



Body Corporate & Community
Management & Other
Legislation Amendment Bill 2012
Submission 141

The Research Director
Legal Affairs & Community Safety Committee
Parliament House
George Street
Brisbane. Qld 4000

11th October 2012

RE:-Body Corporate and Community Management Act (BCCMA) Amendment 2012

Objective:-

The principal objective of the bill is to amend the Body Corporate and Community Management Act 1997 in order to:-

remove the requirement for bodies corporate to undertake a process prescribed in Chapter 8, Part 9, Division 4 of the Act (the 2011 reversion process) to adjust contribution schedule lot entitlements to reflect the original entitlements, as set by the developer on purchasing the unit.

Please use common sense on this the residents on the lower floors should not be subjected to higher levies to supplement penthouses. Making levies equal for everyone is not fair. Why should residents in a 1 bedroom unit pay the same lot entitlements as resident in a penthouse with 4 bedrooms? it's ludicrous. We on the [redacted] floor have 10 units to share the levies with, so it makes sense the Penthouse owner who is the only one on his floor has the pay for that floor. Which includes painting, carpet cleaning, renew lighting, cleaning garbage refuse, and 10 times more windows outside the building to be cleaned plus any more expenses with up keep.

This is the second time we have been subjected to this price rise by a few penthouse owners. The first rise in levies was initiated in October 2010 which was thrust upon us without warning without a chance to appeal. We endured that rise for 5 levy periods dating from October 2010 - December 2011. Which I feel we should be compensated for.

After a lot of effort by a few people we successfully managed to have common sense prevail and overturned this ridiculous price hike. Now we have to go through it all again.

My husband and I are on a pension and fixed money dose'nt allow for excessive price rises in levies. The affect this will have on unit owners trying to sell their units will be catastrophic.

Our levies have risen from \$6452 per year in 2010 to \$8067 per year 2012, unfairly I might add, I mean a penthouse verses a 1 bedroom apartment on the [redacted] floor, there is no resemblance of fair play, please let common sense prevail.

This is why I implore you to not let this appeal for equal levies for all be allowed. The higher floors are not equal to us.

Keep levies fair for all, there are a lot of pensioners in units and they do not have a Millionaire life style believe me.

Regards

 (MRS ALMA WARREN)

Alma Warren
[redacted]
[redacted]
[redacted]
[redacted]

1. The smaller unit owners are not rorting the system. They have not sought to change the levies they agreed to when they purchased their unit. They have no advocate in government standing up for their rights. The smaller unit owners are the victims of this whole charade. The proposed amendment is nothing but a spiteful payback to the Labour Party's 2011 amendment.

2. This amendment seeks to overturn legislation passed by the previous Labour Government, which became law in April 2011. The 2011 amendment allowed a lot owner to overturn a decision made by QCAT to equalise levies under Section 46A of the BCCMA. In essence, the 2011 amendment forced Bodies Corporate to adjust levies, which had previously been amended, to the level set by the developer. The developer set levies were the levies most unit owners agreed to when they purchased their unit. This amendment was well received by the majority of unit owners.

3. The basis for making levies equal is the notion that services are provided to all lot owners on an equal basis. In reality this is not the case. This concept is a fraud.

Each level has the same area of carpet, the same number of lights, consume the same amount of electricity for these lights and require the same amount of cleaning. Each floor has the same number of windows to clean. All services are provided equally to each floor. Then it is not unreasonable to expect that the units on each floor should share in the cost of the services provided to that floor. Because there are 10 unit owners on one floor and four on another why should the four owners pay less for the provision of services. But this is the outcome of the equalisation of levies.

4. The total Contribution Lot Entitlement levy for Q1 in the 2011/12 financial year was \$3,380,263. If each floor shared equally in the cost to run and maintain the building then each floor would pay one 72nd of the levy. The levy for each floor would then be **\$46,948**. Compare this though to the amount each level will pay post the amendment championed by the Attorney General.

Level 74 (one unit)	\$ 9,104
Level 69 (4 units)	\$28,404
Level 40 (7 units)	\$47,340
Level 19 (10 units)	\$66,641

What is the logic behind forcing the units on level 19 to pay \$20,000 more than the average cost to provide services to that floor? Why should the four unit owners on level 69 pay \$18,544 less?

5. Example 2.

The table below details the percentage of levies paid by all units on each of these floors. Table one compares the percentage of levies paid by each floor as determined by the developer (which are currently in place at Q1). Table two compares the levies that Q1 will revert to if this amendment is passed.

You will note that the lower the floor the greater the contribution that floor makes to total levies.

Contribution Lot Entitlements as a percentage of total entitlements.

Levies as set by the developer
passed

Level 74 (penthouse)	1.07%
Level 69 (4 units)	1.23%
Level 40 (7 units)	1.30%
Level 19 (10 units)	1.53%

Levies that will apply if the amendment is
passed

Level 74 (penthouse)	.25%
Level 69 (4 units)	.79%
Level 40 (7 units)	1.33%
Level 19 (10 units)	1.86%

6. There are two types of lot entitlements that apply to bodies corporate. One is the Contribution Lot Entitlements which levies lot owners for costs to maintain the common property. The second is the Interest Lot Entitlements (ILE). The ILE determines the ownership of common property. Common property includes all areas not owned by a single unit owner. This includes the foyer on each floor, the swimming pools, the gym, gardens etc. The Interest Lot Entitlement is used to determine the share of the insurance cost each unit owner will pay.

This table records the Interest Lot Entitlements (ownership of Common Property) as a percentage of total entitlements.

Level 74 (penthouse)	2.10%
Level 69 (4 units)	1.79%
Level 40 (7 units)	1.28%
Level 19 (10 units)	1.12%

The penthouse, for example, effectively has a 2.10% share of the entire property. But if you refer back to the Contribution Lot schedule above you will note that the penthouse, under the post amendment levy, will pay just .25% of the maintenance cost of the entire property.

There is no other investment you can make in this country where you can own 2.10% of an asset but only contribute .25% of all costs to maintain that asset.

To maintain an investment of \$10,000,000 the penthouse unit owner will pay just \$9,104 in levies. The penthouse levy will equate to 0.09% of the assessed capital value of the unit. Contrast this to the unit owners on level 19 who will pay \$66,641 or 1.17% of the assessed value of the ten units to maintain their asset.

The unit owners on level 19 will pay a levy 13 times the ratio of maintenance to assessed value as does the penthouse unit owner.

7. I recommend:

1. That the Committee requests the Attorney General to allow further time for submissions. Many unit owners at the Gold Coast live interstate or overseas. These owners will not be able to be informed of the proposed amendment in time to make a submission. I recommend that there be a period of at least 3 months, but preferably 6 months to allow time for affected unit owners to participate.

Those unit owners who support the amendment have had 17 months to put their case before the government. With advertising about this amendment only commencing on the 30th September those unit owners opposed to the legislation have just 19 days to get advice, garner support and make a submission. By any measure this short time frame is unfair.

2. (a) That the Committee return the amendment to the Attorney General (AG), *with a recommendation that a complete review of the way lot entitlements are determined be accomplished by an independent review panel.* A review of sorts has already been flagged by the AG. This review panel should include a broad cross section of those involved in the industry; including unit owner representatives. It is a mystery to many, as to why the AG did not complete this review before recommending changes to the legislation.

2 (b) Failing the adoption of (a) above that the Committee return the amendment to the AG, *with a recommendation that the amendment be altered so no future applications to revert lot entitlements under the April 2011 be permitted pending a review.* However, any adjustments made prior to the proposed legislation be permitted to remain unchanged pending a review.