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## YSP Podcast Transcript: 445 - Strata Manager Gifts & Benefits — Where's the Line?

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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. The topic I want to speak to today is one that really energised the room at our recent CPD day in Mudgee. That was Friday the 28th of March, our annual in-person education event for New South Wales strata managers.

And yes, Mudgee put on its usual charm. Good food, great wine, some sunshine and some really robust conversation. Now, one of the hot topics that came up during the day, unexpectedly hot to be honest, was gifts and benefits. Specifically, is it ever okay for a strata manager to accept a gift from a supplier or a client? How about, for example, a free ticket to an industry event or a conference?

What about lunch with a friend who also happens to be a strata lawyer or works for a company that provides engineering services to your client's strata building? What about strata managers accepting gifts from buildings themselves? Maybe the chairperson wants to take their strata manager out to lunch or give them a bottle of wine at Christmas time. These questions were being asked with genuine concern by the strata managers in the room a couple of weeks ago.

Many of them told me that they find this area incredibly tricky to navigate and how it is fast becoming clear that many of their day-to-day interactions might raise issues under the legislation or put them in breach of that legislation, especially since it was recently amended in New South Wales. Now, I promised to go deeper on this topic, and even though you might not have been in the room with us in Mudgee, as a listener to the podcast, you are going to get the benefit of that deeper discussion now, too.

So that's what we're doing here today. Let's start by taking a closer look at just what the New South Wales law is around. Gifts and benefits for strata managers. What does the law say? What does it actually mean? We're going to spend some time with Section 57 of the Strata Schemes Management Act 2015 New South Wales and Regulation 63 in the 2016 New South Wales Regulation because things have changed a little.

It's a bit more complex than it used to be. So the updated version of Section 57 in the Strata Schemes Management Act is where the rubber hits the road. I'm going to walk you through some of the key points. Subsection 2 in Section 57, and I'm paraphrasing here put provides that a strata manager must not, in connection with their work as a strata manager, request or accept a gift or other benefit for themselves or even for someone else.

There are some pretty serious penalties for those who do request or accept a gift or benefit in connection with their work as a strata manager. Those penalties are up to \$55,000 for a company and \$11,000 for an individual. The interesting thing about Section 57 is that there are exceptions to this ban on accepting gifts and benefits. And this is where the confusion is arising. This is where some of the nuance is.

The law does allow certain gifts or benefits if they meet very specific criteria. Those criteria are if you're receiving payment from your client for your strata management services, that is totally fine, you're entitled to be paid. You can get that benefit for providing a great service to your client. That's an exception to the ban on receiving a benefit. If you're getting a commission, if that commission is disclosed in your agency agreement or is otherwise approved by the owners corporation by resolution, you're allowed to receive commissions.

If you are receiving a training service, for example, you're being gifted, being given, being provided with, without paying for it, a ticket to a seminar, a ticket to an industry event. If it relates to strata management and it has been disclosed, whether in the agency agreement or at a later general meeting and approved by resolution of the owners corporation, that's okay. You can receive the benefit of that training service or that conference ticket if it has been disclosed.

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And Section 57 does tell us that a training service includes a course or attendance at an industry event such as a conference. And finally, strata managers can accept low-value gifts without being subject to penalty. What is a low-value gift? This is where Clause 63 in the regulation comes in. Clause 63 tells us that a gift valued under \$60 can be accepted by a strata manager without being in breach of Section 57.

\$60. Not sure where that came from. Not sure who came up with that. There were some questions around that at our event a couple of weeks ago. You can't get much for \$60 these days, but if you're being offered a gift that is or could be that you think might be valued at \$60 or more, then that should not be accepted. Even disclosure. On my understanding of Section 57, even disclosure would not permit your receipt of that higher valued gift.

But returning to training services and commissions, those are the things that you can be receiving as gifts or benefits as long as you disclose them either in your agency agreement or have them properly approved via an owners corporation resolution. I say properly approved because there's a new regime for that approval now too. I am going to get into that next, but before I do, I just want to stop and really clarify something important about education and training services.

When we are talking about education and training services under Section 57, we are only talking about services that are gifted to a strata manager that is not paid for by them personally or by their employer. Section 57 only comes into play when we're talking about freebies. Now, I've heard from more than one strata manager recently, including at our Mudgee event, who has apparently had the experience of posting on social media, for example, about how much they enjoyed attending a seminar or a conference, only to be met with messages from owners, sometimes clients over there, sometimes not, questioning whether they had that ticket approved or whether they disclosed their receipt of that training, their receipt of that benefit.

Those kinds of comments, I think, display a misunderstanding of the legislation. If a strata manager has paid for their own training or their employer has paid for it, it is not a gift or benefit. It does not need to be disclosed. We do not need to look at Section 57, full stop. So please, owners out there, let's call it on the social media pylons. You don't know if your strata manager has or hasn't paid for their attendance at a particular event.

And just for the record, in case anybody's wondering, every strata manager who attended my Mudgee CPD day paid for their ticket. So no need to go harassing anybody in the DMs. Let's move on to have a look at the resolution process where a gift or benefit, whether it be a commission or a training service, is disclosed by a strata manager. It wasn't in the agency agreement, so there has to be a resolution of the owners corporation.

This is in new Subsections 3A and 3B of Section 57 in our New South Wales legislation. So Section 57 tells us a strata manager can receive a commission, an educational training service, as a gift, if it's disclosed in their agency agreement or otherwise approved by the owners corporation via resolution. There are some very specific rules around this approval. The approval must come via a general meeting resolution. The motion for the resolution must be accompanied by a document that the strata manager prepares that sets out the details about the commission or the training service, including the amount of the commission and the method of its calculation.

If we're talking about training services, the monetary value of that gifted training service has to be set out. If it's not known, an estimate of the monetary value of that training service, details about the nature of the relationship between the person providing the commission or the training service and the strata managing agent. And the strata manager has to set out why the approval of this commission or this free training is in the owners corporation's best interest.

They also have to include a statement that they believe accepting the gift or benefit does not contravene the property and stock agents regulation, specifically a section that requires agents to avoid conflicts of interest. So this process of disclosing gifts and benefits, including free training and education services, is very prescribed. And when I use that word, I mean there are strict rules around how these disclosures are made. This is new in New South Wales.

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The obligation is on the strata manager to provide all of those details I've just outlined, including the nature of the relationship between the person who provides the commission, the training service and details about why that approval is in the owners corporation's best interest. So you can perhaps begin to understand why some strata managers are making sure they just don't get caught up in this and would rather decline free tickets to education events.

More and more strata managers I'm hearing declining the receipt of commissions because once they step into that arena, start playing that game, they have to jump through these disclosure hoops. Now, I will say, since these updated rules around gifts and benefits came into effect, I have been hearing a few whispers from inside the strata industry. Let's just say some industry events I'm hearing aren't drawing the crowds they used to.

Particularly where in the past it wasn't uncommon for suppliers, service providers to strata managers and strata buildings to quietly buy up tickets to industry events and hand them out to their favourite strata managers. But now that more attention is being given to that kind of thing and we have these more onerous disclosure requirements, I'm hearing that in many cases the attendance numbers for these events is dropping, specifically attendance by strata managers.

And in response, some event organisers are apparently getting a little creative. I've heard of situations where a supplier buys a ticket, actually gives it back to the organiser of the event and the organiser then gives it to the strata manager. Now, I'm not here to pass judgment, but I will say that that sounds a little like bending the rules, maybe without technically breaking them. Bit of a pass the parcel approach to compliance.

Here is the bigger question, though. If you have to rely on supplier purchase tickets to fill a room with strata managers, what does that say about the event itself? Maybe the issue isn't about compliance, maybe the issue is about quality. I don't think strata managers are reluctant to invest in their education or to show up to live events. Quite the opposite. Our CPD day in Mudgee was a complete sellout, packed with engaged, switched-on professionals who came from near and far, not because somebody else paid their way, but because they saw value in the content, in the people, in the experience.

If you build a quality event, the industry will show up. Strata managers want meaningful professional development. They want real connection and community, and they are willing to pay for it if it's worth it. So maybe we should be putting less energy into workarounds and more energy into lifting the bar. So what does this mean for you if you're a strata manager? Tuning in. The bottom line is that transparency is essential.

If in doubt, disclose it. Better yet, decline it. I'd put a finer point on that and perhaps say pay for is quite normal. Expected, in fact, that professionals will invest in improving their skills and invest in their education. There has to be budget set aside for that. Personally, I spend tens of thousands of dollars a year, not just on my own legal CPD education, which I'm required by law to do, but on broader education and mentoring as a business owner.

Tens of thousands. That is not an exaggeration. It is incredibly important to me that I am at the leading edge of business leadership, marketing, my own health and wellbeing as a business owner. There is nothing wrong with investing in yourself when we are talking about services that benefit your business or specifically your practise as a strata manager. If you're not spending any money or the business you work for is not spending any money on education and training, I suggest that is a cause for concern, especially in our space, where the level of knowledge you need to have and a strata manager just to provide an acceptable level of service.

Forget about a high or exceeding level of service. An acceptable level of service. The level of knowledge you need to have is significant and it is increasing exponentially with all of the reform that we're experiencing in New South Wales. More to come in 2025. Having said that, where you are thinking about accepting a gift or a benefit in connection with your work as a strata manager, that gift is valued \$60 or over and you know you're going to have to disclose it.

If you do accept it, you want to ask yourself, would I feel comfortable announcing this benefit or this gift at a general meeting and seeking that disclosure? If the answer is no, that is your gut telling you what to do that is a gift or benefit you should not be accepting. One of the questions that came up amongst our Mudgee group was, are other professionals regulated like this.

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Why is everybody picking on strata managers? Short answer to this question is yes, other professionals are regulated like this, in some cases even more stringently. Lawyers certainly have to operate very carefully in this space and should not be accepting commissions or benefits linked to referrals or case outcomes without disclosure. Arguably, they shouldn't be accepting them at all. Doctors. The Australian Medical Association has guidelines that make clear that doctors should not ask for or accept personal gifts from industry.

Public servants are often banned from accepting even modest gifts. So I don't think strata managers are being singled out. But I do agree that the bar is high and the requirement to disclose and the manner in which you disclose is very detailed. But that's because of the very unique position that you hold, the unique financial influence or authority that you have over multiple buildings, the key role that you play in selecting and recommending suppliers and contractors.

Because of that, the bar for integrity is, I think, necessarily high, the same way that it is for other professionals. Now, one final item I want to touch on again, a question that came up a couple of weeks ago. Back to that lunch with a friend who might be on the committee, might be the chairperson, maybe a friend who owns a contractor company, strata lawyer, friend of a strata manager.

Can that friend pay for your lunch? Is that a gift or benefit that needs to be disclosed? Do we need to be making sure we're just having cheap lunches? Let's keep it under \$60 here. Look, I think it's not about whether you're friends. It's about whether your friendship intersects with your professional obligations. Remember, this requirement not to request or accept gifts or benefits has to be in connection with your work as a strata manager.

So is the lunch being had in that context? Could the lunch be seen as a thank you or as an incentive? Is there a supplier contract that is about to be renewed? Is your friend who you are having lunch with involved in decisions about that contract? Could it be perceived as compromising your integrity and your independence? If the answer to that is yes, or even maybe don't go, I think you know the answer to these questions in your gut.

If your lunch arrangement is something that you've both done since you were at uni together, and one week you pay for the lunch and the next week your friend pays for the lunch, well, that's a different story, isn't it? You're operating in quite a different context there. So just be smart about it, take it seriously and remember. And I shared this at our VIP day in Mudgee when we were talking about PR and media these days, there's always someone watching.

Is this the type of thing that you'd want to see splashed across the ABC News website? Because we know that is a place where some of our strata managers have ended up. So to wrap this up, the legislation has changed, the compliance bar has been raised, and the community is watching. Remember, all of this is about avoiding conflicts of interest or the perception of a conflict of interest, and regaining trust.

At a time when trust in our strata managers is sadly at an all-time low, there is going to be some work to do to prove to owners that not all strata managers are out to take advantage of them and their buildings. Strata managers want to be professionals. Professions come with ethical obligations. Yes, those obligations may be onerous. In the case of strata management, they are very prescriptive because we've seen abuses in the past and I think because of this history, these types of strict rules are something that managers are just going to have to live with and to get used to for the foreseeable future.

Thank you again to everyone who joined us in Mudgee and raised this important topic. If you have more questions, if you have comments or experiences to add on this one, I'd love to hear them. Drop a comment over on the episode page on the website [yourstrataproperty.com.au/podcasts](http://yourstrataproperty.com.au/podcasts). You'll find all of our podcast episodes there, including your opportunity to access the transcript for each episode. This is episode number 445.

Let me know your thoughts, and I look forward to catching up with all of you next time. Bye for now.

**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 via the show notes at

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