

Publication Date: 31 October 2024
YSP Podcast Transcript: 428. Is “DIY” Strata Insurance Possible?

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Hey strata friends, it's Amanda here. You are hearing from me straight up this week because this podcast episode you're about to hear raises a really important question about insurance arrangements. You will soon hear me and my often co-host Reena Van Aalst swapping our wins and challenges for the week as we regularly do here on the podcast.

One of the challenges I raise with Reena is whether or not a building can make its own insurance arrangements without the help of a strata manager or maybe even a broker. What I'm imagining here is an owner, probably a committee member, going straight to a strata insurer or a few insurers and getting a quote for their upcoming policy year.

The question is sparked by a real-life question from a listener. As you'll hear when I asked Reena this question, has she ever heard of this happening? Do owners do this? Is it possible? Reena's not quite sure and neither was I. After recording this conversation, I did reach out to some insurance experts, including a broker, and I asked them this question. And received some really important information by reply. Some of this is touched on by me and Reena in the chat, and some of it isn't.

And I wanted to make sure that it still got to you. That's why I've recorded this extra piece here for you now. Since posting the teaser of this episode on our social channels earlier this week, I've also heard from a few owners who are telling me that they do exactly this. It is possible to go directly to a strata insurer and get quotes for your upcoming policy year. You don't need a strata manager. You don't need a broker to do it for you. That's indeed what I've also heard from the people I've been speaking to this week. It is possible, but, and this is a big but, there are a few things you may want to think carefully about if you are an owner or you're a committee member going down this path.

Firstly, what I've heard is you may find it hard to get a response, a prompt response, or any response from a strata insurer if you are an individual inquiring about a quote trying to get quotes on behalf of your building. I've heard that sometimes brokers are waiting weeks to get quotes from insurers; can depend on the insurer. As a broker said to me, if you're an individual wanting to get a quote for just one building, good luck. It is quite likely you are going to go to the bottom of the priority list for an insurer, so do bear that in mind.

Another, but a word of warning if you like, and this is a really important one. Reena touches on this at the end of our conversation on this topic. Committee members that are getting their own quotes for their building's strata insurance are putting themselves in a risky position. They are taking on the responsibility to provide accurate, up-to-date, correct information to the insurer about what should be covered, to what extent. They are providing hopefully the claims history and confirming that that's correct.

A claim's history is really relevant to the calculation of an insurance premium. Any inaccurate information that is given or a lack of information is going to come back to the committee member, the owner who communicated with the insurer. Should a claim need to be made down the track and it's discovered that full and accurate disclosure was not made at the time the insurance was taken out, you may find yourself in a position of not being covered.

Strata managers have access to information, documents, and expertise that committee members may not. And even if they don't, or you as a committee member believe, or better yet know that you've got all the information you need to pass on to an insurer. Having a strata manager do this job for you is an extra line of defence for you. It is a way of shifting your liability as Reena says in this chat.

A broker performs that role as well. If things go wrong, if incorrect information is provided, if an inappropriate policy is recommended, and should your owners corporation suffer loss because of that. When you've got a strata manager and a broker involved, you've got a couple of professionals that you might be able to look to to step in and bear that loss. You don't have that luxury when you're making these arrangements directly. One example that was shared with me of a building that went direct to an insurer. They did get a lower quote for their insurance premium, but when a broker looked at it, they pointed out the committee had not declared past claims and hadn't provided the claims history at all.

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That is essentially lying to the insurer, and it could leave you without any coverage in the event of a claim. If you are a committee member placing the insurance for your own building, just make sure you're also taking out a policy of office bearers liability insurance to cover you.

It is possible for a building to go direct to a broker to assist with their insurance arrangements, taking the strata manager out of the equation. What I've heard is that there are plenty of brokers out there who will assist you directly. Overall, the cost may be less depending on what the broker's fee is. In raising this challenge with Reena, you'll hear me raise a question about whether strata managers can deal with claims if they weren't the one to arrange your insurance.

The information I have since received is that even if a strata manager doesn't arrange your insurance, they can still act as a mailbox to advise the broker of a claim. Reena confirms this in our chat. And there should be no reason why brokers aren't happy to deal directly with lot owners or committee members in the course of facilitating that claims process.

It is important for strata managers who are not authorised representatives or authorised distributors. You'll hear Reena talk about this to make clear to their clients that they can't provide any advice, but they can direct claims to brokers and brokers can deal directly with owners.

And indeed, Reena hits the nail on the head when she raises the point that strata managers are likely to be charging additional fees for dealing with insurance claims. If they weren't the ones to arrange the insurance in the first place. You'll hear us get into that in a little bit of detail.

So I wanted to add those extra points, bring them to your attention and make sure that was clear and that you're not left hanging after listening to this episode. This is definitely a conversation that we should and we need to continue. I'm looking forward to hearing from you your thoughts on the topic.

The liability piece in particular, and the important work that brokers do is really worth thinking more about. Reena talks about it, I've been talking about it with others this week and I did want to highlight that straight up here at the top of the episode so you didn't miss it. With that, I'll take you over to this week's podcast episode.

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. I'm Amanda Farmer and I have with me today, Reena Van Aalst from Strata Central. Hi Reena.

Reena Van Aalst: Hi Amanda, how are you?

Amanda Farmer: I am great. We are in the last quarter of the strata year. I think, perhaps it's just the calm before the storm perhaps of the end of year. Have you already started with the end of year craziness?

Reena Van Aalst: Oh yes, this has been more mad than usual, unfortunately. But yes, with AGMs and meetings and the usual things that happen in buildings on top of everything else. So yes it is quite busy.

Amanda Farmer: Yes, we'll all our strata managers out there and strata professionals look after yourselves at this time of the year. It's the time when we can definitely feel a little bit burnt out. We're here with you, we understand, and perhaps we can solve some challenges. Jump in with your challenge for this week, Reena.

Reena Van Aalst: Yes. So my first challenge, Amanda, I think, is one is an insurance one. So an owner has installed their own floorboards, and what's happened is that their own air conditioning unit was leaking, and it basically caused damage to the floorboards. And the owner has asked us to submit an insurance claim. However, the excess is \$5,000 and the repair is \$5,000. So my question to you, Amanda, is we've said, “Well, hang on. Even though the floorboards are covered by the policy, and therefore

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he can't insure them separately under his own contents.” So, if that's included, then that's not possible for him to do, which we understand. However, the excess and the actual cost is the same. So, we're not going to submit an insurance claim.

However, he's still saying, “Well, that doesn't matter. I still have to be reimbursed for \$5,000.” And we're saying “No, because the air conditioning unit is your own property. It's not common property. So, it wasn't. The leak wasn't as a result of a common property issue. And the floorboards that are installed are also your own property. They're not original. There are no floorboards in the building. Everyone that has floorboards has installed them.” So, our advice, Amanda, has been to say that he has to pay the \$5,000 himself. And I just wanted to get your thoughts on that.

Amanda Farmer: Tell me about the flooring. Is there any record of that flooring being approved in the past?

Reena Van Aalst: I don't think so. I mean, it may have been approved, but, I mean, the problem is, with all of these buildings that we received, the record keeping is a bit underwhelming, and you can't find the approval. I mean, I've got another one at the moment where it's a bit more complicated, which we can probably talk about, where there was a water leak from the unit above, and that was a common property leak, and the insurer has gotten involved because, again, floorboards are included. And the owner has had to be relocated. When they took off the floor, they found that the concrete slab is not levelled.

And now that's a whole kettle of fish in terms of that issue because now the owners corporation has been asked to pay money to actually get that rectified. That's a bit different, because that's understandable. It's in that building, flooring is prohibited. The by-law actually prohibits flooring.

Amanda Farmer: Hard wood flooring, yes.

Reena Van Aalst: So, in this other building, it's a bit more black and white. And then she said, “Oh, but the strata manager at the time gave me approval.” And I said, well, we've now asked for that approval, but that's a separate issue.

Amanda Farmer: Okay, so let me tell you where I'm coming from with wondering if there's a flooring approval. Sometimes if there's approval for a renovation, whether it's hard flooring or anything else, there are conditions on that approval. And one of the conditions is that the owner must indemnify the owners corporation for any out of pockets that the owner's corporation may suffer any losses, any damages because of the existence of that flooring. So if there was no flooring in place, then it may not be costing so much to repair this issue.

Reena Van Aalst: Correct.

Amanda Farmer: There may be a clause in the approval that says, “You can't claim on our insurance.” There may be a clause that says, “You can claim on our insurance.” There's all different ways that these things can be approved. So that's always a great place to start. Is there an approval for the flooring and if there is, what are the terms of that approval? Let's make sure we're all acting in accordance with those terms.

But let's say there is no record of this approval. The lot owner has, however, put their hand up and said, “Yes, well, we acknowledge that it's not original flooring. However, we think it's covered by the insurance policy. We want you to go ahead and make that claim. Do it, owners corporation.”

I absolutely understand why the owners corporation would not want to waste its time lodging this claim when the excess is \$5,000. The quote for repair is also \$5,000. The option then available to the owner is that they could go to the Tribunal and seek an order forcing the owners corporation to make this claim. That's an application under Section 174 in our New South Wales Legislation.

But when I pull that up and have a look at that wording, Reena, it says that the Tribunal may doesn't have to but may order an owners corporation to make or pursue an insurance claim, but only if the Tribunal considers that the owners corporation has unreasonably refused to make or pursue that insurance claim. And I would think that your situation is a very good example of a reasonable position taken by an owners corporation. Why would we lodge this claim when the excess that we're going to pay is

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how much it costs to repair the flooring.

Reena Van Aalst: also, too, Amanda, the insurance broker or company will say, don't come to us. It's below the threshold. You need to deal with it.

Amanda Farmer: Yes.

Reena Van Aalst: Yourself. They will say that because, I mean, you know, we know that like in any situation where the cost of the rectification is less than the excess or equal to. There's no. They're saying, well, don't do this. Like you don't qualify. It's. Yes. So, okay, well, you might be able to make the claim,

Amanda Farmer: But you won't be able to be indemnified.

Reena Van Aalst: Yes. And I think the good thing that I think we all should do is ask for the letter of approval in any conditions there are. Might have said it. So, is it a good idea, now that we've talked about this, for by-laws for flooring to include such an indemnification if it's an excess situation, obviously, like in another building that we had where there was damage to flooring again, it wasn't. It was to do with the dishwasher leaking into the flooring. What the owners corporation then decided to do was to remove flooring from the policy so that they would not have to be responsible.

And basically, we got some wording from the broker, even though they can't sort of give advice because everyone's personal contents policy wording could be different and what's covered is different. But it was basically, a letter to say to everyone, we're removing this from the policy now, and it's up to you now to make your own arrangements for the contents insurance to take it up.

However, there is a section I was told by the broker which does make sense. It's a liability section of the policy where an owner can make a claim. So not on the building part, but the liability. So, let's say owners corporations, you know, had a burst pipe and it destroyed the floorboards of an owner. Where the floorboards are excluded, they can still make a claim under the liability part of the actual policy as opposed to the building part of the policy because the corporation is still liable for damage it caused to someone's personal property. So, I'm sure people don't want to hear that publicly now, but. Yes, and that has happened before, so it's arose by another name. But anyway.

Amanda Farmer: Yes. So, coming back to your question about when we're dealing with these approvals, it's entirely up to an owners corporation, how restrictive or otherwise they want to be with their approvals. But I think you can make it a condition of approval that the lot owner is responsible for the excess on an insurance claim. Any other out-of-pockets, as I said, that the owners corporation may have should there be any loss or damage arising because of the existence of the works. So, as I said, if that hard flooring wasn't in place, maybe it was carpet, the repair wouldn't be so expensive.

The thing I'm just coming back to in my mind with this situation is it's not even at the end of the day the owners corporation's duty to fix the floor because as you say, it was a leaking aircon. That's a lot property issue. It's not as if there was a faulty membrane.

Reena Van Aalst: Correct or a hot water system that burst or anything like that.

Amanda Farmer: Exactly. Yes. So, I can see where this owner is coming from. Trying to force the owners corporation to make this claim. Because if they're not responsible for the excess, it means they will get the benefit of that repair done under insurance and they only I suppose, contribute their unit entitlement share of the excess. Whereas if the leak was because of the owners corporation's failure to properly repair and maintain the common property, it wouldn't matter if the insurance responded or not, the owners corporation would have to do the work.

So, if this was a situation where the approval for the aircon many years ago said if an insurable event arises in connection with the work that you have done, the installation of this air conditioning unit, the owners corporation may choose to lodge a claim on its insurance and you will be responsible for the excess.

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If that clause was in the approval, then you may not be having this debate at all. Because the owner would be saying, well why would I bother paying the 5 grand excess? I might as well just get it fixed. It's going to cost me the same.

Reena Van Aalst: Exactly. That's a very good point, Amanda. And I think this is an important area, for managers in terms of when there are applications that are approved. Sometimes this is an approval at a strata committee meeting where it's just, resolved to approve but there's no actual letter sent.

And we always send a letter, but I've never included those conditions which I think now I'll speak to the strata committee in terms of all vitals that we could probably amend in terms of any like the minor renovations by-law where we can amend that to include other clauses such as the owner being responsible for the excess. Yes, that's a great idea. Thank you.

Amanda Farmer: Because I think owners are becoming more aware that, “Hey, there's this insurance policy here. It may cover some property damage; it may cover accidents. And things that we might not otherwise think are insurable, I'm going to give it a go.”

And I think as managers, I'm certainly hearing more of these questions. I'm hearing it from members in our forum are posting these questions, you know, “How do I force my building to lodge the insurance claim? They don't want to do it.” You are going to be coming up against this more and more often. So, thinking about being proactive in your approvals is a good response to that I think.

Reena Van Aalst: Yes. And also, too, Amanda, whenever you have to renew your policy for a strata scheme or any building, you've got to look at the claims history is the first thing that any insurer looks at. What's your history of claims? And so all these claims for all these types of issues also add to eventually the premium going up. So it's another consideration to take into account.

Amanda Farmer: Yes, for sure.

Well, my challenge for this week also relates to insurance. I've popped this on our list, Reena, because it's about the second time in two weeks I've been asked this question. And look, I'm not surprised that this is coming up. Owners are now wondering if they can make their own insurance arrangements. Do we need to go through the strata manager? Do we need to go through a broker? Can I just ring a strata insurer directly and possibly get a better deal on my insurance?

And this is very likely coming from the recent media reports, where there was an example in the Four Corners expose of a committee member doing exactly that, getting a quote through the strata manager who had been assisted by a broker and then getting a much lower quote when that committee member went direct to the insurer.

I think it was actually the story was that one of the insurers had declined to quote, said the broker. But then when the committee member rang that insurer, that insurer said, “No, we're happy to quote. That's not our position at all.” So I can completely understand why owners are thinking, maybe we should be doing that.

Question came through in my inbox from an owner who said, “Amanda, we want to do that in our building, but the strata manager has told us that while we are more than welcome to go and get quotes, at least 3 if we can, if we did that and if we arranged our own insurance, the strata manager would not be able to represent us with the words or assist us when it comes to any claim. Is that correct?”

Reena Van Aalst: Not for claim. Claims, you don't have to be an authorised representative or a distributor do claims. That's the only thing you can do. It's the renewal process that you can't do. So we've taken over buildings where they had a broker that we're not an authorised representative or a distributor.

Amanda Farmer: Okay, so start there, because this came up in the question as well. I know you've mentioned this before, Reena, and those who are up to speed on this, I apologise for perhaps going over ground. But what do you mean when you say we have to be an authorised representative or authorised distributor?

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Reena Van Aalst: Yes, because insurance is a financial product which people sometimes, I think, forget that it is. It's governed under the Financial Services Act and Regulations. And under that criteria, for someone to be able to deal and arrange insurance, they have to be authorised by someone that has a financial services license to be able to do that. So under our agency agreements and our training that we have to do, when we become an authorised representative of a broker or a distributor, there are things that we have to basically, have training not to give financial advice, because, again, you have to be licensed to do that.

And people don't understand that insurance is a financial product. So, in order for us to deal and arrange insurance, unless we have these arrangements with the broker or the insurance company directly. Now, some people have direct arrangements. They don't use brokers. They go directly to insurers. And as a company, we don't do that. We always use a broker because we believe that a broker has the expertise to basically, make comparisons between the different wording of the policy. Again, we can't give advice. We're not lawyers. We can't give advice. When someone says, “Well, can you explain the differences in the policies between.” Apart from the price that everyone only ever looks at just price. I can't give any advice. So, all I can say is, like, you know, the ccover for, say, excess is 10,000. I can give factual advice, which is just, you know, reading from the thing.

And so, when we have a building which has their own broker, which normally has come across from another strata manager, and I say to them, “Well, I'm sorry, but I can't deal in arrange your insurance. If you want to stay with that broker, you are most welcome. You know, you can deal with them.” And 90% of the time they'll say, well, 100% for us now, we don't want to have to do anything. That's it. Because, I mean, they'll have to fill out the declarations, they have to do all the work and give, you know, reports or whatever information that we have on hand. They may not have access to that information or they can. But most people don't want to get involved in those sorts of things.

So we get quotes from three different brokers. We, you know, say, “We've got a building, here's their policy, here's their claims history.” Then they, I mean, some brokers will ask, you know, more questions, some will ask less. And then they each person will provide the fee that they're going to do the work for. Some will be more, some will be less. Just depends. So that's my understanding in terms of why someone probably can't go directly, like as a consumer, directly to.

Is it an insurance company or the broker? They were saying, I'm not. What was the exact scenario?

Amanda Farmer: So, the strata manager has said, “We can only go through this particular broker because it is only through them that we are an authorised distributor. And we can't go directly to the insurers. And if you want to go and arrange things yourself, you can, but then we can't help you with your insurance claims.” That's the advice that's been given to this person.

Reena Van Aalst: Now, the claims you don't have to be an authorised rep to do. That's. Anything you can do is a claim. A claim is just submitting. This is what's happened. You're not actually doing anything. You're just saying, “Here's a claim, here's a quote, here's the excess. Now, the claim is. It's the actual opposite. This is all you can do is the claim.

But then you have to. I think maybe it could be to do with charging Amanda, because that may be where I think the confusion may have arisen, either by the manager or by the owner. That's asking the question. Because when you're an authorised rep, in most agreements, there's like a 15-standard agreement has 15 minutes to submit an insurance claim.

So, if it's a standard claim, 15 minutes is included because you are getting, you know, you're an authorised or if you're getting a commission or whatever, like whatever the agency agreement says. So, for those where you're not, you just have to charge the. That could be where I think that misunderstanding may have arisen.

Amanda Farmer: But, yes, if we're. Okay, I hear you. So, if we arrange your insurance, then lodging any claims is part of our agreed services fee. If we don't arrange your insurance, then lodging any claims, you're going to be charged an additional fee for.

Reena Van Aalst: Yes.

Amanda Farmer: And that's because the manager is not getting the broker fee. They may be getting the commission on the insurance policy. I don't know.

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Reena Van Aalst: Or the share of the. Yes, they're not getting anything.

Amanda Farmer: They're not getting anything.

Reena Van Aalst: The agency agreement. Yes.

Amanda Farmer: Yes. So the owners can go and arrange their own insurance and they can do that directly and they don't need to be any. In any way authorised to do that?

Reena Van Aalst: Yes. I don't know, man. I've never really gone into that. Like, I've never had anyone say they're going to approach an insurer directly because all our buildings have always had a broker when they've come across and the broker's done that. And if they said, “If you want to stay with the same broker, you can.”

So I don't know about going directly to an insurance company. I'm not really sure about that. I've never really had anyone ask me that question.

Amanda Farmer: Okay, that's interesting.

Reena Van Aalst: Because, I mean, I can't. I can give you an example. Like CHU, for example. We were an authoriser for CHU when I first opened the practice. And then what happened was, like, I said, I don't tell people to go directly to CHU, but we had a broker that had a problem going to CHU because of internal arrangements in their company.

So then for those ones, I would go directly to CHU, they would go to every other insurer and I would go directly to CHU because I had a direct, authorised representative arrangement. Because my number of buildings I had direct was less than 10. They said to me now, “We can't deal with you anymore because you have less than 10. And a minimum direct account has to be 10 or more for you to stay as an authorised rep.” And I said, “Fine, that's not a problem.”

Amanda Farmer: As in, 10 buildings have to be with CHU in order for you to be an authorised rep for CHU.

Reena Van Aalst: For me to be an authorised. They were doing a revamp of their. I'm not sure that's changed since recently. This is a couple of years ago, because I had less than 10 direct schemes with them. I think I had two or three. They said to me, “No, you can't be an authorised rep anymore.” That's why I'm finding it hard to believe if someone off the street can go to them. I don't think that's. Maybe they can't. I mean, I said, I've never really had that situation occur, so I can't really answer that question. But just based on, like, direct CHU arrangement, without having a minimum, I wasn't allowed to deal with them anymore.

Amanda Farmer: Yes, I mean, it seems crazy to me that a committee couldn't go and arrange its own insurance. Like any consumer could go and arrange their own insurance. Somebody who's tuning in will let me know, no doubt, what the situation is.

But I think coming back to this particular scenario, the additional information that was in my inbox was that this strata manager was only a rep for this particular broker and was not otherwise, as you're saying, Reena, not otherwise authorised to deal directly with any other insurer.

And perhaps it is the case that where the building was going to go it alone, perhaps through a different broker, if not going direct, the strata manager was saying, “Well, not so much we can't lodge your insurance claims, but we can't do that within our agreed services fee. It will be an additional service.” Yes.

Reena Van Aalst: It may have been misunderstood. I mean, what I'm saying, Amanda, is that perhaps you may have misunderstood what the message was. It wasn't that they couldn't do the claims, it was that they had to perhaps charge for it. I don't know, I'm just surmising. But one thing I do know 100% is that you can do claims. That's not dealing and arranging an insurance, that's just submitting a claim.

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Amanda Farmer: Yes, got it. That makes sense. All right, I know I'll hear from you insurance wonks. I'm going to call you out there, who pop into my inbox whenever Reena and I are talking about insurance and in, at least from my part, rather uneducated perspective, feel free to provide your additional guidance and we'll come back and add it to a future chat.

Can owners approach insurers directly and make their own insurance arrangements? And by owners, I really mean strata committees. And is it the practice of strata managers that if they are not making those insurance arrangements, then when they're lodging claims and doing that insurance work, they are charging additional fees for that?

Reena Van Aalst: Well, again, it's about how the old contract is structured, Amanda. I mean, it's an agency agreement that's. It's like any contract that people have, if certain things are included or not included, it's like lawyers or any other engineers, or we do this for a cost and if it's not included, then it's usually at these rates. So it's no different to any other contract.

And I think that at the moment everyone's getting like this whole thing of, you know, fees and all that. It's like as if it's managers are sort of doing the wrong thing. I mean, they could be manager, they're doing the wrong thing. There's no doubt about that. We know that.

But on the whole majority of people do work hard and. And in terms of claims, I don't know if anyone's been involved in a claim, but I was involved in a huge claim in 2009, 6 months, and I was at the building every week for 2 hours. And the committee were very happy. They wanted me there, they were happy to pay. So I think, in a sense, not every claim is just a simple little. You know, things can really get out of hand and really require a lot of time by the strata manager.

Amanda Farmer: Yes, I think the key here is clarity of communication. This question has arisen because this owner believes that the strata manager can't now help them with claims because the strata manager hasn't organised the insurance. If that's what's been relayed, it's sounding like that's probably incorrect, or if it's not what's been relayed, then the communication hasn't been clear.

Reena Van Aalst: Correct.

Amanda Farmer: And this is. This is a complex area. You know, we're talking about third parties, brokers. Strata managers are third parties in this insurance arrangement because the client, the policyholder, is the owners corporation. There are fees and commissions involved, there are authorised distributor or representative relationships. There's this question mark over whether owners can arrange their insurance directly or not. It's not straightforward.

And I do think that there is a role to play there for strata managers to make sure that they are being super clear with owners. When owners are asking these questions about insurance, I think it's complicated and I'm a lawyer who's supposed to be able to read and understand this stuff.

Reena Van Aalst: It is complicated, Amanda. This is the thing, the other issue also to keep in mind is that as a strata management, we always want to move our liability away. That's why we have a broker in between. So the broker is pretty much the one giving the advice, recommending the policies. Whereas when people decide to do their own insurance, I mean, if this person has expertise, this committee, that's great. If you have someone that's.

But people think they can. Oh, what, you just go and get three quotes and just choose the cheapest? I mean, it's a bit more complicated than that. When something goes wrong, it's all fine. You know, when everything. There's no claims and everything's just paying a premium once a year and then there's a claim, then you'll see the value of the advice and why. And the policy wording is where everything kicks in. It's always the devil that's in the detail. And I don't believe that the average person has a skill set or education to understand the differences between various policies.

Amanda Farmer: Excellent. Let's move in to your win for this week, Reena.

Reena Van Aalst: Yes, well, our win for this week is the launch of our new website which happened about I think a month ago now

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now. And it's been really like advantageous for us in terms of people filling forms online for various searches, applications, renovations. It really makes it easier for our clients. And I think we have done a pretty good job with our website. I think it's probably, you know, we spent a lot of money on it and we're actually getting a lot of positive feedback from all our clients in terms of, you know, user friendly and even like strata searchers, so just can book searches on it and et cetera, et cetera.

So it's really been a great thing for us and in a sense is to showcase what we've been doing as a company. So. And making it far different than I think than most other template-type websites for our consumers and for the public in general. You can get information as well. So to share that great news.

Amanda Farmer: Congratulations to you and the team. I certainly had a look when you announced the launch of your new website a little while ago and I think it looks fantastic. I love seeing the team there together, some familiar faces, great photography, stepping away from that sort of corporate, corporate blah, blah, corporate boring that sometimes we see. Photographer's done a great job.

Reena Van Aalst: Yes. Thank you.

Amanda Farmer: And excellent that you have your clients and buildings who are logging in there and using the forms and the features that are available. And I think you might even have some podcasts on there as well, Reena.

Reena Van Aalst: Exactly. And if anyone wants a recommendation for the. It was Mella Creative that did our website. So.

Amanda Farmer: Mela Creative. M E L A Creative.

Reena Van Aalst: Yes.

Amanda Farmer: Excellent. We'll have a link to their website and indeed a link to your new website, Reena, for those two. For anyone who would like to go over and have a little peek.

Reena Van Aalst: Thank you.

Amanda Farmer: What was the hardest part of putting together that new website for any business owners who are thinking about jumping in? What was the hardest part?

Reena Van Aalst: I think it was all the text amount. We actually had a copywriter help us that again was recommended by our website creators. So that they're the ones that told us, let's just get a copywriter to help you.

And a copywriter actually someone that doesn't know anything about what you do. It's really good because they ask you questions, oh my God, how do I answer that? Like, it was really good having someone knows nothing about strata and then pretty much trying to help us put together descriptions and wording that really makes you look like, well, what are you trying to impart? What's your point of difference? And I thought, wow, it was, yes, that was quite time-consuming, that part of it. And obviously we got recommendations of the set out and layout and photos, et cetera. So. Yes, but that was. That took a long time. Like when several meetings, several drafts. Yes, it was quite time consuming which is why it took so long.

Amanda Farmer: And we do get stuck in our own worlds and in our own heads when we are in a complex space like this. As we've already said today, the terminology that we use, the way that we talk. And when you're communicating with people who have possibly had no interaction with strata or strata management ever before in their lives, they are using different language. Our language is not their language.

And that's a really important skill that you learn or perhaps lesson that you learn as a marketer. You want to be using your client's language, your customers language in your marketing, not your own language. Especially when you are correct, someone highly specialised like a lawyer or a strata manager. And indeed when your customers or potential future customers are searching the

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Internet for you, they're going to be using different words to what you would use.

So I love that idea of bringing in somebody who's not in our world to be able to test some of that and challenge the words that you might be using and force you to step into the shoes of your client.

Reena Van Aalst: Yes. And think outside the box. Like even describing some of our showcase buildings. Like I was trying to get into the historical thing about the building. They go, no, like, yeah, it was just making me really think a lot differently, which is what I think why I think our website is quite different.

It's how we've approached it because we had someone that wasn't conversant with strata and knew all about it to give that sort of arm's length view of how it should be put together.

Amanda Farmer: Yes. Excellent. So that is stratacentral.com au head over and check it out. Congrats again to you and the team. Rena. Switching gears for my win. I'm taking us to the Tribunal and a successful application for an urgent interim order that I helped a lot owner with a couple of weeks ago. This related to the installation of an air conditioning unit. Hey, we've just come full circle talking about air conditioning again.

This was a unit that had been or has been in place at my client's lot for more than 10 years and because of, look, I'm going to say maybe some personality clashes, maybe some other conflicts that are happening in the building. A committee or maybe one member, a couple of members, has taken issue with this air conditioning unit and believes that it has never been approved. Notwithstanding it's been in place for many, many years and isn't causing any problems.

The question of whether or not it's been approved is part of the dispute. My client says, yes, approved, committee or committee member says no, not approved. And the need for an urgent order came up because the committee was proposing to send its contractors in and remove the air conditioning unit without the consent of my client. What I haven't mentioned is that this is actually a retail lot. So my client is operating a business from this lot, needs that air conditioning running, especially at this time of the year.

So with my assistance, my client promptly put together an urgent interim application to prevent the owners corporation from taking that step of removing the air conditioning unit. Until this could be sorted out, until this question of, do I have approval, do I need approval? If I need approval, what does that look like? Until that could be sorted out, it was necessary to restrain, to prevent, to injunct the legal word, the owners corporation from doing anything with that air conditioning unit.

And you might have heard me say in previous podcast episodes, I think I said it recently in one of my council presentations, it's taking 4 to 6 weeks to get hearings for urgent interim applications. Which makes you think, how is it being treated urgently by the Tribunal if we're waiting that long?

But what I have experienced the Tribunal do on a number of occasions now is that if you make a strong enough application straight up, if you put in the application as much material as you can, you are as objective as possible, you are attaching written communications that you've already had with the owners corporation, with the strata manager, trying to avoid litigation. When you file your application, it's not unusual for you to immediately get the order that you seek in writing from a Tribunal member who's just had a look at the papers, only considered the papers, not heard anything from the other side, not called for submissions, not had a hearing, but just looked at the papers and said, yes, I can see that this is urgent. We need to put in place an order that will just preserve the status quo, make sure that no one can do anything to affect the other's position while we wait for this hearing, which is going to be in a few weeks time.

So that was the order that we did receive within about a week of filing the application that the owners corporation do nothing, don't touch this air conditioning unit, take no steps to remove it until further order. So that is until the hearing can be held. Until, unless or until the Tribunal finds that something different should happen, that the aircon should go or that it should stay, or that there should be another or different approval sort.

So I just wanted to raise that as an avenue to make sure you're aware of, especially if you're an owners corporation and you're

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wanting work to cease if it has commenced on site by an owner who doesn't have approval. You can get those urgent stop work orders quite quickly. Even if it means you're hearing your interim hearing is going to be some weeks down the track. If it's the kind of application where a Tribunal member can see we really need to stop this from happening right now. The Tribunal does have the power and they do issue those kinds of orders.

Reena Van Aalst: Well, I wish I'd spoken to you earlier about this, Amanda. We had recently a case where an owner had applied to do minor renovations in their shops. They have 6 shops they haven't been able to rent out for quite some time. The approval was given for minor works just, you know, like painting, removing, fixed, when there's a renovation for fit out, they want to remove the fixtures of the previous tenant, et cetera.

That was approved back I think in April. Next minute, you know, they start jackhammering dust everywhere. And then the advice that we received was that by the time you go to the Tribunal and you lodge your application for an interim order, they would have stopped. Now they didn't because it went on and on and there was dust everywhere. Like even the building manager couldn't work in his office because there was so much dust.

And I said, I said, it's just ring work, cover. I said, I don't know why we even, you know, like if there's. That if people can't work in their spaces because there's so much dust everywhere and they're not taking the right precautions to, you know, suck that dust up or whatever.

And one of those things, I think I've heard people say, oh, it's better to ask forgiveness than get permission. Now obviously they had permission, but not for what they wanted to do. And it was like months and months earlier. And the committee said, “Of course, yeah, go ahead, minor renovations, you know, you need to get your shop rented out.” Yes, it's good to know that, Amanda, because I mean, we have had this situation. We could have had, we had so much evidence, we had, you know, noise that, you know, the jackhammering was just so loud for such a long. Wasn't like a couple of hours, like all day. Jackhammering the old tiles. The slab was getting affected.

Yes. So in your relation to your example, was that air conditioning unit accessible by the owners corporation? Like, I didn't have to sort of like trespass, so to speak.

Amanda Farmer: It was a unit that was installed on the common property, which is kind of the issue. The owners corporation saying, well, you needed approval that the outdoor compressor is on the common property.

So it was easy, yes, for the owners corporation and its contractors to access that area. And my client was coming into the shop every morning terrified that there was going to be no air conditioning unit there or working for the day. So that was certainly a load off his mind when that order was received and the owners corporation, of course, is complying with that order.

The question before the Tribunal in those kinds of situations is always, what's the prejudice to a party if I make this order? So if I make an order saying, “Don't touch an air conditioning unit, for example, what's the worst that could happen?” And in this situation, we were able to show the unit's not causing any damage. There's no safety issue. There is no risk should it remain in place. This is simply a question of has it been approved in the past. If it hasn't been approved, then should this lot owner be given the opportunity to seek a retrospective approval, which is, I can say, the path that we're on.

Your example, Reena, with the loud, noisy, dusty work that's going on, the Tribunal would be thinking about, okay, well, if we stop this work immediately on the basis that, “Hey, I've got an owners corporation here showing me there's no approval, there's no by-law. Here's the evidence that there's. It's major work. There's photos, there's video, there's audio of the jackhammering. What's the worst that could happen here?”

And it might be that a lot owner would say, “Well, my business interests will be affected, I won't be able to open my shop in time, and therefore I'm going to lose money.” The owners corporation, in its material, when it's filing its application for these urgent orders, should be very clear in saying that, “Hey, look, if it turns out that we're wrong and you did have approval for this work, and we should have let you continue on, we will meet your losses. We will give what is called in the law an undertaking as to damages.

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We will undertake to meet your losses that may arise if we've got this wrong. And if this stop work order never should have been made, we will be responsible for your losses.”

And that is sometimes something the Tribunal certainly in courts when they're making orders in the nature of an injunction, a court will want an undertaking as to damages. Tribunal doesn't necessarily require. But I think you're on the front foot if you're willing to say in your material, “Hey, we will bear this if we're wrong.”

And I think a situation like yours, that's an easy promise to make. This owners corporation knows that it did not approve this work. This owner's corporation knows that the work is illegal. And they have the high ground if you like, or the prospects are on their side.

Reena Van Aalst: Well, shops have been empty for 6 years, Amanda, so, you know, to use the argument that I'm going to lose money. But what sort of astounded me was more the building manager's attitude was that, “Oh, but the builder will lose money if the workers stop.” It's like, that's not your call to make. He was more worried about the builder. I'm worried about the owners corporation. He said, oh, to the committee, I'm the meat and the sandwich. It's like, no, you're not. You represent the owners corporation, not individual owners.

So that was a separate addendum to that particular problem that wasn't helpful. In addition to all the other issues that people had their cars all dust and they wanted the corporation to pay for cleaning them. Oh, that's just a bit of a nightmare. Yes.

Amanda Farmer: Sounds like it. Well, I'm glad that I've raised that one. And maybe should this come up again in one of your buildings, Reena, you might be able to take a different step forward.

And anybody else who's in that situation, whether lot owner or owners corporation, good to know how our Tribunal is operating on its good days, let me say.

Reena Van Aalst: Yes.

Amanda Farmer: Lots covered in today's chat. Thank you very much, Reena Van Aalst, for taking the time to join us.

Reena Van Aalst: It was great. Thank you, Amanda.

Amanda Farmer: Catch up with you soon. Bye for now.

Reena Van Aalst: Bye.

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