

BUILDING STRATA SECTOR RESOURCES

RENTAL
ADDITION TO
'GUIDE TO
OWNING,
MANAGING
AND LIVING
IN AN OC'

The Building Strata Sector Resources project
was supported by the Victorian Government

RENTING AND STRATA IN VICTORIA

This rental addition has been made to focus on the rights and responsibilities of renters within strata communities, to offer information regarding focusing on the more common issues which occur in strata, and to help provide further understanding of the role of a strata manager.

The 2021 Census by the Australian Bureau of Statistics revealed nearly 1.7 million Victorians were renters which represents an increase of over 10% from the preceding Census. In addition, the Renting in Victoria Snapshot 2020 from the Victorian Government indicated almost 48% of dwelling types rented are a flat/apartment or terrace house/townhouse.

More targeted research by the City Futures Research Centre at the University of New South Wales, supported by Strata Community Association, released in the Australasian Strata Insights Report 2022, found Victoria has 123, 180 strata developments comprising 991, 331 individual lots.

Within these lots, the Australasian Strata Insights Report 2022 also indicated approximately 8% of Victorians live in apartments and that apartment residents come from a diverse array of backgrounds. With so many Victorians renting apartments, and this figure forecasted to continue to increase over time, it is important to help renters understand what to expect when living in strata and how to approach managing general concerns.

On 29 March 2021, Victoria announced changes to rental laws which expanded the rights and responsibilities of renters and rental providers. For further information on these rental changes, Consumer Affairs Victoria (CAV) provides many resources on its website: www.consumer.vic.gov.au.



SUSTAINABILITY MEASURES (INDIVIDUAL LOT)

Sustainability measures are becoming more commonplace within strata properties throughout Victoria, as more residents choose (or are encouraged) to adopt and install such features.

While these measures have typically focused on owner-occupiers, recent legislative changes do not prevent renters from seeking (with permission of the lot owner) to have sustainability items installed.

Under s138B(2) of the Owners Corporations Act, owners corporations may no longer make rules that 'unreasonably prohibit the installation of sustainability items on the exterior of a lot.'

For example, if a lot owner wants to install solar panels, the owners corporation cannot deny this request simply because they think solar panels look ugly. Other such sustainability measures applicable to this may include heat pumps, reverse cycle, or window shades.

However, the OC may still be able to deny the request based on a legitimate reason. For example, if the installation of a solar panel would impact on common property (such as encroachment or otherwise impeding access to services).

Depending on the local government area, planning permission may be required in order to install sustainability measures onto the private property of an apartment.

RENTAL RIGHTS

PETS (KEEPING PETS IN A RENTAL PROPERTY)

Since 2016, with the Victorian Civil and Administrative Tribunal (VCAT) decision Owners Corporation SP24474 v Watkins (Owners Corporations), owners corporations have not been allowed to prohibit residents from having pets.

This is supported by changes to the Residential Tenancies Act 1997 which sets out in section 71A the parameters for renters to keep a pet at a rented premises.

Per the above legislation, renters must have the written consent of the lot owner for a pet to be kept in the rental property or have received permission from the Victorian Civil and Administrative Tribunal (VCAT) to do so. A lot owner can deny the request of a renter to keep a pet in the property but this must be done on the basis of a good reason.

Consumer Affairs provides information and helpful resources on the process by which a renter can go about seeking permission to keep a pet in their rented property.

PETS (BEHAVIOUR AND COMPLAINTS)

There are certain responsibilities associated with pet ownership within a strata property regardless of whether it is occupied as an owner or a renter.

In common areas, there will typically be owners corporation rules which must be followed in terms of pet behaviour such as avoiding damage to property, maintaining cleanliness standards and not causing nuisance to neighbours. If you are unsure of the owners corporations rules, you should contact your strata manager for a copy so you can familiarise yourself with the specific rules around pet ownership.

If a renter does not adhere to the required rules, the lot owner can provide a notice to the renter advising of breaches and requesting to fix or pay for any damage caused by the renter's pet. Beyond this, if it is determined by the Owners Corporation that a pet is a nuisance or a danger, then the renter may ultimately have to remove the pet from the rental property.

CAR PARKING

Car parks are a common feature of strata properties and there are occasions where a vehicle is parked in another resident's parking spot without permission.

In situations like this, it can be helpful to leave a note on the windscreen of the parked car to politely inform the owner of the car that they have parked in the wrong space. This can typically resolve the issue without requiring further action.

There are, however, circumstances which will require further action to be taken. This can involve contacting the Building Manager (if available) or Police. The Owners Corporation can also be contacted and offer assistance in the case of a breach of the parking rules for the property. In such a circumstance, the Owners Corporation may issue a Breach Notice.

NOISE COMPLAINTS

Noise complaints can often occur within strata properties for the simple reason of people living in close proximity to each other. Whether that noise is the result of a party that has escalated, a television turned up too loud, or for other reasons, these sorts of situations are not entirely uncommon when living in strata.

Some, if not most, of these complaints can be resolved quickly and amicably by speaking to a noisy neighbour to ask them to keep the noise down if it is safe to do so. It is possible your neighbour is unaware of the noise disturbance to others.

However, sometimes further action is necessary.

If a noise complaint cannot be resolved via direct discussion with a noisy neighbour, further options are available including:

- Asking the Building Manager for assistance (if this is a feature of your property),
- Contacting your local council or Police for assistance,
- Reaching out to the Owners Corporation for help to resolve the matter as well as further information about the process for handling complaints.

NOTICE TO RECTIFY BREACH

Strata managers are often empowered, under the Owners Corporations Act 2006, to undertake functions on behalf of an Owners Corporation. One of these functions includes issuing a notice to rectify breach to residents (including those renting) if a breach has occurred.

Such a notice will typically require the recipient to rectify the breach within 28 days. If the breach remains unrectified after that 28-day period, a strata manager may send a final breach notice requiring rectification within 28 days.

Examples of instances which may result in a renter receiving a notice to rectify breach include (but are not limited to):

- Noise,
- Cars,
- Car parking,
- Pets,
- Smoking,
- Rubbish,
- Maintenance of lots,
- Security,
- Boundaries and fences,
- Building defects,
- Water leaks,
- Breaches of the OC Act and its rules.

ROLE OF STRATA MANAGER

Strata managers focus on the administration of owners corporations charged with the responsibility to maintain buildings and common areas within an owners corporation.

Managers are specialists in their field, possessing the knowledge and skill to administer the owners corporation in accordance with the complex requirements of the Victorian legislation to achieve consensus in decision making and to otherwise assist home unit owners by assuming onerous responsibilities.

Strata managers are involved in coordinating the affairs of lot owners including conducting meetings, collecting and banking levies, arranging property maintenance, advising on asset management, placing insurance and keeping financial accounts. Incidental duties include:

- preparation and distribution of notices, agendas and minutes
- attending to correspondence
- arranging quotations and repairs for building maintenance
- maintaining the owners corporation roll
- maintaining all registers required
- payment of all invoices
- preparation and distribution of financial statements and budgets
- preparation and distribution of contribution notices
- attending to orders, submissions and appeals.

WHEN TO CONTACT A STRATA MANAGER

A simple and general guide to figuring out whether to contact the lot owner (or their representative, such as a rental agent) or a strata manager is to understand where the issue is located.

Most issues, in the first instance, can be directed to the lot owner or their representative. If the issue is within the rental property itself, and does not affect any other lot or common area, that should also be raised with the lot owner or their representative.

For issues outside of the rented property, such as in common spaces including the car park, hallways, facilities, and amenities, these may lend themselves more to contacting a strata manager.

Similarly, for issues between residents (such as behaviour and nuisance) these can also be directed to a strata manager for advice and assistance.

