

The Majority of Victorian Owners Corporations do not meet National Asbestos requirements...

Recent research has shown that a large majority of Victorian strata buildings built before 1990 are currently without an onsite Asbestos Containing Materials (ACM) register - leaving individual managers and Owners Corporations at risk of \$10,000+ and \$56,000+ fines respectively.

The National Occupational Health and Safety Commission (NOHSC) Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)] requires all managers of residential, commercial and industrial buildings that operate as a workplace to hold an asbestos register onsite.

Supporting this Code of Practice is the Victorian Occupational Health and Safety Regulation which came into effect on the 1st July 2007. It states in Subdivision 2, Part 4.3.20 (1) that "A person who manages or controls a workplace must, so far as is reasonably practical, identify all asbestos present that is under the person's management or control" and in Part 4.3.21 (1) "A person who manages or controls a workplace must record in an asbestos register".

Which buildings does this requirement apply to?

This requirement under the Code of Practice applies to all buildings that were built under an approval given by a local government before 1990 (including many buildings built in 1991 and some in 1992).

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Massive Increases in Commodity Prices Threaten the Validity of Insurance Valuations...

In the past year building construction prices have increased dramatically as a result of a massive escalation in the cost of commodities combined with an ever present trade skills shortage. Due to these uncertain economic times Owners Corporation Managers could be looking at a portfolio of buildings underinsured by anything from \$50,000 to \$50,000,000.

What has changed since my last Insurance Valuation?

The Cost of Commodities

At the end of last quarter Rio Tinto announced that the price of iron ore had doubled; which is expected to result in rises to the cost of steel from China. This, coupled with the fast rising prices of copper, aluminium, plastics and cement, has resulted in construction costs increasing substantially Australia wide. And who could forget oil prices! Since doubling in the last year oil has affected everything construction; from the movement of materials to the production of plastics.

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Owners of buildings must comply.

According to the NOHSC Code of Practice and the Victorian Occupational Health and Safety Regulations, a person with control of a premises used as a workplace must ensure that all Asbestos and Asbestos Containing Material in their workplaces are identified. As a workplace means "any place where a person works", whether or not for reward or recognition, the common property of strata title buildings is generally classified as a workplace.

Owners Corporation Managers are caught under the definition of a 'person with control' and therefore need to ensure their obligations are met.

Under the NOHSC Code of Practice, a person with control is defined as 'a person who has control of the premises used as a workplace' or 'a person who is able to make decisions about work undertaken at the premises'. If managers do not meet their Asbestos management obligations it may expose both the Manager and the Owners Corporation to potential liability.

Do the internal areas of residential units have to be inspected for Asbestos?

No. This is the owner's responsibility and the internal areas of residential dwellings are not required to be on the common property's Asbestos Register.

What are the legal risks?

There are two major concerns from an Owners Corporation's point of view. The first is that there are heavy fines for not complying with the requirements for asbestos management. Under the Occupational Health and Safety Act 2007 the maximum penalty for an individual is \$11,342 and for a corporation, \$56,710.

The second risk is the exposure to civil litigation and large claims from people who have contracted asbestosis, mesothelioma or some other life threatening illness as a result of residing in or visiting a building with an asbestos problem which has not been properly managed. A claim of this nature could result in an award of damages in the hundreds of thousands, if not millions, of dollars. This is a serious problem given that the large majority of insurance companies now exclude claims related to asbestos.

For an Owners Corporation to have any chance of defending itself from such a claim it would need to show that it had properly identified, managed and - where necessary - eliminated the risks associated with asbestos.

For a manager to avoid liability or defend themselves (if joined as a defendant to any civil claim), he or she would need to show that they had highlighted the asbestos risk to the Owners Corporation and recommended that they take the appropriate steps to identify, manage and - where necessary - eliminate the risk.

Example of a recent asbestos court case

Thousands of home and unit dwellers and owners could have an avenue to litigate after a landmark legal ruling in favour of a South Australian woman dying from an asbestos-related disease.

Helene Edwards, 57, was awarded \$803,403 by the Dust Disease Tribunal of New South Wales. She was exposed to asbestos while installing fibro sheeting in her home more than twenty years ago. Mrs Edwards, a mother of three, has been diagnosed with mesothelioma; a malignant tumour in the lungs. She was told in 2000 that she had only a year or two to live.

Damages included \$175,000 for pain and suffering and the payout was the largest award of its type for a victim of mesothelioma.

Tanya Segelov, Mrs Edwards' solicitor, stated that research shows Australia had used more asbestos per person than any other nation in the world. One in three dwellings and buildings built before 1982 contained asbestos in wall/ceiling insulation, vinyl tiles and fibro-cement sheeting. Ms Segelov said Mrs Edwards' case opened the way for legal action by other home renovators suffering from asbestos-related diseases caused by exposure to the deadly fibres in their homes.

What can I do to ensure my common property is sound for contractors and employees?

Both state and national requirements specify that workplaces need to have an onsite asbestos register that includes identification of the asbestos, analysis results, locations of asbestos, dates of inspections, details of materials presumed to contain asbestos and inaccessible areas that may contain asbestos.

This register is then available for viewing by;

- Workers and their representatives
- Any other employers within the premises
- Any person removing ACM
- Any person engaged to perform work that may disturb ACM
- Any other person who might be exposed

Getting up to date with your ACM requirements is easy and will save you time and money in the future.

Solutions ie employ experienced inspectors who can come to your property, inspect it for ACM and provide you with a thorough risk analysis and Asbestos Register.

Contact us today on 1300 136 036 for an obligation free quote.

Massive Increases in Commodity Prices Threaten the Validity of Insurance Valuations...

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Trade Skills Shortage

Despite the increases in construction costs and the slowing building activity (New South Wales building activity dropped 6.9% in the March 2008 quarter) the trades industry still remains under the pump with regard to the skills shortage. The demand for trades continues to outrun supply, as can be seen in the table below which shows the consistent shortage of trades people Australia wide over the past four years.

	Mar'05	Mar'06	Mar'07	Mar'08
Bricklaying	-0.60	-0.26	0.00	-0.27
Carpentry	-0.49	-0.49	-0.30	-0.46
Ceramic Tiling	-0.40	-0.29	-0.36	-0.43
Electrical	-0.38	-0.50	-0.70	-0.25
General Building	-0.48	-0.37	-0.54	-0.44
Joinery	-0.34	-0.63	-0.32	-0.44
Landscaping	-0.30	-0.31	0.00	-0.50
Other Trades	-0.35	-0.42	-0.20	-0.44
Painting	-0.24	-0.24	-0.47	-0.62
Plastering	-0.33	-0.24	-0.29	-0.56
Plumbing	-0.32	-0.42	-0.80	-0.50
Roofing	0.33	-0.10	-0.33	-1.00
Site Preparation	-0.50	-0.38	-0.75	-0.57
All Trades	-0.40	-0.43	-0.41	-0.46

* Note: Critical Short Supply is between -2 and -1, Moderate Short Supply is between -1 and 0, In Balance = 0, Moderate Oversupply is between 0 and 1, and Massive Oversupply is between 1 and 2.

Natural Disaster Risk

Apart from this an Owners Corporation also needs to look at whether their current valuation would cover the building adequately in the case of a natural disaster. In the event of a cyclone or bushfire, building costs could increase by anything up to 30%.

So how does this affect my insurance valuations?

Some Owners Corporations don't think that being underinsured by a small figure will have that much of an effect on their insurance payouts; but the averaging clause in insurance policies means that insurance claims get paid in proportion to the insured replacement value against the actual replacement cost of the entire building.

For example;

Say one of the buildings you manage was insured for \$2,000,000 but in the event of a total replacement it would cost \$3,000,000 to re-build. Due to the averaging clause you would only receive a payout two-thirds of any claim. So even if the claim was under \$2,000,000; say \$100,000 for flood damage, you would only receive a payout of \$66,666. For an Owners Corporation to have to pay the remaining costs of \$33,334 would be a second blow to owners who may have already had to replace their personal belongings in a disaster.

It is essential that Insurance Valuations are constantly updated to ensure that these shortfalls do not eventuate. The Owners Corporation Act 1996 requires a valuation to be performed every 5 years. It is widely recommended that they are updated more frequently – at least every 2-3 years if not annually - as even a 5% change in construction costs can have massive financial implications if a total building loss was to occur.

Summary

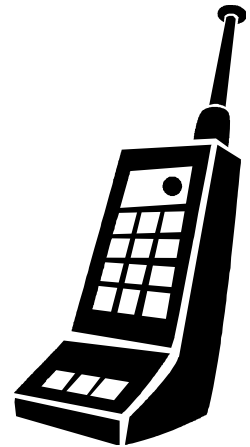
The economy is constantly changing and construction costs are increasing at a rate above that of inflation. By keeping up to date with Insurance Valuations an Owners Corporation can feel secure that they are less likely to be under insured and if a disaster was to occur they would be adequately covered.

What to do with that old phone??

Have you recently bought a flash-bang new mobile and not sure what to do with your old Nokia?

It has been estimated that if 100 million dead mobile phones were recycled we could save enough energy to power more than 194,000 households with electricity for one year.

Recycling can help the environment by keeping usable and valuable materials out of landfills and incinerators. Mobile phones are made of precious metals, copper and plastics, which require energy to mine and manufacture. Recycling these materials not only conserves resources, but reduces air and water pollution and greenhouse gas emissions.



To find your closest used mobile phone drop-off location please visit

<http://www.mobilemuster.com.au/recycle.aspx>

HUMOUR

MURPHY HAS A HAND IN THESE!

Law of Mechanical Repair

After your hands become coated with grease, your nose will begin to itch.

Law of the Workshop

Any tool, when dropped, will roll to the least accessible corner.

Law of Probability

The probability of being watched is directly proportional to the stupidity of your act.

Law of the Telephone

If you dial a wrong number, you never get a busy signal.

Law of the Alibi

If you tell the boss you were late for work because you had a flat tyre, the very next morning you will have a flat tyre.

Variation Law

If you change lines in grocery store (or traffic lanes), the one you were in will start to move faster than the one you are in now (works every time).

Law of the Bath

When the body is fully immersed in water, the telephone rings.

Law of Close Encounters

The probability of meeting someone you know increases dramatically when you are with someone you don't want to be seen with.

Law of the Result

When you try to prove to someone that a machine won't work, it will.

Law of Biomechanics

The severity of the itch is inversely proportional to the reach.

Law of the Theatre

At any event, the people whose seats are furthest from the aisle arrive last.

Law of Coffee

As soon as you sit down to a cup of hot coffee, your boss will ask you to do something which will last until the coffee is cold.

Murphy's Law of Lockers

If there are only two people in a locker room, they will have adjacent lockers.

Law of Rugs/Carpets

The chances of an open-faced jam sandwich landing face down on a floor covering are directly correlated to the newness and cost of the carpet/rug.

Law of Location

No matter where you go, there you are.

Law of Logical Argument

Anything is possible if you don't know what you are talking about.

Brown's Law

If the shoe fits, it's ugly.

Wilson's Law

As soon as you find a product that you really like, they will stop making it. (this one is true every time!)

Doctors' Law

If you don't feel well, make an appointment to go to the doctor, by the time you get there you'll feel better. Don't make an appointment and you'll stay sick.



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