



18 October 2012

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

Dear Committee,

**RE :- Body Corporate and Community Management and Other
Legislation Amendment Bill 2012**

We would like to acknowledge our support for the proposed amendments to the Body Corporate and Community Management and Other Legislation Amendment Bill 2012, recently introduced by the Attorney General.

So as to provide a background to this support, I would like to indulge the committee with a brief history of our situation.

We purchased an Investment Unit property in 2009 on the Gold Coast , ensuring that we performed relevant searches, and at the insistence of our Solicitor, searched the Body Corporate records for a period 5 years prior so as to ensure the stability of the Sinking Fund and general running of the Body Corporate.

This review gave us a good sense of stability and with the BC Chairman serving since the inception of the building, solid grounding.

Without going over hacked Legislation and detail, of which I am sure you are all well aware of, an application was made to our BC for a revision of the Lot Entitlement Fees. It was around this time that I became involved with the BC and joined as a member, and now have been elected as Chairman (June 2012).

Our complex has 79 individual units, including 2 Penthouse Unit's and 5 Sub Penthouse's, with an even split of Ocean view and Hinterland view being the remainder. To say that bitterness and disdain erupted is an understatement, but more to the point, the blatant lies and tall stories being told are also mind blowing. The greatest of these was the 2 individuals trying to justify the revision.

In 2003 an application was made for a review with 2 (two) independent companies employed to review the Lot Entitlements – one for the Plaintiff – the other for and on behalf of the Body Corporate. These reviews came in within 1.3% of each other. Notice was given for ALL Lot Owners to raise objections to this review and lodge these with the Court.

NOT A SINGLE INDIVIDUAL OBJECTED

The Court reviewed unbiased documents from these assessments, and implemented the recommendations – a fair system with fair and balanced Lot Entitlements costs to the community shared and apportioned by all – but more importantly – justified.

FACT – 2 Penthouse units – Identical in size (Mirror Reverse) were each paying BC Fess of about \$12'500.00 per annum – under the Revision, one will jump to just on \$26'000.00, while the other will drop to around \$5'600.00. The reason was that the Developer had retained this unit for themselves and later sold, but ensured very low fees whilst they owned – a shame on a community complex. The rest of the complex also subsidised this inequity.

FACT – A penthouse / Sub-penthouse pays about 35-45% more than other Lot owners in our complex.

FACT – the majority of Hinterland units will see a decrease of about 27.5%, the Ocean View Units and Increase of 36%.

I have spent the better part of the past eighteen months reviewing and dealing with Solicitors, Barristers, Community Managers and Owners and have summarised a couple of things that seem to cloud the issues raised :-

1. Most people do not understand what or how a Sinking Fund or Administration Fund are/ work – nor how they operate within the confines of the Lot Entitlements.
2. The disregard for Legal Precedent and the Courts
3. The fact that reviews have been performed by Qualified independent Valuer's showing the true cost of a Community Management Schemes to Lots.
4. The apathy of more than two thirds of the Unit Owners – never responding to Notices, AGM's, EGM's or specialist information presentations by qualified presenters.
5. The un-truths told or “stories” that evolve to suit the current revision justification process.

I understand the upset of those who are having fees raised, and anticipation of those to be lowered, but a Community Management Scheme should revolve around the Building in a vacuum. The Legislation being proposed opens the books so as a fair and equitable system can be reviewed, discussed and implemented, righting the wrongs of the past and securing the future for Community Management Schemes.

Yours faithfully

Via E-mail
Damian & Mirella Kelly

SUBMISSION via E-mail – lacs@parliament.qld.gov.au