

KNOW YOUR LEGAL RIGHTS CONCERNING YOUR LOSSES

As an Individual Unit Owner You have different and separate legal rights to that of the Owners Corporation!

The Owners Corporation cannot claim **Losses** incurred by You as a result of any negligence by the Developers, the Builder and/or Certifier.

Your **Losses**, as either an investor or an owner occupier, may include the following:

- (1) Diminution (decrease) in the market value of your unit;
- (2) Loss of rental income;
- (3) Alternative accommodation costs;
- (4) The costs of relocation (moving and storage);
- (5) Boarding houses for pets; and,
- (6) Any other associated losses (banking late fees or perhaps a lower credit rating for investors).

There has been both a recent NSW Court of Appeal case and also amendments to the *Strata Schemes Management Act 2015* (NSW) that allows individual unit owners like Yourself to bring an action against the Owners Corporation for both Your Losses and Your costs (both legal and expert) in pursuing Your rights via the NSW Courts or the NSW Civil and Administrative Tribunal (NCAT).

Both this recent case and the new legislation makes it clear that it is the Owners Corporation that is responsible for Your Losses, not anyone else.

The Developers, Builder and Certifier (and perhaps any Tradies, Structural Engineer, Architect etc) owe a duty of care and/or the benefit of Statutory Warranties to the Owners Corporation, **that is the Common Property NOT Your property.**

It is the Owners Corporation which then sues the Developers, Builder and Certifier (and anyone else) for the costs of the rectification of the building defects and any other associated losses (such as Your Losses) that have been incurred as a result of the defects at your apartment building.

But You must still file Your own claim against the Owners Corporation in order to recover Your own Losses!

Also, Your Owners Corporation may have the appropriate level of insurance coverage in place to cover Your Losses.

Hence, no one else (including the Owners Corporation) cannot claim any **Losses** incurred by You as a result of any negligence by the Developers, the Builder and/or Certifier.

But You must act soon to preserve Your rights as there are strict time limits within which to sue the Owners Corporation for Your Losses!

If you have any other queries, then please do not hesitate to email Chapman Solicitors: joel@chapmansolicitors.com.au.

We look forward to hearing from you shortly.

Warning: This article is not intended to be comprehensive nor does it constitute actual legal advice. This article is intended only to provide a summary and general overview on matters of interest. We attempt to ensure that the content of this article is current but we do not guarantee its currency. You should seek legal or other professional advice before acting or relying on any of the content of this article.