

***NEWSLETTER ISSUE 13 March 2014***

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- Sinking fund reviews
- Changes to NSW strata legislation – the Ministers intentions – how might it affect you

**Sinking fund review**

At Progressive Strata we always try to take a pro-active approach – both in innovative ways to better service you, but also to keep you up to date with regard to legislative changes, court precedents that may affect you, and maintenance of your asset.

Those of you whom we managed in 2010 reviewed your sinking fund assessment at your AGM then, to determine what works were due to be undertaken in the coming year or two. A sinking fund plan became a legal requirement to have when the 2006 legislative changes came in, it makes no sense to have this document and not use it. So that you may ensure your property is well maintained, and thus the value of your asset, we are again placing a further review of your sinking fund assessment on the AGM agenda so you can consider the need to carry out anticipated projects that are due in the next few years.

As you undertake this review, we hope you will look at ways the scheme can save in the long term on such things as electricity or water etc which as you know are ever increasing, and thus you will not only address your legal requirement to repair and maintain your property, but also find savings for the future. You might want to consider things set out in Newsletter 4 (on our website), or energy saving exit lights being installed during your annual fire certification.

**Changes to legislation**

No doubt at some stage in the last 4 or 5 months you will have been made aware that a major review of the strata legislation in New South Wales is being undertaken.

We thought we would take the opportunity to inform you of some of the things being considered. Much of the following is based on the speech given by Anthony Roberts at the NSW Strata Community Australia conference in November 2013.

No doubt some of what is proposed you will embrace and others you would approach with concern or caution. Changes that affects how we live is generally something most approach nervously, however please be assured that many players who deal with strata day to day, from Owners Corporation Network, to industry lawyers, Strata Community Australia (NSW) and government bodies are all involved in this massive overhaul, with the best of intentions as to how to improve your strata life practically.

**So what is the Minister looking to see change?**

- It is proposed that modern technology such as teleconferencing and online tools will be an option for attending/voting at meetings.
- There will be an option to vote by secret ballot should owners feel the circumstances warrant it.
- Owners who can't physically make a meeting will be able to vote by post or electronically.
- Greater flexibility will be available as to the date an Annual General Meeting can be held – ie once every financial year – not the current – within one month of the anniversary of the first AGM.
- The current need to reconvene a meeting due to the lack of a quorum will also be removed.
- Proxy "farming" will be restricted – ie one individual holding a majority of proxies will have to stop. At the moment it is proposed that for schemes of more than 20 lots, no more than 5% be allowed to give proxies to one individual, and in those less than 20 – only one proxy vote may be held by any individual. As the need for quorums is to be changed the need to hold multiple proxies for this purpose will be removed – and so it will also remove the power of one individual to control the outcome of a motion.

- Real estate agents, strata managers and building managers will not be allowed to become Executive Committee members.
- Greater disclosure will be required of strata managers. *Unlike Progressive Strata who provide a letter which is uploaded to the website (along with a copy of the proposed policy renewal)* the Minister has received complaints that some agents have not been disclosing their commission and so it is proposed to make this more onerous.
- Likewise before certain decisions are made, Executive Committee members will also have to disclose any conflicts of interest.
- Scheme's will be able to lease additional common property on a temporary basis – eg parking – should the need arise during building works (eg residents who park under a building may need to relocate to allow scaffolding around the property to be erected during repairs).
- Significant consideration is being given to smoking, wooden floors, illegal parking and pet bylaws. The intent is for better bylaws on each of these to be available to scheme's who wish to adopt them as the current standard ones either do not address or in-adequately provide for these issues.
- The option to change bylaws will also come with guidance to help schemes review and update their bylaws
- Greater involvement by tenants is planned. With more opportunities for tenants to attend meetings of the Owners Corporation where they reside, and even have a non-voting representative on the committee? The current intent is to restrict tenants from being involved in decisions relating to finance.

Whilst I know a number of people have raised concerns with me regarding this, I would like to put the following positive spin on this for you to consider. During my career I've seen a few schemes vote tenants onto their committee – this is without any restrictions, so they have had full voting rights. These tenants have resided at the property for up to 10 years, and have already exhibited an active interest in maintaining where they live. Another was a Managing Director of a large chain of cinemas in Australia. In the end each of these Owners Corporations felt that the person they voted on would bring their best intentions and value add, just as any owner would, they may vote onto the committee. It should be noted they must be nominated by an Owner not standing themselves, and so should that person sell then the tenant (as they are there as their substitute) loses their position on the Committee.

As Robert Goodall, Chairman of Signature Apartments, a scheme of 103 lots in Redfern - which won the Strata Scheme of the Year Award in 2012 for their community mindedness stated to the Sydney Morning Herald in November 2013, *"A tenant should feel comfortable in the building and feel that it's their home too, then they'll be there for the longer term and are more likely to look after the unit and the building."*

*"That makes a more pleasant living environment for everyone; you won't get a high turnover of tenants, which is good for us and for the investors, and the whole building will benefit in terms of both atmosphere and value."*

So as it gets harder to get owners to commit their time to being on the committee I hope more scheme's will consider the benefits of voting on long term tenants, who have the best interests of your scheme at heart and can spend some time easing the load of performing the duties of the committee – such as meeting contractors to provide quotations for the group to vote on.

If you are interested in reading the whole of the Minister's speech at the SCA conference 2013, please visit us at [www.prostrata.com.au](http://www.prostrata.com.au) and see the Newsletters tab, under Newsletter 13 we have attached a link to the full oration. Similarly if you wish to read more of Robert Goodall's comments to the Sydney Morning Herald, this article can likewise be found under newsletter 13 on our website

**If you know family or friends who are un-happy with their strata management company, please feel free to refer them to me.**