

*Standing Committee on Public Administration — Thirteenth Report —
“Report in Relation to the Inquiry into Western Australian Strata Managers” — Motion*

Resumed from an earlier stage of the sitting.

Hon KEN BASTON: Just before the break, I touched on four points on the background of the committee inquiry. Then, of course, the committee heard evidence, and basically that evidence was that significant payments were made by a strata manager without the required authority; that there was a failure of some strata managers to account for strata company funds; that there were low levels of engagement in the internal governance of the strata company among lot proprietors; that there were difficulties in finding volunteers to form strata councils; and that there were cases in which the strata manager was required to take an increasing role in the running of the strata company as treasurer and secretary for a council that may not have appointed a chairman.

Currently, strata managers are not defined in the act and are not required to be licensed. For the purposes of this report, a strata manager is defined as a person who, for fee or reward, is engaged to provide management services to a strata company. Matters raised in this report are not intended to be critical of all strata managers, as there are some very good strata managers in Western Australia. But the committee heard many cases of managers who were considered to be a problem and who had not been truthful to their clients. One of the concerns stressed by many was the misappropriation of strata funds, and we heard about the lack of provision of financial information, the resignation of strata managers when confronted with accounting questions, and failures to provide satisfactory accounts for discrepancies in amounts between \$15 000 and \$32 000—quite large amounts. Payments had also been made without authority. We heard about poor financial record keeping, which prevented the tracing of payments, and an inability to trace funds. An amount of \$15 000 had gone missing from a strata company’s sinking fund, funds had been transferred between strata companies, and there had been inadequate accounting for amounts of between \$15 600 and \$31 600. We heard about many more accounting faults. Of course, these things could all be attributed to not having licensed strata managers.

The minister touched on the government response that was tabled in the house, and I would like to touch on the committee’s 11 recommendations. The first recommendation, as touched on by Hon Jim Chown, was that —

... The Committee recommends that strata managers should be regulated by a system of positive licensing. Eligibility requirements for the granting of a license should include at a minimum:

- **Educational qualifications.**
- **Demonstration that the applicant is a fit and proper person to hold a licence.**
- **An indication the applicant has sufficient financial and material resources available to enable them to meet financial and operational requirements.**
- **Current professional indemnity insurance.**

Current professional indemnity insurance is extremely important. The government responded to that recommendation in a positive way. The Minister for Commerce, as he stated on 31 October 2011, put out a consultation regulatory impact statement discussion paper, inviting public comment on whether the state government should introduce a licensing regime for strata managers. I believe this report provides plenty of evidence that that should happen. Of course, one of the difficulties is that there is an intergovernmental agreement with a national licensing system for specified occupations, and the government is precluded from implementing a stand-alone licensing scheme. We cannot just license Western Australian strata managers; we actually have to fall in with the model scheme. That is something that should be considered.

The second recommendation was that —

... The Committee recommends that a transition period should apply to the implementation of the recommended licensing scheme.

In other words, the good managers who are already in the positions should be allowed to continue in their work until they get their qualifications, as happened in Victoria. The government was okay with that recommendation.

Recommendation 3 was that —

... The Committee recommends that a new section be introduced into Part IV of the *Strata Titles Act 1985* providing that:

- **All assets held by strata managers on behalf of strata companies should be deposited in a trust account held by the strata manager ...**

Hon Ed Dermer certainly touched on this; it was very clearly a required change. The government’s response was that it supported the proposal for strata managers to hold moneys in trust, but not necessarily in separate trust

accounts. The reason for supporting separate trust accounts is that automatic audits would be carried out by the bank, and auditing costs a lot of money. Some of these strata managers are very small, and the costs of auditing would be great. We also recommended somewhere that whatever auditing took place did not have to be mandatory every year—instead it should be random—to make it manageable. I think the government's response was positive.

Recommendation 4 was that section 50 of the Strata Titles Act 1985 be amended with regard to proxies. The government supported in principle the recommendation that a proxy be valid for only one meeting, and that proxies were to be reviewed.

Recommendation 5 was that —

... The Committee recommends that Part IV of the *Strata Titles Act 1985* be amended to include a new section requiring a contract appointing a strata manager to be in the prescribed form.

The aim of that recommendation, very quickly, was to define the role of a strata manager—what their functions are and what they should and should not do. The committee travelled to Victoria and found that, over there, commissions are a major part of the income of strata managers—in fact it was 25 per cent, if I remember. Sorry, I was looking at Hon Ed Dermer for a nod of the head, but he was not with us.

Hon Ed Dermer: I wish my memory was better than it is, Hon Ken Baston!

Hon KEN BASTON: I always found it quite hard to believe that they could actually accept commissions on insurance, so if a strata manager is getting a commission, I know which insurance company he will select—it will probably be the one that pays the most dollars.

Point of Order

Hon ED DERMER: Mr Chair, can I call a point of order? I do not wish to interrupt Hon Ken Baston, but with the new standing orders, what is the mechanism by which I can seek an extension of Hon Ken Baston's time?

The CHAIR: There is no capacity to do that, member.

Hon ED DERMER: I see.

The CHAIR: The standing orders in that respect are very explicit.

Hon ED DERMER: So there is no opportunity for me to request such an extension?

The CHAIR: There is no opportunity.

Hon ED DERMER: Thank you.

Hon Simon O'Brien: You could put in another report on the same subject!

Hon ED DERMER: I will knock one up quickly!

Hon Ken Travers: Or Hon Ken Baston could stand and pretend he was someone else and we just will not notice!

Committee Resumed

Hon KEN BASTON: The generosity from the other side of the house overwhelms me, but I will get through it as quickly as I can.

Recommendation 6 was that —

... The Committee recommends that Part IV of the *Strata Titles Act 1985* be amended to include a section providing that, on the appointment of a strata manger, the manager shall provide to the lot proprietors a plain english statement containing the following information:

I have just touched on that.

Most of the recommendations from 7 through to 11 have been accepted by the government, and it is basically waiting to see a model licensing scheme. We need that licensing scheme; it is important, and it will actually help solve many of the problems in the strata business. The strata business is growing rapidly; it is a lifestyle choice that people are making, and as new units go up they are all being strata managed. The report contains a lot of other information, so would all members please read the report.

Question put and passed.