

Property Law Bill 2023

Submission No: 1
Submitted by: Jan Davies / Strata Assist Qld
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See attached:

From: Jan Davies [REDACTED]
Sent: Monday, 6 March 2023 8:09 AM
To: Legal Affairs and Safety Committee
Subject: Re Property Law Bill 2023

Dear Sir/Madam,

“Without Prejudice”

I wish to lodge my objection to the proposed changes to provision and format of the Vendors’ Disclosure Statement that was rushed through Parliament last week.

I am the owner and operator of Strata Assist Qld and have been operating in Brisbane for over 12 years. I primarily provide Disclosure & Implied Warranty Statements to Real Estate Agents listing units for sale. We have established a unique relationship with many leading Agents who heavily rely on our service to finalise an offer to purchase. We are prepared to work outside business hours if necessary to give the service the Agents need.

In the event that the proposed legislation is passed, my business will cease to exist and those that I employ will be out of work.

I have spoken to many Body Corporate Managers about the proposed changes, and their response has been that they will not be signing off on the new Disclosures, that they will be sent to the owners of the property to sign off on to safe guard them against any possible litigation. This in itself is alarming as many owners have no real knowledge of the scheme, they barely know what lot number they own, let alone anything else.

If there is a loophole for this to happen, that the owners will be signing off on the document, what is the difference between a Body Corporate Manager preparing the document to a professional Strata Search Agent?

Regarding the proposed length of the document, one could easily imagine that many will not even bother to read the full document and just skip to where they need to sign. This is just human behaviour in the busy world we live in. Further, the sheer size of the document could easily pacify a buyer to believe that they do not need to carry out their own due diligence on the property. They will not consider the fact that they are relying solely on documents that have been prepared by the Body Corporate Manager that works on behalf of the owner.

As the legislation stands now, Body Corporate Managers do not provide Implied Warranty Statements as some have made comment that “it is a conflict of interest”. What has changed to suddenly make it not a conflict of interest?

Around 2011 there was talk about ALL Body Corporate Managers would be required to have attained Certificate IV in Body Corporate Management. To my knowledge, this still has not been legislated and anyone can still operate as a Body Corporate Manager without any formal training or licence.

There are many small Body Corporate Management Companies who have a very small portfolio and manage complexes providing the bare basics. Why would those managers be considered more capable to prepare a Disclosure Statement than a trained Search Agent?

I have had over 30 years legal conveyancing experience in Queensland, held a full Real Estate Licence for many years until recently, hold Certificate IV in Body Corporate Management and am a qualified Justice of the Peace in Queensland. I would consider myself to be far more qualified to prepare a Disclosure & Implied Warranty Statement than a Body Corporate Manager who is not required to have any formal Training and holds no licence.

If the legislation needs to be changed, why not insist that all Body Corporate Managers are trained to at least Certificate IV and be required to apply for a licence to practice. The legislation talks about the requirements for Sinking Fund Forecasts and Safety Reports to be carried out, that the Annual General Meetings should be held annually and it goes on but who is checking that this is all actually being done. I personally have knowledge of a Body Corporate Manager not having held an AGM for 12 years for one of their Schemes simply because "they did not want one". They just wanted to go on as they had been. Many of the schemes that this person managed were very similar and AGM's were not being held. Who is responsible to ensure that the Managers follow the legislation?

Further, have any safeguards been put in place to protect a Sinking Fund balance against fraud. Real Estate Agents have to jump through hoops to operate a Trust Account, why is it not the same for a Body Corporate Manager who have such large sums of money at their fingertips.

I am deeply concerned that these proposed new changes in the legislation will create such a mountain of paperwork and confusion that is currently an easy and workable process. To re-introduce the need to provide a CMS document which has already been tried and failed, just does not make any sense. I fail to understand how the proposed changes will benefit anyone at all.

I ask that you reconsider the change in legislation as to who may issue the new Disclosure Statements. The current system works well and all parties involved in a Contract of Sale have the option to have the necessary paperwork provided in a timely manner without being forced to wait on the Management Company to provide the documents when they get around to it. The sale of a property is extremely time sensitive and Real Estate Agents rely heavily on our ability and co-operation to get the job done as quickly as we possibly can.

Thank you for taking the time to read my letter of objection.

Kind Regards

Jan Davies

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BODY CORPORATE SEARCH AGENTS