

**From:** [Penelope Reid](#)  
**To:** [Legal Affairs and Community Safety Committee](#)  
**Subject:** Submission Re Body Corporate and Other Legislation 2012 Amendment Bill  
**Date:** Monday, 15 October 2012 10:00:50 AM

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Dear Research Director

As my family will be adversely affected by its introduction, I provide this submission to the LACSC regarding the Body Corporate and Other Legislation 2012 Amendment Bill.

### **Submission**

I submit that the reasoning for the Bill is more concerned with a legal/technical issue rather than “real” body corporate entitlements problems and in addressing this legal/technical issue, the Bill reverts to the previously body corporate situation which was ridiculously unfair and morally wrong.

I therefore implore the LACSC to recommend the Bill not be introduced or amendments be included/changed that take into account the “real” body corporate issues and the problems the Bill will create.

### **Argument**

As noted in the explanatory notes, the legal/technical issue is that Bill is only concerned with the issue of one owner having the ability of overturn a court or tribunal order relating to the entitlements. It doesn't consider the following “real” issues involved :  
The orders of the court/tribunal were “tainted”, as they were made on the back of a loophole in the law ( after outcome of the Fischer v Centrepoint case);  
The Bill will create problem legislation, by reintroducing the prior loophole – as it removes the law that was introduced to address the prior loophole;  
In the first place, one owner (usually Penthouse owners) unfairly changed the entitlements themselves from the original entitlements, basically just using the tribunal (“CCT”) as their tool to do so – effectively the same reason for this Bill; and  
The outcome of the Bill will be extremely unfair as it reverts to the previous unfair situation in which, lower ground units held by less wealthy people will have to pay much higher body corporate fees and penthouse owners will have to pay much less. This is despite the Penthouse owners knowing their entitlements and what they had to pay when they bought their units.

In a nut shell, the introduction of this Bill will create more unfairness than it will solve.

In not considering the above, it either shows a lack of understanding by persons in the LNP or that that the LNP is not “in touch” with the wider community, as the interests of a small number of wealthy Penthouse owners are considered more important than a considerable amount of lower floor resident (i.e. working class people).

I ask the LACSC to consider the what is more unfair out of the following:

A multi millionaire penthouse owner (after knowing the body corporate entitlements of the unit when acquired), having the ability to change body corporate entitlements for their significant benefit at the significant expense of lower ground units (owned by working class people), using a loophole in the law; or

One of the lower ground owners having the ability to change the entitlements back to the original position they bought under by overturning a “tainted” order of a tribunal.

Whilst it seems a simple to me, the Bill disagrees by effectively suggesting the second is more unfair than the first. It is bordering on ludicrous!!! The greater good needs to prevail.

I don't know how the process of this Bill arose, but it seems the Bill was developed as a “knee jerk” reaction to lobbying by groups who were affected when the entitlements were reverted back. I acknowledge there are owners who have bought since the lot entitlements by an order/court tribunal and it changing back to the original, they appear to have been unfairly affected. However, whilst I feel sorry for these people, had they done a proper due diligence or had a decent conveyancing lawyer, they would have been aware there was always a likelihood the entitlements would have reverted back to original position ( as Peter Lawlor and Labour always indicated this would likely happen). That's not to mention, they are mostly people who bought higher floor units (i.e. penthouses, subpenthouses etc), so can hardly cry poor.

This is different to the original owners, who bought on the understanding the entitlements were not able to be changed and are generally lower wealth people. I know personally, my family would not have bought their one bedroom unit in 2001-2002 if they knew their body corporate entitlements could have been altered and their body corporate fees double as a result.

### **Recommendations**

My first recommendation it so not support the Bill and recommend it not be introduced.

If relevant people are intent on removing one person's ability to overturn an order, then my alternative recommendation is to simply introduce amendments that allow the unfairly affected(i.e. lower floor units) to revert to the original position (or some reasonable compromise) in a different manner which is the LNP believes is fairer.

### **Additional Evidence**

I have attached in the link below an article from the Gold Coast Bulletin which supports my view.

[http://www.goldcoast.com.au/article/2010/01/19/179885\\_peter-cameron-opinion.html#comments](http://www.goldcoast.com.au/article/2010/01/19/179885_peter-cameron-opinion.html#comments)

Should you wish to discuss the above, I can be contacted at this email address or on 07 55398104.

Regards

Penelope Reid