

Body Corporate & Community  
Management & Other  
Legislation Amendment Bill 2012  
Submission 253



19 October 2012

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

GPO Box 2279  
Brisbane QLD 4001  
Level 17, 141 Queen Street  
Brisbane QLD 4000

T: 07 3229 1589  
F: 07 3229 7857  
E: [udia@udiaqld.com.au](mailto:udia@udiaqld.com.au)

[www.udiaqld.com.au](http://www.udiaqld.com.au)

ACN 010 007 084  
ABN 32 885 108 968

**BY EMAIL:** [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

**Dear Committee**

**Body Corporate and Community Management and Other Legislation Amendment Bill 2012 (BCCMOLA Bill 2012)**

This submission is made to you following an examination by the UDIA (Qld) of the contents of the Body Corporate and Community Management and Other Legislation Amendment Bill 2012 (the Bill).

The UDIA (Qld) has been assisted in the preparation of this submission by specialist legal and industry practitioners in this area.

The Institute supports the legislative changes being proposed in the Bill relating to costly and unnecessary disclosure requirements. We do not, however, share in the Government's sense of urgency in amending the Act and urge the Government to delay the Bill from being enacted until a wider review of contribution schedule lot entitlements and mechanisms for adjustments take place.

**Disclosure provisions**

The UDIA (Qld) welcome the proposal to remove the requirement of sellers of lots to provide a copy of the scheme's community management statement with the disclosure statement.

The requirement was opposed by the UDIA (Qld) when it was introduced in 2011.

The changes made in 2011 resulted in the seller of a lot incurring additional costs in obtaining a copy of the community management statement to be given to the buyer of the lot. It is normal conveyancing practice for the buyer to obtain a copy of the community management statement as part of the usual conveyancing process, and so the new provision resulted in a doubling up of searches, as a prudent buyer would not solely rely on what the seller provides. UDIA (Qld) estimates that based on a typical annual number of 28,000 lots changing hands, the total cost to sellers of lots resulting from this disclosure requirement was approximately \$3m per annum.

The Bill proposes that the requirements imposed under the 2011 Act for a seller to state the extent to which the annual contributions are based on the CSLE (contribution schedule lot entitlements), and on the Interest Schedule Lot Entitlements (ISLE) and that the CSLE and the ISLE are set out in the CMS (community management statement) for the CTS (community title scheme) is removed. The Institute supports this amendment. The result is that under a disclosure statement for an existing or a proposed lot the seller need only state the amount of annual contributions reasonably

expected to be payable to the body corporate by the owner of the lot (or proposed lot, as the case may be). Given that the principles themselves are going to be contained in any proposed CMS (in the case of proposed lots) or are readily ascertainable by search in the case of an existing lot, we believe this amendment is a welcome removal of unnecessary information from a disclosure perspective.

### **Reverting the reversions**

One of the controversial amendments contained within the 2011 Act was the ability for a prescribed eligible lot owner to submit a motion to the body corporate or the committee requesting that the CSLE be reverted to the CSLE that were applicable prior to the order of the Court.

The UDIA (Qld) is of the view that the 2011 amendments to the Act were a retrograde step and that the changes proposed in the Bill to remove the ability of a single lot owner to overturn a Court decision are appropriate.

### **Lot entitlements / fees**

The over-riding concern for the Institute regarding Body Corporate and Community Management legislation is that the mechanism for review and the process of the determination of fees does not undermine confidence in the community in apartments as a housing option and that it does not inhibit the ability of developers to deliver affordable product and diversity of product.

We note from the Minister's explanatory speech that the Government are committing to taking a close look at contribution schedule lot entitlements and appropriate mechanisms for adjustments. The Institute certainly agrees that improvements are needed and look forward to being consulted as part of a wider review.

### **Conclusion**

In conclusion, while the UDIA (Qld) agree that the reversion process introduced in 2011 was a retrograde step, we nonetheless do not share the Government's sense of urgency in seeking to amend the Act at this stage. Unnecessarily frequent amending of the Act creates uncertainty and confusion and ultimately impacts on confidence in apartments as a housing option. We therefore urge the Government to delay the Bill from being enacted until a wider review of contribution schedule lot entitlements and mechanisms for adjustments take place.

Thank you for the opportunity to comment on the Bill.

Yours sincerely

Urban Development Institute of Australia (Queensland)

A handwritten signature in blue ink, appearing to be 'M. Vit', is written over a faint, light blue circular stamp or watermark.

Marina Vit

Chief Executive Officer