

4 October 2012

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Via email: lacsc@parliament.qld.gov.au

**RE: SUBMISSION TO THE LEGISLATIVE PROPOSAL: Body Corporate and Community Management and Other Legislation Amendment Bill 2012**

I would like to express my concern about changes to legislation under the BCCM and Other Legislation Amendment Bill 2012, on the basis of the following:

- a. Immunity from retrospectivity as desired under the Legislative Standards Act;
- b. It burdens many more voters than it benefits;
- c. In the case of Admiralty Towers II the Amendments as they stand now will revert to demonstrably unfair lot entitlements, against the wishes of the majority

**a. Legislative Standards Act - Retrospectivity**

The Legislative Standards Act and the Office of Queensland Parliamentary Council, in its OPQCD Notebook "Fundamental Legislative Principles" indicates that Queenslanders should enjoy the benefit of the long history of common law, which incorporate the enduring values of a free and democratic society, which includes, amongst other things, "immunity from retrospective and unreasonable operation of the laws." (Hon. Justice G.E. Brennan, 'Courts, Democracy and the Law' (1991) 65 ALJ 32 at 40).

I would like to suggest a pragmatic approach to the 'retrospectivity' issue, by adhering to the first objective and to reconsider the second objective of the Bill:

- *establish a process for contribution schedule lot entitlements that were adjusted pursuant to the 2011 reversion process to be changed to reflect the lot entitlements that applied to the scheme prior to the application of the reversion process;*

Such retrospective measures will visit significant financial obligations on the many owners of smaller units, and I would ask that you consider whether there is strong enough justification for imposing such obligations onto the majority of owners.

It is also my view that establishing such a retrospective process visits undue hardship on the owners of smaller units, is likely to increase hostility and further dispute inside community titles schemes and gives fertile ground for some owners to cause others significant distress and hardship which impacts on the peaceful occupation of their property – part of the enduring values of a free and democratic society.

**b. Burdens more voters than it benefits**

This bill appears to benefit the owners of larger units at the expense of smaller units. Considering that most apartment buildings have significantly more smaller units than larger ones, this bill will negatively impact far many more voters than it will benefit.

At Admiralty Towers II (See the schematic on the following page), there are 106 households that will be burdened by the changes, and only 20 that will benefit, which means that the majority of the households in this Community Titles Scheme will be burdened by the changes.

This bill makes it possible for the few to be subsidised by the many, at the expense of those least able to afford to subsidise the few beneficiaries, hardly sound policy, no matter what side of the political spectrum you sit on.

**c. Demonstrably unfair lot entitlements at AT-II**

For your information, I have attached the impact of the changes as outlined in the bill, to all owners at Admiralty Towers II (please see the schematic on the next page).

On the far left you will see the Level, and along each Level, the Unit Numbers, then the total square meterage, the total Lot Entitlements and the total contribution per annum.

It is demonstrably unfair that for the same footprint (850 square meters including the car parks), penthouse owners collectively pay only **\$11,234 pa** and that owners on lower levels pay **\$29,021 pa**.

To add insult to injury, the owners on the Low Side of AT-II need to contribute to the repair and maintenance of the High Side pool, an area that no Low Side owner may enter due to by-laws. We have recently found that a major repair is to be done, which will cost in excess of \$120,000. The Low Side owners, under the proposed Amendment Bill will be asked to pay **64%** of the cost of repairing the pool to which they have no access. There is a bit more 'fairness' under the current lot entitlement schedule at AT-II:

<b>Cost of Level 37 Swmming Pool Repair</b>	<b>\$120,894.00</b>	<b>\$120,894.00</b>
	Current Lot Entitlement Schedule	2007 Adjudicator's order Lot Entitlement Schedule
Number of Low side owners	125	125
Number of high side owner	68	68
Number of Lot entitlements low side	5088	1289
Number of Lot entitlement high side	4418	728
Percentage of costs for L37 pool repair by low side owners	54%	64%
Percentage of costs for L37 pool repair by high side owners	46%	36%
Total cost to low side owners	\$64,707.41	\$77,259.48
Total cost to high side owners	\$56,186.59	\$43,634.52

It should be noted that the Body Corporate Records at Admiralty Towers II show that the Adjudicator's order was made *despite the express wishes of the owners* (the owners voted against the 'adjustment' at a General Meeting, prior to the Order being made).

I would ask that you consider the above issues of retrospectivity, burdening the majority of owners and the demonstrably unfair situation at AT-II when you consider voting on this Bill.

By removing the second objective of the Amendment Bill, the retrospectivity issue disappears, you will minimise the political damage to voters in electorates with many unit owners, and you will be seen to care for the less well off who would otherwise be asked to subsidise the wealthy.

Regards



Ruth Bonnett  
Admiralty Towers II

## DOLLAR CONTRIBUTIONS PER LEVEL - 2007 ADJUDICATOR'S LOT ENTITLEMENT SCHEDULE

ADMIRALTY TOWERS II  
ASPECT FROM BRISBANE RIVER

2 Bedroom
3 Bedroom
SubPenthouse
Penthouse

	COMMON PROPERTY: POOL AND GYMNASIUM - High Side Access Only					TOTAL FLOOR AREA - SQ M Including Car Park	TOTAL LOT ENTITLEMENT CONTRIBUTION PER LEVEL (CURRENT CLES)	DOLLARS PAID PER LEVEL: CURRENT ANNUAL CONTRIBUTION = \$468.084 INC GST * LOT ENTITLEMENT	
Level 37									
Level 36	192		193			849	24	\$11,234	
Level 35	189	190	191			850	33	\$15,447	
Level 34	186	187	188			881	35	\$16,383	
Level 33	181	182	183	184	185	939	53	\$24,808	
Level 32	176	177	178	179	180	919	53	\$24,808	
Level 31	171	172	173	174	175	901	53	\$24,808	
Level 30	166	167	168	169	170	892	53	\$24,808	
Level 29	161	162	163	164	165	892	53	\$24,808	
Level 28	156	157	158	159	160	890	53	\$24,808	
Level 27	151	152	153	154	155	892	53	\$24,808	
Level 26	146	147	148	149	150	890	53	\$24,808	
Level 25	141	142	143	144	145	887	53	\$24,808	
Level 24	136	137	138	139	140	905	53	\$24,808	
Level 23	131	132	133	134	135	845	53	\$24,808	
Level 22	126	127	128	129	130	874	53	\$24,808	
Level 21	120	121	122	123	124	125	856	62	\$29,021
Level 20	114	115	116	117	118	119	862	62	\$29,021
Level 19	108	109	110	111	112	113	873	62	\$29,021
Level 18	102	103	104	105	106	107	861	62	\$29,021
Level 17	96	97	98	99	100	101	857	62	\$29,021
Level 16	90	91	92	93	94	95	857	62	\$29,021
Level 15	84	85	86	87	88	89	861	62	\$29,021
Level 14	78	79	80	81	82	83	869	62	\$29,021
Level 13	72	73	74	75	76	77	880	62	\$29,021
Level 12	66	67	68	69	70	71	865	62	\$29,021
Level 11	60	61	62	63	64	65	870	62	\$29,021
Level 10	54	55	56	57	58	59	868	62	\$29,021
Level 9	48	49	50	51	52	53	878	62	\$29,021
Level 8	42	43	44	45	46	47	877	62	\$29,021
Level 7	36	37	38	39	40	41	861	62	\$29,021
Level 6	30	31	32	33	34	35	863	62	\$29,021
Level 5	24	25	26	27	28	29	857	62	\$29,021
Level 4	18	19	20	21	22	23	855	62	\$29,021
Level 3	12	13	14	15	16	17	858	62	\$29,021
Level 2	6	7	8	9	10	11	846	62	\$29,021
Level 1	3	4	5	COMMON PROPERTY POOL AND GYM - All owners access		431	31	\$14,511	
Ground	1&2 Cafe	COMMON FOYERS - All owners access				256	18	\$8,426	
Basement 1						2017		\$944,125	
Basement 2									
Basement 3									