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Precedent cases

It is comforting to note that in the past few months there have not been any truly noteworthy cases relating to strata to come out of any of the jurisdictions. Not the Supreme Court or NCAT. It would be nice if all the defining cases for our industry had been resolved and all lawyers had to do when an issue arose is to refer schemes to those precedent cases to find the answers to their issues.

I have no doubt that this is not the case, as there are still many new sections (as there were over 90 changes) to the legislation that came in at the end of 2016, some of which are barely off the ground yet. For example, the building bonds scheme for newly constructed strata properties which already the Government is looking to amend. And of course, the new criteria for selling off a whole scheme to a developer – whilst there are a number of these progressing – not one has completed the thorough regime yet. Therefore, I am sure there are still some interesting court cases ahead for both those who reside and those who work in the strata sector.

Insurance premiums are on the rise again. What can you do?

There are various factors to this, so it is good to understand what these are. Every owner is affected when the scheme is not offered favourable terms to renew, not least of which is the increase in levies. It is good to know there are things you can do?

There is a strict requirement to disclose to any insurer all relevant factors eg: claims history, state of repair of the building, possible risks etc. Accordingly, changing insurer or brokers is not going to affect this important information.

There are a limited number of insurers who provide policies to the strata sector, as it is a specialised area. To help your scheme as the market tightens up and costs increase across the board, we put forward suggestions as to what you can work on to make any insurer want to offer the best premium and terms.

- i) **MAINTENANCE:** Is the scheme well maintained, eg what have you done to ensure those leaking windows or roof has been rectified or replaced? You will need to rectify, or at least reduce the amount of water entering the property as this may result in claims for water damage. Also, now owners can seek remedy for such losses via NCAT who may award compensation. Such instances usually see a payout by the insurer on the building policy, legal defence costs, and public liability.

Large payouts for such things see the scheme faced with not only increased premiums, but may also only be offered a policy by one insurer. Obviously, this then means it is not competitive. High excesses tend to result to minimise the insurers likelihood of having to payout again, which leaves the owners laid bare to raise funds for even smaller events to meet that gap through their levies for some years before better terms of insurance are offered to them.

When considering your past years financial statement, and the capital works plan at your AGM, determine what issues are starting to arise/fall due and address them before an incident results in a large insurance claim.

- ii) **RESOLVE CONFLICT:** Whilst no one enjoys conflict, and few people are keen to race off to court, going the extra mile to resolve an issue will benefit everyone. It is comforting to know there is cover (called legal defence costs) if the scheme finds itself defending litigation brought against it (up to \$50,000). Still, it is important to remember the adage, the only ones who will be a winner at the conclusion is the lawyers.

Remember that conflict within the scheme also shows up on the report given to a purchaser when the books are inspected for the sale of a unit. So again, everyone benefits if the scheme's files show that the owners work harmoniously together to address issues. Past sale prices within your scheme is a consideration when an agent is advising you what you can expect them to get for you when you sell your property. This is another area where point (i) above – maintenance - is a factor.

- iii) **MAKE A POLICY:** When discussing your insurances at the AGM, consider making a policy guide for your manager as to the types of claims you would rather not make – such as small vandalism incidents, which may be a few hundred dollars a time. Weigh up the benefits of perhaps not claiming a large burst pipe and resultant damage (say for \$10,000)? Would it be more cost efficient in the long term to not claim and keep your insurance premium lower? I recently saw a scheme have a claim for over \$16k, their premium has now gone up by \$3k. Whilst that may seem cost effective for them this year, how long will it stay that high?

Recently one large strata insurer advised that 45% of all claims last year were payouts for water damage. Certainly, they would not be alone regarding this factor, as buildings of different sizes are insured by the small number insurers across the country.

Something different: At Progressive Strata we are always looking for innovative ways to help our clients. We have been liaising with the importers of a new product and will soon place on our AGM agenda's the option for schemes to install Burst Pipe Pro. This allows for sensors to be placed in locations in each unit (eg bathrooms and kitchens) which will detect when a leak occurs and shut the water supply off – thus greatly limiting the potential for damage. It is expected that once the insurers hear of this that scheme's will be offered more favourable terms – both in premium and policy coverage.

We must advise however that the NSW Government has unfortunately reversed its positioning to spread the Emergency Services Levy tax across all property owners via their council rates – so strata owners are to be hit with this tax once again effective immediately – ie your next renewal will include this charge.

So, all scheme's regardless of how good their claims history is, will see an increase. However as this is a percentage of the base premium, if your scheme has a poor claims history which means the base premium is high (because of things like the above), then the more tax you will also pay.

Learning more about strata life:

City of Sydney Council is running the following events – if you are interested in more information you can visit the following website: www.strataskills101.com.au We have confirmed you do not need to live in their council area to be able to attend.

Date	Workshop Title	Tickets
Tuesday 28 August	Strata Levies: A planning essential for strata	https://strata_levies1819.eventbrite.com.au
Tuesday 11 September	Renovation Rules: Repairs and renovation basics for strata living	https://strata_renovation1819.eventbrite.com.au
Tuesday 18 September	Strata Committees: Roles and responsibilities	https://strata_committees1819.eventbrite.com.au
Tuesday 16 October	Strata By-laws: Roles and responsibilities for strata living	https://strata_bylaws1819.eventbrite.com.au
Tuesday 23 October	Strata Paws: Living with pets in apartments	https://strata_paws1819.eventbrite.com.au
Tuesday 13 November	Strata Meetings: Why good governance matters	https://strata_meetings1819.eventbrite.com.au