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Legal Compliance

Series: Effective Governance for Executive Bodies of Strata Communities

Part 7 of 12: Legal Compliance

The Australian Standard on Compliance (AS3806:2006) defines compliance to mean: Adhering to the requirements of laws, industry and organisational standards and codes, principles of good governance and accepted community and ethical standards.

In the context of a strata community, this means more than meeting the statutory requirements of the legislation governing your strata community – although that is part of strata compliance. The broad spectrum of legal obligations with which a strata community must comply includes these:

- The general common law and statutory obligations of honesty, good faith and duties of care and diligence;
- Special laws and rules about your strata community – the governing legislation including regulations and rules of your strata community; and
- The wider body of statutory laws applicable to all bodies in Australia whether for profit or not for profit such as a strata community.

It is the last category above that is often forgotten or not understood in strata communities.

- These laws include:
- Tax compliance;
- Occupational/workplace health and safety – all common property is a workplace because employees or contractors of the strata community inevitably must enter upon the common property to do work;
- Anti-discrimination laws; and
- Privacy laws.

There is a misconception among committee members of strata communities that they are absolutely immune for personal liability for bad decisions that harm the interest of the strata community. This is wrong on two fronts.

Firstly, they are liable for bad decisions that harm the organisation because they did not exercise care and diligence in reaching a decision.



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Secondly, even if immune personally as a committee member because they did take care and diligence but still got it wrong, the strata community itself has unlimited liability and as member of that body, they will be exposed to their share of the damages (spread among owners according to entitlements set out in the subdivision plan).

In the face of these realities, strata communities need to adopt a compliance culture that goes beyond the specific strata laws applicable to them. This involves starting a conversation about compliance at a broader level. Some good habits in this regard include leaving compliance as a standing item on agendas. Make a simple checklist of the main obligations. Nominate someone on the committee as the owner or leader on compliance issues. Make an annual calendar of compliance obligations.

Next week: Financial Planning and Control



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