

## CAN OPEN, WORMS EVERYWHERE

It's human nature to avoid problems and leave them for another day. And it's even easier to avoid a problem if you don't even know it exists. Generally speaking, significant strata law changes occur at a sedate glacial speed. It is for this reason that people can be forgiven for assuming nothing much has changed in the strata law over a decade or two and therefore don't take any action to fix problems they aren't aware have been created when laws change.

Why waste time and effort checking to see if the law has changed in a way that affects you when simply doing things the same way they have always been done is an option?

The status quo makes a very convincing argument.

I am not surprised when I encounter buildings where the managers go about their day simply doing everything the same way that the manager before them did. The same can be said for Owners Corporations, where you can find committees that have little to no motivation to do anything differently from year to year and are content to rubber stamp everything that was done last year with a new date on it. When everyone is happy, it's hard to justify rocking the boat or be seen as encouraging change for change's sake. All things considered, a random building or business here or there that slips through the cracks when there hasn't been much change in the owners and new people are not coming into the mix is not surprising.

What has surprised me though over the years is discovering that there are whole regions in country New South Wales where there are several Owners Corporations and management rights businesses that all appear to have missed the last twenty years of strata law evolution. I have encountered buildings where the manager, the Owners Corporation and even the local strata managers and lawyers have all perpetuated processes that were correct and appropriate years ago but are fundamentally flawed under the current laws. What this means is that when an outsider (who is aware of the changes in law) comes along looking to buy a lot or the manager's business, it shines a light on a whole spectrum of issues – and with each issue that is unearthed it can lead to more.

What does a worst-case scenario look like? The caretaking and letting agreements aren't valid or enforceable (and haven't been for years). The manager is doing duties that they aren't authorised or allowed to do. The manager's income is significantly under/over the market rate. The letting appointments are a ticket to the office of Fair Trading and/or ASIC waiting to happen. The Owners Corporation levies aren't enough to meet the Owners Corporation expenditure. The sinking fund is well and truly at the bottom of the ocean. The manager has no business to sell and an overpriced lot.

How can you create a worst-case scenario? As easy as copying and pasting what was used the last time. Owners Corporation meetings, management agreements and letting appointments are all mistakes waiting to happen when changes in the law are not considered and applied.

Although it may seem convenient, easier or cheaper to turn a blind eye to adopting new ways and doing things the long way, there is a real risk that all you are gaining is a guaranteed problem in the long term. Unfortunately, some problems don't have easy or desirable solutions and only a lesser of two evils might be available. But, at least by being proactive you have the potential to find a solution before the sky is falling and you have deadlines that are out of your control.

If "rinse and repeat" has been the mantra of your business or Owners Corporation for more than five years, I strongly recommend you stop and take a moment to consider what is being repeated – as there is a very good chance that in one way or another the law has changed.

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