

Quote in reply: Property and Development Section:21000345/59

4 May 2010

The Hon Peter Lawlor MP
Minister for Tourism and Fair Trading
PO Box 15216
City East QLD 4002

By Email: [REDACTED]

Dear Minister

BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997 - PROPOSED NEW LOT ENTITLEMENTS SYSTEM

Thank you for your letter regarding the proposed new lot entitlements system to be introduced under the *Body Corporate and Community Management Act 1997* (BCCMA). This issue has been reviewed by the Queensland Law Society's Property and Development Law Section, who have a keen awareness of the issues affecting this area of law.

We understand that there are proposals to amend the *BCCMA* to produce a "better and fairer system for working out shared costs associated with living in an apartment complex or other community titles scheme." We appreciate that the proposed system is a reversion to a previous method of dividing body corporate fees when a plan is registered.

We support the concept that body corporate fees should be determined on an equitable basis and on what is "fair and reasonable" in the circumstances. However, we have strong concerns about using unimproved value as the factor for determining lot entitlements or quantum of contributions toward shared body corporate expenses. In our view, using unimproved land value to determine lot entitlements will yield inequitable results. For example, if an "unimproved value regime" is introduced, a two bedroom unit on the 25th floor with water views will pay more body corporate fees than a two bedroom unit on the same floor without water views, simply because the unimproved land value will be higher in that unit. This is regardless of a commonality of reliance on shared infrastructure or contribution to shared expenses. This result is obviously inequitable and we believe that there are alternatives to this approach which would achieve more just and equitable outcomes for unit owners.

We consider it would be more beneficial to look at factors that relate to reliance on shared infrastructure or contribute to shared costs such as; lift usage and surface area of the exterior of the building when determining body corporate fees. We consider that looking at these factors when determining lot entitlements will produce more just and equitable outcomes for unit owners.

We would like to meet with the Department to discuss these proposals further. We would appreciate if you could please have a member of your staff contact our Policy Lawyer, Binny De Saram on [REDACTED] or [REDACTED] to arrange a suitable meeting date.

Yours faithfully

[REDACTED]
Peter Eardley
President