



## BEWILDERED & OVERWHELMED?

With so much uncertainty and disaster about us it is easy to be anxious and overwhelmed. The following is a thoughtful piece written by Ruth Ostrow in the Weekend Australian magazine.

I was in the supermarket recently and noticed a woman looking bewildered and overwhelmed. Some days, shopping is just too hard.

So much scary stuff-is going on in the world at the moment. And then suddenly you're at yoghurt and there are too many choices. It can really screw with your head—low-fat, non-dairy, lactose-free, calcium-enriched. Milk and bread are worse. Bananas are supposed to be straightforward. Not today. The big ones are too green, the small ones too ripe, and there's a new variety. The woman stands staring into the yellow mass as if the meaning of life were written in there.

I imagine the loudspeaker: "Warning, breakdown at bananas, breakdown at bananas!" as the emotion-police with white jackets remove the panic-stricken customer. She's not the only one. Many shoppers look anxious so soon after the bushfires and announcements of more economic gloom.

Therapists say anxiety is a common reaction to the stresses we are under. People are breaking down for all manner of reasons in public places. They are coping with bad news, friends with breast cancer, fear of losing their jobs, and then suddenly there's a new variety of bananas and it's just all too much, as if bananas represent everything that has changed and become so unpredictable in the world.

The Black Dog Institute, which specialises in mood disorders, provides a factsheet which suggests that one solution to rising anxiety and depression is to lift levels of pleasure. RATHER THAN FEEL GUILTY ABOUT ALL THE SUFFERING AROUND, PLEASURE SHOULD BE CULTIVATED.

It has a great evolutionary purpose, widening our range of thoughts and creativity, opening us to knowledge that we can then use to help others. It regulates feel-good chemicals in the brain and assists clear thinking.

The institute supports the positive psychology movement and related books such as those of Martin Seligman, which give tips for happiness such as: seek out others to share experiences; keep a diary as a pleasure-bank of good experiences to refer to when all seems lost; close your mind to certain stimuli and focus on others in a positive-bias way, for instance spending a whole day saying only positive things.

Random acts of kindness and connection to strangers is really important. I talked to a lot of shoppers that day. And we were all left smiling as a result. It's not easy finding pleasure in simple things, but better than being stuck at bananas in the grand supermarket of life.

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## THANKS FOR YOUR SUBMISSIONS

Thank you to all those unit owners who responded to our email request sent out in late February.

We all those clients for whom we have emails bringing to their attention the Attorney General's department review of the Strata & Community Titles Acts.

Our website statistics show many hundreds of people visiting our 'have your say' web page and downloading information.

We are disappointed at the lack of time and publicity on this matter. The Department released the draft legislation just before Christmas last year with just over a month to comment. We helped get an extension of one month to March 9th.

Feedback to the Attorney General's original paper on regulating managers (see image) was received by his Department in November 2003. Given the 5 year delay in action and the 90,000 South Australian's affected we would have expected the Department to have consulted unit owners widely and over at least 3 months excluding the Christmas break. This has been the practice in NSW, Victoria and Queensland.

Even though the official closing date has passed we encourage owners to visit our website, review the proposed changes and make a late submission or call your local MP to discuss and concerns and ideas.

The opportunities to amend the Strata & Community Acts are rare. We encourage all concerned unit owners to have their say, you have your say.



Cheers

Gordon Russell CPM

ps: Do you have any friends who need to read our newsletter? Ring and we will post one out

## emergency numbers

Plumbing , Gas, Roof Leaks	8356 2750
Electrical	8244 0733
Breakins & Glazing	0437 818 449
Police to attend - noise/robbery etc.	131 444
State Emergency Service storm/flood	132 500

## CHANGES TO STRATA & COMMUNITY TITLES ACTS

In late December 2008 the Attorney General's Department invited comment on a number of amendments to the Strata & Community Titles Acts. The proposed changes can be viewed on our website [www.unitcare.com.au/have\\_your\\_say.html](http://www.unitcare.com.au/have_your_say.html)

Whilst many of the proposals are improvements, the Attorney General's Department has rejected the need to regulate body corporate managers. They have also failed to address some major issues of concern to unit owners and managers. The following is a summary of concerns we raised in our recent submission to the government.

**Licensing Body Corporate Managers:** We are very concerned that this has been omitted from the draft legislation. In South Australia anyone can be a body corporate manager without so much as a police or credit check. SA's managers have some \$42 million of owners funds in Trust.

NSW, Victoria, Queensland and the NT all have some form of licensing or registration of managers. Victoria and the NT have recently introduced their new legislation.

The Department assumes that unit owners know their rights and that the manager provides proper and timely advice.

It relies on unit owners bringing legal action if Consumer Affairs declines assistance as is commonly the case. There is also no evidence of Consumer Affairs enforcing the current statutory audit requirements for managers to undertake audits.

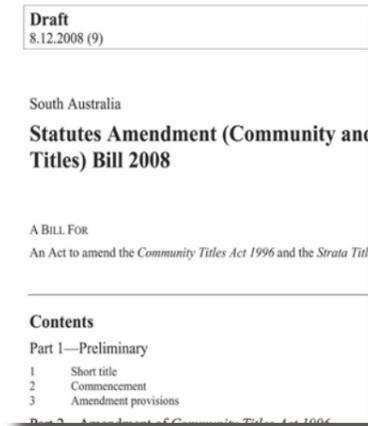
The Attorney General acknowledged the many complaints to government agencies in his 2003 discussion paper - Possible Regulation of Body Corporate Managers. The paper is available on our website at [www.unitcare.com.au/have\\_your\\_say.html](http://www.unitcare.com.au/have_your_say.html)

The Department does not address the education of managers. This is critical as many complaints to Consumer Affairs and other government agencies including the Courts, centre on poor or misleading advice and assertions from managers. Interstate, education is commonly part of the licensing or registration requirements. There is now a nationally accredited TAFE course for managers.

We have suggested that managers and firms be charged an annual registration fee to cover the cost of administration.

We have strongly requested that the South Australian Government ensure that all people providing a strata management service be registered and that they must meet minimum education standards in order to continue practicing.

**Advisory & Education Service & Tribunal:** The draft legislation makes no proposal to take disputes away from the Magistrates Court. We are extremely disappointed that this has been omitted from the draft legislation.



A quick, easy, inexpensive and user-friendly dispute resolution mechanism needs to be developed. (The Victorian V.C.A.T. model seems to work well in other fields but it may not suit local South Australian conditions). In South Australia, the Residential Tenancies Tribunal could be modified to serve this function.

Tribunals are used extensively interstate (NSW, Victoria, Queensland, Tasmania). Currently the SA Government provides no publications, information unit or education for South Australia's unit owners or managers. A Tribunal would have value ..

- By providing an independent place for owners to turn for advice on their rights and responsibilities
- In reducing time to hear matters, some strata related court cases take 18 months to settle.
- Providing accurate information & training resources to unit owners, officers, prospective owners and managers.
- Reducing the cost to the public purse by removing most cases from the courts.
- In establishing a set of public rulings on body corporate matters. See <http://www.justice.qld.gov.au/3269.htm> for examples.

Funding. We have suggested using the Land Agent & Property Managers model, that is direct the \$1 to \$2 million interest earned on manager's trust accounts to the Office of Business & Consumer Affairs to provide services and publications.

We have strongly requested that the South Australian Government provide an education & advisory service and tribunal for all unit owners as is the case in many other states, and that this be funded in a similar fashion to the Residential Tenancies office.

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## DOG GONE!

In a win for unit owners the Adelaide District Court ruled that an owner remove their two Jack Russell dogs. In a case that proves that money does not always talk, billionaire heiress Jennifer Makris lost her appeal to keep her unapproved and noisy dogs at her Glenelg unit. Ms Makris moved into her unit without seeking approval for her pets.

The following appeared in the Sunday Mail this February. We believe it sums up the case well and reinforces the need for owners to pay respect to the Strata Titles Act and their fellow owners wishes.

...NEIGHBOURS of billionaire heiress Jennifer Makris believe she has removed her banned pets from her exclusive seaside penthouse.

They told the Sunday Mail on Friday they hadn't seen the pets nor heard barking. "We're not sure whether the cat is still there," one resident said.

The Sunday Mail last week reported the District Court had ordered the daughter of South Australia's wealthiest man, Con Makris, to remove the pets from her Gleneig North apartment after a bitter legal battle.

Ms Makris moved into the penthouse apartment in April 2007 with her partner, Alexander Donohoe, their dogs, Princess Bonny and Maverick, and cat Buddy.



But the apartments' strata corporation launched legal action in May after she failed to remove the animals as required under its no-pet policy. She was given a deadline of last Wednesday.

The Sunday Mail understands the strata corporation has written to Ms Makris's legal firm, Cowell Clarke, to confirm whether the pets were gone but it is yet to receive a reply.

The Sunday Mail left numerous messages with Ms Makris and her lawyer, Natalie Abela, but none of the calls were returned.

The developments came as court documents revealed Ms Makris allegedly said "Do you know who my father is?" during a heated exchange with neighbours Andrew and Nicole Gogos in the complex carpark.

Mr Gogos told the court he was with his wife and three-year-old son when Ms Makris emerged from the stairs with the dogs. He said after she was asked why the dogs weren't on a leash, she said: "Do you know who we are, do you know who my father is?" Ms Makris told the court her pets were "like my little children"....

Article by Renato Castello Sunday Mail

## IMPORTANCE OF YOUR BUILDING BEING VALUED REGULARLY

Two of our client groups recently got a shock when they undertook valuations at our behest. A group of 21 found they were \$1.8 million underinsured and a group of 5 were found to be \$0.5 million underinsured. We strongly believe that all Strata & Community titled groups should undertake a valuation at least every 5 years.

The following article appeared on CHU Insurance's website.

The protection of the assets of the body corporate is paramount, to ensure the protection of the assets of the individual owners. The body corporate is an unlimited liability company, consequently the individual owners have an unlimited financial obligation to the full extent of their personal assets for the conduct and operation of the body corporate.

The major asset of the body corporate is the building itself. Therefore it is essential that the correct protection (that is, the most appropriate insurance policy cover) is implemented, and the building is insured for its full replacement cost.

State governments have introduced legislation that impose obligations on the body corporate to ensure the building is insured for its full replacement value.

A valuation is a good tool to ensure you comply with the relevant states strata Act.

As an owner of a strata unit, to ensure you have the best protection you need to consider a variety of influencing factors, which will have a significant effect on your means of appraisal to determine what the full replacement value of your building is.

The questions a body corporate should ask are:

\* Are you increasing your building sum insured each year between valuations?

\* Does the current level of insurance protection fully cover the building, common area contents and each lot's fixtures and fittings?

\* Does your insurance cover fully protect you for known and undisclosed upgrades to your fixtures and improvements?

\* Are there any environmental hazards, planning restrictions or dangerous materials which may prevent the building being rebuilt or delay the rebuilding process?

\* Does your insurance cover the costs associated with professional fees for architects, engineers and consultants required for rebuilding?

\* If there was a catastrophe, would your current building sum insured restore the body corporate to the position they were in before the disaster?

Did you know that building costs (ie. labour and materials) have increased at almost twice the rate of CPI since 2000? Or that following a major catastrophe, statistical evidence shows that building and labour costs increase significantly and that a minimum level cover of 30% of the building sum insured is required? These factors mean your current valuation replacement value may not be adequate. Remember, any shortfall in funds must be made up by the body corporate.

For example, following the ACT bushfires in 2003 and Cyclone Larry in 2006, building costs increased by 50%.

Therefore a percentage increase of only 15% for catastrophe cover, could be totally inadequate, and it would result in a significant financial contribution being required from those individual unit owners affected by a catastrophe, to cover the shortfall. As a result, the body corporate may be exposed to claims for rebuilding because of underinsurance, thus defeating the purpose of having catastrophe cover in the first place!

At your next Annual General Meeting, establish the last time your strata building was valued and consider the protection needed by obtaining a current valuation. Supplement this with a first class CHU insurance policy, giving you peace of mind that your major asset is protected.

When discussing your annual budget, remember there are wide variations on the type and extent of protection between various policies in the market place. Cost cutting on these important items could mean the difference between full protection (as required by the state strata act) or suffering a significant loss. For further details on CHU's cover, visit [www.chu.com.au](http://www.chu.com.au)

Please note that we are agents for CHU Insurance.

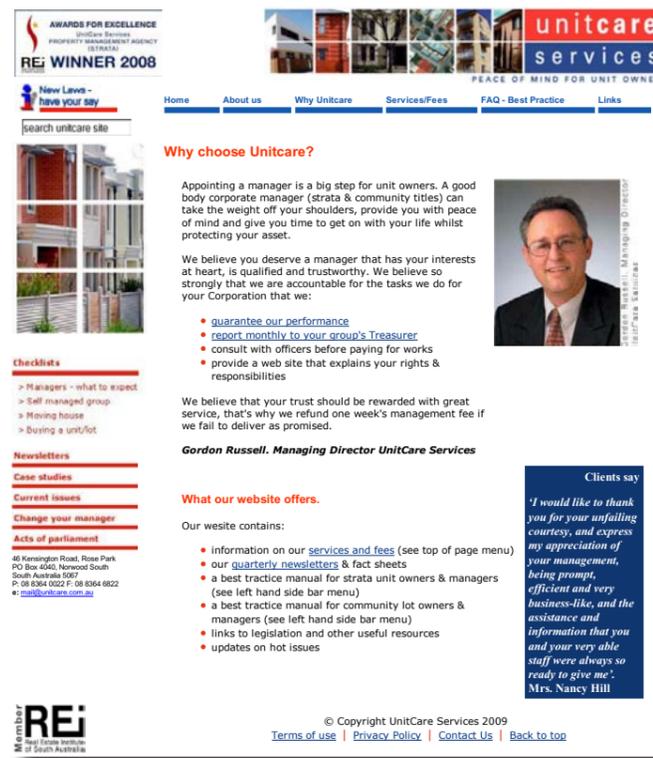
## UNITCARE WEBSITE UPGRADE

Our website [www.unitcare.com.au](http://www.unitcare.com.au) went live in 1997. It was the first website for South Australia's unit owners.

Currently we are undertaking a major upgrade. Our new home page appears below.

A new Best Practice & The Law section is being completed. When ready it will assist unit owners, officers and managers with:

- understanding the range of laws which impact on body corporates;
- undertaking the duties and responsibilities involved in a way which ensures 'best practice' body corporate management; and
- instituting processes and procedures in a way which will assist in fulfilling legal requirements and facilitate the smooth running and proper accountability of the body corporate.



## TIGHT TIMES

"In these hot economic times Don't freeze up!"

If your financial situation is changing or has changed and paying accounts when due has become difficult, make contact with your Strata Manager to advise of the situation as soon as you can. You may be able to arrange regular payments of a smaller amount to pay the account off over time. This is preferable to suffering in silence, and incurring late fees on top of the normal account.

If there are elements of your account that you don't understand, a phone call to your Strata Manager may bring clarity. Remember, payments made electronically will be applied to the oldest invoiced amount first. Any funds received in excess of that first invoiced amount will be applied to the next, and so on. Keeping good records of payments made against invoices received will help you keep track ☐

## Changes to Strata & Community Titles Acts (continued)

**Body corporate managers should not be able to operate Trust Accounts:** This major and serious change was not canvassed in the Attorney General's original 2003 discussion paper and we are unclear as to the objective of this change.

The proposal will impose extraordinary costs on managers as they will have to arrange and hold in some cases many hundreds or thousands of bank accounts in place of their existing single Trust Accounts. This will see millions of dollars leave local bank accounts as managers seek BPay and Credit Card facilities for each of the bank accounts many of which will contain less than \$2,000. Currently Macquarie Bank (Sydney) is one of the few offering such facilities.

The Department provides no evidence that individual accounts will provide improved security for owner's funds. We have been informed by our bank and others that they do not check signatures or the number of signatories in their clearing houses except where the amounts exceeds \$10,000.

The largest theft of funds by a strata manager was some \$400,000+ by Bill Longworth. The bank passed his cheques with one signature despite two being required. He was one of the signatories and he was not using a trust account.

We have strongly requested that the South Australian Government ensure that all managers are properly managing their client's money, through Consumer Affairs undertaking random audits, and that all managers be obliged to provide officers with a monthly report on all transactions for their group. We support the proposed requirement for all managers to have at least \$1.5 million of insurance to cover against negligence and theft of funds. We have asked that managers be permitted to continue to operate Trust Accounts.

**Managers permitted to chair meetings:** We strongly believe that the manager as chair should always be put to a vote of the meeting and that the manager should not be permitted to use proxies in their name unless the proxy explicitly is in favour of the manager chairing the meeting. Having the Presiding Officer decide the matter could see owners pitted against the PO in what could be seen as a vote of no confidence. This would be unfortunate. All those present should vote on manager as chair.

Matters where a conflict of interest may occur should see the manager vacate the chair and if requested vacate the room. Examples are a vote on management services or any other pecuniary matter pertinent to the manager or their firm or related businesses.

We have strongly requested that the South Australian Government provide help for officers so that they can confidently chair and manage their meetings and that managers can only chair a meeting if the majority of those present vote so. Managers must not be able to use general proxies in this matter.

### What can you do?

**Lobby your local MP** - Let your local MP know of your concerns in writing if possible, otherwise make a call to their office. A list of MPs can be found on page 372 of your phone book or at ...

[www.parliament.sa.gov.au/Members/List-of-All-Members.htm](http://www.parliament.sa.gov.au/Members/List-of-All-Members.htm)

**Make a late submission:** - write to Strata and Community Titles Project, Legislation and Legal Policy, Attorney-General's Department, G.P.O. Box 464 ADELAIDE S.A. 5001

For access to the Attorney Generals Department website and more information on this matter go to...

[www.unitcare.com.au/have\\_your\\_say.html](http://www.unitcare.com.au/have_your_say.html) ☐