

21st September, 2012.

The Research Director,
Legal Affairs and Community Safety Committee,
Parliament House,
George Street,
Brisbane,
Queensland, 4000.

Dear Sir,

SUBMISSION
Body Corporate and Community Management and Other Legislation
Amendment Bill 2012.

My submission is **in support of the Amendment Bill** for two reasons :-

- A. it corrects the injustice that allows generally, for lot contribution levies to be set at a higher rate for those owning lots at higher levels,
- B. it allows for the correction of specific anomalies that can arise in certain complexes.

In regard to A, I submit that those people living outside of Community Title Schemes pay for services such as cleaning, gardening and general maintenance at identical rates. It is unjust that they should be compelled to pay for identical services at different rates just because they live in a Community Title Scheme complex. The lot contribution settings should not be set on the basis of a perceived and certainly not always correct, ability to pay. That is the province of taxing authorities and the body corporate is certainly not that.

I wish to stress that just because the Tribunal has agreed to settings on an "equal" basis, does NOT mean that all apartments have identical lot contributions. Through an exacting process every lot is rated according to the actual estimated expenses incurred in respect of each. For example, in my complex, the Tribunal settings for some lots are as high as 28.8% above others - yet they are equitable.

In regard to B, I submit that within complexes there can be specific anomalies that are unjust. The complex, where I own an apartment, was a staged development. Following completion of stage one, it was decided to vary the plan for the remainder of the project, necessitating a change to the Lot Contribution Schedule.

The result is that contributions for identical apartments in stage two were rated at between 1.6% and 9.2 % higher than those in stage one. Further, there are anomalies between identical apartments in adjacent floors too. In the most glaring instance one owner has a lot contribution set at 25.7% higher than for an identical apartment immediately above.

The Bill allows for the correction of those anomalies back to the Tribunal settings which were precisely set to make them fair for all. I support the Bill.

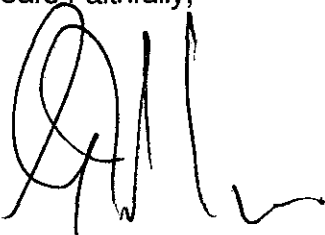
However, I do have sympathy for those lot owners who wish to rely on the developer settings. They have every right to feel aggrieved should the Bill be enacted. Their anger should be directed to the developer, who took advantage of law, that allowed for the setting on inequitable contributions for the sole purpose of assisting a sales program. They will contend that owners of higher rated lots were prepared to accept the settings and should live with them. There is merit in this, but we had no option if we wanted to purchase such a unit and it does not mean we agreed with the way the lot contributions were set.

It is vital that all future lot contribution settings be done on the just principle of "equal". There can then never be any argument about the unfairness of settings as they have been precisely set to reflect the real cost of corporate body expenses that apply to every lot. In doing that, it would be unfair for a certain section of previous lot owners to be forever denied that justice. Developer settings must not be allowed to apply to some and not to others. It is regrettable that in that process there will be losers, but there is no other way.

I do have one suggestion and it relates to the times set down within which the various tasks are to be completed to revert lot contributions to Tribunal settings. They would seem to be unnecessarily lengthy. The tasks are neither onerous nor time consuming and the fact that similar tasks would have only recently been carried out means that corporate body committees and lot owners are au fait with what is required. I notice too that certain activities, whilst having to commence within a certain period, are not required to be completed within any time frame. I think precise periods should be set to avoid the possibility of intentional delay of the process.

The Amending Act serves a worthy purpose ensuring, hopefully for all time, that those who own property within a Community Title Scheme will each pay their just share of the expenses relating to the maintainance of common property and the services provided to residents. I trust the Bill will have a speedy passage.

Yours Faithfully,

A handwritten signature in black ink, appearing to be 'G.J. Muller', written in a cursive style.

G.J. Muller.