

## *NEWSLETTER ISSUE 10 April 2013*

### **The importance of insurance**

The information contained in this newsletter is general information only and should not in any way be taken to be or relied on as accounting, financial or legal advice on insurance policies or insurance in general. If you are considering or require advice about an insurance policy, your insurance needs or insurance in general you should seek advice from an insurance representative, accountant, registered financial advisor or lawyer in relation to your personal circumstances.

### **What Insurance is a Strata Scheme Required to Have?**

The *minimum* obligations on the insurance required to be obtained by a strata scheme is set out in Part 4 of the *Strata Schemes Management Act 1996* (NSW).

In short, a strata scheme is required to have insurance in respect to the following:

1. **Damage to the building.** The amount cover is required to be at least the value of the building as contained in the last valuation of the building. A valuation is required to be obtained every 5 years;
2. Damage to property, death or bodily injury for which the owners corporation could become liable in damages (commonly referred to **public liability** insurance);
3. An occurrence (event) to which the owners corporation decides by *special resolution* to insure;
4. Damages for which the owners corporation could become liable by reason that, without fee or reward or any expectation of fee or reward, a person acting on behalf of the owners corporation does work in a building or on the common property in the strata scheme (commonly referred to as **voluntary workers** insurance);
5. any occurrence against which the strata scheme is required by law to insure, including any insurance required to be taken out by the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*.  
This depends on the activities undertaken by the strata scheme. For example, if the strata schemes employers workers, then it may need workers compensation insurance;
6. any other insurance required by the Strata Schemes Management Regulations. At this time, there are no additional insurances required by the regulations.

In addition to the compulsory insurances set out above, a strata scheme *may* obtain insurance in respect to the following:

- a. damage to property, death or bodily injury for which a person holding the office of chairperson, secretary, treasurer or member of the executive committee of the owners corporation could become liable in damages because of an act or omission, committed or omitted in good faith, in performing the functions of that office (common referred to as **Office Bearer's Liability** insurance),
- b. misappropriation of money or other property of the owners corporation (common referred to as **Fidelity Fund Guarantee**)
- c. insurance over any other property for which the strata scheme has an insurable interest, for example a vehicle purchased on behalf of a strata scheme.

### **Practical Considerations**

It is important to remember the *Strata Schemes Management Act 1996* (NSW) only provides categories of insurance that a strata scheme must or may take it. It says nothing about the terms of the insurance policy or the exclusions an insurer may impose on the extent of its cover.

Consequently, it is important to strata schemes keep in mind a number of issues when making decisions about its insurance cover.

Most importantly you need to remember that an insurance policy is a contract, ie an agreement that if certain things happen they will pay on your claim. So this can also mean that certain things won't be covered, ie a policy is not a catch all, and hence when you are comparing policies it is important to check a lot more than just the price!!!.

Some insurers cover a much wider range of incidents than others, and hence they can offer a lower premium.

For example, some insurers provide cover for certain machinery as part of the cover for damage to the building while others require you to pay extra.

It is important to remember that the *Strata Schemes Management Act 1996* (NSW) requires a strata scheme to have insurance for the damage to the building *belonging to the scheme* (commonly referred to as common property or common areas).

There is no general requirement for the strata schemes to insure for damage to lot property or personal property belonging to a lot owner or tenant. Further, strata insurance policies generally do not cover damage to lot property or personal property (contents) unless the strata scheme is legally liable for causing that damage.

Considering the limitations of strata insurance policies, lot owners and tenants should always consider taking out their own insurance in relation to their lot property, contents or other property in respect to anything which happens in or arising from their lot.

**As always strata schemes, lot owners and tenants should seek accounting, financial, insurance and/or legal advice in respect to the appropriate insurances for their specific needs and circumstances, including the amount of cover.**

### **An example of the value of insurance**

A girl known to a PSS team member was visiting a friend at their house when some fat caught on fire. The fire was put out, but it was decided to take the pan/fat outside. As the girl opened the door for the person carrying the pan, the woman tripped and the contents flowed down the girls legs incurring serious burns. The payout received as compensation covered the operations and physio she needed as well an amount for pain and suffering she sustained. This all came from the home owner's insurance policy. Whilst this relates to a house policy, such an incident may occur in a unit, and there are covers available to you which would protect you and provide for the injured party similarly to the one referred to here, however you will need to seek advice from an insurer advising what sort of incidents you are looking to cover.

This is not a one off, there are many stories regarding incidents of injury to tenants or visitors etc to a property. If not insured an accident could leave you, your tenants and/or guests in financial ruin, potentially to someone you care about!

### **Our up-dated blog**

A blog has been posted on our website to assist you define the difference between something you may be able to claim under your scheme's policy and that which would most likely be deemed maintenance. It is very easy to understand if you can answer one basic question in the affirmative or negative then check your insurance policy, remember it is a contract to cover certain events.