Hoarders : One Man's Trash is Another Man's Treasure

Dealing with Hoarders

Question: **Why don't other lot owners like hoarders?**

Answer: Typical issues that arise from lot owners who are considered "hoarders" are bad odours emanating from their lot and also issues with cockroaches, rats and mice which arise as a result of the lot being full of the "possessions" of the lot owner. Such lot owners tend to compulsively collect all manner of items and do not dispose of anything. Because there are so many items in their lots this can create fire hazards and make it difficult for firefighters to deal with the fire.

The only way to properly resolve the issue of the odour and vermin is to have the lot owner or alternatively the owners corporation remove the cause of the smell, clean the lot and treat the vermin.

Question: **Can by-laws create rules to prevent hoarding?**

Answer: If the strata scheme has developer by-laws, there may be a by-law that provides a lot owner must keep their lot clean and tidy, and free of vermin. If your strata scheme does not have such a by-law, the owners corporation should make a by-law to this effect.

Question: **What legal action can an owners corporation take against a hoarder lot owner?**

Answer:

Penalties

If a by-law is breached, the owners corporation can issue notices to comply and commence penalty proceedings against the lot owner in the NSW Civil and Administrative Tribunal (NCAT).

Legal Proceedings

The Penalty Application may not resolve the issue. In the event that the penalty application is successful, the lot owner will only be issued with a fine. They may choose not to remove the cause of the odour and the vermin.

The owners corporation can also commence proceedings in NSW Fair Trading and also the NCAT seeking orders that the lot owner comply with any applicable by-law or that the lot owner not to cause a nuisance or hazard to other lot owners under section 153 of the Strata Schemes Management Act (2015).

BANNERMANS LAWYERS

T: (02) 9929 0226 ABN: 61 649 876 437
E: dbannerman@bannermans.com.au W: www.bannermans.com.au
P: PO Box 514 NORTH SYDNEY NSW 2059 AUSTRALIA

Liability limited by a scheme approved under Professional Standards Legislation

© Copyright Bannermans Lawyers 2018.

The hazard may be a health hazard related to the smell, mental stress or diseases from vermin. The hazard may also be a fire hazard. The excessive accumulation of materials in homes may pose a significant threat to firefighters fighting fires and responding to other emergencies in these homes and to residents and neighbours. In June 2018, a man was found dead inside an apartment in Sydney's inner west after a fire erupted. The fire caused a complete roof collapse of the Newtown unit complex at 310 Edgeware Road. His small apartment was described as a "hoarder's home". It was filled with books, furniture and a lot of other materials, which made firefighting efforts extremely difficult.

The orders sought by an owners corporation would seek that the lot owner remove the possessions causing the odour and the vermin, professionally clean the lot and that the lot is treated by a professional to kill the vermin. It would also be prudent to seek an alternate order that the owners corporation be allowed access to remove the possessions, clean the lot, treat the vermin and recover the cost from the lot owner if the lot owner fails to comply.

Question: Can guardianship appointment assist with the removal of rubbish?

As mentioned above, hoarding typically stems from the lot owner having a tendency to hold onto their belongings and not dispose of anything. If the lot owner in question has a guardianship appointment, the appointed guardian may be able to make the decision to clean out the lot for the lot owner as this would be a decision being made with respect to the health of the lot owner.

Key takeaways

- Hoarding can lead to health hazards, including vermin and fire risks.
- Owners corporations can create by-laws to manage hoarding behaviours.
- Legal actions can be taken against hoarders through the NSW Civil and Administrative Tribunal.
- Guardianship appointments may assist in managing hoarding situations.
- Cleaning and removal of possessions may be necessary to ensure safety in strata properties.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

Prepared by Bannermans Lawyers
20 September 2018

BANNERMANS LAWYERS
T: (02) 9929 0226 ABN: 61 649 876 437
E: dbannerman@bannermans.com.au W: www.bannermans.com.au
P: PO Box 514 NORTH SYDNEY NSW 2059 AUSTRALIA

Liability limited by a scheme approved under Professional Standards Legislation

© Copyright Bannermans Lawyers 2018.