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LAWYERS



TWEAKING YOUR BY-LAWS!

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TWEAKING YOUR BY-LAWS

It's time for a by-law health check! How do your by-laws stack up? Do you rely on the model by-laws and little else? Or do you tweak your by-laws to get the most out of them?

In this short article we explain how you can tweak some of the most common by-laws to improve them.

Parking

Every building has a parking by-law. Typically the by-law prevents parking on common property without owners corporation approval.

But tweaking this by-law can improve it substantially. For example, the parking by-law can be tweaked to:

- a) Create specific rules for visitor parking (e.g. introducing time limits and defining who is a visitor)
- b) Require vehicles to be parked wholly within private car spaces so that they do not obstruct common property
- c) Entitle an owners corporation to issue a parking notice to the owner of an illegally parked vehicle and recover the cost of issuing that notice from the owner
- d) Restrict the storage of items in car spaces or require items to be installed in dedicated storage units.

Moving In/Out

Most buildings have a by-law dealing with moving into and out of the building and transporting furniture and other large objects through common property. But the model by-law dealing with this topic is very basic and can be improved by:

- a) Requiring movers to pay a bond before moving in or out
- b) Making movers liable for any damage they or their removalists cause to the common property
- c) Prescribing specific rules for moving in and out (e.g. specifying permitted moving times, identifying areas that cannot be used to move into or out of the building and requiring protective pads and mats to be used in certain areas such as a lift).

Pets

Almost every residential building has a pets by-law. Some pets by-laws ban pets whilst others place restrictions on pets. These by-laws can be tweaked to improve them significantly, for example, by:

- a) Replacing a "no pets" by-law (which is no longer valid) with a by-law restricting pets
- b) Requiring residents who want to keep pets to provide detailed information about those pets and complete a pet application form when applying for permission to keep their pets
- c) Setting out detailed rules that pet owners must follow such as rules requiring pet owners to:



- i. Notify the owners corporation that the animal is kept (or no longer kept) in the building
- ii. Keep the animal inside the lot
- iii. Restrict the right for the animal to be kept in outdoor areas such as on a balcony or courtyard
- iv. Prevent the animal being on common property except when entering or leaving the building
- v. Pay a bond
- vi. Ensure the animal does not cause a nuisance (e.g. no repeated barking or jumping on other residents)
- vii. Accept responsibility for any damage the animal causes
- viii. Indemnify the owners corporation against any claims that arise from the animal (e.g. a claim relating to a personal injury caused by the animal).

Floor Coverings

Most residential buildings will have a by-law in place concerning floor coverings in lots. These by-laws typically require owners to ensure their floor coverings do not transmit noise likely to interfere with the amenity of other residents.

However recent NCAT cases have shown that it can be difficult to prove that this type of by-law has been breached. NCAT has said that providing noise logs and statutory declarations from affected residents is often not sufficient to prove that a floor covering is too noisy.

So, instead, some buildings are tweaking their floor coverings by-laws to introduce specific acoustic ratings that existing or new floor coverings must comply with to make it easier to prove a breach of the by-law. These tweaked by-laws:

- a) Require floor coverings (typically new ones) to achieve a certain star rating under the AAAC Guideline
- b) Require owners to provide acoustic reports before and after installing new floor coverings
- c) Require owners to take remedial steps if their new floor coverings do not comply with the star rating to achieve compliance.

Renovations

The model by-laws do not deal with renovations. But as buildings age, more lots are being renovated.

So many buildings are putting in place master renovations by-laws. These by-laws:

- a) Require owners to obtain owners corporation approval before renovating
- b) Contain comprehensive rules owners must follow before, during and after renovating
- c) Delegate to the strata committee power to approve minor renovations



- d) Expand the list of minor renovations contained in the strata legislation and provide a clear distinction between a minor and a major renovation
- e) Contain a short sample by-law owners can use in the future to seek permission to renovate (to avoid the need for multiple, lengthy renovation by-laws for each renovation)

Conclusion

Most buildings rely on the model by-laws. But the model by-laws are very basic. Yet, with some tweaking, the model by-laws can be significantly improved, as the examples above show.

If you want to tweak your by-laws, get in touch!

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About JS Mueller & Co Lawyers

JS Mueller & Co Lawyers has been servicing the strata industry across metropolitan and regional NSW for over 40 years. We are a specialist firm of strata lawyers with in depth and unmatched experience in, and comprehensive knowledge of all strata law inclusive of by-laws, building defects and levy collections.

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