

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

Resumed from 7 March.

*Motion*

**Hon JIM CHOWN:** I move —

That the report be noted.

I am sure that members of this chamber are fully aware that the Standing Committee on Public Administration is made up of a number of Legislative Council luminaries such as the indomitable Hon Max Trenorden, who is chairman, the incorrigible Hon Ken Baston, and, of course, the inscrutable Hon Ed Dermer, Hon Jon Ford and my humble self. It is a committee that endeavours and strives to be in touch with community requirements and on this particular occasion members of the committee became aware not that the strata managers were creating problems, but that people were bringing their issues to members of the committee. Some of the issues included difficulty in establishing how strata levies were being spent, difficulties resolving concerns and disputes among the activities of strata managers, and a lack of regulation of strata managers. With that in mind, through its own motion, the committee commenced an inquiry on 7 November 2009. During the inquiry the committee received 27 submissions from strata title proprietors, strata managers, consultants, private owners and industry bodies, and 17 hearings were conducted.

A bit of background about why this committee believed that this inquiry was to be undertaken is that in 2002 there was \$27 billion worth of property in this state under the strata system; there were 39 000 properties in total. Eight years later in 2010 there was \$96 billion worth of properties under strata title in this state totalling 55 000 strata properties, but individually they totalled 231 088 separate units. The forecast for the next eight years is that there will be a significant increase of 350 000 people involved in individual places under strata title issue; therefore, it is a significant issue. There is only one industry body that represents strata managers and that is the Strata Titles Institute of Western Australia, which has a membership of 142 strata managers. The rest are unknown. There is no log and there is no group of people registering strata managers of any kind. In fact, the Strata Titles Act 1985 is completely silent about the role of strata management; there is no legislation or regulation in regard to their role. That was of great concern to the committee and some of those issues were raised in the hearings. In fact, 11 of the 27 submissions that were received by the committee state that there is a lack of provision for financial information emanating from strata managers. They state that strata managers often resign when confronted with accounting questions. That means that when a strata management company asks its strata manager questions about accounting discrepancies, the strata manager disappears, and there is no legal recourse to get that money back. A number of accounting issues were brought to the attention of the committee, such as payments being made without authority, poor financial records, and an inability to trace funds.

As I said previously, the term “strata manager” is not defined in the Strata Titles Act 1985, and the functions of a strata manager are not set out in the act or any regulation. Mr Craig James, representing the Law Society of Western Australia, summed up the issue. He raised concerns about public misconception about the licensing of strata managers—in fact, there is no licensing. He stated —

*My concern continues to be the same: in this highly regulated society that we live in, the majority of people who engage strata managers to undertake work for them probably assume there is some form of regulation that will look after them if things go wrong.*

That is a false assumption by, at least on the figures that we have received from Landgate, the 231 000 unit holders that exist today.

In effect, an accountant could be caught for embezzlement and be sent to jail, and come out after serving his term in jail and start up as a strata manager, and be in control of millions of dollars of other people’s money and do as he wishes with it. I am not saying, and the committee certainly is not saying, that all strata managers are unscrupulous. In fact, the majority of them are going about their business in an entirely appropriate way. But there are a number of strata managers who are not doing that, and we received submissions to that effect.

Western Australia is way behind the other states in this area. The committee travelled to Victoria to look at its new regulations, which I think were implemented in 2009. Queensland has regulations for strata managers, and so does South Australia; and, if my memory serves me correctly, even the Northern Territory has regulations for strata managers. But Western Australia at this stage does not have any regulations for strata managers. The responsibility for the Strata Titles Act and the Land Administration Act is shared between Landgate and the Department of Commerce. If a person has a dispute with a strata manager, the only recourse for that person under the Strata Titles Act is to take the issue to the State Administrative Tribunal, where it costs a great deal of money to get an issue resolved.

The committee was of the opinion that this is a totally unsatisfactory arrangement for the state of Western Australia. The committee put forward 11 recommendations, and I am sure one of the other members of the committee will be discussing those recommendations, if time will allow. The first recommendation is the most pertinent. It states —

The Committee recommends that strata managers should be regulated by a system of positive licensing.

As I said previously, and as STIWA indicated at one of the hearings, its members are managing strata units or strata entities that range in number from 30 to 300. That means that a strata manager may be looking after 300 properties, with no regulation at all. I will repeat the recommendation —

The Committee recommends that strata managers should be regulated by a system of positive licensing.

The recommendation goes on —

Eligibility requirements for the granting of a licence should include at a minimum:

- Educational qualifications.
- Demonstration that the applicant is a fit and proper person to hold a licence.

That should be mandatory in any licensing arrangement. However, it does not apply to strata managers in this state today. It goes on —

- An indication the applicant has sufficient financial and material resources available to enable them to meet financial and operational requirements.
- Current professional indemnity insurance.

The other 10 recommendations are there for members to peruse.

I might add that when this report was tabled, it became a bestseller out of the papers office.

In fact a number of people in strata buildings actually rang my office and the offices of members of this committee to find out where they could get a copy of this report, such was the interest. I am not sure, but there is a chance that the Legislative Council Procedure Office actually ran out of copies of this report, such was the demand for it.

I am running out of time. This is a very timely inquiry by the Public Administration Committee. I certainly hope that the government takes note of the recommendations and moves us into this century in regard to strata managers, because strata titles are becoming a very popular source of living in this state for obvious reasons. People are working longer and harder. Strata titles are low maintenance, easily transferable, secure and available to the younger generation. They are not less in price than buying a house and a block of land elsewhere.

**Hon ED DERMER:** I am very pleased to join my colleague on the Public Administration Committee Hon Jim Chown in recommending the report to the attention of members. In supporting the question that the report be noted, my colleague referred to each member of the committee. We were also very ably assisted by the staff at the Legislative Council committee office, particularly Christine Kain, who was the advisory officer at the time, and Rachel Wells as the committee clerk. Those ladies consistently performed very important work, essentially making the report and recommendations possible.

I can recollect witnesses who came to see us. I am not saying it is a typical example of a person who owns a strata title, but the witness I most clearly recollect—I cannot remember her name—was an elderly lady whose worldly goods were locked up in her ownership of the strata title. She came to us in desperation because the strata manager of her particular property was not treating her with any respect at all. It was her money, her property and her levies that were notionally contributing to the upkeep of the buildings, and she was unable to receive answers to the most fundamental questions from her strata manager. Like Hon Jim Chown, I expect and hope that strata managers who treat property owners with contempt are in the minority, and I believe that to be the case, but of course it is our responsibility as a Parliament, and the government's responsibility shared with the Parliament, to make sure that the most vulnerable in our community are protected, and quite logically they will need the most protection from the most unscrupulous. When there are irresponsible and unscrupulous strata managers—we heard direct evidence of them—and witnesses like the elderly lady I remember, who felt absolutely powerless to find out about her property and the money that she was contributing to the upkeep of the set of strata properties, something has to be done about it.

The requirement to license strata managers is not a matter for the government to get around to; it is an urgent need. If we look at the recommendation that refers to licensing, which Hon Jim Chown mentioned, the government's response is ambiguous and, I think, disappointing, because it is not clearly saying that it will set up the regime for licensing strata managers. This is not something that the government can get around to in its own sweet time; the need is urgent. The most vulnerable of Western Australians are being exploited. The most

vulnerable of Western Australians are not being able to get answers to questions about their assets, their savings and their property in the way that they definitely have every right to get access to that information. The final paragraph in the government's formal response to recommendation 3 states —

If the Government decides that strata managers should be licensed, the licensing framework is likely to be contained in separate legislation from that of the *Strata Titles Act 1985*.

When I look at these words in response to our—I think—very thoroughly thought-out recommendations and see that they read, “if the government decides that strata managers should be licensed”, I find it very, very disturbing. The need is obvious and the need is urgent. Many people are suffering. Many people are denied basic information about the assets that they have worked hard to earn because a number of strata managers do not respect the people they work for. There is urgent need for that licensing regime to be set up. Obviously, if a strata manager requires a licence to perform a function, the fact that that licence can be removed is enough to instil a greater level of professionalism in the strata manager concerned and to ensure that every strata manager deals with their clients—the people who they represent, who they have a duty to work for and whose interests they should protect—with respect.

I have one other matter that I want to refer to. Recommendation 3 states that “strata managers must open separate trust accounts for each strata company”. This is essential because it will give people clear and direct access to the information in the same way that we obtain information from our own bank accounts. That is a very important reform. The government must take that recommendation with both hands and implement it as soon as possible.

**Progress reported and leave granted to sit again, pursuant to standing orders.**