

Security Cameras – Who is Watching and Listening to you?

Security cameras in strata schemes are becoming more common. What these cameras can legally record, who retains the footage and who has a right to view the footage are all important issues for owners corporations that already have, or are considering installing security cameras.

Security cameras and recordings (both audio and visual) can create complex issues under differing legislation. To better protect themselves, a scheme should consider obtaining advice about a policy relating to what recordings will be retained and for how long by resolving a by-law governing security cameras.

Audio or visual or both?

A scheme should consider whether cameras record visual images, audio or both. The Surveillance Devices Act 2007 applies different rules to both optical surveillance devices and listening devices. Security cameras that record both vision and audio can mean that a scheme has two different sets of rules to comply with. Audio recording also creates a greater risk of a scheme recording private conversations and breaching the Privacy Act 1988.

Focus on common property and public areas

Security cameras should be installed by owners corporations on the common property and be focused on common property areas for security purposes. Any cameras recording private activities (such as within a lot) and audio recording of conversations between owners or occupiers can be a breach of the Privacy Act 1988.

Recordings can form part of a schemes records

If a strata scheme records and maintains their audio and/or visual recordings, it then forms part of the records of the owners corporation and must be made available for inspection, for example when a lot owner wants to inspect the scheme's records under section 182 of the Strata Schemes Management Act 2015. Under section 182(3) records to be provided for an inspection include "*any other record or document in the custody or under the control of the owners corporation*". A scheme can also consider outsourcing control of security cameras to an external recording and monitoring company and then, depending on the terms of the contract with that monitoring company, recordings may be excluded from forming part of a scheme's records.

Objections to being recorded

People can object to their image being shown or their voice being broadcast to others, for grounds including that the footage is potentially defamatory or misleading and/or taken out of context or that the activity recorded was private.

Under the Workplace Surveillance Act 2005 all employees of an owners corporation must be notified in advance of any audio or visual surveillance.

Recording meetings

If a scheme wishes to record their meetings, they should provide prior notification and seek consent from people who will be attending the meeting. If an owner then wants to view the recording of a meeting, such as under section 182, a scheme should consider whether matters discussed at the meeting might be subject to legal professional privilege before agreeing to any inspection.

Fake security cameras

Installing fake security cameras can create liability issues for a scheme. Not only are dummy security cameras often easily identifiable as fakes but dummy or fake security cameras can create a 'false sense of security'. If an individual relies on the 'security' provided by the (fake) cameras and then suffers loss or damage, they could potentially hold a scheme responsible for their loss suffered.

Interesting things we've seen with security cameras and strata schemes include

- Lot owners attempting to record conversations at owners corporation meetings; and
- Lot owners setting up recording equipment within their own lot to view other owners and occupiers' activities.
- Lot owners concerned about security installing cameras on the exterior wall of their apartment, without owners corporation approval, leading to a dispute and possibly tribunal proceedings. Owners corporation approval is required, as this is an alteration of common property and as, without consent, it would infringe the Surveillance Devices Act 2007.

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