

STRATA LIFE SPRING 2012



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Welcome to Strata Life

Spring - a time to refresh, regenerate and leave the warmth of indoors with a new found motivation to start doing! It's the time we start to fix, redecorate and even upgrade. The number of properties on the market increases substantially and correspondingly, the number of sales. Actually, figures released in June this year confirm the popularity of living in strata-type properties continues to shift, with just under a quarter of a million more households calling apartments and townhouses home since 2006.

These figures and more, as detailed within this edition of Strata Life, support and encourage us to continue developing and delivering education to those of you who invest, live and work in the strata industry. Helping owners and occupiers understand what it really means to live in a strata environment both personally and legislatively, assisting service providers to the industry to support owners effectively, and educating Strata Managers whilst nurturing ethical and professional standards. Compliance, compliance, compliance!

But it's not all official. We understand there's a lot more to it than just complying with your legal obligations. Living, owning and working within strata is also all about the people - relationships, personalities and maintaining harmony.

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Rob Beck,
GENERAL
MANAGER

Optimising OC functioning and efficiency: leadership and applied science!

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B.Sc., Dip.Ed., Grad.Dip.Arts, M.Ed. (Mon.), B.D.(MCD), Grad.Dip.AppliedPsych (VU), STM(Yale)
Organisation Enhancement Consultancy*

Owners Corporations can sometimes be riddled with frustration and conflict. Not uncommonly, such conflict arises from representations that are made within from an adversarial or complaining perspective. This may be exacerbated if that voice is not on the Committee or doesn't feel heard by the Committee. As a result OCM's can find themselves sometimes in an invidious position as they seek to advise OC's and keep the cogs turning.

Management yes ... and leadership in OCs:

It is worth pondering why this might be so and asking 'Is there a more efficient and effective way of leading and managing such enterprises?' The Owners Corporations Act 2006 can just do so much: it is the human factors and various interests in OCs that can play a powerful role, for better or worse! The roles and responsibilities of management – whether of committees or professional OCMs - are well defined. However, leadership is not and this is essential to managing conflict and change in organisations, especially if higher personal, group and organisational potentials are to be achieved! We know both leadership and management functions are important.

Improving group and organisational outcomes: leadership!

There is, however, an applied science of human behaviour in groups and organisations which comes from a distinguished and extensive research and practice base known as 'Industrial and Organisational Psychology' (IOP), Organisational Psychology or "Org Psych" for short. This field is about the science of people at work and the professional application of well founded accurate knowledge. This knowledge base shows that leadership in organisations and groups, like management committees, accounts for one third of all organisational behaviour associated with either good or bad outcomes! And such leadership can be reliably observed and even measured!

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Symptoms, band aids and focused solutions:

When an organisation is characterised by inertia, low morale, high conflict, frustration, internal competition and low productivity and effectiveness Org Psych teaches that perceptions of poor or absent leadership can be a root cause. Accordingly it seeks to assist people to accurately know where the goal posts are on the leadership playing field!

However, instead of making use of this reliable science of human behaviour, people commonly resort to naive assumptions about leadership and management. Frequently they regard personality being the answer: so “getting the right individuals in place” is often seen as the answer to any leadership issue.

Yet Org Psych. research shows that there are very few personality traits that predict effective leadership in diverse contexts and situations. Moreover leadership is trainable! In practice however, OC considerations about leadership can be simply about “who has the time to serve on management committees?” or the unpaid volunteer who “needs to personally exercise power and dominance over others as part of a personal drive or even obsession – perhaps denied them elsewhere ... so they put their hands up.

As an Organisational Psychologist I see the Management Committee Chair – OC Manager as a kind of partnership team in ensuring the effective and efficient working of the OC enterprise through the OC Management Committee – to which Building Superintendents, if separately appointed, is accountable. The Chair needs to demonstrate effective leadership (and some management); the OCM needs to major on effective and efficient administration and management.

Some strategies for remedies: towards better OCs:

To promote more responsible, effective and efficient OCs - where time is not wasted on unnecessary conflict and distractions from the main game – more attention needs to be given to Org Psych. research and practice which routinely applies and demonstrates “what works well” and “what is important” in leadership and group functioning. This can be achieved in a variety of ways, for example through:

- appropriate self help resources for committee members;
- committee input learning and development segments during meetings;
- promoting role clarity and paying attention to improved group decision-making processes and sub-committee structures sometimes;
- clarifying both formal and informal communication patterns within and beyond the committee;
- facilitated activities which invite reflection on current group performance;
- having a workshop for the committee dedicated to its own development;
- engaging for a time a competent professional coach like an Org Psch. for the Committee and Manager, and also especially for the Chair, to partner with the group for its own development;
- undertaking some surveys of the culture of the OC and perceptions of the Management Committee, and then managing appropriate feedback for improvement as a consequence.

Leadership is important in implementing such initiatives with the purpose of achieving optimal outcomes and potentials “beyond current expectations”.

FROM PAGE 1 – ROB BECK

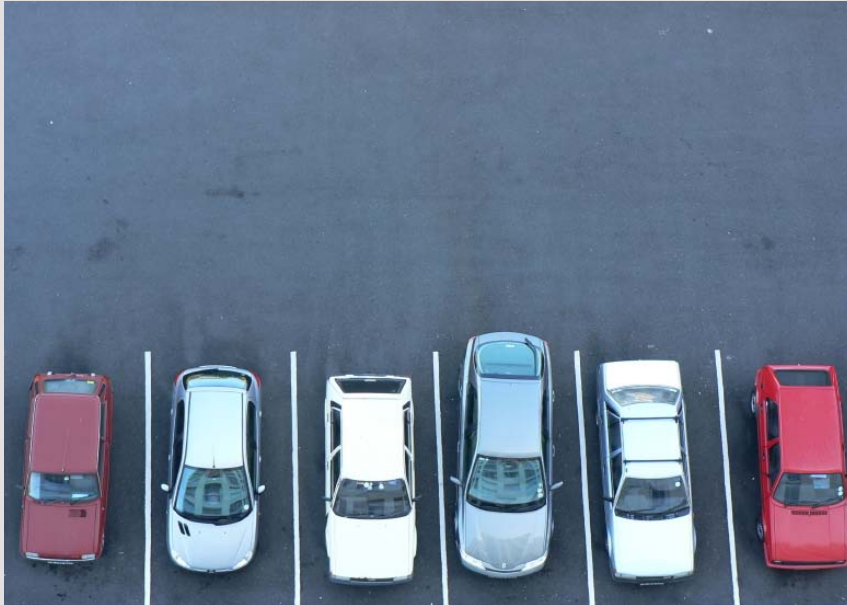
And with all good relationships, it takes a bit of hard work. In this edition of Strata Life we provide you with information to support your relationships. We look at scenarios that can cause conflict such as increased costs, necessary and unnecessary, as well as provide options and access to hands on tools to assist you, your committee's and your owners corporation deal with disputes and improve your management skills.

We trust you will find this edition enlightening and supportive, and you won't hesitate to contact us to find out more about any of these articles, their author's or how we can be of further assistance.

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Car spaces in owners corporations

Consumer Affairs Victoria



Consumer Affairs Victoria receives frequent complaints about car parking in properties managed by owners corporations.

Lot owners and occupiers must know their responsibilities around car parking, which should be contained in the owners corporation's rules. If the owners corporation does not have rules (or if their rules do not refer to car parking), model rules automatically apply.

The model rules state that, except in an emergency, an owner or lot occupier cannot park a car:

- in a spot allocated for other lots
- on common property blocking a driveway, pathway, entrance or exit to a lot, or
- on common property the owners corporation has specified for another purpose.

In most cases, a car space in an owners corporation is not common property.

The owners corporation's plan of subdivision specifies if someone living at the property (whether the lot owner or a tenant) has an exclusive car space.

Steps to resolve a car parking dispute

If you believe somebody is breaching the rules around car parking, you can take the following steps:

1. Try to solve the problem by speaking directly with the resident.
2. If that fails, you must send a written complaint to the owners corporation manager, who may issue a 'Notice to rectify breach', requesting the resident to stop parking in the owner's car space. The resident has 28 days from the date they receive the notice to fix the problem.
3. If they have not fixed the problem after this time, the owners corporation may send the resident a 'Final notice to rectify breach', which gives them another 28 days to do so.
4. If, after this time, the matter is still not resolved, you may lodge a complaint with Consumer Affairs Victoria. You must attach a copy of your complaint to the owners corporation. We will assess your complaint to see if we can attempt conciliation. (Note: we can conciliate between a resident/lot owner and an owners corporation, but not between residents.) If the dispute is with another resident, you can request the Dispute Settlement Centre of Victoria (DSCV) to mediate.

5. You may also take the matter to the Victorian Civil and Administrative Tribunal (VCAT), which will hear the dispute and make a legally binding ruling.

If you receive a 'Notice to rectify breach' but believe you have not committed the breach, you can take the following steps:

1. Contact the owners corporation, which will advise you of the next steps in the internal dispute resolution process.
2. If you are not happy with the outcome, you can contact Consumer Affairs Victoria. We will assess whether we can conciliate the matter.
3. You may also apply directly to VCAT.

What is the Dispute Settlement Centre of Victoria (DSCV)?

The DSCV offers free mediation on a range of issues, including disputes **between residents**. It can help the parties involved reach a solution before resorting to legal action.

Contact the DSCV for more information:

W: disputes.vic.gov.au

E: dscv@justice.vic.gov.au

T: (03) 9603 8370 or toll free on 1800 658 528 (country callers)

For more information

Consumer Affairs Victoria is the state regulator for owners corporations. Our website (consumer.vic.gov.au) features up-to-date information, forms and publications relevant to owners corporations. You can also call us on 1300 55 81 81 or email consumer@justice.vic.gov.au.

Victorian Civil and Administrative Tribunal

W: vcat.vic.gov.au

E: vcat-civil@justice.vic.gov.au

T: (03) 8685 1499 or toll free on 1800 133 055 (country callers)



TOOLS TO MANAGE CONFLICT

Kathy Douglas, RMIT & Dr Rebecca Leshinsky, Australian Catholic University

Dispute resolution under the Owners Corporation Act 2006 (Vic) requires owners corporations (OC) to engage in a form of dispute resolution prior to litigation being brought to the Victorian Civil and Administrative Tribunal (VCAT). There is also the possibility of using conciliation through Consumer Affairs Victoria (CAV). Owners have the option of going straight to CAV or VCAT when conflict arises, but an OC must use the internal dispute resolution scheme under the model rules if a dispute is begun by an owner/occupier. OC committees also need to have an understanding of dispute resolution processes and strategies.

In light of the legislation, managers need to be able to help advise OCs and owners to navigate through such disputes. Kathy Douglas (RMIT University) and Rebecca Leshinsky (Australian Catholic University), through a grant from the Legal Services Board (Vic), and with assistance from Associate Professor Robin Goodman (RMIT University), Peter Condliffe (Victorian Bar) and Strata Community Australia (Vic), recently studied the types of disputes that arise in Victorian OCs. In the first part of the study, owners corporation managers were surveyed via an on-line anonymous survey.

through their narratives, how they dealt with conflict including whether the model rules or any alternative or additional internal governance structures were used. A further aspect to the data collection has been accessing information from international public websites that deal with conflict resolution in owners corporations and home owners associations.

Through the study, managers indicated that more than 10% of their time was taken up with disputes. The types of conflict that were identified in the data related to noise, breach of rules around behaviour such as use of swimming pools, unpaid fees, maintenance concerns, (both short and long term) disputes with developers over the construction of buildings and other assets and disputes with owners corporation managers about the performance of their duties. The data showed that OC managers played a key role in conflict in OCs as they were often the first point of contact for residents and could advise about strategies for conflict resolution. Findings from the study suggest that managers would like more training in negotiation, mediation and dispute resolution processes.

An owners corporation online conflict management information tool has also been prepared, which suggests strategies for owners corporation stakeholders to cope with dispute resolution. The tool is a useful asset for owners, committees and managers and can be accessed via the industry research pages of the **SCA (Vic) website**

The intention was to gather information about the experiences of managers regarding disputes. Information was sought through the survey about manager use of the model rules, including any additional governance processes. To gain insights into the experiences of conflict from the perspective of residents and in particular, management committees, a sample of owners corporation committee members were also interviewed to explore

Kathy and Rebecca are continuing their research into OC disputes and how to assist OCs and managers resolve disputes more effectively. For more information about their study or links to articles published from their work, please contact Kathy Douglas (Kathy.douglas@rmit.edu.au) or Dr Rebecca Leshinsky (rebecca.leshinsky@acu.edu.au).

Flashing on the Roof

Not the kind you see at the cricket ... After the last edition we were asked to explain about sealing flashing and roof sheets.

Firstly what is it? Flashing can take many forms but it is simply the material, usually aluminium, galvanised steel or lead, used to prevent water seeping in and causing damage through gaps and joins.

The type or amount of flashing depends on the nature of the roof.

There may be flashing at the join where a chimney, vent pipe or parapet wall penetrates up through the roof or around windows and skylights or the edges of valley or box gutters. Wherever two opposing surfaces meet, flashing provides extra protection.

Flashing deteriorates from weathering, oxidising or will work itself loose. Sealing roof flashing may include applying a patch, refixing loose screws, replacing sections or refreshing bonds to adjoining surfaces with a silicone sealant, caulking or roof cement.



Understanding the rise in your premium

Whitbread Insurance Brokers

This year there has been much media coverage of insurers increasing their premiums to cover rising industry costs. As part of our commitment to you, we want to make sure you understand the reasons why the industry is raising its insurance premiums.

Why are Premiums Rising?

In New South Wales and Victoria, strata insurance premiums are increasing, with the rises being imposed by insurers averaging around 10% to 25%. The strata insurance market isn't being singled out for premium rises; it is experiencing the same range of premium increases as the rest of the domestic property market. In fact, some premiums for stand-alone homes have increased more than this.

Historically, strata insurance has been underpriced compared to other risks. For example, strata owners on average have usually paid one-third of the premium for the equivalent stand-alone home policy.

This hasn't been a sustainable position for strata insurers and to ensure the long-term security of insurers, premiums have needed to increase.

The general insurance industry has seen claims rise from \$23.6 billion to \$35.9 billion since 2011, an increase of 52%.

While it's logical to see the Queensland floods of 2010/11 as the major cause of the losses in this country, we should note there have been many other natural catastrophes to contend with. Take the example of Melbourne, where severe storms hit on 6 March 2010, 4 February 2011 and even on 25 December 2011. The Christmas Day storm alone cost insurers \$550 million in claims. Increases in the number of claims and the cost of settling those claims (driven in part by rising construction and material prices) are all making the business of insurance more expensive.

Reinsurance costs for insurers are also rising. Every insurer purchases reinsurance to ensure they can honour all legitimate claims following extreme weather events. After recent events, reinsurance providers now see our region as a high-risk area for natural disasters. As a result, reinsurance

premiums are increasing for Australian insurers and these costs are being passed onto policy-holders. In fact, a JP Morgan/Deloitte report in February this year found domestic reinsurance (insurance for insurance companies) rates had already risen by 31%.

Lastly, we should consider the impact of government taxes on property insurance premiums in Victoria and New South Wales. Your premium is loaded with taxes to pay for the fire services in both states, and in New South Wales there has also been a levy to fund State Emergency Services.

The Victorian Government made the decision to scrap the Fire Services Levy, replacing it with a Fire Services Property Levy effective from July 1, 2013. For more information please visit the Department of Treasury and Finance website at www.dtf.vic.gov.au/firelevy. New South Wales has begun investigating how to go about abolishing the fire and emergency services levy system.

To keep up-to-date on changes to the insurance industry please refer to our website www.whitbread.com.au



The key cost pressures driving increased insurance premiums include:

- **Increased number of claims**
 - increased number of natural disaster claims – increased number of natural peril claims (e.g. storm, fire, hail and rain- related damage)
- **Increased cost of settling claims** (e.g. building and material costs)
- **Increased cost of reinsurance** (insurance to cover insurers for major event claims)
- **Increased costs of government charges** (e.g. Fire Service Levy)
- **Long term viability of strata insurers**

The above information is general advice only. It is not intended to take the place of professional advice. Before acting on this information you should consider the appropriateness of this advice to your particular objectives, needs and financial situation. Please refer to specific insurer's policy wording for terms and conditions.

Proprietor: Whitbread Associates Pty Ltd
 ABN 69 005 490 228 AFSL 229 092 trading as Whitbread Insurance Brokers



Strata tip...

As an owner in an owners corporation, remember that services rendered without prior request will not generally be regarded as conferring a benefit for which restitution should be made: Halsbury's Laws of Australia, vol 23, para [370-215].

So, it may be worth noting you should not just do the gardening on the common property off your own bat without consulting the owners corporation and then expect that the owners corporation will want to compensate you.



Q&A Corner

Andrew Whitelaw, Partner, Building and Construction, TressCox Lawyers

As we mentioned earlier in this edition, spring is a time for cleaning and for some, simply moving on. In this edition TressCox Lawyers provide you with the answer to a question that's on everyone's lips at this time of year.

What about goods left on common property?

Question: A fridge and furniture has been left or "dumped" on the common property in the owners corporation that I live in. What should we do?

Answer: The Residential Tenancies Act only deals with goods left behind on the rented premises where there is a tenancy agreement. The common property is not part of the rented premises therefore the Residential Tenancies Act does not apply to goods left on common property. The owners corporation's rights and obligations for goods left on common property are governed by The Owners Corporations Act 2006 and the Owners Corporation Rules.

If a lot owner or an occupier of a lot fails to comply with this Act, the Regulations or the Rules of the owners corporation, and uses or neglects the common property or permits it to be used or neglected in a manner that is likely to cause damage or deterioration to the common property, the owner or occupier is in breach of the Owners Corporation Act and Rules. An owner or occupier of a lot who leaves goods on common property is in breach of the Act.

So what does the owners corporation do? If the person who left the goods is known and they are an owner or occupier of a lot, a letter should be sent stating that if the goods are not removed within a time limit, they will be removed by the owners corporation and action may be taken against them for a breach of the Act and the Rules and to recover the costs of any such removal. Alternatively, the owners corporation may exercise self help and dispose of any such goods as it sees fit (it should be carefully considered whether the goods are in fact abandoned). Who pays for the removal costs? The owners corporation may consider an application to VCAT to obtain an order for the costs of the removal as a breach of the Act and Rules.

If the person is NOT known, goods left / abandoned on common property can be considered a trespass and the owners corporation can exercise self help and dispose of any such goods as it sees fit. That said, depending on what the goods are – a note can be placed on the goods stating if they are not removed within a certain time limit they will be destroyed. Again it is an obligation of the owners corporation to maintain the common property which includes the removal of "rubbish" ... so the costs fall on the owners corporation.

Disclaimer: The information contained in the answers to the questions is intended as general commentary and should not be regarded as a substitute for legal advice. Should you require specific advice or assistance in dealing with a particular legal issue, please contact TressCox Lawyers directly.

 **TressCox**
LAWYERS



Recovering fees from overseas lot owners

Overseas resident lot owners that do not have a physical Australian address result in the problem of owners corporations not adequately being able to recover fees. The change to strata laws by the Consumer Acts Amendment Act 2011 was supposed to overcome problems with VCAT's rules surrounding service by requiring absent lot owners to specify addresses in Australia, and provided an alternative mechanism for service where they have not complied.

However, following the *Sivanesan* VCAT case decision, it has not achieved its intent. The problem that still exists is how to recover fees from overseas lot owners where there is no property agent and the only known address is outside of Australia.

SCA (Vic) made a submission to Michael O'Brien, the Minister for Consumer Affairs, for further legislative amendments. The Minister has advised he is sympathetic to the problem and is seeking advice from the Attorney-General, and that CAV will keep us updated on any developments.

DID YOU KNOW?

Community ties that bind thrive in inner city

Families with young children living in inner Melbourne are more socially connected with their community than those living in outer suburbs, new research shows.

DETACHED HOUSING DECLINES, APARTMENTS MORE POPULAR

Mark Lever, Chief Executive Officer, Strata Community Australia

According to the 2011 Census figures released in June this year, the popularity of living in strata-type properties continues to shift with just under a quarter of a million more households calling apartments and townhouses home since 2006.

This represents a 1.3 percentage point increase in the proportion of households living in higher density homes. In the same period there has been a corresponding drop in the number of households calling detached houses home. This has decreased by 1 percent.

For an ever increasing number of people this means the detached house on a suburban block is no longer part of their Australian dream.

Strata Community Australia (SCA) Chief Executive Officer, Mark Lever says today's figures underscore the importance of the strata sector as more people chose this way of living.

"The sector faces even more challenges as people drift away from the traditional house on the quarter acre block," he said.

"We are experiencing the changing face of the way Australians live as many more choose the sort of flexible housing offered by townhouses and apartments. Often they are nearer to cities and major transport centres, which mean people have easier access to facilities, workplaces and entertainment."

The challenges come as more people are living in closer proximity to each other. This brings its own unique set of issues. For example in NSW a recently released report aimed at starting a wholesale strata law review confirmed that the three areas of most concern to people living in strata had now morphed from parties, pets and parking to now include a fourth - puffing - as smoking on balconies is now being raised as issue by some.

"The upsides to living in strata often outweigh the negatives and most people would agree that paying for someone else to maintain the property, the inclusion of amenities such as pools and gyms and living with a sense of community make this type of lifestyle far more enjoyable," Mr Lever said.

Access the ABS Census data via [this link](#)



About Strata Community Australia

Strata Community Australia is the new peak body for the strata sector. It brings together the former National Community Titles Institute, Institute of Strata Title Management (NSW), Community Titles Institute of Queensland, Owners Corporations Victoria, Community Titles Institute of South Australia, Strata Titles Institute of Western Australia and Strata Management Institute of the Australian Capital Territory under the one name with a new constitution and governance structure. Collectively there are 2500 individual and business members including strata managers, other specialist service providers and individual owners and investors. Unlike most industry bodies, the common denominator is the customer base - Australia's 276,000 bodies corporate, owners corporations, strata companies etc - rather than specific product or service categories. This makes SCA a powerful advocate both for its direct membership and the one-quarter of Australians households who live in apartments and townhouses.

Vic Domestic Building Consumer Protection Framework update

In our last edition of Strata Life we advised that the Department of Treasury and Finance were calling for submissions regarding their public consultation paper. The paper outlined options for the design and implementation of improvements to the current Victorian domestic building consumer protection system.

SCA (Vic) has since made its submission detailing our position on three different aspects of building laws relating both to the 'front end' and 'back end' components of the framework.

Current building standards – meeting & amending

- SCA (Vic) recommends retrospective compliance to building codes, giving 5 years to comply with current building standards.
- SCA (Vic) recommends current building codes to assist an OC to comply with OH&S requirements by making the installation of roof access and any fall arrest systems mandatory in construction for buildings over 2 storeys.

SCA (Vic) supports any improvements to building and design standards.

SCA (Vic) supports any improvements to warranty insurance.



Sustainable Solutions for Apartments

Brenden Carriker, Senior Sustainability Officer | City Planning and Infrastructure

On Thursday, 16th August City of Melbourne, in partnership with Strata Community Australia (Vic), launched two new information tools for residential owners corporations and their professional managers. These tools were developed as part of the Hi-RES project, an 18-month collaborative project that sought to identify and deliver solutions to support sustainability in Victoria's existing apartment buildings and can be found online [here](#).

How to make positive change around your apartment building

Owners corporations, strata levies, special resolutions – let's face it, doing things around your apartment isn't simple. This guide will walk you through everything you've ever needed to know about making change within an owners corporation.

Good practice guide: Multi-unit residential facilities management

Smart management improves building performance. You can make a big difference in your building's sustainability by changing how things are operated and maintained.

This guide, developed with the Facility Management Association of Australia, is an in-depth resource about managing multi-unit residential buildings smarter and more efficiently.

At the same event, an exciting national project - called **Sustainable Strata** - was launched. Strata Community Australia, in partnership with the City of Melbourne, City of Sydney, Green Strata, and Owners Corporation Network was successful in receiving over \$1M from the Commonwealth Government's Energy Efficiency Information Grants (EEIG) Program to develop and deliver a national energy efficiency tool-kit for residential owners corporations. To stay informed about the development of this project, please send your contact details to Hi-RES@melbourne.vic.gov.au with "Sustainable Strata Updates" in the Subject Line.

STRATA COOKING

Strawberry Spring Strata
Giada De Laurentiis, Foodnetwork

INGREDIENTS

- ½ cup cream cheese, room temperature
- ½ cup ricotta cheese, room temperature
- 8 eggs
- 2 cups milk
- 1 cup strawberries, (approx. 285 grams)
- 1/2 cup honey, warmed
- 1 teaspoon ground cinnamon
- 1 (12 to 16-inch) ciabatta loaf, crust removed and cut into 1-inch cubes

DIRECTIONS

Place the cheeses in a large bowl and stir together with a wooden spoon. Add the eggs, one at a time, mixing until completely incorporated before adding the next. Stir in the milk, strawberries, honey, cinnamon, and bread. Pour into greased glass casserole dish, 8 by 10 by 2-inch

To bake, preheat the oven to 175 degrees Celsius. Bake covered with foil for 45 minutes. Increase the oven temperature to 205 degrees Celsius. Remove the foil and continue baking for 30 to 35 minutes.



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