

STRATA LIFE WINTER 2015



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Welcome to Strata Life

Have you ever thought like most lot owners in Owners Corporations, *I'd like to opt out of this Owners Corporation business... only to be told that it's not an option for you?*

Well the reality, which most owners find out soon after asking the question, is that you can't. Once the property is registered as an Owners Corporation (OC) with the Land Titles Office, the OC comes into existence, and each lot owner who buys in with the purchase of their individual lot, becomes a shared owner of the common property as tenants in common. In turn it is critical to recognise that an OC is a creature of statute. This fundamentally means that the OC, as its own legal entity, has only the powers that are provided to it under the Owners Corporations Act and its Regulations, and that it must meet its legislated functions and obligations. Just one of which, is its obligation to repair and maintain the common property and its amenity.

And this is exactly where discussions started at the recent public forum, presented by SCA (Vic) in partnership with CAV.

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Rob Beck,
GENERAL
MANAGER,
SCA (Vic)

YOUR CHANCE TO REWARD EXCELLENCE

The SCA (Vic) Industry Awards are now open for nominations.

You have the opportunity to nominate your OC Manager, support staff or the OC Business itself for an Award and enable them to be recognised for a job well done.

All you have to do is tell us of instances when you have experienced excellent professional services that have gone above and beyond your expectations, and achieved successful outcomes for you and your OC.

Simply complete the details to tell us your story, on the **Macquarie Bank Client Award Nomination Form** and return to SCA (Vic).

Let us know just why you believe your nominee is an asset to you, and would be a worthy recipient of this award! And whilst recognition from you their client, is reward in itself, they will also stand to gain from the recognition of their peers and accolades that will motivate and nurture their passion for the industry. No doubt further enhancing the services you're offered.

Be sure to take a moment to submit your nomination and don't hesitate to call or email SCA (Vic) with any queries. SCA (Vic) and our Members value your support.



HAVE YOU SEEN OR HEARD ABOUT THE ACCC'S RECALL OF FAULTY ELECTRICAL CABLES?

It's an issue relevant to you within your common areas as well as your private lots. So if you've had any electrical works which have required the installation of cable as part of repairs, renovations or new builds, in the past few years, you may be at risk.

It's alarming to note that on recent reports only 15% of homes and businesses have responded to the national recall which means tens of thousands of buildings may still be at risk!

Being made aware too that the cable was available for purchase through at least 18 retailers and wholesalers, some of which are household names, and the amount of the recall, means it was widely accessible and used. Some of the stores mentioned through various reports include Masters, Home Timber & Hardware and Thrifty-Link stores, and Metcash's Mitre 10 stores.

Make sure you take action now. Contact your electrician to find out what cable they used, engage a licensed electrician to carry out a safety inspection and determine if cabling supplied is that of the Infinity Cable Co., and check with your strata manager that the OC has organised for the necessary inspections and investigations of cabling in the common areas.

For more information on the recall visit or contact the Australian Competition and Consumer Commission www.accc.gov.au



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We have chosen to continue the conversation with you in this edition of Strata Life. Rockend draws your attention to what you can do as an Owner to make sure your decisions count in the protection of your investment and for a majority of you, your lifestyle choice. TressCox Lawyers talk about protecting, maintaining and fixing defective buildings. Whitbread Insurance Brokers share a common sense approach to get your property storm ready with the onset of winter, and BCS talk apartment safety. There is also advice from industry experts on important and topical concerns, such as external cladding, electrical cabling and glass, that you and your OC should be aware of and take action. So read on to make sure you're in the know of the issues, who and where to go for assistance and, that you are doing all you can to minimise the risk to you, your property and its residents.

Finding the Funds

Debbie Barker, Lannock Strata Finance

The Australian recently highlighted the problems some buildings have with inappropriate, unsafe and non-certified building materials. It has repeated comments by "industry experts" that Alucobest (the cladding mentioned in the report by the Metropolitan Fire Brigade on the fire at Lacrosse Apartments in Docklands) is the 'dirty little secret' of the construction industry and goes on to say that its widespread use is a "tragedy waiting to happen".

For the present, no-one seems to know the magnitude of this and other problems – who would have thought that aluminium cladding would have burned so easily? And how many buildings are affected? And how much will it cost to fix?

As this is investigated in greater depth, we can imagine a mammoth battle between the lawyers of apartment owners and other stakeholders and the lawyers of the building products, construction and development sectors. The well-known class action firm, Slater and Gordon, is already reported to be launching an action on behalf of the owners of Lacrosse.

This will all undoubtedly make for big headlines, but in the meantime, there's work to be done. An owners corporation has a very positive obligation to repair and maintain the property. We want our buildings to comply with fire safety standards and no-one wants to live or work in a building which could become another "towering inferno".

As with other building defect problems, Lannock can help.

We'll lend to the owners corporation so that they can fix the problem now and be certain of the amount they may later claim on others. And we'll provide funds for the professional services required to pursue any rectification and any claim, including legal services.

You can find out more at www.lannock.com.au



IS YOUR FAÇADE AT RISK FROM FIRE?

November 2014 saw an unusual fire in the Lacrosse building in Docklands, 400 occupants evacuated, 122 fire fighters involved in fighting the fire, over five million dollars in estimated damage. In April 2015 the MFB released a report on this fire. The fire was unusual as it spread up the exterior cladding of the twenty three-storey building due to the use of a combustible aluminium composite panel (ACP) façade. This is similar to other fires throughout the world but a first for Australia.



Unquestionably alarm bells have started ringing in the mind of the thousands of Australians, living and investing in similar buildings. But just what makes the buildings similar and what do we have to worry about? Alistair Nicoll of LinkFire discusses the technical aspect with Jonathan Barnett, Technical Director of RED Fire Engineers Pty Ltd and offers some practical advice.

The Victorian Building Authority (VBA) is developing a database of Class 2 apartment buildings required to use Type A construction to meet the Deemed-to-Satisfy (DtS) provision of the Building Code of Australia (BCA) that might have used a non-compliant façade cladding product. Such buildings are more than three stories in height. Class 2 are simply residential apartment buildings.

In order to show compliance, the product must either meet the DtS provision of the BCA or be the subject of an appropriately formulated alternative solution (formulated in accordance with Clauses A0.9 and A2.2 of the Volume One of the BCA).

For buildings requiring Type A construction the BCA DtS provisions address two common cases:

1. The cladding is the exterior wall (part of the wall but more than simply an attachment)
2. The cladding is an attachment to an exterior wall.

For case 1 the product must be non-combustible (as tested to AS 1530.1:1994 Combustibility Test for Materials).

For case 2 the product must meet Specification (C1.1) which as a series of restrictions on its use including location, effect on the fire resistance of the exterior wall and that it does not 'constitute an undue risk of fire spread via the façade'.

The non-DtS approach is commonly achieved by an Alternative Solution developed by a fire safety engineer (who is a registered Building Practitioner EF in Victoria) or through an appropriate Certificate of Conformity such as a CodeMark.

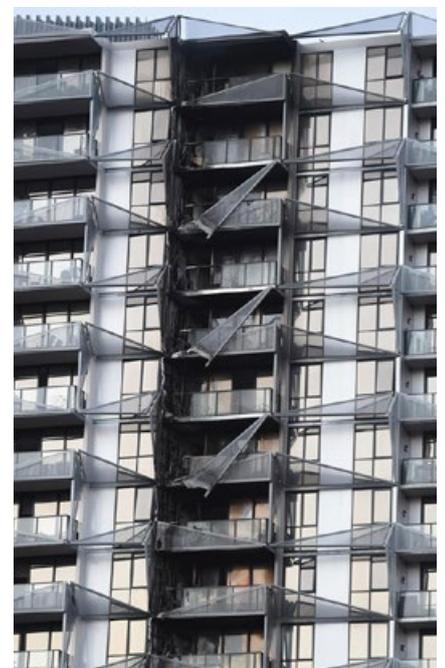
The systems used for facades in our Class 2 Type A buildings are complex. The wrong material might result in another fire like that in the Lacrosse building.

Where to from here?

Now whilst all this may be over the head of many non-engineers or non-fire specific service providers, it does give lot owners and their Owners Corporations, as owners of the buildings, clarity on what compliance must look like. It also provides OCs with a firm understanding upon which to engage the appropriate technician to investigate plans, permits etc to confirm compliance and/or where necessary carry out the appropriate tests to minimise any potential risks.

What can you as an owner, and your OC do?

Any concerns can be raised with your committee or tabled at an upcoming AGM. Your Owners Corporation if it hasn't already done so, should contact the Victorian Building Authority who will collate the information and pass it on to your municipal building surveyor for assessment. It should be known that a building of less than three storeys is of little likelihood of having any issues relating to this.



Exploding Glass: Manufacturing and installation issues regarding toughened glass



Mark Jennings, Commercial Manager and Insurance Specialist, Express Glass

Stories continue on the poor quality of imported glass, raising questions about the quality of **toughened glass**.

To clarify, toughened glass, like that used in shower screens is the only type of glass that can “explode”. Obviously other types of glass can smash and crack.

Australian Standards

Australian Standard 2208:1996

Imported glass, may or may not meet **Australian Standards**, and is increasingly being used as it is often a cheaper alternative to toughened glass made in Australia. For this reason, manufacturers may not be as stringent about quality as local Australian producers. Local and international glass manufacturers approved to use the Australian Standards stamp are subject to random inspections to ensure compliance – the cases of exploding toughened glass are reason enough for increased inspections of manufacturing processes, both locally and internationally.



Toughened glass should meet **AS/NZS 2208:1996** that covers safety and functional properties of glass and glazing materials in buildings – including toughened glass.

The result of a shower screen made of toughened glass that has “exploded”.



Incorrect Installation

The general public should be aware that toughened glass has the potential to explode from poor manufacturing, AND incorrect installation. Fitting panels too tightly, or knocking or putting too much pressure on corners, which are a pane’s weakest point, can result in toughened glass exploding.

Using Accredited Glaziers

To ensure toughened glass fulfills its residential or commercial objectives long-term, it’s important that those choosing to buy and install toughened glass do so knowing their glass meets Australian standards. Make sure your glass has the logo on it. In order to prevent installation faults causing a toughened glass incident, it is advisable to always use an **accredited glazier** for glass installation. **A list of accredited glaziers** can be found on the Glass and Glazing Association of Australia’s website.

Australian businesses and consumers must place their trust glass industry professionals who can guarantee their product.

About Express Glass: For over 25 years Express Glass has provided emergency glass replacement services to Australian businesses and households, operating 24 hours a day, every day of the year. We are the leading service provider in the glass replacement and repair industry to the business and property management sectors. www.expressglass.com.au

Why does the hot water temperature fluctuate?

Where there are common hot water systems installed to a property, generally the hot water outlet line feeds all units to the furthestmost unit. A line known as a return hot water line then feeds back to the hot water units. A pump is installed on the hot water return line to circulate water around the property. This return line then connects back into the cold water feed pipe to the hot water units via a non-return valve.

It is when this non-return valve fails that cold water is allowed to flow into the hot water return pipe. This causes the water to cool and create hot and cold pockets of water in the hot water lines.

Another cause is that the recirculation pump has failed, due to a pump fault or electrical supply problem.

All of the above can be diagnosed with onsite testing and recommendations provided for repairs/replacement valves and pump if required.



Why should you attend your meetings?

Aylie Brutman, Product Manager, STRATA Master

Your home or investment property is most likely the single largest purchase of your life, so don't you want to protect the value of the property? We all want the best for our properties, so how can you ensure the right decisions are being made about the future of your property. Your annual general meeting provides you with an opportunity to voice your opinions and help make critical decisions to the future of your property and building.

Your annual general meeting provides you with an opportunity to be proactive and gauge the direction of your investments future.

Remember, decisions that directly affect you could be made at these meetings without your input. Make sure your investment is protected and that decisions are made with all of the owners best interests at the forefront.

Having worked in the strata management industry for over 20 years, I have been part of hundreds of meetings. A good strata manager will run an efficient and effective meeting. Make sure you have selected the right strata manager to suit your needs. It is important to select a manager that is accredited and is a member of an organisation such as the SCA. It is also important that your manager has the right tools to run a successful meeting. Technology has changed the way we conduct business. Annual general meetings are no different; there are tools on the market that allow managers to digitally run a meeting and get the minutes out to you faster than ever, so even if you are unable to attend a meeting, you can keep up to date with the latest developments.

So why should you attend your annual general meeting? When you think about it, a few hours once per year really is a very small investment for the protection of your single largest investment.

Aylie Brutman is the STRATA Master Product Manager at Rockend. Aylie has a Bachelor of Commerce majoring in both Economics and Management and has been working in the strata management industry since 1992.

A landlord's safety checklist for rental properties

BCS Strata Management

Security is vital for any property, but especially rental properties.

There is always the electric fence or swipe card access option, but these can be cost prohibitive for most property owners. However, a secure rental often leads to secure tenants.

The following is a safety checklist to ensure your rental property is secure.

Lock in the basics

Although many aspects of security are common sense, some landlords often overlook the basics such as the need to quickly fix broken window latches and door locks, especially in older houses. This is one of the biggest frustrations for tenants, who will even leave if the property does not meet basic safety requirements. It's also important to:

- Ensure all windows and door locks are checked regularly.
- Make sure bathroom and laundry windows can be left opened safely for ventilation.
- Ensure any external high windows are maintained.
- Consider changing locks at the start of new tenancies.

Do your groundwork

Colour schemes and large bedrooms may be at the top of most renters' lists, but the surrounding areas and shared facilities provide peace of mind when it comes to safety. Tenants will always consider the following before signing a lease agreement:

- Is the street well lit? This is particularly important to tenants who park on the street.
- Is there CCTV or security cameras around the premises?
- Is the buildings' common property kept in good order?
- Does the building have a caretaker to help and assist?

Switch on safety

Most electrical switches in a rental will be used every day. Faulty electrical switches are a common cause of fires and broken sockets should be fixed immediately. Before a new tenant moves in make sure:

- The switches are checked for cracks or loose fittings
- The appliances are working and can be operated safely
- There are enough sockets throughout the property to avoid overloading the existing outlets.

Landlords should also produce a comprehensive entry condition report that details any safety concerns, and be as involved as you can with the Owners Corporation to ensure the property's security is maintained to the right level.

OWNERS CORPORATIONS BUILDING DEFECTS – TIME FOR AN AUDIT?

Andrew Whitelaw, Partner, TressCox Lawyers

It is often forgotten or overlooked that the combined value of property for private units which form part of an Owners Corporation together with the Owners Corporations common property can be in the millions. Even for smaller Owners Corporations.

On that basis, the significant and valuable assets that are the buildings and the common property areas need to be protected, maintained and where defective, fixed.

The Plan of Subdivision sets out the location of boundaries for the buildings and the properties for Owners Corporations and private lots. The Plan may state that boundaries shown by thick continuous lines are defined by buildings and the location of boundaries defined by buildings can be:

- The median of walls floors or ceilings where the boundary is marked "M";
- The interior face where marked "I"; or
- The exterior face where marked "E".

It is not unusual for a combination of the above to be on any single Plan.

Each Plan is different and it is important that each lot owner and the Owners Corporation understands who owns what and who is responsible to maintain or repair relevant parts of the buildings.

Where a building is suffering from defective building works, a claim may be able to be made against the builder who constructed the building. This is subject to a number of considerations.

An Owners Corporation may have a claim against a builder for defective building works if those works are in breach of the Section 8 of the Victorian Domestic Building Contracts Act. For example, if the works have not been carried out in a proper and workmanlike manner, do not comply with all laws and legal requirements and or the works have not been carried out with reasonable care and skill.

To bring a claim, the builder of course still needs to be in existence. The time in which a claim can be made also needs to be considered. There has been some conjecture in recent years as to when such a claim can be made against a builder in Victoria and whether it was within 6 years or 10 years.

Although the *Limitation of Actions Act 1958 (Vic)* generally puts in place a six year limitation period for claims brought in contract or tort, section 134 of the Victorian Building Act 1993 states that:

Despite anything to the contrary in the Limitations of Actions Act, or in any other Act or law, a building action cannot be brought more than 10 years after the date of issue of the occupancy permit in respect of the building work, or if an occupancy permit is not issued, the date of issue of a certificate of final inspection.

A building action is defined to mean an action for damages for loss or damage arising out of or concerning defective building work.

The recent Victorian Court of Appeal case of *Brirk Industries Pty Ltd v McKenzie Group Consulting Pty Ltd*

[2014] VSCA 165, has put an end to speculation and has confirmed building owners have a period of 10 years to bring legal proceedings against a builder from the date of the occupancy permit.

It is in the interest of each Owners Corporation to be familiar with the buildings which are located on the Plan of Subdivision, the areas which are common property and which are private. If defective building works exist or arise, action should be taken to address the issues given the significant market and property value of Owners Corporation properties.

The information contained in the article above is intended as general commentary and should not be regarded as a substitute for legal advice. Should you require specific advice or assistance in dealing with a particular legal issue, please contact TressCox Lawyers directly.

TressCox
LAWYERS

Information Sharing

80+ strata owners attended the recent public forum presented as part of the Victorian Law Foundation's - Law Week 2015. Delivered by SCA (Vic), in partnership with Consumer Affairs Victoria, guest speakers also included an expert strata lawyer, strata insurer and strata manager. The event was well received and achieved its objective to enhance knowledge, share industry experience and offer advice to the very passionately posed questions of the many eager attendees.



Are you storm ready?

Do you know what steps to take if your home is damaged in a storm? Below, Renee Cassidy, Claims Manager at Whitbread Insurance brokers lets you in on her top tips should your property suffer damage during a severe weather event.

It's a wintery day in late May, and the wind has been howling all day amid heavy downpours and pelting hail. You approach your driveway after a long day at work, and as you pull in, your eyes widen at the site that greets you – a substantial gumtree on your property has fallen onto your home, causing significant damage to the roof. You rush inside to assess the damage, only to find a gaping hole around the impacted region and see that water has been pouring into your home.

After the initial shock has subsided, panic sets in - what should you do next?

In light of the recent severe storms in NSW, where estimated Insurance losses have reached \$250 million with claims far exceeding 60,000, it is imperative you are well informed on the right procedures to take if you are faced with a similar catastrophe.

In an emergency what are the first steps you should take?

- If you can't get hold of your strata manager, insurance broker or insurance company to ask for advice don't wait to speak to them, engage professional services to perform temporary make safe repairs to the site of damage so further damage is less likely to occur. In this instance it could involve putting a tarpaulin over the area of the roof which has been damaged so that when it rains, further resultant water damage

is less likely to occur inside your home.

- If you find yourself in trouble outside of business hours and need emergency repairs, you will have the most luck with the SES, or relevant afterhours tradespeople.
- After you have secured your property as best you can, you should then go about contacting your managing insurance broker or your insurance company to lodge a claim for the damage.
- If you need further assistance including updates on catastrophes, we recommend contacting the Insurance Council of Australia (ICA) on their disaster hotline - **1800 734 621**.
- Once your claim is lodged, the insurance company will then allocate an assessor and / or builder / contractor to come out, evaluate the damage and arrange for permanent repairs as soon as possible.

Has a catastrophe been declared?

Soon after the NSW storms, the event was declared a catastrophe by the ICA, but, what does this mean in terms of your insurance?

If a catastrophe occurs it means you are able to carry out emergency repairs for damage to your property without needing to lodge a claim, and get prior

approval from the insurance company. You can lodge your claim at a later date and push ahead with repairs for which the insurer will reimburse you for.

In significant weather events, or catastrophes, insurance companies will often send out large groups of claims assessors to affected areas to help with processing your claim as efficiently as possible.

What is Catastrophe Cover?

Catastrophe cover can insure you for the increased cost of repairs that may occur resulting from an emergency after hours call out, and the increased cost of supplies needed for repair e.g. the cost of tarpaulins may skyrocket if there is a limited supply. This cover is in addition to your Building Sum Insured.

How can an insurance broker help you rest easy?

Often in times of catastrophe insurers are inundated with claims – this is where a broker can really set your mind at ease.

- A broker will ensure that your claim is handled and dealt with as efficiently as possible by the insurer, to reach the best possible outcome available.

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- A broker can provide you with advice on what to do. Insurers will be communicating with brokers, and will send important information in times of catastrophes.
- You won't be on hold for hours on end – you will be able to speak to an expert insurance and claims advisor.
- Your claims advisor and account manager can hold your hand and provide advice throughout the entire claims process, to ensure things are settled as quickly and smoothly as possible.
- We can clarify complexities and answer all of your questions.

Preparing before the storm hits:

- Speak to your Strata Manager to ask for a contact list of preferred repairers / tradespeople to call should you need to make emergency repairs outside business hours.
- Clean out guttering to prevent overflow of water into the roof cavity.
- Try to cut back any overhanging tree branches that may fall and damage your roof.
- Ensure outside drains on your property are not blocked up so if there is a large deluge, water doesn't overflow, flooding your home.
- Make sure that you engage professional trades people if required to carry out any preventative works to your property.

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Bacon-Brie Strata with Mushrooms and Rocket

As per the recipe of Margaret M. Johnson, of Westhampton Beach, author of six cookbooks.

INGREDIENTS

- 8 slices bacon
- 1 large shallot, minced
- 1 1/2 pounds fresh white mushrooms, sliced
- One bunch rocket, roughly chopped
- 10 slices stale bread buttered and cut into cubes
- 8 ounces Brie, chopped
- 9 large eggs
- 3 cups milk
- 1 tablespoon Dijon mustard
- 1/2 teaspoon dried tarragon
- Freshly ground pepper to taste

PROCEDURE

1. In a large skillet over medium heat, cook the bacon for 7 to 9 minutes, or until lightly browned. Remove from the pan, let cool, and then finely chop. Set aside.
2. Add shallots and cook, stirring constantly, for 1 to 2 minutes, or until soft but not browned. Add the mushrooms and cook for 4 to 5 minutes, or until soft. Add the rocket and cook for 3 to 4 minutes, or until wilted. Strain off the liquid and set aside.
3. Spray 13 by 9 inch baking dish with non-stick cooking spray. Layer half the bread into the prepared dish. Top with half the mushroom mixture and half the cheese. Crumble half of the bacon over the top. Repeat the layers.
4. In a large bowl, whisk together the eggs, milk, mustard, tarragon, and pepper. Pour over the layers in the pan, pressing down with a spatula to be sure the bread absorbs the liquid. Cover with buttered aluminium foil and refrigerate overnight. Remove the casserole from the refrigerator 1 hour before baking.
6. Preheat the oven to 175°C. Bake the casserole, covered, for 30 minutes, and then uncover and bake for 30 to 35 minutes longer, or until the filling is set and the top is browned. Top with additional grated cheese, if desired. Remove from the oven and let stand for 10 minutes, before serving.

Serves 8 to 10