



HOW TO LEGALLY RENOVATE A UNIT

When it comes to renovating units, sometimes the “strata monster” can come out to play, and if you don’t know the rules, it can bite you where it hurts the most – your hip pocket.

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TV renovation shows are all the rage these days. With a little bit of this, a sprinkling of that and a whole lot of elbow grease, you’ve suddenly whipped up a flurry of equity. But that’s when renovating goes to plan, of course.

If you’re looking for a starter project, a unit being much smaller in project scope and costs holds less perceived risk, right?

Often investors or renovators forget about the ramifications or restrictions that strata wields over what’s actually yours as the owner (lot property) and what’s not (common property). It’s these strata regulations that’ll be sure to stop any power tools dead in their tracks should blissfully unaware renovators be meddling outside of their legal scope.

■ THE LEGALITIES

Allison Benson, lawyer and director of Kerin Benson Lawyers, says this happens all the time. One recent example involved a couple that had just purchased their apartment specifically to renovate and then rent it out upon completion.

“They were told by their builder that their wall wasn’t a structural wall and it was their lot property,” Benson says.

Eager to get to it, the couple removed the wall and completely gutted the unit in line with their builder’s advice that “it wasn’t common property”. But actually it was. It wasn’t until they mistakenly punched three core holes through the common property floor slab (into the downstairs unit’s bathroom) that the owners corporation clued on to what was going on in their top floor apartment – an unauthorised renovation!

ISTOCKPHOTO

“While they innocently didn’t realise what they were doing was wrong, they accepted responsibility once we told them,” Benson says.

And the result of the couple’s hard-learned lesson? Benson says they ended up having to pay approximately \$25,000 in compensation to the owners corporation for an exclusive-use bylaw to retrospectively authorise the work.

“With the compensation, along with their own legal fees incurred and the fact they had to stop work on the property for five months until they got approval to commence, and lost rental income, I’d hate to think how much money they lost,” she says.

■ THE MORAL OF THE STORY?

Before any renovation work commences, check and understand what you own and what’s common property. This comes back to reading and understanding the strata plan (although Benson points out in the ACT this is referred to as a “unit plan”).

For interstate investors, be aware there are different rules and regulations in each state and territory when it comes to strata.

“So, you’ll have to look at the strata plan and then also look at the legislation. Although, sometimes this isn’t as simple as people think,” she says.

While this may be enough to change your mind on buying that entry-level unit with renovation potential, Benson says understanding what you do and don’t own is the key.

“If you have any confusion reading your strata plan, get legal advice,” she says.

What about asking the strata manager?

“Lots of people say ‘speak to your strata manager’, but there have been quite a few times I’ve been told something is common property and then when I had a look at it, I’ve said ‘no, it’s not’ and vice versa. Despite some really good strata managers out there, there are a lot that really haven’t had a heck of a lot of training quite frankly. And they may not understand it themselves,” Benson says.

“If you think something is common property or you’re unsure if something is your lot property – double check it and get legal advice.”

While this may cost you \$500 or so for a legal professional to have a quick look

at the plans, bylaws and registration, the outlay may save you thousands, if not more, down the track if it ever goes to a dispute.

“I know when you’re renovating you want to try and flip the property as fast as you can, or get tenants as quickly as possible, but it’s worthwhile to spend the money and plan it properly,” Benson says.

■ DUE DILIGENCE CHECKLIST

Australia’s renovating queen and API columnist Cherie Barber says strata can be a prickly issue for many unsuspecting or would-be renovators. When it comes to the management side of things, just like a box of chocolates, you never know what you’re going to get.

“Strata’s like a lottery or like gambling at a casino. Sometimes it really depends on how the strata manager feels on the day,” Barber says.

“One of the due diligence tasks you should look at before buying an apartment is how active the strata body is. Obviously the more active they are, the more they may oppose your ideas or the more difficult it may be to get approval.”

Another box to tick on the strata due diligence list is to check the sinking fund to find out how much is in the piggy bank for external building repairs and the like. Kitchens and bathrooms are typically the first place one would look at when adding value to a property. But these are also the areas where many lot owners get caught out due to uncertainty on where their lot property ends and where common property begins.

Benson says, in most strata schemes you generally only own the air space within your lot, so most reno work will require owners corporation approval.

“This means any plans to strip and re-fit a bathroom will generally affect the scheme’s common property and require permission. If it’s going to affect the waterproof membrane, bathrooms are pretty much always going to be common property. It would be the rare property that this isn’t the case,” Benson says.

And if you’re on the lower levels of an apartment block, forget about taking out walls.

“Obviously the load walls in an apartment are supporting one another and if you take out a wall it can cause

SEVEN STEPS

Allison Benson’s simple seven-step strata plan.

Step 1: Check what you do and do not own (what is and what isn’t lot property). You can do this by looking at your strata plan.

Step 2: Check your existing by-laws. Are there any general conditions for works bylaws?

Step 3: Check with your local council to see if development consent is required.

Step 4: Talk to your immediate neighbours, the executive committee and your strata manager. Run them through your plans.

Step 5: Get a bylaw drawn up by a strata lawyer.

Step 6: Ask the executive committee to call a general meeting for the motion to be voted on if you don’t want to wait for a general meeting to be called.

Step 7: General meeting is held, motion for bylaw is passed (hopefully) and the bylaw registered and the works can commence.

WHAT IS A BYLAW?

Bylaws are the enforceable rules of your strata scheme. When you’re going to do work to affect the common property you’ll need a bylaw. The requirements for works bylaws are changing in NSW but the reforms haven’t yet been passed. Currently you need a special resolution to pass your bylaw motion for most work. Minor work can be conducted after obtaining approval under model bylaw five (if it applies to your scheme). Although Benson points out that bylaws in different jurisdictions are called “rules”.

INVESTOR SNAPSHOT

The strata struggle

Shah Hardik had purchased the perfect two-bedroom, one-bathroom fixer-upper unit in a small complex of 11. Being a deceased estate meant the unit was in rundown condition, but Shah was up for the challenge to renovate and then rent it out. But he was about to learn a tough lesson in dealing with strata.

"With a solid plan in place and instructions from my solicitors, I approached strata with the plan seeking approval for renovation, but things went downhill from there for a good four weeks," Shah recalls.

Some of the major problems included:

- ▶ The shower being in dire condition, the shower tray actually sinking.
- ▶ The water heater in the laundry was hanging loose and could fall anytime.
- ▶ And a rotten swollen front door (or fire door) that wouldn't lock, which also meant security problems.

Given that a few of these areas were to do with common property, and were serious in nature, Shah thought strata management would be prompt with its response and course of action. But after a few knockbacks from the strata manager not taking responsibility to fix the shower tray, which was common property, Shah was left with an unsafe property and couldn't finish his renovation. After follow-up calls and emails, the owners corporation finally agreed to send its own builder to inspect the shower a week later. The builder's report stated it was a safety concern and needed to be fixed. "I was pretty happy at this stage. I thought they'll finally fix it," Shah says.

But Shah was still left chasing up both strata management and the executive committee to approve the repair job.

"To my surprise, at one stage the executive committee and strata manager responded to another issue (the fire door being rotten) suggesting I should live with it in its condition," he says. "My problem now was the uncertainty of when work would commence. My tradesmen were behind schedule and threatening to abandon the project as they had other commitments." Shah used his contacts and reached out



Shah and his wife Palak

to his other investment properties' strata managers for advice. "They told me I was being treated unfairly and recommended I approach Fair Trading for their mediation service," he says. "Surprisingly, that next day the strata manager who'd ignored me for days, responded saying she had approval from the executive committee to proceed with the repair work."

While this strata issue added an additional \$6,000 to Shah's budget and cost an extra two weeks to his renovation timeline – not to mention the stress – had he not been proactive staying in communication, using his networks and getting additional quotes, he thinks it could've been much worse. "If you raise an approval request to renovate part of your property, chances are the genuine problem mightn't be taken seriously. So, the way you present a problem and propose a solution will have huge impact on when and how you'll get a response."

Date	What happened?
June 24, 2015	Purchase property for \$435,000
July 2015	Organise pre settlement access for tradesmen over three weeks
July 22, 2015	Problems raised with strata requesting approval for repair/renovation
August 5, 2015	Final settlement. Reno started for parts of unit that did not involve strata
August 21, 2015	Final approvals from strata received
August 23, 2015	Original target completion date
September 8, 2015	Final completion date for renovation Total cost of renovation \$37,000 (Out of pocket from strata issue alone \$5,000 to \$6,000) Unit valuation on completion \$520,000
September 17, 2105	Front rotten door replaced

structural damage and cracking in the apartments above. As a renovator you're very limited with the changes you can do internally, and there are very limited external changes you can make as a renovator also," Barber says.

Even seasoned renovating pros such as Paul Eslick have been stung by a strata surprise.

"I fell into this trap, too," Eslick says.

When his tenants asked for air-conditioning to be installed Eslick says he jumped at the request.

"They were happy to pay \$15 extra a week, so it's a win/ win," he says.

"But after I did this I got a long letter from the body corporate saying 'please explain. You need permission to do so. And I thought, oh God.'"

Eslick says they eventually allowed the air-conditioning unit to stay.

"But they could've asked me to dismantle and get rid of it. In the end, the only way I beat the body corporate, well, I became the chairman," Eslick says with a laugh.

KNOW THY NUMBERS

"I own units because I built them," Eslick says.

"Units are a good starting off point but if you're going to get into mainstream renovating to make a profit, you have to be very careful of what you do, where you go and how you go about buying your unit.

"Sometimes I'd rather go further out to buy a house on a block of land and own the whole title. You'd be smarter doing that."

The only way to come out on top when it comes to strata and renovation is to understand what you can and can't do, understand your strata plan, and have your budget worked out to the very last decimal spot.

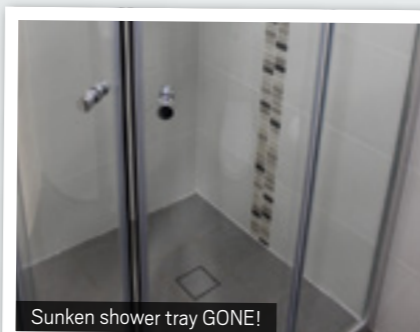
"You have to be very confident with your numbers when you're buying and selling as a renovator because largely, most of the value will be added internally due to limited external works," Barber says.

Barber's tip is when it comes to apartment renovations they're great if you're strategy is to buy/renovate and hold. This will not only add value to your property but if done right, it will also increase your rental yield.

"Apartment renovations can be done quickly and very cost effectively as most of the changes are purely cosmetic." **API**



BEFORE Ugly sunken shower tray



Sunken shower tray GONE!