



# Strata Company Record Inspection Best Practice Guideline

Reference: SCAWA100

This Practice Guideline has been developed for Strata Community Managers by SCA (WA) and Lavan.

# Strata Company Record Inspection

## Chapter One: Right to inspect Records

- 1 A person with a proper interest in information about a strata titles scheme (**Proper Interest Person**) may apply in writing to the strata company, through the strata manager, to request inspection of documents which form part of the records of the strata company (**Records**).
- 2 A person with a proper interest in information is defined under the *Strata Titles Act 1985 (Act)* and the *Strata Titles (General) Regulations 2019 (Regulations)* to mean:
  - 2.1 an owner;
  - 2.2 a buyer who has entered into a contract to buy a lot in that scheme;
  - 2.3 a mortgagee of a lot;
  - 2.4 a person appointed as a guardian or administrator of an owner; or
  - 2.5 if the scheme is also a retirement village, a:
    - 2.5.1 resident; or
    - 2.5.2 person who has entered into a residence contract,as defined under the *Retirement Villages Act 1992*.
- 3 A person authorised in writing by a Proper Interest Person (**Authorised Person**) may also make an application to inspect the Records under section 107 of the Act.

## Chapter Two: Deadline to provide inspection and fees

- 4 Any Proper Interest Person or Authorised Person granted the right to inspect the Records (**Inspecting Party**), can be asked to pay the prescribed fee to the strata company in accordance with the Regulations (**Application Fee**).
- 5 When a strata company receives an inspection request, the strata company has a very limited time to respond to that request (**Deadline**).
- 6 The Deadline for the strata company to provide the inspection of the Records only starts running after the application fee is paid: see regulation 86(2) of the Regulations.
- 7 We recommend that the council of the strata company (**Council**) require each Inspecting Party to pay the Application Fee.
- 8 The Application Fee is:
  - 8.1 \$1 for a Proper Interest Person: regulation 86(1)(b)(i) of the Regulations; and
  - 8.2 \$100 for an Authorised Person: regulation 86(1)(b)(ii) of the Regulations.
- 9 After payment of the Application Fee, the strata company, through its strata manager, should arrange for the Inspecting Party to inspect the Records (**Inspection**):
  - 9.1 on a date and time agreed by the Inspecting Party and the strata company (**Agreed Inspection Date**), noting that:

- 9.1.1 the strata company only has three days after payment of the Application Fee to reach agreement on the Agreed Inspection Date; and
- 9.1.2 the Agreed Inspection Date can be set at any date and time agreed by the Inspecting Party and the strata company; or
- 9.2 within 10 days of payment of the Application Fee and the Inspection must be at a time chosen by the strata company between 9am and 5pm, at location chosen by strata company: section 109(1) of the Act.

## Chapter Three: Right to make copies

- 1 An Inspecting Party may take extracts from or make a copy of the Records, subject to any written requirements imposed by the strata company (**Requirements**): regulation 87 of the Regulations.
- 2 If a strata company does not impose written Requirements on an Inspecting Party, the Inspecting Party could:
  - 2.1 attempt to download the Records via the internet to a cloud storage site; or
  - 2.2 attempt to insert a thumb drive into the strata manager's laptop and potentially introduce a virus onto that laptop.
- 3 It is recommended that a strata company:
  - 3.1 develop Requirements; and
  - 3.2 give those Requirements to any Inspecting Party when they make an application to inspect the strata company Records.
- 4 When drafting the strata company's Requirements consideration should be given to:
  - 4.1 seeking expert legal advice; and
  - 4.2 whether the Requirements are reasonable and do not conflict with the strata company's objectives provided in section 119 of the Act.
- 5 If a strata company gives notice of the Requirements to the Inspecting Party the Inspecting Party must comply with the Requirements if they wish to make copies of the Records: see section 109(4)(a) of the Act and regulation 87(2) of the Regulations.
- 6 An Inspecting Party has an absolute right to take photographs of the Records using their own camera during an Inspection in accordance with section 109(4)(a) and regulation 87(3) of the Regulations.
- 7 The Act and regulations also impose duties on an Inspecting Party, including that the Inspecting Party must not:
  - 7.1 remove any physical material or documents that are part of the Records from the custody of the strata company or its strata manager: section 109(4)(b) of the Act; or
  - 7.2 alter, damage, conceal or destroy any material or entry that is part of the Records: section 109(4)(c) of the Act.
- 8 The Records may be made available for inspection in electronic or hard copy, as decided by the strata company: section 109(3) of the Act.
- 9 Records to which legal professional privilege attaches do not need to be available for Inspection, at the discretion of the strata company: section 111(1) of the Act.

- 10 We recommend that:
- 10.1 the strata manager of the strata company has a dedicated laptop which is only available for use when a person is inspecting Records;
  - 10.2 the dedicated laptop should be set up so that:
    - 10.2.1 no devices can be connected to it, except by way of a password managed by the strata manager; and
    - 10.2.2 the laptop does not connect to the internet, bluetooth or wi-fi hotspots, except by way of a password managed by the strata manager.

- 3.3 then make their own copies of the Records during the Inspection, provided the owner complies with the Requirements whilst making those copies.

**SCA (WA) wish to acknowledge and thank Lavan for their contribution.**

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## Chapter Four: Difference between the strata company giving a copy of the Records and an Inspecting Party making their own copy

- 1 A strata company has discretion to choose whether to provide a copy of the Records to a Proper Interest Person or an Authorised Person: see section 109(5) of the Act.
- 2 In other words, if an owner asks the strata company for a copy of the Records, the strata company can reply:

“No, the strata company declines to provide a copy of the Records requested by you in accordance with its discretion under section 109(5) of the Act.”
- 3 If the owner in this case really wants to get a copy of the Records, the owner can:
  - 3.1 apply for an Inspection;
  - 3.2 pay the Inspection Fee; and

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