

J T Huthwaite



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

**Dear Sir**

**By email** lacsc@parliament.qld.gov.au

**Submission re: Body Corporate and Community Management and Other  
Legislation Bill**

The Attorney General has advised that the attached submission which was lodged with his office on 5 October 2012 should be forwarded to your committee.

He also states “I acknowledge you are disappointed by the Bill, however the Government considers it critical to address the former Government’s unfair and inappropriate intrusion into previous, lawful decisions made by independent courts and tribunals”. I question this conclusion, in my opinion the 2011 legislation corrected the injustice of the 2007 legislation which allowed vested interests to change **(to their benefit and the disadvantage of others)** the conditions attaching to legally binding contracts of purchase, which was retrospective legislation by any other name.

However the tone of his letter suggests that the decision has been made and is unlikely to be changed irrespective of any submissions. Still I make this submission in the hope that justice and fairness will prevail.

**Yours faithfully  
John Huthwaite  
16 October 2012**

J T Huthwaite

Queensland Attorney General

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**Body Corporate and Community Management and Other Legislation Bill**

My wife and I have owned unit [REDACTED] Acapulco, Thornton Street, Surfers Paradise for 20 years.

We understand that the abovementioned Bill will reverse the legislation passed in April 2011 which changed the unit contribution schedule to revert to the original pre adjustment contribution schedule.

We wish to submit our strong objection to these amendments which will in our opinion change one difficult inequitable system to another with equal inequities and in doing so completely ignore important basis principles which should be preserved in all good and fair lawmaking. The amendments simply advantage unit owners with larger and more valuable units to the disadvantage of smaller and lesser valued unit owners. Should the penthouse owner pay the same administration fee as a one bedroom unit owner, I think not. No system exists that is fair and equitable to all parties so why do the lawmakers keep changing rules with no apparent solution to the problem.

**Our issues with to the proposed amendments are as follows:**

- The law should give certainty to commercial transactions entered into in good faith. To change the rules after a commitment to the transaction goes all the way to investors doubting their faith in good government, just as sovereign risk is a crucial element in international dealings so is the faith the public has in governments to be committed to the terms of business transactions entered into in good faith.
- The tried and tested principle of “**let the buyer beware**” still applies today. Investors made their decision to purchase fully aware of the lot entitlement applicable to their unit. How can they justify changing the schedule to their advantage after acknowledging this fact.
- The LNP’s principles **do not endorse retrospective legislation** yet this is what this legislation is about.
- To argue that administration fees should be shared equally amongst all unit owners irrespective of size or value sounds logical, but what if the same principle applied to council rates, should all properties in a local government area be charged the same rates. Obviously this would be impractical yet this amendment establishes this precedent.

- The suggestion that the April 2011 amendments were pushed through parliament without proper consultation with all parties is in our opinion incorrect. Time for the lodgment of submissions was extended from 27 January 2012 to 10 February 2012 due to pressure from unit owners and the proposed changes were well known amongst interested parties. In contrast the 2007 legislation adjustments received little publicity and I suggest that the number of submissions that these changes received was significantly less than those lodged in respect of the April 2011 amendments.
- As previously stated no legislation amendment that is fair and equitable to all parties can solve this problem and therefore the **status quo** should be maintained.

We request that a copy of our submission be sent to all members of parliament.

**Yours faithfully**

**John Huthwaite**  
**5 October 2012**