

21 September 2011

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Sir

**Re : Body Corporate and Community Management and  
Other Legislation Amendment Bill 2012**

We make this submission to the committee in relation to the above Bill.

### **Background**

In 2002, as part of our superannuation, my wife & I conducted our due diligence and we bought a small one bedroom apartment in Brisbane city. We conducted our property & body corp searches (as recommended by the government at the time) and we found out we were obliged to pay 1.21% of the levies. We settled the purchase.

We then started paying about \$5,000 per year in body corporate levies.

In 2009, following the 2004 "Centrepont" case, one of the lotowners in our apartment block applied to QCAT and was successful in having the levies adjusted to being broadly equal for all lotowners regardless of their value, view or size (Note : Some units are over 5 times the size of our unit). This had the effect of increasing the levies for the lower floors and decreasing the levies for the higher floors. This increased our levies to over \$9,000 per year or 2.095% of total levies.

This was a 76% increase in our levy percentage.

What did we do wrong ? Nothing.

Were we remiss in our due diligence prior to purchasing ? No.

Were we seeking to change the rules post-event ? No.

The "2011 reversion" adopted by the Labor government meant our levies went back to the 1.21% which they were when we conducted our due diligence when we originally bought our unit. We were happy that sense seemed to prevail.

We now find that the new state government has proposed new legislation which will undo the "2011 Reversion", increasing our levies by 76% again. Another \$4,000 per annum increase.

We are not wealthy people and we will rely on the value of the apartment as our superannuation "nestegg". As acknowledged in the Explanatory Notes to the Bill, the effect of this legislation will decrease the value of units like ours. Our real estate agent estimates perhaps a \$50,000 drop in value .....

### **Our Argument**

We hope this letter helps to add additional weight to the arguments that :

- Owners who purchased units in the past knew about the lot entitlements at the time of purchase and factored this into their budgets. We certainly did, and this was an important

consideration in our evaluation of the “asking” purchase price and the ongoing cost of ownership.

- To change lot entitlements retrospectively is against the “fairness” test, and is against the generally accepted policy in place in all governments in Australia.
- No other state government has body corporate levies in alignment with the proposed model

### **Possible Solutions**

If the government is serious about resolving this matter to the satisfaction of all, the alternatives are:

- To abolish the Bill
- Should the government wish to allow any changes to existing lot entitlements already established, then 100% of the holders of lot entitlements should be in agreement.
- For future registration of new lot entitlements for new unit blocks, then the “fairness” test should be applied – Not retrospectively.
- The factors to be considered by any Adjudicator / QCAT in the reassessment of the contribution schedule should be broadened to include the following “relevant factors” for consideration :
  - Values of the units in a body corporate (the “market value” principle)
  - Square metreage of a unit
  - Number of bedrooms in the unit
  - Height of a unit in a building
- Should any lotowner wish to reverse the “2011 Reversion” of the contribution schedule, and another lotowner (Lotowner 2) object, then the Body Cop should pay the costs for the submission by “Lotowner 2” to the QCAT / Adjudicator.

Yours faithfully



Stephen & Dorothea Baker