We are discovering increased circumstances where buildings are getting old or have been poorly constructed. All lot owners have been burdened with extensive levies to fix the building. There will become a time in every building’s history where, although the building is still shattered, the levied smashed lot owners will not be able to raise any more money.

Let’s look at the law: Section 62 of the Strata Schemes Management Act 1996 states that, the Owners Corporation “must” repair and maintain the common property. Therefore, it is an encumbrance upon every owners corporation to ensure that everything is maintained and repaired. In short, they cannot leave their building shattered. We have discussed this at length in previous newsletters.

What then happens if a lot owner throws their hands up in the air and says simply “I can’t pay anymore”. Well, if the Owners Corporation cannot meet their obligations, an application can be made to the Consumer Traders and Tenancy Tribunal pursuant to Section 162 to have a compulsory appointed strata manager. Unfortunately, this will not assist the lot owners to raise the money they don’t have.

A product is emerging in the market whereby Owners Corporations can obtain strata finance. The difficulties of strata financing is that the Owners Corporation cannot create a mortgage over the common property. Experts are now emerging to provide unsecured loans to strata managers as a means of providing finance to enhance the asset. This appears to be the new mechanism that will need to be put in place for the levied smashed lot owners to comply with their statutory obligations.

If you have a shattered building with smashed lot owners, consider strata finance as an option. A small increase of levies over a long period of time is a better result than having to find large amounts of money on a short term basis.

Cheers, Bailey Compton and the team at ACP/Leverage
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- Motivate and encourage staff

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The best training programs are those that truly align with the business strategy and are championed by an enthusiastic, visible leadership team!...B. Compton