



Body Corporate & Community
Management & Other
Legislation Amendment Bill 2012
Submission 170

To Legal Affairs and Community Safety Community

From A.J & N.M Harker
[REDACTED]
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RE : BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER
LEGISLATION AMENDMENT BILL 2012 - SUBMISSION.

We give the following information and make the following submissions as members of the public and unit owners residing in THE PALMS NO 4 WARANA CTS 19842.

Brief History

The scheme was developed in 1992 72 Lots

Lot entitlements were set in 1992 based on unimproved value of the lots.

A contribution schedule as required by the BCCM 1997 based on services only was never established or considered between 1997 & 2009.

In 2009 a unit owner in the scheme applied to QCAT and after supplying all the relevant information gained the equality that the BCCM act intended.

In 2011 an executive committee member ably assisted by the chairperson and the body corporate management company acted to take away the right of equality of 47% of the scheme unit owners. A lengthy appeal to QCAT resulted in an agreement by the committee representative to revert the committees decision to change the lot entitlements to original levels. The same two committee members assisted by the body corporate management company sought Specialist Adjudicators orders to revert lot entitlements to pre adjustment levels because of 379 - 2.

Owners of high rise and single level cluster units have for years struggled to bring their schemes to fair and equitable situations. This has been done in some cases at great expense and stress through applications to either Specialist Adjudicators or QCAT approved by government legislation.

Decisions are made based on the BCCM act and subsequent amendments which are put in place by governments to protect the rights of all unit owners.

The intent of the BCCM 1997 was to set a contribution schedule that was fair and equitable and stated that all lot entitlements should be equal unless it is fair and equitable not to be.

Contribution schedules are set to cover services supplied by body corporate and lot entitlements are set according to whether the scheme is a standard format plan or a building format plan.

Committee members adverse to the reinstatement of the previous adjustment order may simply choose to ignore the new legislation knowing full well that unit owners will either have no knowledge of this legislation or will not wish to incur a share of the penalty when they act to enforce the legislation.

We would submit that the BCCM & OLA act 2011 goes against the intent of the BCCM 1997 Act and subsequent amendments and should be repealed by the Attorney Generals Department and allow any inequalities to be settled through either Special Adjudicators or QCAT

We would further submit that if modification is considered necessary to the last adjustment order entitlements this must be decided by an independent umpire and not the committee.

In closing as adjustment orders have been made by government approved and appointed persons taking into account the BCCM 1997 & subsequent amendments why should effected persons , some of whom have subsidized other unit owners for years, undergo a lengthy process and possibly have to fight for their rights already afforded by the act.

ALAN & NOELA HARKER

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