

19 October 2012

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Sir/Madam,

1. I am a member of "Peninsula", a Gold Coast high-rise Body Corporate. I have two apartments in the building, those being, Lots [REDACTED] in CTS 9865. One Lot is situated on the [REDACTED] floor and the other on the [REDACTED] of 46 floors in the building.
2. Given my low and high level apartments, the fact we have seen a contribution schedule equalisation and now reversion, I can say I have seen first hand many of sides to this debate.
3. I am supportive of the Bill. I provide facts and submissions as follows:
4. Peninsula high-rise is approximately 30 years old. In or about the 2008-11 period Peninsula replaced its external aluminium balustrades with those featuring glass infill's.
5. This decision was primarily based on aesthetics. The 46 stories of this high-rise meant the work was very expensive. The additional cost to replace like for like aluminium with glass, was to the best of my recollection, more than \$500,000.00. Additional maintenance and glass cleaning on the balustrading is also high, currently in the vicinity of \$40,000.00 per annum.
6. The original vote on the glass replacement was marginal. Subsequently it developed into a larger dispute which, before being resolved, caused rather forgettable angst within the building.
7. At the time of the vote the cost advantage of the glass upgrade was gained by those owners with inequitably lower contributions. Our contribution scheme had not then been equalised. Owners of high floors with inequitably high contributions were hit hard. In dollar terms my higher floor apartment saw

levies (including a special levy) struck in excess of **\$1000 PER WEEK** for a planned period of **3 YEARS**.

8. After the decision to glass balustrade the entire building an Order to equalise our schedule of contributions was made by Mr K Dorney Q.C (then of the Commercial and Consumer Tribunal). This Order was based on expert evidence and was well reasoned. As I understand from subsequent commentary the Order would have had the support of many well established legal entities including The Queensland Law Society and The Unit Owners Association of Queensland.

9. The cost of the glass work had now been apportioned equitably throughout the building. Not surprisingly those owners whom had gained the cost advantage in having the glass renovation (and its ongoing maintenance) by virtue of the previous inequitable levy structure were angered by their levies increasing.

10. In undergoing the equalisation process it was not to say one group of owners had won and another lost (as was the case when the vote to embark on the project was taken). The adjustment of the contributions was now being set to a level that was **FAIR AND EQUITABLE FOR ALL OWNERS**. Simply put, a physical survey had established a user pays system. I submit this system was correct at law. It was the legislative evolution of the principle of "equal, except to the extent that is just and equitable not to be equal".

11. This year the contribution scheme within our building was reverted through implementation of the 2011 Amendment Act. I submit this Act is incorrect at law and that it provides for and promotes inequity within schemes such as Peninsula.

12. I submit it is the aging, high cost buildings such as Peninsula that are most at risk of further inequity as they vote to change services, maintain or renovate their structures. The opportunity to **SHARE EQUITABLY** these costs must again be available to owners through legislation. If the present legislation, which allows reversion, is not abolished the subsidisation of services, maintenance and works to certain owners will continue. In other words owner groups can force the financial hand of certain inequitably high contributors to schemes by way of

majority vote. This is occurring and will become the industry practice. It has already and will continue, because of inequity, to destroy capital investments.

13. I submit inequitable and reverted contribution schemes in the South East Queensland area provide savvy investors a legislative and unfair advantage. An investor can now seek out a low contributing "inequitable" lot within a scheme. They can increase the rental yield via holiday letting, a normal practice. This letting undeniably places a generally higher strain on common facilities, generates higher usage of common electricity, water, cleaning services, etc. I submit this is unjustifiably unfair to fellow owners.

14. I note the difficult political line that must be drawn in dealing with legislative change in this area. I submit the Committee must look through the media beat-ups and zealous political views of "Battler" groups that lobby on assumptions and "branding" of fellow owners.

15. I submit the abovementioned examples evidence why a community living environment must, to the best of our Legislative abilities, be equitable. I submit all owners in Community Title Schemes must equitably share in common costs. Where this is not occurring then without undue delay those costs must be adjusted to a level that is fair and equitable to **ALL OWNERS**.

16. The Body Corporate and Community Management and Other Legislation Amendment Bill 2012 proposes time frames for the reinstatement process. I respectfully submit the need review those in order to promote a more expeditious result:

i. Section 403(3) The timeframe should be reduced to 30 days thus avoiding any intentional and inordinate delays by Body Corporate Committees.

ii. Section 403(4) A Committee should be allowed only (and to a maximum of) 45 days for submissions to avoid it causing any intentional and inordinate delays.

iii. Section 402(2) A Committee should be limited to 14 days in which to decide whether any modifications need to be made to the adjustment order to avoid any intentional and inordinate delays it may occasion.

iv. Section 404(4) The period to lodge a request to record a new CMS should be reduced to 60 days thus avoiding any intentional and inordinate delays by the Committee

17. I provide my support for the Bill and request your consideration be given to time frame expedition as set out above.

A handwritten signature in black ink, appearing to read 'David Armenores', with a long horizontal flourish extending to the right.

David Armenores

