

[REDACTED]

19 October, 2012.

RE: Bill to undo those parts of the April 2011 amendment to the *Body Corporate & Community Management Act*

SUBMISSION – INDIGO BLUE BEACHSIDE RESIDENCES

I, Desley Lynette Free, as owner and resident of Unit [REDACTED], 186 The Esplanade, Burleigh Heads request that you accept my submission to oppose the application to undo those parts of the April 2011 amendment to the Body Corporate and Community Management Act that relate to the contribution entitlements for the existing Community titles Schemes of Indigo Blue.

It is very unclear to me how a scheme can be deemed “fair and equitable” when the contributions received from units which cover the dimensions of one whole floor are comparable with contributions received from the floors where there are three occupants.

On my floor, for instance, unit [REDACTED] and [REDACTED] are three bedroom units, where my own, unit [REDACTED] has two bedrooms. Other floors have 2 Units per floor which means that these occupy more floor space and balcony area.

Since the building is 20 floors high and the lifts are surely one of the main considerations of the body corporate costs, it is only fair and equitable that each floor covers its share after the total needs are estimated. Hence, a fair and equitable contribution from floor [REDACTED] would be a combination of fees from Units [REDACTED] and [REDACTED]. Under the proposed scheme, I have no doubt that these would exceed what is proposed for Unit 41, and indeed, some of the floors which contain 2 units.

Use of the facilities such as pool, gymnasium and sauna are there for all of us. Some of the owners use them, some don't, but they are there for all of us if we want to use them. How do we calculate this? We can probably assume that renters would be the ones to make maximum use of these.

This brings us to a consideration of the *Body Corporate and Community Management Act 1997 – Section 46A Principles for deciding contribution schedule lot entitlements*.

46 A (1) covers the equality principle for deciding contribution schedule lot entitlement and covers lots which have different uses such as car parking, commercial, hotel and residential uses etc. A detailed description can be downloaded from the government website.

46A (2) and (3) are more relevant to Indigo Blue and I will quote the 5 considerations verbatim.

(2) The relativity principle for deciding contribution schedule lot entitlements for the lots included in a community titles scheme is the principle that the lot entitlements must clearly demonstrate the relationship between the lots by reference to 1 or more particular relevant factors.

(3) A relevant factor for subsection (2) may, and may only, be any of the following –

- (a) How the community titles scheme is structured
- (b) The nature, features and characteristics of the lots;
- (c) The purposes for which the lots are used;
- (d) The impact the lots may have on the costs of maintaining the common property;
- (e) The market values of the lots

Factors (b), (c),(d) and (e) should be carefully considered if we are to attain a “fair and equitable” contribution scheme for Indigo Blue. Some occupy a whole floor others have a floor space of 13 squares. Consequently the market values of the lots differ in value from hundreds of thousands of dollars into the millions.

Body Corporate Fees seriously impact on the resale potential of a property so it cannot be fair and equitable if the contribution scheme variation is not commensurate with the market value of the lots.

Yours faithfully,
Desley Free

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(2) The relativity principle for deciding contribution