



JS MUELLER & CO
LAWYERS



CAN CLEANERS AND TRADIES WORK ON COMMON PROPERTY UNDER THE LATEST PUBLIC HEALTH ORDER?

Adrian Mueller
Partner | Senior Lawyer
B.Com LLB FACCAL
[Email](#) | [LinkedIn](#)

CAN CLEANERS AND TRADIES WORK ON COMMON PROPERTY UNDER THE LATEST PUBLIC HEALTH ORDER?

Introduction

1. Are cleaning and maintenance contractors engaged by an owners corporation entitled to carry out work on the common property of a strata building in Sydney under the latest version of the *Public Health (Covid-19 Temporary Movement and Gathering Restrictions) Order 2021* which commenced on 19 July 2021 (**Public Health Order**)?

Executive Summary

2. Cleaning and maintenance contractors are not entitled to carry out work in a residential strata building in Sydney unless that work is urgently required:
 - (a) to ensure the health, safety or security of the residential strata building; or
 - (b) because of an emergency.

Analysis

3. Clause 22A of the Public Health Order places restrictions on the right of a person to visit a place of residence in Greater Sydney.
4. Clause 22A(2) says that a person must not visit a place of residence in Greater Sydney unless a person is authorised to do so.
5. Clause 22A(4) provides that a person is authorised to visit a place of residence in Greater Sydney to engage in work.
6. However, clause 22A(4A) says that a person is not authorised to visit a place of residence in Greater Sydney to engage in work that is cleaning or carrying out repairs, maintenance, alterations or other trades at the place of residence.
7. Clause 22A(4B) provides an exemption to that restriction by stating that the restriction does not apply if the work is urgently required:
 - (a) to ensure the health, safety or security of the place of residence or the members of the household in that place of residence; or
 - (b) because of an emergency.
8. Clause 3(1) defines a “place of residence” to include the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.
9. This means that a “place of residence” extends to include common property in a residential strata building including the garden, passageways and stairs.

Conclusion

10. Therefore the Public Health Order means that cleaning and maintenance contractors engaged by an owners corporation of a residential strata building in Sydney cannot carry out any work on the common property whilst the Public Health Order (in its existing form) remains in force, unless that work is urgently required:
 - (a) to ensure the health, safety or security of the residential strata building or its residents; or
 - (b) because of an emergency.
11. This means that there is very limited scope for clearing and maintenance contractors engaged by a residential owners corporation to do work on the common property whilst the Public Health Order remains in force.
12. The Public Health Order contains an example of the type of work that can still be carried out on the common property of residential premises namely waste disposal work. Presumably, this example is given because waste disposal work is work urgently required to ensure the health of residents in a place of residence.
13. But that does not mean a cleaning contractor, gardener or pool maintenance contractor, who periodically attends a strata building to carry out cleaning and maintenance are entitled to continue to perform routine cleaning and maintenance on the common property whilst the Public Health Order remains in place.
14. The terms of the Public Health Order are likely to change in the coming weeks and you should monitor Government announcements in that regard and consult with us for further advice when necessary.

Adrian Mueller
Partner | B.Com LLB FACCAL
adrianmueller@muellers.com.au

About JS Mueller & Co Lawyers

JS Mueller & Co Lawyers has been servicing the strata industry across metropolitan and regional NSW for over 40 years. We are a specialist firm of strata lawyers with in depth and unmatched experience in, and comprehensive knowledge of all strata law inclusive of by-laws, building defects and levy collections.

02 9562 1266
enquiries@muellers.com.au
www.muellers.com.au



Disclaimer: The information contained in this newsletter is provided for your personal information only. It is not meant to be legal or professional advice nor should it be used as a substitute for such advice. You should seek legal advice for your specific circumstances before relying on any information herein. Contact JS Mueller & Co Lawyers for any required legal assistance.
