Body Corporate & Community Management & Other Legislation Amendment Bill 2012 Submission 063

[redacted]

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Phone [redacted]

Submission by R.V. and A.M. Hanson re the Body Corporate and Community Management and Other Legislation Amendment Bill 2012

1. My wife and I own a unit in a high-rise at Surfers Paradise, being lot [redacted] in Peninsula CTS 9865, a 246 unit, 46 storey building on the corner of the Esplanade and Clifford Street. It is a building format plan which utilizes the Standard Module. We bought in 1990. Our unit is on the [redacted].
2. We support the Bill for the reasons following.
3. Peninsula is in the heart of Surfers Paradise and is owned and used by three categories of owners - those who live permanently in the building, those who are investors and let their units, and those who do not let, nor live in, but visit their unit periodically, using it as a holiday unit. We are in the latter category.
4. Of the 246 lots, the number owned by investors who let on a regular basis varies from about 80 to about 110. I am not aware of the split up of the other numbers.
5. For many years contribution lot entitlements were unequal, and substantially so. The total of all contribution lot entitlements was 58,607, ranging from 650 for the two penthouses to 152 for a unit on the first floor. Ours was 270.
6. A few years ago, on the application of two owners, Mr K Dorney Q.C., sitting as a member of the Commercial and Consumer Tribunal, ordered that the contribution lot entitlement schedule be changed so that entitlements were, as near as the dictates of justice and equity required, equal (section 46 of the Act). He ordered that the total of all contribution lot entitlements be 99,989 and assigned a number to each lot ranging from

722 for one of the penthouses to 384 for a number of units on the lower floors. Ours became 400. The disparity caters for factors such as a larger unit should pay a larger share of expenses such as painting the building and maintenance of windows and balustrades.

7. Then came the amendments enabling an owner to undo an equalization order and have the contributions revert to the previous unequal proportions. This happened at Peninsula and we are now back to 58,607 portions divided most inequitably.
8. The injustice and inequity of the situation can be demonstrated by reference to a few figures, comparing the share of the operating costs borne by us (lot [redacted]) with those paid by lot 5, an identical unit with the same size, same floor plan and same aspect as ours, except it is on the first floor while ours is on the [redacted].
9. The current budget adopted at the AGM last February was for $1,830,665 (after discount) for the combined administrative fund and sinking fund. **Our share of that cost would be $8,433** being the $1,830,665 divided by 58,607 and multiplied by 270. **Lot 5's share of the annual cost would be $6,465** being the $1,830,665 divided by 58,607 and multiplied by 207.
10. Why should we contribute $1,968 more to annual expenses such as maintaining the pools, tennis courts and garden than an identical unit? We, of course, have a better view on the [redacted] floor than the unit on the first floor, and, therefore, a higher value in the market place, but the value of a unit is dealt with in the **interest** lot entitlement, which is a reflection of relative values, and so strikes the proportions in which the body corporate assets are distributed upon termination of the scheme - section 47 of the Act. Disparity in values is reflected in the fact that the cost of the insurance premium for common property is levied according to the **interest** lot entitlement, not the **contribution** lot entitlement - section 182 of the Regulation (Standard Module). Because we have a higher value is no reason for imposing on us a higher share of the operating costs, most of

which are independent of lot size, floor level, aspect or value. The scheme of the legislation is that operating costs other than insurance are to be shared equally (unless there is good reason to the contrary), and insurance costs are to be shared according to relative values of the lots.

11. An equitable division of costs resulted from the order by Mr Dorney Q.C. as follows. **Our share of the $1,830,665 budget - $7,321; lot 5's share - $7,303.** But, as mentioned above, this no longer applies.

12. To us the most galling aspect of the unequal distribution of expenses lies in the fact that the letting units tend to be on the lower floors resulting in their share of expenses being less than a unit such as ours. **This means that we are subsidizing the business expenses of investors who let their units for profit. Likewise with the lower units used as a holiday home by absent owners, we are subsidizing the operating costs of their holiday homes.** Again, a few figures demonstrate the point.

13. A unit on the first floor, lot 7, would pay $4,747 of the $1,830,665 budget, while we pay $8,433. If lot 7 was let, we are **subsidizing this owner's (and other letting owners') business expenses,** expenses which are tax deductible anyway. The situation is made more irksome by the fact that the tenants of the letting units cause more wear and tear, more cleaning expenses and more general operating expenses such as water and electricity than units not let.

14. These inequities should be removed by reverting to the proportions struck by Mr Dorney Q.C. in his detailed, considered decision.

15. We support the Bill for the above reasons.

R.V. Hanson

for R.V. and A.M. Hanson