

COMMON PROPERTY

Newsletter for professionals in the facilities management sector.



Maintenance & Agency Agreements



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We are currently undertaking a case for a strata complex where both a caretaker and a strata manager are engaged by the Owners Corporation. It became quite apparent during this case that the lines between master/servant were blurred. Moreover, it was difficult to identify where the strata manager fitted into the maintenance issue.

As everyone is aware, maintenance and repairs is a function of the Owners Corporation. Section 28 of the Strata Schemes Management Act 1996 (SSMA), permits the Owners Corporation to delegate this function to a licensed strata manager. Furthermore, Section 40B of the SSMA allows the Owners Corporation to appoint a caretaker to undertake maintenance and repairs.

In this Owners Corporation it became difficult to identify who was responsible for the maintenance and repairs. Yes, both parties were answerable to the Executive Committee. On the other hand, where did the licensed Strata Manager fit in to this concept? We know that the caretaker is answerable to the Executive Committee, but is the caretaker answerable to the Strata Manager?

We have not seen any Owners Corporation actually deal with how they're going to manage a complex with a Strata Manager and a Caretaker. It has been suggested that the corporate governance and building management need to be separate tasks when confronted with such a complex. It is not my experience that such technical boundaries have been drawn.

Apart from creating clear boundaries, it is important to note that the Owners Corporation can identify what role the licensed strata manager is to take in maintenance and repairs. In preparing agency agreements, Strata Managers should take care when there is a caretaker appointed to clearly identify what their role is. I.e. what is the role of the licensed Strata Manager? Is it to oversee the caretaker, or is it merely to act as a liaison between the Owners Corporation and the Caretaker.

Strata CPD

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In the current case, the licensed Strata Manager became the target of attack when it was a caretakers responsibility to carry out certain functions. To avoid such attacks, this Strata Manager is changing all his managing agreements where caretakers are involved to ensure that they are merely responsible for liaising with the caretaker.

When confronted with a new management with a caretaker, carefully have a look at your managing agency agreement and clarify what the Owners Corporation wants the licensed Strata Manager to do in relation to the caretaker. Complications always occur where when a contract has no clarity.

**Cheers,  
Bailey Compton  
and the team at ACP/Leverage**

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