



ARE YOU OLD TECH?

The following is a thoughtful piece written by Ruth Ostrow in the Weekend Australian magazine in November 2010.

A friend & I were chatting about her marriage. It's a marriage like many others: two people who aren't who they were 20 years ago and thus significantly less compatible but who have enough children to keep them perpetually occupied. "And how are things with Samuel?" I inquired, having been out of touch. Her answer was so intelligent that it made me want to write about it.

"Look, it's not easy and you know that, but we're both in counselling and we're able to communicate about what isn't working. It's not change that breaks couples up, it's how much awareness they each have, how much work they want to do on the structure of their relationship."

Ironically, I was reading the other day that the hottest catch phrase in IT is "legacy issue". It's a term used to describe the tough decision that has to be made in business when technology has to be upgraded. The old system becomes obsolete and redundant in the face of rapid change, and to ignore the latest, whiz-bang technology would mean the company would perish in the future. But it'll be costly in the present.

It occurred to me that relationships all have legacy issues as people change and grow. Ten, 20 years on, connections can become outdated as priorities and interests change. There has to be some form of upgrade. Otherwise relationships, like machinery, become unworkable and inflexible.

But this requires further investment of time and effort counselling, therapy, unearthing patterns and pitfalls, talking, developing new interests together and bolting on new facets.

The thinking in IT is that you have to assess your options, the two main ones being: to retire, rather than upgrade, and let the company creep towards certain death, or to renew, bite the bullet and spend a load of money.

Marriages and friendships are the same. They don't have to die. It's emotionally uneconomical to tear asunder the foundations of love because something has become dated. But there's major excavation to be done, akin to Telstra taking Australia from the copper age to the fibre-optic future. It's a brutal choice. Do you have faith in your product or are you simply being sentimental and throwing good money after bad?

My married friend is renewing, slowly and methodically running new wires through their lives and trying to get the structure right. It's a big job. But so too is closing shop. "I fully believe any relationship can be made to work if both parties commit to rebuilding. And we're happy, she says. I only hope Telstra has as much success."

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REFORM WELCOMED

It is so pleasing to at last have an Attorney General who cares about unit owners here in S.A. The Hon. John Rau M.P. has been working on improved consumer protection for South Australia's 100,000+ unit owners since 2002.

He has now produced his first round of legislation. The proposed new laws will force body corporate managers to be honest and up front with their clients. No more hiding behind the 'Privacy Act', no more unfair contracts, no more holding onto groups despite very poor or no service. The legislation will also clamp down on many dodgy developer practices.

This legislation puts the unit owners back in charge.

We are still keen to see a low cost and quick dispute resolution process. This looks to be in hand with a second round of legislation from the Attorney General next year.

Submissions close on December 24th. See our website for details.

Our thanks to John Rau for his commitment ☐


Cheers
Gordon Russell

ps: Do you have any friends who need to read our newsletter? Ring and we will post one out or they can download it from our website ☐

CHRISTMAS ARRANGEMENTS

Our best wishes for Christmas & the New Year, to you and those close to you.

This Christmas we are closing our office from 5pm Friday December 17th and opening on Wednesday January 5th from 9am.

For accounts due Jan 1st or before, you have until Jan 10th to pay before penalties apply.

If you have an emergency over the break and you need assistance just ring **8333-5200** for up to date details on contractors and emergency services.

emergency numbers

Plumbing , Gas, Roof Leaks	8356 2750
Electrical	1300 130 229
Breakins & Glazing	0437 818 449
Police to attend - noise/robbery etc.	131 444
State Emergency Service storm/flood	132 500



REFORMS - STRATA & COMMUNITY TITLES ACTS

Submissions due by December 24th

Our new Attorney General, Hon. John Rau, has drafted legislation that seeks to improve the protection for consumers who buy into, or own units in strata and community titled developments in South Australia.

The A.G. is calling for public comment on proposed modifications to the Act, which include:

- prohibiting people with relevant criminal convictions, or who have been banned from another regulated occupation and undischarged bankrupts, from acting as strata managers;
- giving unit holders and prospective purchasers better access to information;
- requiring deposits for off-the-plan purchases to be held in trust;
- limiting the use of proxies to 12 months;
- body corporate management contracts limited to a maximum of two years; and
- provisions enabling a corporation to terminate a contract with a strata manager at any time.

Interested parties are being encouraged to participate in the consultation process. The draft bill and discussion paper are available at www.agd.sa.gov.au/haveyoursay/.

"Consumers will be the big winners from these amendments through greater transparency and accountability," Mr. Rau said. "I encourage anyone with an interest to read the bill and provide feedback."

The Bill will be introduced when Parliament resumes next year.

"Further consideration is being given to alternative dispute resolution of strata disputes in a separate project being undertaken by my Department." Mr. Rau said.

The following are some of the major reforms...

Restrictions on who is eligible to act as a body corporate manager.

The Bill introduces restrictions on who may carry on business as a body corporate manager. A person must not act as body corporate manager if that person—

- has been convicted of a prescribed offence within the prescribed period (at this stage intended to be an offence of dishonesty within the past 10 years, or five years for offences committed whilst under the age of 18) ; or
- is suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; or
- is an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors; or
- does not hold professional indemnity insurance (to be required by this legislation).

We understand that in the next round of legislation, that a tribunal will have the power to ban a manager from practising.

Management Contracts.

The Bill requires that contracts for the management of a corporation be in writing and must specify:

- the term of the contract (which must not be more than two years);
- that the corporation may end it at any time;
- the functions that are delegated to the manager;
- that the delegation of any function can be revoked at any time; and
- the charges that will be made for the services provided under the contract.

Other contractual provisions may be required by Regulation and at this stage it is intended to prescribe the following provisions:

- that the manager promises that he or she is insured as required by law and will maintain that insurance throughout the life of the contract;
- that each member of the corporation has the right at any time in business hours to inspect the records of the corporation in the possession or control of the manager, and how inspection can be arranged; and
- that the manager certifies that he or she is eligible to act as a body corporate manager.

A copy of the proposed contract is to be available for inspection by any owner at least five clear days before a vote is taken to appoint a body corporate manager. It should also attach a copy of the manager's current certificate of insurance as well as prescribed documents demonstrating the person's eligibility to act as a body corporate manager (for example, a statutory declaration as to eligibility). Before entering into the contract, the body corporate manager will have to give the owners a prescribed pamphlet that explains the role of the manager and sets out the rights of the corporation and its members, including the rights to:

- inspect records held by the manager;
- revoke the delegation of a particular function;
- appoint the manager as a proxy and to revoke that appointment;
- be told of any payment or benefit that the manager receives from another trader for placing the corporation's business; and
- terminate the contract.

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after hours emergencies - must phone 8333 5200 for up to date information.

LEGISLATION CONTINUED..

Comment: We concur with the A.G. and in addition believe that managers must be obliged to display their contract on their website, not just 'be available for inspection'. In addition we are recommending that the officer signing be supplied with a copy of the contract for their keeping.

Restrictions on chairing of meetings by body corporate manager.

Often there is no member of the corporation who wishes to chair the meeting and the body corporate manager is asked to do so. The Bill provides that a body corporate manager may chair the meeting if a majority of those present votes for this. The Regulations will provide that a body corporate manager may only vote if they hold specific proxies to this effect and only after telling the meeting at the outset:

- that he or she may only chair the meeting if a majority of those present vote for this;
- that he or she has no right to take part in that vote, except when exercising a specific proxy for a member;
- whether he or she holds any and what proxies for this meeting and that they are available for inspection;
- and that he or she has no right to prevent any member from moving or voting on any motion.

Comment: We concur with the A.G. on the need to constrain managers use of the chair and proxies. Many of our clients have experienced bullying at meetings by their previous manager. Managers must not use general proxies for their own benefit.

By-laws and articles - new fines

The Community Titles Act 1996, by section 34, provides that the by-laws may impose a penalty of up to \$500 for breach of a by-law. The Strata Titles Act 1988, however, does not provide for such penalties. The Bill rectifies this and provides that a higher maximum fine of \$2,000 should be available where the scheme includes non-residential lots. Further, the corporation under either Act will be able to issue a notice requiring a member or occupier to comply with a by-law within a specified time and warning that if this is not done, a penalty will be incurred. If satisfactory action is not taken, the corporation can issue a notice requiring payment of the penalty. The recipient can apply to the Magistrates Court within 60 days for an order that no penalty is payable but otherwise the amount is recoverable as a debt due to the corporation. An unpaid penalty will also be recoverable by the corporation on the sale of the unit, in the same way as unpaid levies.

Comment: We concur with the A.G. This is a welcome change that will see Strata groups being able to penalise those who breach the Articles such as unauthorised animals and parking. Some teeth at last.

Register of owners

The corporation will be required to keep a list of the contact details of the unit owners and make these available to other unit owners on request. This will help a unit owner who is trying to convene a general meeting.

Comment: We concur with the A.G. This is a welcome change and will force managers to pass on this information. Many managers have refused to supply owners with their group's register.

Voting: Special resolutions

The Bill amends the Strata Titles Act to match the Community Titles Act so that a special resolution is more easily achieved, that is, such a resolution could not be defeated by apathy but only by active opposition. The notice of meeting will include a statement that anyone opposed to the resolution should ensure that he or she makes arrangements to vote against it, because it will pass unless

at least 25% of units vote against it.

Comment: This will make it a lot easier for owners seeking approval for works and the like.

Other reforms include..

- Compulsory fidelity guarantee insurance for corporations to cover theft or fraud of corporation funds.
- Participation in meetings remotely.
- Court power to convene strata corporation meeting.
- Rights to revoke a proxy at any time as well as limiting proxies to no more than 12 months, and requiring disclosure of proxy documents.
- Better disclosure of conflicts of interest.
- Streamline timing of meetings of secondary and tertiary community corporations.
- A penalty notice system for by-law and article breaches.
- Corporation to give written notice to a tenant before entering to carry out work, except in case of emergency.

- Extend the right to apply for help to the Magistrates Court where a by-law is made that reduces the value of a unit or unfairly discriminates against the owner to strata unit owners and persons who have contracted to purchase a community lot or strata unit.

- Provision to agree to insure some or all of the buildings in a community scheme through the agency of the corporation.
- Requirement to keep and make available a register of owners' contact details.
- Enhanced requirements to provide information and access to records, including for lot or unit purchasers.
- Requirements to prepare sinking fund budgets (or plans).
- Audit exemption for small community corporations and other minor audit changes.

- Enhanced Court powers to resolve disputes.
- Making it clear that a developer is a fiduciary of the corporation.
- Deposits for off-the-plan sales to be held in trust.
- Making it clear that the developer and an associate of the developer are not 'different persons' for the purposes of a first general meeting.
- Provision for email communications.
- Making it easier to enforce development contracts.

- Applications to cancel or amend plans to be heard in Environment, Resources & Development Court.

- Clarify that local councils' powers to require building rectification under Housing Improvement Act apply without need for corporation approval.

We are encouraging unit owners to have a look at the Attorney General's draft amendments and advise his office of any concerns or suggestions. You can find the documents and contact details on the front page of our website www.unitcare.com.au

We note that the legislation makes no provision to help prospective and current unit owners with information, over the phone or through a website. This is long overdue.

We will keep you informed of developments including the proposed new tribunal, expected in the coming year ☐

UNITCARE WINS STATE AWARD - THIRD YEAR IN A ROW

UnitCare Services has for the third year received the Real Estate Institute Award for Excellence in Strata Management.

The awards held in October recognise excellence across all facets of real estate in South Australia. This is the 3rd year that the Real Estate Institute has included Strata Managers.

The Independent Auditor stated...

The nominee (UnitCare Services) has undergone the rigorous audit process and had their nomination and achievements verified and confirmed.

As the entry was of an exceptionally high standard, the Independent Audit Consultant has confirmed the nominee as the winner.



"Thanks to our clients, our great staff and to the many sales agents & property managers who refer us new business", said Gordon Russell, Managing Director in his acceptance speech on the night.

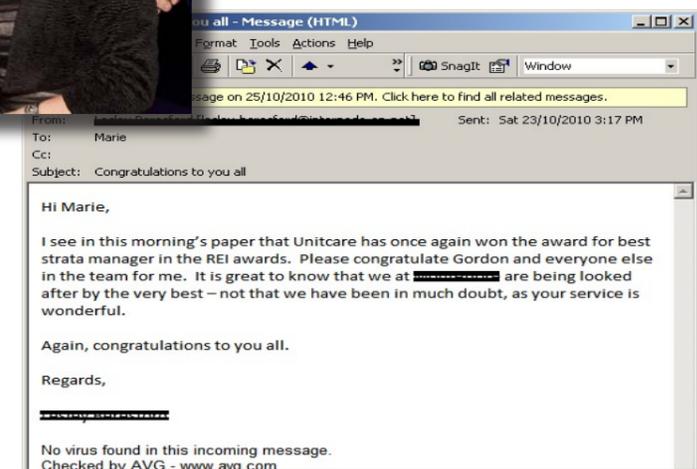
" This year we launched our Best Practice Manual. A great new service that is free and online. We recommend it to property managers and sales agents & strata managers as a great resource. "

Our new Best Practice Manual for unit owners and managers helped us earn the Award.

We are looking forward to our fellow body corporate management colleagues rising to the challenge of providing excellent service and entering the awards ☐

NATIONAL BROADBAND CABLING TO GROUPS AT NO COST

THE National Broadband Network Company will cover the costs of rewiring old apartment blocks to ensure they can connect to the new national fibre cable network. This is good news for unit owners here in South Australia and around the country. The article below appeared in the Australian. It can be downloaded from our website ☐



Above is an email from a long time client.

Name withheld at their request.



KIM JOINS OUR TEAM

We have a new member of staff.

Kim joined us in November this year.

She is our latest trainee body corporate manager.

She is a qualified property investment manager with a background in real estate, sales and office administration.

Is a member of 'Friends of the Heysen' She is currently walking the trail by instalment.

She enjoys outdoor activities including camping, bushwalking, growing vegies, travelling and yoga ☐