




Speech By
Rob Molhoek

MEMBER FOR SOUTHPORT

BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER LEGISLATION AMENDMENT BILL

 **Mr MOLHOEK** (Southport—LNP) (3.10 pm): I rise today to add my contribution to the debate on the Body Corporate and Community Management and Other Legislation Amendment Bill. I understand that this bill will not fix all the difficulties and problems with the current act. It is, however, an important step towards the restoration of judicial fairness—something that Queensland unit owners and bodies corporate had taken away from them by my predecessor, the former member for Southport, Peter Lawlor, and the tired old Labor government that he represented.

We must remember that the 2011 amendments introduced by Labor were supposed to bring about fairness and equity for unit owners. Sadly, all the previous Labor government managed to achieve was the creation of a great big mess. Under Labor's amendments the rights of individuals were put ahead of the rights of bodies corporate. Under Labor we saw the introduction of amendments which allowed an individual unit owner to override an independent court or tribunal and, more appalling or importantly, override his fellow community title unit holders.

Changes to body corporate entitlements, fees and charges should never be forced on other unit owners by an individual owner. All owners are entitled to natural justice. All owners should be given an opportunity to participate in meaningful discussion and debate. The appropriate forum and process for decision making and dispute resolution on proposed changes to any titles scheme is and should be first and foremost through an appropriately convened and properly governed body corporate meeting.

In this setting, after full and open disclosure, property owners must then be provided the right to democratically vote in respect of the make-up of their title scheme. Should individual owners have difficulty accepting the decision of the majority of owners or if an individual owner has been dealt with unfairly and has a legitimate complaint or dispute then the matter should be dealt with by a court, tribunal or specialist adjudicator.

As a former Gold Coast city councillor, I understand only too well the frustrations and challenges body corporate schemes present. As the former chair of finance I received many delegations, hundreds of letters and attended many ratepayer forums and body corporate meetings about the inequities in lot entitlements and the body corporate system.

I am intrigued by the member for Condamine's comments suggesting that we should get out there and doorknock. I am not sure there are too many high-rise units in Condamine and not too many in Far North Queensland where his federal colleague lives. I can tell the member that I have doorknocked my electorate. I have spoken on many occasions with unit owners of both high-rise and low-rise developments around my electorate. I have not had a single complaint about these proposed changes from anyone in my electorate, which I find incredible. I am incredibly encouraged by the decision that this government has taken to rectify the wrongs of the previous government.

The original old schemes of the late sixties and seventies saw all kinds of creative arrangements established through company structures where some unit complexes all had a lot entitlement of one and some allocated controlling interests to parties wanting to retain control. Newer scheme entitlements have been based on all sorts of things like floor size. Some entitlements have been set by the developer and some have been apportioned on the basis of the initial sale price.

One particular group that came to see me in my time as a councillor was six unit owners in a block down near the beach. The block had been developed in the late seventies. The developer decided that the best lot entitlement was for him to have 51 per cent and the remaining five units to have a share of the other 49 per cent. That was simply because he wanted to make sure he had control of all the important decisions around the unit block. He obviously had the money and was quite happy to pay a large proportion of rates and body corporate fees.

Members can imagine the surprise of his family when they inherited the unit and found that the other owners in the block were paying \$3,000 a year in council rates and they had to pay something like \$24,000 a year. In terms of the body corporate fees they were corresponding amounts. That did not make a lot of sense. That created a whole raft of problems.

The point I simply raise is that these are confusing and perplexing issues. As we go from building to building we find all sorts of different arrangements in place that create significant challenges. The process that the previous government undertook to unravel and further complicate a system that was already fairly well established was simply appalling.

I have addressed concerned ratepayer groups the length and breadth of the Gold Coast in a former role and more recently in my role as the member for Southport only to see them deteriorate into a rabble as the groups who came together suddenly realised that they actually had different agendas and different expectations as to the outcomes of the meetings. They could not agree on pricing structures, valuations or lot entitlements.

I am no stranger to this issue in Southport. I have almost 20 high-rise residential towers in my electorate—over 3½ thousand residential units and apartments that are all subject to some form of body corporate arrangement. Last December I was invited by one particular body corporate group to their Christmas party. Prior to the Christmas party they asked if I could first have a meeting with the management team and the executive of the body corporate. Members can imagine that I went along a little reluctantly thinking I am not sure how much Christmas cheer there is going to be on this occasion. They simply sat me down to say that they were really pleased with the changes and, by the way, they actually have had no problems in their building because they have been operating a body corporate that is fair, that is just and that is very committed to looking after everyone in the building in a fair and equitable manner. It was a great pleasure to meet with that group and enjoy their hospitality as the evening wore on.

Last year on election day, just a little over 12 months ago, I was approached by a wealthy gentleman from Main Beach who owned a subpenthouse in one of the buildings there. This is outside my electorate. He asked if he could come and see me after the election to talk about the changes that the Labor government implemented back in 2011. I was not sure what to expect, but I agreed to meet with him. He came to advocate on behalf of some of the older residents in the building who had been significantly disadvantaged by the changes. He shared a story of one particular owner who had amalgamated about three units in the building, had managed to overturn the body corporate rules such that his lot entitlement was one and then proceeded to rent out two of the units that he had amalgamated under the guise of having a larger unit to attract rental income without having to pay fair body corporate fees. Even though this particular gentleman knew it was going to cost him more if the system reverted, he actually believed that was only fair and equitable because that was the system that was in place at the time that he purchased his unit. He had a real concern for many of the owners in that building that had been disadvantaged by the previous government's decision.

I have come to learn that life is not always fair. Certainly, my time in council taught me that no-one likes rates and taxes and no-one wants to pay more. Fundamentally, most people believe someone else should pay. These changes that were brought in by the previous government were not fair. What the Labor amendments of 2011 did was to unfairly change the rules. They treated all past owners and all past investors with utter contempt—previous owners who purchased property and negotiated a price based on what they knew at the time. Labor's amendments retrospectively and quite unfairly undermined the previous investment decisions of thousands and thousands of unit owners on the Gold Coast.

What investors want, what developers want, what unit owners want is certainty. It is simply not fair to retrospectively change lot entitlements or grant to individual unit owners the power to overturn democratic body corporate decisions or the judgements of courts, tribunals or specialist adjudicators. I, along with other government members, want to see this act workable for all. I also understand that whatever is put in place may not be to the liking of some people in the electorate, but as a government we must strive for what is best and fairest for the broader majority. That is why I support the Attorney-General and Minister for Justice in his commitment to undertake a full review of this legislation to see where it can be improved for the betterment of all those living or wanting to invest in bodies corporate. I commend the bill to the House.