



Strata Defects

CASE STUDY: Anonymous

Never Stand Still

Built Environment



This case study is anonymous. This image is not of the case study area.

The Case:

The strata scheme is made up of around 60 townhouses and villas, sold in 2010. There were structural defects in the building, including waterproofing that had failed, and the building inspection found that some balconies were at risk of catastrophic failure. The developer's engineer classified every balcony as structurally inadequate. The scheme became insolvent, as the developer handed on strata fees almost 30% greater than advertised, affecting buyer's mortgages. NSW Fair Trading issued a rectification order, but the developer instead undertook minor works on other strata schemes within the Community Association to stop them also taking their issues to Fair Trading. The defects were still under the developer's warranty, and so the scheme challenged the developer at NCAT (NSW Civil and Administrative Tribunal).

Challenge: Self-managing a strata scheme to deal with prior mismanagement and large structural defects.

“If had my time over again, I would have done what the others did and sell - it's had a drastic impact on my health. It's been far too much as well.”

EC Member

Issue

Challenges

Time

Self-managing a strata scheme is a huge undertaking, especially dealing with legal challenges and large defect issues. Where annual general meetings used to run for 10min under the strata manager, they now run for 30min to an hour. Strata meetings also tend to run over time, to give the opportunity to raise issues outside of the agenda and allow everyone to speak. All in attendance are treated respectfully and given the opportunity to discuss what they consider to be reasonable action. While self-management is a large commitment of time, in a case such as this where owners felt that the scheme was mismanaged first by the developer, and then by various strata managers, this is a course of action that gives control back to the owners.

Issue	Challenges
Support	The Executive Committee (EC) faced many problems with garnering support from other stakeholders. Previous strata managers were not supportive, and there was a huge challenge in finding managers due to the strata scheme's debt. The sales rates on the estate were also high, as owners were more inclined to sell their property rather than continue with rectifying defect issues. Even this option was a difficult one, as after recognising and attempting to fix defect issues, insurance premiums increased and selling with defects proved challenging for owners. Overcoming these challenges resulted in the transition into a self-managed strata scheme.
Communication	In this case, the developer made fixing the defects difficult, in what some residents felt was a deliberate attempt to make the residents want to cease the works. The hired builders only gave a few hours' notice to require access to buildings, or turned up unannounced, requiring access an unreasonable amount of times and in one instance caused property damage. Strong communication was required between residents and the owner's corporation through letters explaining the situation transparently. Residents helped to persevere with the defect rectification by providing access whenever asked, so the builder could not claim denied access as an excuse for delayed works.
Costs	<p>Cleaners</p> <p>The original cleaners were under a 10-year contract, unsigned by the Owners Corporation and charging large costs per year without adequate service. The Owners Corporation were able to fire the cleaners and hire their own to save costs and get a better service.</p> <p>Strata Managers</p> <p>Strata managers were charging extra for enquiries that were not covered in management costs. For a strata scheme that was insolvent, this became a large issue. The owners corporation then decided to self-manage.</p> <p>Legal Fees</p> <p>The legal fees were costly, and owners felt that the developer was inclined to drag out proceedings in the attempt to prevent and hinder further legal challenge.</p>

Outcome:

Eventually reached a settlement with developer and the EC took control of the strata scheme, but this came with huge financial, time and health costs.



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