

BANNERMANS LAWYERS

Timing is everything – Count the days to an AGM or you won't be counting the levies

In the decision [The Owners - Strata Plan No 62022 v Sahade \[2013\] NSWSC 2002](#) the Supreme Court agreed with the Local Court that a levy was not validly raised because the meeting was invalid as the notice period was one day short of what it should have been.

KEY POINTS

Some key points:

- The notice of the AGM resolving the levy was sent by post on 17 January 2012 and the meeting date was 30 January 2012, which when calculated using the relevant postage rule meant the meeting was a day short.
- The owner asserted insufficient notice and the Local Court and the Supreme Court agreed it was up to the owners corporation to prove it had complied with the legislative requirements.
- The owners corporation failed to establish that the required notice was given and is now liable for the owner's costs of the Local and Supreme Court proceedings.

This case has significant ramifications:

- (a) Owners corporations must take care to run their meetings in accordance with the mandatory requirements set out in the Strata Schemes Management Act 2015 (NSW).
- (b) For notice of a general meeting, this normally means that the notice needs to be in the post at least 4 business days before the day which is 8 days before the meeting.
- (c) When an owner asserts that the mandatory meeting procedures were not followed the onus is on the owners corporation to prove the meeting procedures were complied with.
- (d) Failure to comply with mandatory meeting procedures could have serious implications for levies, by-laws, contracts etc.

Prepared by Bannermans Lawyers
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