

# Unlawful strata fees are banned. Managers are charging them anyway



By [Rachael Dexter](#)

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“Predatory” and unlawful administrative fees charged by strata management companies must be stamped out and owners refunded, advocates say.

The call comes as the state government prepares to receive its independent [review of owners corporation laws](#) on Monday.

Rosanna townhouse resident Sarah Brooks has copped “late fees” from strata management company BCSG despite them being ruled unlawful.

Advocacy groups say the charging of “administrative” and “debt recovery” fees has become a lucrative revenue stream for the \$471 billion Victorian strata sector, and accuse managers of acting “above the law” after the Victorian Civil and Administrative Tribunal (VCAT) explicitly ruled the practice unlawful.

Sarah Brooks, a legal studies teacher and chair of her owners corporation in an eight-villa complex in Rosanna in Melbourne’s north-east, attempts to manage her household budget by dividing her strata levies into monthly payments.

However, she was hit with “a late payment penalty” by her manager, Body Corporate Strata Group (BCSG), when she inadvertently fell \$270 behind due to the timing of instalments.

[‘Anarchy’: Technicality renders owners corporations effectively useless](#)

Under the Owners Corporations Act, owners who fail to pay their levies within 28 days can be charged penalty interest, currently capped at 10 per cent.

When Brooks received her arrears notice, seen by *The Age*, she was charged the legal penalty interest (\$3.28) but also slapped with a separate \$70 “late payment penalty” – which is a quarter of the value of the arrears owed.

“I thought, ‘Oh my God, they’ve whacked an extra \$70 on here’, and that’s when I’m only \$270 behind,” she said. “That is well in excess of [statutory] interest ... That’s more a fine than a late payment [fee].”

Brooks questioned the charges but was told by a manager that “systems automation” applied the fees and that removing them might encourage other owners to be “opportunistic”.

Such fees have not held up under legal scrutiny. Earlier this year, a VCAT member blasted an owners corporation manager for loading thousands of dollars in “unlawful” and “misleading” fees onto a lot owner’s account.

In [that decision](#), VCAT found the manager had hit the owner with charges that had “no tenable basis in fact or law”, including for debt collection, invalid levies and legal work to chase late fees that were claimed twice.

The tribunal struck out thousands of dollars in fees, ruling that [owners corporations](#) “have no inherent legal right to include these items in a fee or final fee notice at all”.

Generally, the only legal financial recourse available to owners corporations for arrears is the 10 per cent penalty interest. Any other cost – including the fee for a final notice – cannot be demanded as a debt unless ordered by VCAT, and strata managers cannot place these on an owner’s fee notice.

Despite these rulings, documents obtained by *The Age* show management companies continue to pass motions to enforce these charges.

Minutes from an August meeting at Brooks’ residential complex show resolutions to impose late fees of up to \$150. While the manager bills the owners corporation for these fees, the corporation cannot automatically pass that debt onto the individual owner.

Instead, the corporation must get an order from VCAT to legally recover the cost. It cannot simply “pass through” the fee – a practice ruled unlawful by VCAT [in 2022](#).

However, managers contracted to prepare fee notices are ignoring this ruling, and automatically add the charges to owners’ bills via software.

Lawyer Fabienne Loncar recently told [an industry podcast](#) that corporations were still trying to pass on costs they were “not entitled to” by simply tacking them onto bills without a tribunal order.

The charging of “administrative” and “debt recovery” fees has become a lucrative revenue stream for the \$471 billion Victorian strata sector.

BCSG, which manages the owners corporation at Brooks’ building, did not respond to a request for comment.

Other companies are engaging in similar practices.

A policy from OCVM Group, obtained by *The Age*, warns owners that if their fees are more than 14 days overdue, they will “receive a reminder notice which is charged at \$46”. If the bill remains unpaid after 45 days, the policy states the owner “will receive a final notice which is charged at \$110.”

OCVM defended its processes, claiming owners corporations could recover the fees themselves from owners. But it did not respond to questions about those “pass on” mechanisms being unlawful.

### **Breaking ranks**

While some firms defend the practice, others have backed down.

Another firm, Verticali, admitted it had issued fee statements in 2023 – seen by *The Age* – which listed “debt recovery costs” of up to \$75. A spokesman blamed the charges on a “default system setting” in a new software program and said the firm quickly dumped the charges.

“As soon as the issue was identified, Verticali immediately turned this setting off and reversed the charges against any affected lots,” the spokesman said. “Verticali accepts and complies with VCAT’s interpretation.”

*The Age* has also heard from smaller managers who reject the industry standard.

### **The ‘deterrent’ debate**

In a statement, the industry’s peak body, Strata Community Association (Vic), acknowledged that owners corporations “do not currently have lawful power to directly recover administrative or debt-recovery charges ... unless ordered by a tribunal”.

However, it rejected the description of the fees as “predatory”, arguing that compliant owners were “frequently left subsidising the costs generated by persistent non-payers”.

“Significant extra administration is required to manage defaulting lot owners and it is inequitable that the owners corporation, often comprising a majority of responsible lot owners who pay on time, should subsidise defaulting lots owners, and indemnify them for administrative costs incurred as a linear result of their recalcitrance,” the peak body said.

The body also questioned the legitimacy of the tribunal’s rulings, describing VCAT as “not an authoritative court of record” and described the tribunal’s decisions as “rough justice”.

## **Strata Owners Alliance founder Adam Promnitz.**

Adam Promnitz, the founder of Strata Owners Alliance, said the peak body's defence of the unlawful charges showed "an extraordinary level of entitlement and arrogance".

"It's clear the sector is badly out of touch and in urgent need of stronger regulation," he said.

Promnitz said there was no legitimate cost in chasing arrears as the process is automated through software, and he disputed the claim that extra fees were needed as a deterrent, noting that he self-manages his own 42 townhouse complex and keeps arrears near zero using only the existing legal tools: penalty interest and court orders.

"We support the continued recovery of penalty interest ... [but] no council, telco or utilities company is allowed to charge fees like this," he said. "The simple fact is this was predatory and managers profited every time they add these illegal fees to an invoice."

## **Enforcement 'unchecked'**

Opposition consumer affairs spokesman Tim McCurdy said the government had allowed the watchdog to drift "off course" by focusing heavily on real estate agents while ignoring strata managers.

"Fee-gouging is never acceptable ... Consumer Affairs should be policing the whole property market, but the Allan Labor government has narrowed its focus and left serious issues unchecked," McCurdy said.

While the state's consumer watchdog [explicitly warns against](#) rogue fees, Consumer Affairs Victoria said it had no powers to enforce the Owners Corporation Act.

A state government spokesperson confirmed that owners corporations "can't charge administrative fees" and that all levies "must be lawful". The spokesperson said an independent expert panel had specifically been tasked to examine whether "existing measures in the act to address non-compliance ... are sufficiently robust".

"We made significant reforms in 2021 to better reflect the needs of the one in four Victorians who live in apartments," the spokesperson said.

Promnitz said the upcoming review must stop "a dodgy practice that should have been stopped years ago".

"The government should be making the managers pay back every cent to owners who have been slugged with these fees," Promnitz said.

## Response to *The Age*

### Does SCA (Vic) accept the VCAT position that owners corporations and managers have no power to charge administrative or debt recovery fees directly to lot owners without a tribunal order?

SCA (Vic) accepts VCAT's interpretation with the qualification that:

- There is a distinction between owners corporations and managers charging administrative or debt recovery fees. For the additional work required in dealing with lot owners in arrears it is customary for a manager's Contract of Appointment to permit the manager to charge for the owners corporation for that additional work. That is a contractual entitlement which is not restricted or limited by statute. It is common for owners corporations to resolve to pass those charges on to lot owners. Section 23(3A) of the *Owners Corporations Act 2006* (the Act) provides that the owners corporation may levy an additional annual fee on a lot owner if -
  - (a) the owners corporation has incurred additional costs arising from the particular use of the lot by the lot owner; and
  - (b) an annual fee set on the basis of the lot liability of the lot owner would not adequately take account of those additional costs.
- Although, since *Owners Corporation v Buckley* [2024] VMC 12, the prevailing position seems to be that the Magistrates Court lacks jurisdiction to hear and determine levies arrears cases - the court typically allowed administrative or debt recovery fees to be claimed.
- VCAT is a creature of statute and not an authoritative court of record. Future cases could be decided differently;
- VCAT is not bound by the rules of evidence, may inform itself on any matter as it sees fit, and must conduct each proceeding with as little formality and technicality as each proceeding permits. Some refer to this as "rough justice";
- There is an extant argument that was not ventilated in Singh: whereas Owners Corporations must levy annual fees and special fees & charges on the basis, there is also a power to charge contributions and amounts given s.28(1) of the *Owners Corporations Act 2006*.

[Our submission to the statutory review of \*the Act\*](#) clearly acknowledges that Owners Corporations do not currently have lawful power to directly recover administrative or debt-recovery charges from lot owners unless ordered by a tribunal or court.

However, we have strongly advocated for legislative clarification, because compliant owners are frequently left subsidising the costs generated by persistent non-payers. Our submission recommends that legislation should explicitly allow Owners Corporations to recover reasonable administrative and legal costs for breach notices and final fee notices - but only through an approved, enforceable process - not unilateral charging.

### **Has SCA (Vic) issued guidance to its members following the Singh and Wang decisions instructing them to cease automating these charges?**

SCA (Vic) members (as opposed to non-members) are required to achieve continuous professional development points to maintain membership and have access to over 20 Best Practice Guidelines and a further 60 guiding resources including "Debt Recovery." Previous in-person professional development seminars have also included information on debt recovery and fees.

SCA (Vic) is constantly reviewing and evolving its guidelines and education materials to ensure full alignment with tribunal and court decisions.

### **Does charging fees that the Tribunal has branded "unlawful" constitute a breach of the SCA Code of Conduct?**

All SCA (Vic) members must comply with Victorian law and the [SCA Code of Ethics](#). If a member knowingly charges unlawful fees, this may constitute a breach and is referred to our Professional Standards and Membership Board Advisory Group (PSMBAG) if a complaint is lodged. The PSMBAG (an independent advisory group) has the power to recommend to the SCA Victoria Board of Directors to impose training requirements, warnings, suspensions, or termination of membership on a member.

SCA (Vic) has a clear [complaints process](#), and any substantiated breach of ethics, law or professional standards is taken seriously.

**Advocates have described this industry-wide practice as a “predatory rort” used to generate revenue rather than resolve debts. What is your response?**

That characterisation is inaccurate and ignores the real-world challenges faced by Managers, Owners Corporations and strata residents.

There is a balance between genuine financial hardship and recalcitrant lot owners failing, refusing or neglecting to pay their fees on time. That imperils the Owners Corporation, which may find itself unable to pay insurance premiums or discharge its statutory warranties, including repairs and maintenance.

Significant extra administration is required to manage defaulting lot owners and it is inequitable that the Owners Corporation, often comprising a majority of responsible lot owners who pay on time, should subsidise defaulting lots owners, and indemnify them for administrative costs incurred as a linear result of their recalcitrance.

There is a critical distinction between:

- Recalcitrant owners who repeatedly refuse to pay levies, and
- Owners genuinely experiencing financial hardship, who deserve support.

SCA (Vic) members characteristically advise their managed owners corporations to act reasonably in adopting hardship policies and accommodating payment plans.

SCA (Vic) strongly supports hardship plans. But without stronger enforcement tools, compliant owners end up subsidising those who avoid payment. Our submission recommends balanced reform, including:

- A model payment plan framework
- Defined evidence for “genuine hardship”
- The option to recover costs through Magistrates Court
- Enforceable mechanisms for recovery of reasonable administrative/legal costs

This approach is about fairness and financial sustainability - not profit. SCA (Vic) firmly rejects suggestions of systemic misconduct or predatory behaviour.