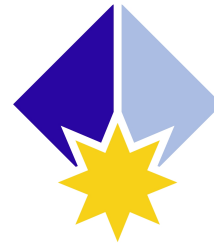


COMMON PROPERTY

Newsletter for professionals in the facilities management sector.



Popped Tiles Revisited



Edition: 10th June 2011

Some time ago, we focused on a case which we referred to as 'Popped Tiles', which is correctly referred to as (*Owners Corporation SP32735 v Lesley-Swan [2009] NSW CTTT 446.*)

Since then, the lot owner in that case has visited our blog to make comments. Mrs Heather Lesley-Swan made comments back in February; She advised that she was seeking damages against the Owners Corporation through the Local Court.

Mrs Lesley-Swan has again visited our blog. She has advised us that the Local Court Magistrate has found in her favour. He found that the Owners Corporation breached section 62 of the Strata Schemes Management Act 1996 (SSMA) by not properly maintaining and repairing the common property. We urge you to look at our blog at <http://leverageaustralia.wordpress.com> to see Mrs. Lesley-Swan's comments.

This is consistent with a case called the (*Owners SP 35042 v Seiwa Australia Pty Limited [2007] NSWCA 272.*) In this case, the Supreme Court indicated that it was a statutory duty to repair and maintain common property. It is not enough to use best endeavours to fix something. The court said that the Owners Corporation must maintain and repair common property. Failure in Seiwa's case to fix a balcony provided sufficient grounds for a lot owner to obtain considerable damages. Obviously, the Magistrate has followed this case and made his decision in favour of Mrs Lesley-Swan.

This is a reminder to all Owners Corporations that if there is a problem with common property, you cannot turn a blind eye or take token steps towards repair. Section 62 obliges repairs and maintenance and does not give any discretion for the Owners Corporation to avoid doing any

CPD

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**Wed 15th June**

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Fri 17th June

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**Fri 17th June**

**Strata**  
**PORT MACQUARIE \$199**

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Monday 20th June

Sales (AM)
Topic: 'Getting the Deal Done!'
OR

Prop Management (PM)
Topic: 'New RTA'
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**Topic: 'Getting the Deal Done!'**  
**OR**

**Prop Management (PM)**  
**Topic: 'New RTA'**  
**RAYMOND TERRACE**  
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work.

Your duty as a strata manager is to ensure that you advise your Owners Corporation and provide them with sufficient information to make an informed choice. A confident strata manager would be advising any Owners Corporation that 'Section 62 of the SSMA obliges them to maintain and repair property'. You should file note this and make certain that it is noted in minutes. If they fail to do any work, it then becomes the Owners Corporation's problem and not the strata manager's.

Cheers,

LEVERAGE AUSTRALIA
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**Bailey Compton and the team
at ACP/Leverage**



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