

Body Corporate & Community
Management & Other
Legislation Amendment Bill 2012
Submission 098

From: [Peter Rau](#)
To: [Legal Affairs and Community Safety Committee](#)
Subject: Submission re Body Corporate legislation
Date: Monday, 15 October 2012 9:03:05 AM
Attachments: [The Hon Jarrod Bleijie MP BCCM Submission 15-10-2012 Attorney.docx](#)

Please find attached my submission.

Regards

Peter Rau

The Hon Jarrod Bleijie MP
Attorney- General and Minister for Justice

lacsc@parliament.qld.gov.au
15 October 2012

Dear Sir,

I write to you as Minister for Justice, as justice and fairness was not part of the 'Lawlor' initiated changes that the former Government introduced in April 2011. These changes overturned legislation that was working and correcting unfair contribution schedules that had been causing some lot owners to pay more than their fair share of the operating costs of their schemes.

I am part of a community scheme of 143 apartments that was adjusted and the result was accepted by the residents without any apparent dissent. The reallocation of Lot Entitlements was carried out by an independent adjudicator and our Body Corporate commissioned an independent assessment of the entitlements. This independent report and the report from the applicants reached agreement under the direction of the adjudicator. Whilst there were reductions in the higher floors (who had been carrying higher lot entitlements than was fair) the overall changes spread over 143 apartments made the lower apartment increases minimal. Most people were able to understand the concept of community living and accepted the fairness of the umpires decision.

The Government is to be congratulated on its stopping of any applications in progress and prohibiting any further claims from parties that had not commenced. Unfortunately, I fall in to the other basket of schemes that had already been adjudicated and adjusted to the principle of all residents paying a fair share of the operating costs of the scheme. Our scheme under appeal by a single lot owner under the 2011 amendment has now been reverted to its previous unfair contribution schedule. This amendment is causing undue hardship to many lot owners who are paying the share of other lot owners in the scheme.

The Government by its action to date has accepted the need for establishing a fairer system for the sharing of body corporate expenses between lot owners. It is also a well documented fact that these expenses were not in all cases being shared on a fair basis between all members of the scheme. For these reasons I will comment on the main points that need to be addressed in the new legislation. These problems relate to the timing of various processes that if played out will cause many people to pay more than their fair share for longer than necessary.

- 1) Section 403 (3) A 30 day period is sufficient to give notice to each Lot owner.
- 2) Section 403 (4) This needs a 30 days maximum timeframe to prevent a committee from delaying the reinstatement of a previous adjustment order.
- 3) Section 404 (2) This needs a time frame and I suggest that a maximum of 14 days be allowed for the committee to make a decision.
- 4) Section 404 (4) It is suggested here that 60 days is more appropriate .

It should be born in mind that a scheme that has been reverted under the 2011 amendment had already undergone rigorous examination and process by all parties concerned to get to its pre-reversion position. And in most cases the members of the scheme had accepted the umpires decision.

I urge you to act in a timely manner in restoring a fair system for all parties, for somewhere along the way the concept of fairness was lost by the Lawlor initiated 2011 April changes.

Yours faithfully

Peter B Rau

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