

Reasons for strata related problems

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Strata title properties often tend to be associated with conflict and people problems. Whether this is as widespread as it first appears is a matter for debate, but the underlying reasons for problems in strata properties are worth exploring.

The likely reasons are numerous and varied. A significant factor is the size and complexity of the strata schemes developed in recent years compared to those of the 1980's and earlier. When the foundations for the current second generation of strata title laws were laid some 34 years ago, projects were typically 3 story "walk-ups" with minimal common facilities. Today schemes are much larger and often involve complex arrangements and extensive facilities and services for residents.

Common scheme complexities

- Mixture of uses (e.g. commercial, retail and residential)
- Airspace subdivisions and overlaid management arrangements
- Mixture of leasehold and freehold schemes
- Large numbers of units (100 or more)
- Different types of units (e.g. apartments, townhouses) in same scheme
- On-site caretaker arrangements
- Serviced apartment operations
- Staging of development over a number of years

Arguably, it is becoming more difficult for the system to cope with these complexities. It is also questionable whether the system is adequately accommodating the variety of circumstances and expectations of the modern day apartment dweller. The socio-economic, educational and cultural profile of apartment dwellers is as diverse as it is in the rest of our community. The pressures that exist in the close quarter communal environment of strata title are different to those encountered in traditional housing subdivisions where people are more able to insulate themselves from their neighbours. The strata title system has to accommodate the variety of factors that influence the lifestyle and expectations of the modern day apartment dweller.

Also, some strata problems have a much closer relationship to the physical environment. This involves such things as building design, standards of construction and, particularly, building defects. Research undertaken by Professor Sharon Christensen and Anne Wallace of the Queensland University of Technology has identified clear links between the physical and legal design of strata complexes and disputes within those complexes.ⁱⁱ It suggests that more attention to the physical and legal structuring of projects could improve the harmony within strata complexes.

Other factors are standards of governance and management. Schemes are governed by volunteer committees, the members of which often have limited skills and virtually no resources to help them. This can result in conflicts of interest, poor decision making, inadequate supervision of professional managers and dictatorial practices on the part of whole committees or some executive members.

At the management level, strata managing agents often lack the skills, knowledge and resources to provide the level of service and professionalism required by the modern strata scheme. Furthermore, given the low levels of remuneration of strata managers it is difficult to see how they can lift their game to the level of mainstream professional service providers. The extreme price sensitivity of the strata management market, its lack of appreciation of good management and the prevalence of “cut price”, quality averse operators, makes the prospects seem even more daunting.

In North America there are concerted efforts by homeowner communities to build a sense of community. Until recently the need for this eluded everyone in Australia – developers, owners corporations, unit owners and other residents. Even Governments failed to recognize the importance of permitting or encouraging strata communities to build a sense of community. That is changing and as it changes it is likely to have a significant positive impact on the number and intensity of problems within strata schemes.

Interestingly, that change of attitude to building community is being driven by the home unit market itself. Buyers are increasingly taking the award winning architecture and extensive social and recreational facilities for granted and are looking for “a nice place to live”. Developers are starting to respond to this demand. There are also signs that Government is starting to recognize that owners corporations have a role to play in creating and maintaining a harmonious living or working environment.

It seems clear that solving problems in strata title properties requires a comprehensive and strategic response by Government based on hard research and considered assessment of the broader implications of any changes to legislation. The ad hoc amendment of strata legislation in reaction to consumer complaints for short term political relief has to stop. The efforts of researchers, such as the team at Griffith University, to identify problems, including their extent and underlying causes, must be encouraged. That team, supported entirely by industry bodies, conducts an intensive bi-annual conference that interfaces with its research efforts.ⁱⁱⁱ Government, armed with better research, will be able to respond more effectively to the needs of the State’s strata title dwellers.

Having said all that, it must be appreciated that the number of strata schemes has increased remarkably over the years. In 1973, when the current legislative template was set, there were some 8,500 schemes in New South Wales. Today there are around 65,000 schemes. One has to seriously question whether the issues are proportionately greater in number than they were back in 1973, or in the 1960’s for that matter when strata titles were first introduced in Australia.

We should also keep in mind that our problems are not unique. Anyone who follows the homeowner and condominium scene overseas will be well aware that the problems around the world are very similar, both as to nature and scope. This is not a reason to despair or surrender to the problems, but rather an inspiration for us who created the best system of flat ownership in the world to be smarter and more effective in how we respond to the challenges confronting us.^{iv}

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ⁱⁱ Paper delivered to 2006 Conference of Australian College of Community Association Lawyers entitled “*Links Between Physical and Legal Structures of Community Titles Schemes and Disputes*”. Refer www.accal.org.au.

ⁱⁱⁱ Griffith University’s Service Industry Research Centre. Upcoming Conference; *Strata and Community Title in Australia for the 21st Century II*. See www.griffith.edu.au/conference/sct2007.

^{iv} New South Wales introduced the world’s first comprehensive statutory system of flat ownership in 1961. This system has been replicated in a number of overseas countries and is still being used by overseas Governments as a guide to world’s best practice.