

It's our services that makes us unique

**PROGRESSIVE
STRATA
SERVICES**
PTY LTD

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Welcome to the first issue of the Progressive Strata Services newsletter.

We would like to thank all those who participated recently in our first survey. It has been great to capture a snapshot of what services our Executive Committee members are aware of and how useful they are in assisting them in the management of their schemes.

So what is going to happen as a result of the survey?

- a) Some of you indicated that you were not aware that we provide access to the schemes financials on line. Those treasurers who were not able to use this service before our survey, and showed an interest in doing so in the future, have now been provided with what they require to do this from now on. We have since found that all owners can access these reports with their unique password, so if you can't find your password letter please email us at accounts@prostrata.com.au.
- b) This newsletter is also as a result of the feedback. A number of people thought this would be a worthwhile service and some stated that updates on relevant court cases would be helpful. Towards this end a summary of the vital information that all schemes should be aware of, which came out of Siewa's case is over the page. The majority who were interest in provision of a newsletter stated quarterly would be frequent enough and we will endeavour to full-fill this request. A few queried if there would be a charge, the answer is no. We intend for this to be a service that Progressive Strata provides it's Executive Committee's.
- c) A new addition will be some evening talks put on by various experts. Whilst only Executive members receive this newsletter, any current owner can attend. Details of the first of these is in the box below.
- d) We were pleased to note that the vast majority of those who responded to the survey indicated that they found our AGM agendas and levy notices easy to read/understand.

Colin Grace – Director of Grace Lawyers, will give a talk on 25 May 2010 at 6.30pm at Eastern Suburbs Leagues Club at Bondi Junction. The subjects he will cover over approx. an hour are:-

- i) the powers of the Executive Committee
- ii) construction defects (HOW)
- iii) common property – what is it?

There will be a question and answer time at the end followed by tea and coffee.

A fee of \$15 will be charged to the scheme regardless of who attends (only Executive members have been sent this newsletter, however you may wish to place this on the notice board as other owners may be interested in coming and reading this document).

To book a seat please email reception@prostrata.com.au BEFORE 5pm on 14 May 2010.

Siewa's case – a Supreme court case about repairs and maintenance

In 2006 a case which affects all schemes was determined in the Supreme Court – Equity Division. Whilst a lot of the case was spent on an argument over who was responsible for a membrane on a balcony, Judge Brereton made the following comments which impact on all schemes. The below is self explanatory, (I have removed the other cases referenced, if you wish to receive a full copy of these paragraphs, or the complete case, please email – reception@prostrata.com.au). I have made bold the important facts. The judge said:

.... “4 The duty to maintain involves an obligation to keep the thing in proper order by acts of **maintenance before it falls out of condition, in a state which enables it to serve the purpose for which it exists**. Thus the body corporate is obliged not only to attend to cases where there is a malfunction, **but also to take preventative measures to ensure that there not be a malfunction**. The duty extends to require remediation of defects in the original construction of the common property. And it extends to oblige the owners corporation to do things which could not be for the benefit of the proprietors as a whole or even a majority of them.

5 It follows that as soon as something in the common property is no longer operating effectively or at all, or has fallen into disrepair, there has been a breach of the s 62 duty.....”

These are very strong words. The outcome here, due to the breach by the Owners Corporation was over \$400,000 payout to the owner. As well as the schemes own legal fees to defend the case brought against them by the owner. An expensive lesson indeed. What does this mean to each scheme in NSW? The scheme has to repair something as soon as it no long functions as it was intended. Eg if paint is cracking it is no longer protecting the wood underneath, so will start to rot. Also the scheme is required to undertake preventative maintenance, such as that to a lift or garage door – to ensure longevity, which is similar to one getting an oil change etc done to a car.

Your AGM agenda for this year has a motion on it to review your sinking fund assessment obtained in the last few years, so you can plan to effect work when it is scheduled. Thus complying in part with this case.

Suggested subjects for the future

If there is a subject that you would like us to cover via guest speakers (or in our newsletters) please go to our website, and use the “Existing Clients” tab, and log your suggestion via the “Misc request” form as we try to make this new service as relevant as possible to you, our clients.

Did you know that

Progressive Strata Services provides an emergency after hours service – for urgent repairs? For more detail visit our website, select “Our Services” tab at the top of the home page.

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