

Mrs Marilyn Davis  
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Mr Ray Hopper MP  
Chair  
The Legal Affairs and Community Safety Committee  
Parliament House  
Brisbane Qld 4000

4 October, 2012

Dear Sir,

**RE: Body Corporate and community Management and Other Legislation Amendment Bill 2012**

I wish to make a submission in support of the above Bill.

In 2010 I engaged a Quantity Surveyor to prepare a report required by QCAT to change the way in which the lot entitlement contributions for our apartment block, The Docks, 39 Cairns Street, Kangaroo Point, were distributed. I outlayed more than \$4000 in order to do this under the then existing law. QCAT ruled in my favour and in 2011 our lot entitlement contribution schedule was changed so that it reflected a more equitable arrangement. To my dismay, this bill was changed very soon after and this equitable arrangement was reversed on the request of just one apartment owner who had to incur neither cost nor consultation.

My husband and I are of retiring age and own a three bedroom apartment. As a result of this reversal we now pay more than \$2000 extra per year per annum in Body Corporate fees than the owners of the two bedroom apartments in order to enjoy the same common area facilities. Extra costs also flow onto our water and rates charges as they are apportioned to the number of lot entitlements in our community management scheme. We were planning on being self-funded retirees but this extra impost on our financial resources will unfortunately impact severely on that decision.

This new legislation will not only return our body corporate fee structure to the more equitable distribution as deemed by QCAT but it will ease the financial pressure of the extra expenses we now unfairly endure.

The reinstatement of the last Adjustment Order is therefore imperative because:

- The 2011 reversion process was particularly flawed.
- It was quite ridiculous to allow one single owner the ability to effectively overturn a lawful order of an independent court, tribunal or specialist adjudicator, namely, QCAT, which deemed the previous contribution lot entitlements to be unfair and iniquitous.

It is pleasing to see the Bill rightly addresses this issue by:

- Removing the ability of a single lot owner to compel the body corporate to undertake the reversion process.
- Providing a process for previous adjustment orders to be reinstated (subject to any necessary modifications).

I would also like to suggest the following amendments re Reinstatement time periods.

Under the current timeframes as contained within the Bill a body corporate committee that is adverse to reinstating a previous adjustment order may delay the reinstatement of the previous adjustment order by up to six months.

#### **SECTION 403(3)**

- The time period for which a committee must give written notice to each Lot owner upon receipt of a request from a Lot owner under Section 403(2) is too lengthy.

**It is submitted that a 30 day period is sufficient, particularly given the further timeframes entitled for submissions, the committees decision making, and the lodgment of a new CMS.**

#### **SECTION 403(4)**

- Whilst the submission period must be for a period of at least 28 days, there is no maximum submission period timeframe to be applied.
- Committees that are adverse to the reinstatement of previous adjustment orders have the opportunity to submit inordinate submission periods in order to further delay the reinstatement of the previous adjustment order

**It is submitted that a maximum timeframe of say 45 days should be included within the provisions as to prevent a committee from unduly delaying the reinstatement of a previous adjustment order.**

#### **SECTION 404 (2)**

- The Bill provides no timeframe in which a committee must decide what modification, if any, is required to be made under subdivision (3) to the last adjustment order entitlements for a scheme.
- A committee that is adverse to the reinstatement of a previous adjustment order may intentionally delay this decision making process, as no timeframe is applied.

**It is submitted that the decision of the committee ought to be made within a fixed time period, and it is in this respect that it is submitted that a period of 14 days ought to be applied to the provisions of Section 404(2)**

#### **SECTION 404 (4)**

- **It is submitted that the period of 90 days in which a body corporate is to lodge a request to record a new community management statement (after the committee makes its decision) is too lengthy.**
- Body Corporate committees that are adverse to the reinstatement of previous adjustment orders will take advantage of this timeframe and delay the lodgment of the new community management statement is sufficient.
- **It is submitted that a 60 day time period in which the committee is to lodge a new community management statement is sufficient.**

There is an absolute need for this Bill and I thank the Government for its introduction (including possible amendments). It is very welcomed and appropriate and will certainly go a long way to righting the injustice of the law being changed in 2011.

I look forward to this Legislation being formally enacted in the first sitting in Parliament in 2013.

Thank you for considering my submission on this very important matter.

Yours sincerely

Marilyn Davis