

Strata Defects

CASE STUDY: Anonymous

Never Stand Still

Built Environment



Water damage to a building

The Case:

The building complex is made up of two strata schemes, with six separate residential buildings including commercial lots. The buildings had significant problems with bursting hot water riser pipes, bathroom leaks, concrete rendering falling off external walls and cracks evident in building steps and flower beds. A defects claim was submitted under the home owners warranty scheme one week before the cut-off period. Some defect issues were not identified in time by the initial building consultant. A second building consultant was tasked with identifying the additional defects in the development and ascertaining which could be tied to the defects originally reported, and therefore covered by the insurance.

Innovation: Managing extensive defects work and restoration with an incomplete initial claim to the insurer.

Challenges

Overcoming these challenges

Time

'To get the building manager, strata manager and committee working together takes a lot of time.'

It took 6 years between lodgement of the claim with the insurer and the insurer agreeing to a settlement on the first building. During this time, the defects caused further deterioration and emergency works were carried out.

The two schemes had separate insurance claims and within each scheme each building was considered separately despite having similar issues. This slowed the process of settling the claim. Each building had to have a separate settlement conference with the insurer and a lot of time was spent with the claim going between the insurer, their lawyers and the lawyer for the strata schemes. By attending the legal conferences themselves, committee members helped to speed up the settlement process using their current knowledge of the state of the buildings, and being in a position to accept terms on the spot.

Scheduling the works was complicated by the final scope being determined only after the builder had already commenced work and completed further invasive investigation. The committee was responsible for working with the builder to finalise a schedule of works that was reliable enough to enable them to give notice to residents on the timings of works and to schedule the relocation of some residents.

Challenges

Overcoming these challenges

Costs

The rectification work was extensive and costly. Initially it involved emergency works paid for by the insurer and subsequently contracts entered into by the owners corporation with the insurer's preferred builder. The owners corporation also had to fix numerous ongoing defects at its own cost while waiting for claims to be settled. Relocated owners paid for their own accommodation and were reimbursed immediately by the owners corporation, who subsequently claimed those costs back from the insurer. There was also a cost to the owners associated with hiring consultants.

In hindsight, members of the committee stressed the importance of having a thorough defects report completed and delivered to the building insurer in a timely manner, otherwise the owners must pay the cost of defects not covered in the claim. A committee member also recommended hiring a specialised strata solicitor to help establish the liability of the insurer and recover expensive out of pocket expenses.

Communication

'People wanted someone to talk to.'

Committee members noted that it is important to get assistance with managing, and communicating with, building professionals. The committee paid a committee member to take the lead in managing both the defects claim and the rectification process.

Hiring a reliable building consultant is essential. Committee members recommended seeking references from other strata committees as well as strata managers and lawyers and interviewing building consultants on their knowledge of, and specific experience with, strata scheme defects. A good building consultant will be receptive to queries and willing to revise their reports if they are unclear.

The two schemes had separate committees to monitor the progress of their claims, but used the same consultants and lawyers. This ensured some coordination and consistency in the way the claims were pursued. A shared newsletter was used to update residents of both schemes on the progress of claims and building works.

The committee worked closely with the builder and remained in constant communication. This was important not only to monitor the technical aspects of the rectification work, but also because the builder's employees were the primary point of contact with residents during the works.

Outcomes to date:

- First block had nearly all claims accepted and rectification work began.
- At the Annual General Meeting, owners demonstrated a high degree of trust in the committee in their management of the defects rectification process.



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