

NEW BY-LAWS – NOT ALWAYS WHAT YOU ARE LED TO BELIEVE

The by-laws for a strata scheme are often an essential component of the onsite manager's business and can add a lot of extra value to the business by granting exclusive rights to the onsite manager. It is very common for the by-laws in a strata scheme to be overly generic or just a little off from what the owners want and need. This can usually be attributed to the fact that the by-laws are drafted before the strata scheme has been built. Over time, small issues in the by-laws can test patience and eventually become real problems that need fixing.

Updating the by-laws to be more relevant to the needs of the owners and the strata scheme is generally a good thing for all owners, occupiers and the onsite manager. Unfortunately though, this is not always the case.

Sometimes, when the committee has an issue with the onsite manager, or the committee is being guided by an advisor with a negative opinion of onsite managers, an update of the by-laws becomes an opportunity to undermine the rights of the onsite manager by stealth. Over the years I have seen multiple times where changes to the by-laws (and management statements) have resulted in onsite managers losing rights that are essential to the operation and value of their business. These are scenarios where the committee has arranged for the by-laws to be overhauled and updated to achieve a number of reasonable and necessary changes, but at the same time they have also snuck in changes that specifically target the onsite manager's business.

Changes to the by-laws can have a variety of negative effects for the onsite manager, such as:

- A reduction in the maximum length of caretaking and letting agreements.
- Limiting the types of lettings that can be conducted within the strata scheme.
- Reducing the onsite manager's access and rights to use common property assets and areas.
- Reducing the onsite manager's ability to regulate and control use of common property areas and equipment by owners and occupiers.
- Loss of rights to display signs.
- Increasing the voting thresholds required to approve motions relating to onsite manager matters.
- Increasing red tape and compliance requirements.

Onsite managers need to be aware that just because the committee may have told owners that the proposed changes to the by-laws are "just an update and nothing is really changing", doesn't mean there won't be significant changes that will have a large impact on the onsite manager's business.

I cannot emphasise enough that when an onsite manager's strata scheme proposes to change the by-laws, that manager must review **all** the changes that are being proposed before they are voted on. The cliché stories are true and people really do sneak in very significant and substantial changes by burying them under pages of documents that they are confident that the onsite manager won't read. And, to make matters worse, onsite managers will often vote in favour of these by-law changes, not realising that they have undermined their own business and effectively waived any opportunity to argue against the changes in the future.

Onsite managers should also be aware that the changes to the by-laws I am drawing attention to in this article are often sleeper issues that first raise their head when the onsite manager attempts to sell their business. When a buyer raises a by-law issue as a reason to terminate a sale, it comes as a distressing shock when you realise that there is a fundamental flaw which you voted in favour of and it could kill your sale. Don't let this happen to you and be sure to have all changes to the by-laws in your strata scheme checked so that they are not harming your business.

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