic result. And the other thing I think is interesting, Amanda, is to look at what price as strata managers we put on risk.

The strata manager in this scheme, an 8 lot scheme, was probably being paid something like \$5,000, maybe 6 or \$7,000. This is a huge risk and a huge emotional and financial risk to take for a five, six, seven thousand dollar fee. So I think it puts in perspective the issue of risk and return for strata managers. And in so many respects strata these days is becoming about safety and compliance.

Aging buildings, combustible cladding, other unsafe products. There's so many aspects of what strata managers do these days that really relate to health and safety that I think risk and return is something that strata managers need to think about. And also it is something that owners need to appreciate when they're putting a price on the services that they're prepared to pay for.

Amanda Farmer: And you've touched on there, Michael something that really jumped out to me when I read the decision, it was revealed that this employed strata manager who had responsibility for this complex was managing 107 buildings. That sounds like a high number to me. I'm not a manager. I know you have some experience in that area. That seems huge.

Michael Teys: Yes, it is a high number, but of course if they're small schemes, that's a busy portfolio, but yes, that's right. So we have most managers would be handling three to four to 500 lots at least, and depending upon the size of the scheme, they're having a lot of meetings every week to look after these things. And as I say, it's a very tough job.

Strata management is an incredibly, the toughest job I've ever done. And unfortunately, the treatment of strata managers by owners is really quite appalling sometimes. And recently I've been doing some work in a strata manager's office, helping with the development of processes and systems. And it's just reminded me what a tough job it is and how toxic people can be when they're calling and talking to their strata manager, which is something that's really, it's got to stop. And I think it's up to strata managers to push back a bit on this and to say, I won't be spoken to like that.

I won't be treated like this. I won't be yelled at and abused. I understand that strata managers are working in an emotional space

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where people have things that are not going right in their home. But we do need to be a little bit polite and a little bit civil and think about the work health and safety of strata managers themselves who are under a lot of stress at the moment.

Amanda Farmer: Michael, I've heard you say that there is a leadership gap in strata management at the moment. And, sounds like that's what you're touching on here. Strata managers need to step up. They need to value themselves. They need to respond differently to owners. Is that where you see this leadership gap or what does that actually mean to you?

Michael Teys: When I talk about a leadership gap, I'm referring to the ABC Net Strata interview with Stephen Brell, which happened in March. That was a low point for Strata management, I think, nationally, where Stephen admitted to some charging practices, which he said made him feel uncomfortable. And as a consequence of that, he and others from the board of the Peak Body Strata Community Australia resigned and the national president resigned.

And so since March until now at a time when strata management has been in the public spotlight like never before, the board of SCA has been essentially vacated. I think one member held on for statutory purposes. There's an election coming up in October where all nine positions will be filled. And so there's a real void at the moment on anyone talking on behalf of strata managers about some of the issues that are being ventilated in the press and some of the issues that are arising from the court case we spoke of just now but also there was another case involving a Sydney Strata manager called Wang who's been disqualified for 10 years.

That's an important case and there's important things for the public and for strata managers to be told and there is just no leadership, there is no commentary of any significance. The SCA has put out a very glib six-point plan to deal with disclosure, but it really is quite an embarrassing response, I think, in terms of its content and its failure to address the trust issues that the public are asking the industry to address. The public are saying, we don't have trust in the way and the methods that strata managers are charging us for our services.

We can't see what we're being charged for. There are commissions being paid that are off our balance sheet and off our profit and loss statement and we can't see that and we want to know how much strata managers are being paid and by whom to do what and they're fair questions and they're questions that strata managers shouldn't be embarrassed to answer and if they are embarrassed to answer one has to question then if they're in ethical arrangements.

And so these are the things that I think need comment and there is no leadership coming from SCA at all. The Strata Commissioner, I think has said little about this. We don't know much about the investigation into Netstrata. We don't know much about the investigation into the Wang case. It would be helpful to know more so that strata managers could learn and start adapting their practices to the standards that are expected of them. So I think from government and from industry, there's a real lack of leadership.

I'd also call out in this particular case, the Professional Standards Council, which runs a scheme for strata managers in New South Wales who are members of SCA. There's been no commentary at all from them about where this leaves their scheme and the policies that they've approved for the strata managers.

Amanda Farmer: Yes, that's a good point that I haven't heard anyone else raise yet. I wonder if there's, well, no doubt there's some inside communications between the Professional Standards Council and SCA New South Wales, or has been.

Michael Teys: Well, you'd hope so, but we're now. The professional standard scheme was adopted and was adopted by SCA as the panacea for professionalism or lack of professionalism. You know, the thought was that the professional standard scheme would give the tick of approval to strata managers that strata managers were looking for and that would hopefully engender trust in the community. Of course, it's done none of that. A professional standard scheme is actually a limitation of liability scheme. That's it's about. The members of professional standard schemes are generally accountants, lawyers, valuers, engineers, all people in very high-risk professions that join one of these schemes to limit their liability.

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Strata managers in New South Wales seem to have chosen this type of scheme to be a tick of some standard or approval and of course it hasn't done that. And some of the material which I've been able to review about the so-called standards is just embarrassing. It's material that's been written by suppliers to the industry and there's nothing more than an advertisement for their services as opposed to constituting a best practice or a practice standard. Now those schemes are expensive to run, they take money from the organisation. And frankly, it's created false hope within membership.

And so we're now in a position where, you know, that is just a shambles, in my opinion. It has done nothing to address the issues that we're seeing unfold in the media. And still there is no commentary about raising standards or setting them higher or being in any way responsive to what's happened. So in those circumstances, think strata managers are right to feel a little bit angry, a little bit abandoned. Some of them will be paying the price for the sins of others and it really is unfortunate.

One of the problems of course we have in repopulating the board of a peak association is that some of the smaller operators who perhaps have not been involved in these elaborate joint ventures and third-party transactions don't have the resources to spend enormous amounts of their own time in service of the industry. So, it will be the association or profession call it what you will. So there's a real chicken and egg thing happening here where we need new blood and new ideas and fresh approach and new standards.

But where are those people coming from? I guess we'll see when the election happens in October, but that's a long way away. There's been a long passage of time between these events arising in March. We're now half past August. And elections of these people doesn't happen till October. So this is a real void for people and managers, I think responding as best they can but it's a rudderless ship at the moment.

Amanda Farmer: I know that many of the managers who listen to this podcast are managers who are wanting to upskill, to perform at their peak, to provide the best service possible, and they understand the value of education. They know that knowledge is power. What would you say to those managers having acknowledged that it's a bit of a rudderless ship at the moment, those managers who want to really step into that role of professional, trusted professional, accepting that they don't have this leadership at the moment, what should they be doing in their businesses for their teams right now?

Michael Teys: I think it's time to be brave. It's time for strata managers to have brave conversations with their clients and with their teams. And by that, I mean it's time for strata managers to say to their clients, look, we need to be paid a proper fee for the job that we do. And we need to be able to do it without being abused and without being expected to do things that are beyond our remit. And that requires hard conversations. Whilst they're hard conversations, they don't have to be toxic conversations. They don't have to be emotional conversations. I mean, professionals, doctors, lawyers, engineers have hard conversations with clients all the time. You're going to go to jail. Your liberty is going to be taken away.

You are going to lose your life. You're going to be really sick. This is going to be terrible. But this is what we're going to do to manage it. These are hard conversations. And strata managers, if they want to take their place as a profession, if they want to be able to do their work for a fee that represents the risk that they take and the skill that they bring to a community, then they need to have these hard conversations. And that requires courage and it requires self-confidence. And it might involve people leaving you and saying, well, you're not for me or alternatively, strata managers being courageous enough to say, I don't want to work for you anymore. You know, you're too hard. You're too hard. You're too demanding. You're too unreasonable. And I don't like the way some of your members treat my staff. Therefore, you can go and find management somewhere else.

And I've just done a little package of how to sack a client, an operating procedure on how to sack a client. Because we should be going through, strata managers should be going through and sacking 10 or 20% of their clients immediately to get rid of the ones that are zapping the life out of people and allow themselves some time to breathe, spend some time with their family, renew, put up their prices, learn better skills, do better work. This can only come if we stop allowing people to treat us badly. If you've got 20 clients or 50 clients, let's take the top five of those and take them out the back and shoot them.

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Amanda Farmer: Figuratively speaking.

Michael Teys: But yes, I think that's what's got to happen. And then we rebuild from there and we start to get better at doing things and introducing systems and processes. And I'm really enthusiastic about the things that are available to help redefine strata management. Some of the software that's coming out that is strata specific and even software that's not is really revolutionary, but we've got to find time in the day to be able to implement it and to experiment and to play with AI software that takes minutes for us. I attended a meeting the other day that was done with Fathom as the AI note taker and a committee meeting and the notes were superb, absolutely superb. But we've got to find time and find ways to be using these things and we can only do that when we free ourselves of the trouble makers.

Amanda Farmer: Yes, it's so true. I see that with strata managers who have great ideas for change, great ideas for improving themselves, and the service that they offer their clients, and they just say there are not enough hours in the day. But that is what separates the good from the great. I mean, everyone's got the same amount of hours.

Michael Teys: That's right. And it's also, you know, we can draw parallels from those that choose to look after their health and exercise too. I mean, you know, we can all, you know, we can convince ourselves that we don't have time to exercise, but that's a false economy. When we do take time to exercise, we're better for it. When we do take effort to moderate diet and all those things, we're better for it.

And work is the same. Work is a drug for many people. I've been as guilty as many in my career of being addicted to work at various times. And it's, you know, it can be a real buzz. It can be wonderful. But you can also be a slave to it and people need to take control. One of the things that's really irritating me at the moment are the strata managers on social media bleating about, you know, wanting to be respected and wanting to be paid more. Well, you know, don't demand respect, you earn it.

And Strata managers need to earn it. And they need to earn it by having hard conversations and by saying to people, this is what we do and this is what we don't do. And when we do this, we charge you an extra fee for it. And if you don't want to pay that fee, that's fine. But don't expect us to do the work. You know, don't go to a petrol station and fill up your car with petrol and then go inside and pick up a chocolate bar and a drink and a piece of toast and a banana bread and all that to be free. It's just not. So why do people think in Strata Management? Of course, we allow them to, that's why. So, we have to educate strata owners in a civilized conversation.

We have to educate strata owners what it is strata managers do, why they do it, how they do it, what's involved in doing it and why it should be priced at more than it is at the moment for the service that people want. I know many strata owners who would pay more for strata management if they could get what they were looking for. So, you know, it works both ways.

Amanda Farmer: Now, Michael, I know you are walking the talk. You said earlier, you are going into strata management companies, looking at their processes, looking behind the curtain a bit and seeing how with your experience you might be able to help them improve. If we've got managers who want to find out more about that, who want to work with you, want to enter your orbit, where's the best place for them to go?

Michael Teys: I've got a newsletter out now, Amanda called the Strata Professional, which comes out every Saturday and is receiving some very good feedback, I'm pleased to say. It's short and it's sharp and it has ideas and strategies that I'm picking up during my work during the week, which I'm putting out to people. So people can subscribe for that at my website, michaelteys.com. I'm quite active on LinkedIn, as you know. I find that a forum that's useful for chatting about these things.

So LinkedIn, my newsletter, The Strata Professional, and people can get in contact with me via the website. Happy to have a chat and see if I can help with anything. A fresh set of eyes, a bit of coaching, a bit of tough love, whatever it is that you need. I've got a wealth of experience, as you know, from different aspects of Strata. And I think that puts me in a position where I can offer some views that hopefully will make a difference.

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Amanda Farmer: That's what it's all about. Thank you very much, Michael Teys, for joining me. We will make sure that those links to your site so people can subscribe to the newsletter and get in touch with you are in the show notes for this episode. Thanks for your time. Hope to catch up with you again soon.

Michael Teys: Thanks, Amanda. Always a pleasure.

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.