

Common Property

Newsletter for professionals in the facilities management sector.



Harassment with Section 62



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We are all aware that Section 62 of the Strata Schemes Management Act 1996 (SSMA) provides that the Owners Corporation 'must' keep common property in working condition. The Seiwa Case states that it is a statutory obligation of an Owners Corporation to comply with the requirement to repair. In fact, the Seiwa case punished an Owners Corporation for delaying repairs.

We have just had an interesting situation occur. An older building on the northern beaches required repairs to the balconies. Many of the balconies were leaking and in need of repair.

The Owners Corporation had an executive committee who were working towards a methodology to ensure that everything was repaired. The premises was filled with self-funded retirees.

The Owners Corporation devised a renovation plan. They had progressive plans to work through and repair every balcony over a period of a couple of years.

A new purchaser entered the premises. He knew that it was leaking and knew of the plan. Nevertheless, as soon as the property settled, he had a meeting with strata lawyers to serve a notice on the Owners Corporation. His notice simply said that they needed to fix his balcony immediately. He said that if it wasn't repaired within 60 days, they would lodge an application to the Supreme Court for damages.

The new lot owner is quite within his rights. He harassed the Owners Corporation and they had to amend their program to deal with his balcony first. It required \$50,000 and a special levy. It forced 4 owners to sell their units.

Section 62 exists to ensure that things are kept maintained and repaired. It was never the legislature's goal to have people forced out of their own homes because somebody wished to jump the queue. This is an unfortunate outcome of a very good provision under the Act.

Strata CPD

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We don't know what the solution is. Nevertheless, things like strata finance or insurance policies are needed to protect against this type of thing and would be necessary to look at. It is a growing problem. Since 1992 we have had private certifiers, which means that unfortunately NSW buildings are not as good as they were before. Let's hope that there are not too many more examples of what has happened in this case on the northern beaches.

**Cheers,  
Bailey Compton  
and The team at ACP/Leverage!**



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