

Review of the Strata Titles Act 1988

Submission: 3 June 2020

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2.16 Area Sixteen - Future Maintenance Schedules

I submit that Tasmanian legislation should require a maintenance plan similar to the Victorian legislation but should include all strata schemes. The time period should be 5 years.

Reporting should be conducted at the AGM. (A standard agenda item)

I believe that such a requirement will help Bodies Corporate understand what the purpose is for their contributions into the Maintenance Fund and when maintenance activities will be conducted. This will also ensure that only 'reasonably foreseeable' maintenance is included in the schedule. It will also be of benefit when an owner wishes to sell their property.

I think it is imperative that a 'maintenance plan' be put in place so all owners can see exactly what the money in the account is to be used for and when it will be used.

2.17 Area Seventeen – Funds established for various purposes

Funds should reflect the required costs in a maintenance schedule.

The use of a maintenance fund is not clearly understood, generally speaking. The issue revolves around the term 'reasonably foreseeable'. Some funds include failure of underground services. Others include such items as driveway repair/replacement but are unable to determine when the work will need to be done.

There is a significant number of retired people who are owners in a strata titled residence. Many consider the 'sinking fund' as a piggy bank for when something unexpected happens. People on tight financial restraints would prefer to put a little aside each year rather than have to find extra money for a special levy. Many don't understand that the unexpected events are not foreseeable and consequently funds are not eligible to be taken from the sinking fund. Those that want funds allocated to 'probable' events in the future may never be able to utilize the sinking fund. This affects all owners.

My understanding of the term 'reasonably foreseeable' is used in the legal system to determine 'culpability'.

Maybe we need to consider a different term with regards to a maintenance fund!

2.2 Area Two – Requirements for a strata plan

Strata Plan

The plans are very difficult to read and understand. It doesn't help that the plans are drawn after the site has been developed. As mentioned in my other responses, many owners are elderly and have little idea or interest until a problem arises. Real estate agents also generally lack the knowledge to explain to prospective owners details of the plan.

Surveyors do not seem to apply common sense when drawing the plan probably because the developer is 'calling the shots'. In my own case, the scheme is open to the street and from entering the site there is direct access to my front door, however, accessing my front door crosses over the private property of my neighbor. I can control my behaviour and avoid crossing the neighbor's property but I have little control over visitors.

There would be benefit in identifying these types of issues much earlier in the process rather than leave it to the surveyor after the 'horse has bolted'.

There would also be a benefit in colour coding the plan to clearly show the separation of owners property and common property.

Addressing these issues would help reduce conflict between Owners and also Managers.

Max Roberts