



18 October, 2012

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

Dear Sir/Madam

RE; SUBMISSIONS -BODY CORPORATE AND COMMUNITY MANAGEMENT AND
OTHER LEGISLATION AMENDMENT BILL 2012

INTRODUCTION

We advise that we are unit owners who were adversely affected by the introduction of the *Body Corporate and Community Management and Other Legislation Act 2011* ("the 2011 Amendments").

We strongly support the abolishment of the reversion process introduced by the "2011 Amendments" and the re-instatement of adjustment orders made by Judges, Adjudicators and Specialist Adjudicators.

BACKGROUND

Prior to the introduction of the 2011 Amendments, we made application (and tendered separate submissions) with other unit proprietors in our apartment block to a Specialist Adjudicator to seek to adjust the contribution schedule lot entitlements (CSLE's) so that they were equal, except to the extent that it is just and equitable for them not to be equal.

The process included our engagement of an experienced quantity surveyor to prepare a report providing his assessment of any perceived advantages and to accurately determine the differences in maintenance costs pertaining to all units. He conducted a comprehensive inspection of the building detailing the areas occupied by individual lot owners and areas and advantages enjoyed by all as 'Common Property'. This report was submitted to the Specialist Adjudicator to assist with his determination of the hearing.

Additional to his report, those unit owners who dissented to our proposal and the Body Corporate were also invited to present submissions and further – to seek a report from a quantity surveyor of their own selection to prepare a submission for their representation. This procedure was followed.

The decision handed down by the Specialist Adjudicator reflected consideration of the content of both Reports and was delivered in favour of the applicant. Date of 23 February 2010. Registration was effected on 7 April 2010.

Despite the thorough lengthy investigation undertaken, a Court Decision handed down and the prescribed legal process adhered to – the introduction of “*the 2011 Amendments*” enabled the dismantlement of the entire process. One single owner, without any qualification, was able to submit a motion to revert to the pre-adjustment CSLE’s (i.e. as allocated by the apartment developer) and overturn the court decision and deny the Right of Appeal in the future – Unbelievable!

We are pleased to see that steps have now been taken by the new order in Government to address what many see as a legal right being swept away.

SUBMISSION - SUPPORT OF THE BILL

1. *The Body Corporate and Community Management and Other Legislation Amendment Bill 2012 (“the Bill”)* provides a framework to enable the adjustment orders made by Judges, Specialist Adjudicators and Adjudicators to be reinstated thereby reversing the process created by the *2011 Amendments*.

Whilst this may not be a popular decision with all unit owners, the purpose of providing a solution to distribution of contribution schedule lot entitlements (CSLE’s) had been determined by an impartial Legal Specialist in a Court of Law where parties expressing opposite views have been able to present their opposing views.

Surely, this must be acceptable as the basis for a fair and equitable decision.

SECTION 403(3)

(i) We submit that a nominal period of 30 days should be an adequate period of time for the committee to perform its duty of notice.

SECTION 403(4)

(ii) We would favour a reasonable minimum timeframe being included in the “submission period” requirement.

SECTION 404(2)

(iii) Similarly, it would seem prudent to nominate the timeframe for the period in which a committee is obliged to provide details pertaining to the adjustment order after the submission period has expired. - including a reasonable maximum time period.

SECTION 404(4)

(iv) The provision of up to 90 days for the committee to lodge a request to record a new CMS may be able to be reduced to a lesser time period.

CONCLUSION

It is commendable that the government has taken the decision to address this matter and seek a solution for the process created by the introduction of the *2011 Amendments*.

We thank you for the opportunity to present a submission to the Bill and we will look forward to seeing the detail as it evolves.

Yours faithfully,



Bob Pidcock and Judith Pidcock

