

Report by Emma Strickland – Development Officer

RECOMMENDATION

That Council note the following information to a recent appeal by a strata company to the Local Court for the issue of an infringement for failing to provide an Annual Fire Safety Certificate and endorse the actions of Council Officers in ensuring Fire Safety Certificates continue to be lodged annually.

PURPOSE OF REPORT

To provide advice to Councillors that the Local Court upheld an appeal in relation to the issue of an infringement for failing to provide an Annual Fire Safety Certificate at 28-32 Marlborough Road, Homebush West

REPORT

Council wrote to the Registered Proprietors of SP 5322 on the 17 March 2009 advising that the Annual Fire Safety Statement was overdue and was to be submitted together with the registration fee within fourteen (14) days from the date of the letter. At the time of issuing this correspondence, Council had no record or details of the property strata manager and as such, all correspondence was issued to the strata body.

On the 21 April 2009, a period of thirty five (35) days from the date of issue of the letter, in which time Council had received no correspondence from the property owners or the strata manager, Council issued an infringement to the property owners for not providing an Annual Fire Safety Statement for the year 2007. Subsequently, Council's Development Officer was contacted by telephone on the 4 May 2009 in relation to the property by Shipway Strata identifying that they were the strata managers of the property.

Correspondence was subsequently received on the 5 May 2009 which provided Council with a copy of an Annual Fire Safety Statement dated 18 June 2008 and a request that the fine be waived.

The Annual Fire Safety Statement provided failed to certify all registered essential fire safety measures in the building and the following had not been certified:

- Fire Shutters;
- Lift Landing Doors;
- Warning and Operational Signage.

The Strata Body has responsibilities as the owners representatives for the building which contains an essential fire safety measure to provide Council with an annual fire safety statement for the building and forward a copy of that statement to the NSW Fire Commissioner as detailed in Clause 175 of the Environmental Planning and Assessment Regulation 2000. Furthermore, Clause 65 C of the Strata Schemes Management Act details the responsibilities of the Owners Corporation which the strata manager acts on behalf of. These provisions require that the property owner(s) and/or strata companies (acting on behalf of property owners) are responsible for furnishing Council with an Annual Fire Safety Statement.

In this instance the strata company or property owners did not make Council aware that Shipway Strata were acting on behalf of the property owners of 28-32 Marlborough Road, Homebush West.

Council was challenged on a fine issued to Shipway Strata for failing to provide an Annual Fire Safety Certificate. The matter was presented to the Local Court at Burwood on the 19 August 2009 and the \$2,000 fine was upheld in Council's favour. The Strata Company was ordered to also pay court costs of \$77.00.

The Court's decision highlights the importance of maintaining Annual Fire Safety Certificates throughout the Strathfield local government area. Despite the complaints sometimes received from the occupants of those buildings, Council Officers will continue to pursue the lodgement of Fire Safety Certificates in keeping with all legislative requirements.

REFERRAL FROM OTHER DEPARTMENT

No referral was required.

FINANCIAL IMPLICATIONS

There are no financial implications.

Report approved by:

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Manager Development Assessment	Director Technical Services