**Property Law Bill 2023**

**Submission No:** 8

**Submitted by:** [redacted]

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**Attachments:** No attachment

**Submitter Comments:**

The Attorney-General has introduced a revised Property Law Act Bill into Parliament on the 23rd February 2023. https://tv.parliament.qld.gov.au/?reference=0Mba20230223_160210The bill is extensive and complex. However, it does contain a new concept titled the Body Corporate Certificate as part of the Seller Disclosure Statement within the Act. The UOAQ Committee has significant concerns regarding this document, especially what is left out.The UOAQ Committee representatives have been attending the Community Titles Legislation Working Group (CTLWG) for just under two years. The UOAQ Committee has reviewed much and submitted hundreds of pages of material. The UOAQ is one of several groups participating in the process but the only stakeholder representing the owners of the subject properties affected.Body Corporate Certificate must disclose Primary Object of the BCCM Act which is the 'Use of Freehold Land'The major issue raised by the UOAQ over those two years is the requirement for the seller disclosure document to contain a simple English statement of the lawful use of the land and the strata building drawn from the development approval given by local government under the Planning Act. With specific reference to s. 86 (96) of BCCM Regulations, the developer must provide a copy of the Development Approval (DA) to the body corporate on establishment. Therefore the argument that the DA is difficult to obtain is nullified, let alone providing just a few words from it on the body corporate certificate. More so however, the primary objective of the BCCM Act (intended purpose) goes precisely to management of the 'use of freehold land'. UOAQ are of the view there could not be a more serious omission of seller disclosure toward fair and transparent dealings than this omission in the proposed draft Bill.Omission of such fundamental disclosure also directly offends s. 30(1)(f) of the Australian Consumer Law which states –30 False or misleading representations about sale etc. of land(1) A person must not, in trade or commerce, in connection with the sale or grant, or the possible sale or grant, of an interest in land or in connection with the promotion by any means of the sale or grant of an interest in land:...(f) make a false or misleading representation concerning the use to which the land is capable of being put or may lawfully be put;Noting that 'misleading by omission' remains an offence under ACL.The UOAQ has requested that the body corporate certificate should identify the lawful use of the strata lot and the potential non-lawful uses that could seriously compromise a buyer's interests. There is a long history in Queensland of strata development for residential use, and then the management rights holder conducting an unlawful short-term accommodation business on behalf of non-resident investment owners. When raising this topic, the UOAQ representatives have been shouted down in the sessions by the lobby groups. The responses from the CTLWG to the UOAQ submissions have sought to obfuscate the issue. The UOAQ Committee has had similar obfuscation from the Brisbane City Council and the Gold Coast City Council. Why is our government attempting to suppress the lawful use of strata property?The UOAQ Committee would draw strata owner's attention to the statements in a recent P&E Court judgement by His Honor Judge William Everson regarding a residential strata property in South Brisbane, stated;Paragraph 8: It is clear on the evidence before me, that the applicant has been conducting a significant Short-term accommodation use from multiple dwelling units in the CTS for a lengthy period of time.....since August 2016.Paragraph 10: I am satisfied on the facts before me that the conducting of the Short-term accommodation use by the applicant has resulted in not only a material intensification of the use of the common property but also damage to the common property in a way that is unlikely to have occurred had this use not been (apparently unlawfully) conducted on the land.Paragraph 14: On the facts before me set out above, the use of a significant number of the lots in the CTS, (apparently unlawfully) for Short-term accommodation, has led to a

material increase in the intensity or scale of the use of the common property.Judges are supposed to choose their words carefully, so why would Judge William Everson add the words (apparently unlawfully) when referencing the use of apartments for short-term accommodation (STA)? The Brisbane City Council (BCC) advised UOAQ in 2018 confirming STA requires development approval for a Material Change of Use only to later resign from that long established position. BCC later claimed STA to be 'self assessable' even though the use was clearly in contravention to that of the development approval in place. Hence for eight years there has been no enforcement of the lawful use as prescribed in the development approval. Why?Is the reason that the local councils have failed to enforce the "(apparently unlawfully)" use of many strata schemes, because owners do not fully understand the lawful use of their residential property, and the resulting unlawful use greatly benefits the developer, management rights and lobby groups interest? Is this not why we need disclosure of lawful use in this new Property Law Act 2023? Let's protect the property rights of Queenslanders.The UOAQ believes there have been a number of applications to change the lawful use of the residential property made to the Brisbane City Council which have been approved without the knowledge or consent of owners. How does that happen? There have been hundreds of STA complaints about such unlawful use made to the Gold Coast City Council and yet barely a handful have been properly investigated, if at all. No action is taken in order to suppress this most serious issue.This revision of the Property Law Act should settle this issue, not continue to suppress the unlawful use of residential strata property to favour lobby groups. It makes our apartments more dangerous to occupy, more costly to maintain, compromises our insurances, obstructs our right to peaceful enjoyment of the residential amenity we purchase and significantly diminishes the capital value of our properties75% for Termination of a Scheme is Offensive to QueenslandersThe government media statement dated 16 February, 2023, announced –Proposed changes to body corporate legislation will make it easier for units to be redeveloped.The changes would allow for the termination of a community titles scheme with the support of 75 percent of lot owners.Following the October 2022 Housing Summit, the Palaszczuk Government has announced reforms to body corporate legislation to make it easier to sell and redevelop ageing or rundown community titles schemes in Queensland.Currently, a community titles scheme may only be terminated if no owner opposes the termination of the scheme, or if the District Court is satisfied it is just and equitable to terminate it.The changes will allow for the termination of a scheme with the support of 75 percent of lot owners, where the body corporate has agreed it is more financially viable for lot owners to terminate rather than maintain or remediate the scheme.The above is objected to in the strongest possible terms by all affected Queenslanders for reasons.Those directly affected are those who own the properties. Owners of in excess of 600,000 units each with median values exceeding $500,000, the owners of $300,000,000,000 ($300 B) of Queensland property were not even consulted.Despite Unit Owners having been consulted via the Community Titles Legislation Working Group for the preceding two years on this very topic, their voice appears disregarded and ignored. Unit Owners were not even invited to participate in the October 2022 Housing Summit where such a reform decision was seemingly made. More likely, the multi billion dollar property