

From: William & Jeanette Dale

Subject: BCCM Bill 2012

Date: 19 th October 2012

Your office has advised that it is seeking submissions on the above bill and this submission is in response to that advice.

1. The 2011 amendments, which this bill seeks to address, were rammed through parliament against all advice (legal, law drafting team and fellow parliamentarians) by the last state government.

2 The changes to the 2011 legislation, as they relate to lot entitlements, are retrospective, discriminatory and completely ignore past court/legal judgments leaving affected parties with no recourse to test or challenge the reversion. The reversion process did not require any justification and, once initiated, the trashing of past court orders was automatic and abhorrent.

3. The 2012 amendments are therefore a welcome move to put right the aspects of the 2011 laws which mangled the situation regarding Lot Entitlements. As an indication of the adverse effect that the 2011 legislation had, contributions for some lots in our scheme increased from \$10,000p.a. to \$25,000 p.a. as a direct result of the changes forced on this complex by the 2011 laws. Previous court assessment and orders had established Lot Entitlement schedules which were based on industry review and input from all affected parties and when those 2011 changes voided these court decisions, they not only thumbed their nose at a functioning legal system but also showed no respect for a process which tested the validity and relevance of data by impartial industry professionals. Not a good look.

4. In writing to support this proposed 2012 legislation, there is a suggestion that where minimum periods for notice, action or submittal are specified, then there should also be maximum specified periods so as to prevent inadvertent, or deliberate, procrastination and delay. The clauses affected include:

- **Section 403(3).** The 60 day window currently stipulated is arguably too long
- **Section 403(4)**
- **Section 404(2)**
- **Section 404(4)**

5. The reversion process that is defined in sections 403 and 404 of the act seems, to a layman, to leave open the option of a committee to take no action in reverting to 'last adjustment order entitlements'. This is not the stated intention of the Justice Minister and it may well be advantageous for the legislation to more clearly spell out the following opinion on the interpretation of 403 and 404:

The word "must" within section 403(3), 404(2), 404(3), and 404(4) does compel a body corporate to act in accordance with those provisions. The committee only has one discretion, and that is to consider what modifications (if any) are to be made to the last adjustment order entitlements. Other than that, there is no "vote" of the committee, but rather a clear process the committee MUST undertake to see that the last adjustment order entitlements are reinstated.

Thank you for the opportunity to put this submission forward.

