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SP52948 - Correspondence between EC members and BCS Strata Management on 10th of October 2012, confirming no income from BigAir ISP

Sent: Friday, 10 August 2012 2:53 PM
To: Peter Bone; Paul Banoob
Cc: ruthluka@L...; Gary Webb; John Ward
Subject: RE: SP 52948 - Latest documentation

Peter,

Given the extraordinary level of objection over rooftop microwave antennae will you please confirm that the current WHome network does not have an antenna on the roof and that it will require a general meeting to approve such (would have to wait until mid October 2012). If there is already an antenna on the roof relating to this service, it may be possible to approve the upgrade at committee level. I recollect that the original approval for the installation of this equipment and the power it consumes was to be compensated to the Owners Corporation by an annual fee equivalent to a commission on the revenue derived. It was probably only 5 or 10% but I do not recollect seeing any income come through. Clearly if they wish to install equipment they must be making income and we should enquire as to where that commission is.

SP52948 - Correspondence between EC members confirming no income received, and fair annual income from BigAir to be \$20,000.00, blaming BCS Strata Management on 1st of September 2013

I suspect that the accounting for the income in the manner contracted will be claimed as too hard to effect now. Failing such accounting an annual fee of \$20,000 (being the amount that alternative suppliers would pay for access based on other contracts offered but refused) would be the minimum acceptable fee. This fee should be negotiated in two parts for tax reasons. 50% should be nominated as the estimated consumption of electricity. (If the supplier wishes to continue the service by paying the 5% we will have to take the risk on power consumed – however ANY change to terms must include full cost recovery for all power consumed and the supplier is to pay for and have read a meter to verify this.

If the amount is not paid then as there are many alternate services available the supplier must be given notice to remove the equipment. I have no doubt that the matter, if taken to an AGM again, would result in a refusal to grant access. The supplier should be left in no doubt as to the antithapy that exists around their attitude, failure to communicate and live up to their contract. Compromise will be hard to obtain from the owners as a whole. The circumstances that existed at the time the service was initially permitted do not exist today and there is absolutely no imperative that our building have this equipment installed for anything other than economic gain. This matter must be resolved before the notice for the AGM is sent out. That gives us a bare 5 weeks. If they (Big Air) attempt to drag there feet I will move at the AGM that the service be discontinued and legal action commenced for breach of contract. That is a certain loss for them regardless of the Telecommunications Act. For that reason its is very muchy in the interests of Big Air to settle quickly as concerned owner has quite incorrectly (but to our advantage in this case) whipped up the masses into a fervent revolt on the "theft" of electricity.

This matter is important and urgent for reasons of the false claims by concerned owner surrounding the approval and recovery of income but in fairness it is a Strata Manager issue and not an EC problem. It is very much in BCMS's interests to finalise this rapidly before the AGM.

SP52948 - Grace Lawyers earned \$4,172.30 in attempt to expel BigAir from the complex and failed to achieve that task in 2013/2014

Grace Lawyers charged \$4,172.30:

Cred. Code	Creditor Name	Doc. Ref. No.	Doc. Date	Doc. Total	Chq. Date	Date Presented
46169	GRACE LAWYERS	50615	31/03/2014	\$195.25	23/04/2014	23/04/2014
46169	GRACE LAWYERS	50063	28/02/2014	\$1,199.00	01/04/2014	01/04/2014
46169	GRACE LAWYERS	48462	31/12/2013	\$316.25	29/01/2014	29/01/2014
46169	GRACE LAWYERS	47768	16/12/2013	\$1,112.10	06/01/2014	06/01/2014
46169	GRACE LAWYERS	47265	6/12/2013	\$968.00	16/12/2013	16/12/2013
46169	GRACE LAWYERS	45825	30/09/2013	\$381.70	21/10/2013	21/10/2013
			Total	\$4,172.30		

SP52948 - Grace Lawyers formally requested BigAir leave complex on 31st of January 2013

31 January 2014

Attention: Mr Stephen Bull
BigAir Group Limited
Level 1, 59 Buckingham Street
Surry Hills NSW 2010

WITHOUT PREJUDICE SAVE AS TO COSTS

URGENT

Also by Email: facilities@bigair.net.au

Dear Sir

**THE OWNERS - STRATA PLAN NO 52948
TELECOMMUNICATIONS INSTALLATION
1-15 FONTENOY RD, MACQUARIE PARK 2113**
Our Ref: 131862

We refer to your correspondence dated 15 January 2014.

With respect, it is our client's opinion that the offer which has been proposed is grossly inadequate and has no regard to interest.

In our letters dated 15 November 2013 and 13 December 2013 respectively, we informed you that the Owners Corporation has accepted your company's repudiation and terminated the contract.

You are required, therefore, to remove all your equipment and reinstate our client's property to its original condition to its reasonable satisfaction within seven (7) business days of the date of this letter.

In addition, the Owners Corporation will not be entertaining any further negotiations with BigAir. In this regard, from a review of your alleged revenue, it is noted that there will be no or minimum loss to BigAir.

If the equipment is not removed by close of business on 4 February 2014, the Owners Corporation may commence action against you without any further notice to you.

Please kindly confirm once the equipment has been removed.


**Ian McKnight
Partner
Grace Lawyers Pty Ltd**

Partners:
Collin Grace
Daniel Radman
James Nickless
Ian McKnight
Peter Ton

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EM: enquiries@gracelawyers.com.au
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ABN 55 116 196 500

SP52948 - Photos taken of BigAir equipment on Block C on 6th of October 2014

Some of the photos taken on 6th of October 2014 on roof of Block C. They also show poor isolation practices on cabling:



MARS ANTENNAS & R-SYSTEMS LTD.

ANTENNA
MA - WA58 - 1X MNT

N: M216410200015

N: 49178 DATE: 10/10

MADE IN ISRAEL



06.10.2014 18:17

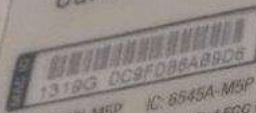


06.10.2014 18:15

www.ubnt.com

PowerBridge M5

Carrier Class AirMax Bridge




13 19G DC9FD86A28D6

FCC ID: SWX-M5P IC: 6545A-M5P

This device complies with Part 15 of FCC rules.
Operation is subject to the following two conditions:
1) this device may not cause harmful interference and,
2) this device must accept any interference received,
including interference that may cause undesired operation.

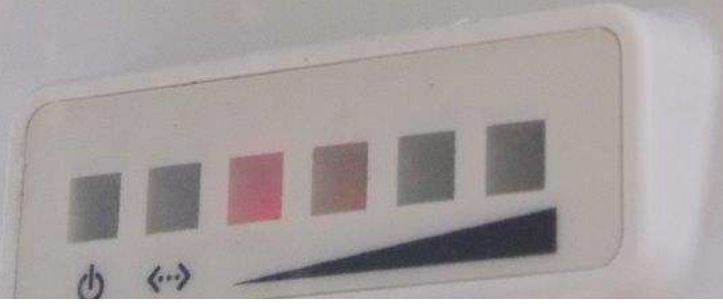
CE RoHS Compliant

M/N: PoweBridgeM5
24V 1A POE



UBIQUITI NETWORKS

N28998



06.10.2014 18:14

AIRMUX-200/ODU/F58F/EXT (A)

P/N : 1990120000

S/N : 847003616



ID:CC100056087

This device complies with part 15 of the FCC Rules . Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation

06.10.2014 18:15

SP52948 - Decision to engage Telecommunications Ombudsman and enforce eviction of BigAir at AGM on 26th of November 2014

10th of September 2014: At the Executive Committee meeting that was attended by only seven out of nine members of the committee and BCS Strata Management, owners were told that advice from a legal contact was pending as to who may be recommended to assist the owners corporation with any further action.

MOTION 2: The meeting noted the following matters;

BigAir Contract:

The Executive Committee are awaiting advice from a legal contact, as to who may be recommended to assist the Scheme with any further action.

12th of November 2014: Under intense pressure from Lot 158, who had extensive telecommunications experience and ran thorough investigation about BigAir, and raised cases with Australian Media and Communications Authority and Telecommunications Industry Ombudsman (file number 2014/10/03580), the following was reported in the agenda for the Annual General Meeting:

WHOME (now BigAir) BREACH OF CONTRACT

The wireless internet supplier BigAir, originally known as Whome, has reneged on its contractual obligations to pay a commission to the OC and has relied on changes to the Telecommunications Act to prevent their equipment being removed. Solicitors acting for the OC gave ineffective advice and this matter remains a commercial headache. Self-managed legal action may be the only resolution to this, which will take a lot of committee time. The cost of initiating legal action may exceed any recoupment but the alternative is that BigAir continues to profit from the use of common property for no cost.

Motion was carried at AGM on 26th of November 2014:

MOTION 17: That the Executive Committee be authorised to take such action as is reasonably necessary to cause the company known as BigAir (formerly known as WHome) to remove their equipment from the premises maintained in breach of contract. Such action is to include the pursuit of a complaint with the Telecommunications Ombudsman. An order by the ombudsman to reconcile the breach in commercial terms (including maintaining equipment on site) may be accepted as an alternative resolution. – **Carried.**

SP52948 - Lot 158 Motion for recovery of lost income from BigAir - disallowed without valid reason by BCS Strata Management at AGM 2016 and Waratah Strata Management at AGM 2017

Motion: Recovery of lost revenue from BCS Strata Management for illegal operation by ISP BigAir

The Owners Corporation SP52948 by GENERAL RESOLUTION (A ONE LOT/ONE VOTE FORMAT), confirms and approves the following:

- BCS Strata Management and EC members included this as Motion 17 in the agenda for AGM 2016 but failed to include Explanatory Notes, and without due notice to the requestor of the Motion,
- BCS Strata Management shall reimburse owners corporation for failing to act in best interest of owners corporation (compensation claim due to professional negligence), acting in non-compliance with Motion 17 carried at AGM 2014, delaying eviction of the ISP although it had no dependence on the rollout of the NBN, and allowing wireless ISP BigAir to run business without contract or approval since 31st of January 2014 in the following manner:
- Penalty rate of \$2,000.00 plus GST per each calendar month (or pro-rata), with 10% yearly interest rate, calculated since 31st of January 2014,
- All disclosed legal costs incurred by Grace Lawyers since 31st of January 2013, amounting to \$1,394.25 (GST inclusive), with 10% yearly interest rate since the date they were paid from common funds, and any other such expenses by Grace Lawyers or other legal service providers, pending financial audit by owners corporation within one month after the resolution at general meeting.
- If carried, the first bulk payment into owners corporation funds shall include all months since 31st of January 2014 and be enforceable within 30 days after the general meeting,
- Payments into owners corporation funds shall continue until such time when BigAir removes their equipment from the complex, or different decision is made by owners corporation,
- Payments into owners corporation funds shall be monthly and strictly monitored by members of the EC,
- To the extent of any inconsistency with previous by-laws or motions, this motion prevails.

SP52948 - Waratah Strata Management email to BigAir with frustration about lack of actions on 14th of February 2018

Robert Crosbie

From: Robert Crosbie
Sent: 14 February 2018 4:11 PM
To: 'BigAir Facilities'
Subject: RE: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

Steve,

The saga continues. We last spoke on 28 September 2017. You said BigAir had been taken over by another company blah blah blah and you would get back to me with a written proposal. Still waiting.

We have a committee meeting tomorrow night. I believe the committee are sharpening an axe.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

www.waratahstrata.com.au

From: Robert Crosbie
Sent: 25 August 2017 3:48 PM
To: 'BigAir Facilities' <facilities@bigair.net.au>
Subject: RE: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

Steve,

We spoke a few weeks ago and you advised that you had a proposal that you were getting management approval for and would then be sending to us. We will start preparing the AGM agenda next week so we need to receive your proposal as soon as possible so it can be discussed at the AGM.

Please understand that if a new agreement acceptable to the Owners Corporation is not put in place with Big Air at this AGM it is very likely the Owners Corporation will take whatever action is necessary to remove the WHome equipment from the property due to the breach of that contract and the costs being incurred by the Owners Corporation in having that equipment on the property.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

www.waratahstrata.com.au

From: Robert Crosbie
Sent: 09 June 2017 2:39 PM
To: BigAir Facilities <facilities@bigair.net.au>
Subject: RE: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

SP52948 - Waratah Strata Management email to BigAir on 16th of February 2018

Robert Crosbie

From: Robert Crosbie
Sent: 16 February 2018 5:54 PM
To: 'BigAir Facilities'
Subject: RE: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

Peter,

Thank you for your email. This matter was discussed at our committee meeting last night. You will see from the extensive correspondence that this issue has been outstanding for many years and the committee are quite disgusted with the way they have been treated by WHome and all of the subsequent entities that have owned this equipment.

Your prompt response to advise what action you propose to take would be appreciated.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

www.waratahstrata.com.au

From: BigAir Facilities [mailto:facilities@bigair.net.au]
Sent: 14 February 2018 5:58 PM
To: Robert Crosbie <[redacted]@waratahstrata.com.au>
Cc: Peter Brownsdon <[redacted]@bigair.net.au>
Subject: Re: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

Hi Robert,

By way of introduction i have replaced Stephen Bull in Commercial Facilities team at BigAir.

I will bring myself up to speed tomorrow and will likely need to have a phone call just to introduce myself.

In the meantime my direct number is [redacted]

Kind Regards,
Peter Brownsdon

On 14 February 2018 at 13:11, Robert Crosbie <[redacted]@waratahstrata.com.au> wrote:

Steve,

The saga continues. We last spoke on 28 September 2017. You said BigAir had been taken over by another company blah blah blah and you would get back to me with a written proposal. Still waiting.

SP52948 - Waratah Strata Management desperate email to Grace Lawyers on 8th of March 2018

15

Robert Crosbie

From: Robert Crosbie
Sent: Wednesday, 8 March 2017 10:16 AM
To: 'enquiries@gracelawyers.com.au'
Subject: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Your Ref 131862

We have recently taken over the management of the above property from BCS. Back in 2013/2014 Ian McKnight attended to an issue for this strata plan in relation to BigAir Group Ltd and a telecom tower that was installed in the building.

This issue currently remains unresolved and we are trying to get a clear understanding of what occurred at that time however the records received from BCS are incomplete. We are aware of the following correspondence, but do not have a copy of the letters concerned. We ask you to provide a copy of the following correspondence from your records:

- Grace Letter to BigAir dated 15/11/13
- Grace Letter to BigAir dated 13/12/13
- BigAir letter to Grace dated 2/12/13
- BigAir letter to Grace dated 15/1/14

We have a strata committee meeting next Thursday 16 March which will discuss this issue. We will advise further following that meeting if we need you to take any further action in this matter.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

www.waratahstrata.com.au

SP52948 - Waratah Strata Management email to BigAir asking for proposal on 6th of April 2018

On 6 April 2018 at 15:16, Robert Crosbie <[REDACTED]@waratahstrata.com.au> wrote:

Peter,

Please advise whether you have a proposal for us for the communication tower at the above property. We have a strata committee meeting taking place next Thursday 12 April and would like to have a proposal to discuss at that meeting.

Regards,

Robert Crosbie

Waratah Strata Management

P.O. Box 125, Eastwood NSW 2122

SP52948 - Waratah Strata Management email to EC members with proposal from BigAir on 10th of April 2018

Robert Crosbie

From: Robert Crosbie
Sent: Tuesday, 10 April 2018 6:17 PM
To: 'tk_sydney@'; 'marianna.paltikian@'; 'everolth@'; 'jgore5@'; 'genellegodbee@'; 'zellew@'; 'mcdonald151@'; 'pogo@'; 'jeffrey@'
Subject: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park

SC Members,

We have received the following proposal from Superloop/BigAir/WHome.

This can be discussed at Thursdays meeting.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

@waratahstrata.com.au

From: Peter Brownsdon [@superloop.com]
Sent: Tuesday, 10 April 2018 3:20 PM
To: Robert Crosbie < @waratahstrata.com.au>
Subject: Re: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Good afternoon Robert,

Thank you for your time this afternoon.

As mentioned the history on this site has been rather lengthy from both sides. The equipment was previously servicing tenants in the building on a previous recoup to the owners based on revenue from tenants.

To bring this item to a close BigAir suggests the following:

- BigAir perform a make good within 60 days to have all equipment and poles removed from the rooftop
- BigAir perform a make good to remove conduit and equipment cabinet installed within the plant room
- BigAir provide a nominated fee of \$2000 to compensate for previous usage
- BigAir draft a Deed of Release to release both parties from any previous arrangements

It would be appreciated if you could please discuss this option with the committee at your next meeting.

BigAir would like to understand what the committee believes is reasonable as well in this scenario.

Regards,
Peter Brownsdon

SP52948 - Waratah Strata Management email to BigAir with proposal requesting payment in amount of at least \$20,000.00 on 13th of April 2018

Filey 27/4

Robert Crosbie

From: Robert Crosbie
Sent: Friday, 13 April 2018 11:50 AM
To: 'Peter Brownsdon'
Subject: RE: SP 52948, 1-15 Fontenoy Road, Macquarie Park
Attachments: DOC130418-13042018123136.pdf; DOC130418-13042018123358.pdf

Peter,

This matter was discussed at a strata committee meeting held last night and we are instructed to respond as follows.

The equipment has been in place since December 2003. WHome had agreed to pay 5% of all of its income from that equipment (see copy attached). Steve Bull from BigAir had proposed to pay \$2,500 per annum licence fee, plus \$500 per annum for electricity consumption (see copy attached). We have not been the strata managers for the entire period since December 2003, but we are not aware that any compensation for this equipment or electricity usage has ever been paid.

The offer of \$2,000 for around 15 years of this equipment being located on the property and using the common property electricity for that time is therefore totally inadequate. A reasonable compensation amount would need to be at least \$20,000. Subject to the payment of an agreed compensation amount, the Owners Corporation has no objection to the equipment being removed within 60 days and the property made good.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

[Redacted]
[Redacted]@waratahstrata.com.au

From: Peter Brownsdon [Redacted]@superloop.com]
Sent: Tuesday, 10 April 2018 3:20 PM
To: Robert Crosbie <[Redacted]@waratahstrata.com.au>
Subject: Re: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Good afternoon Robert,

Thank you for your time this afternoon.

As mentioned the history on this site has been rather lengthy from both sides. The equipment was previously servicing tenants in the building on a previous recoup to the owners based on revenue from tenants.

To bring this item to a close BigAir suggests the following:

- BigAir perform a make good within 60 days to have all equipment and poles removed from the rooftop
- BigAir perform a make good to remove conduit and equipment cabinet installed within the plant room
- BigAir provide a nominated fee of \$2000 to compensate for previous usage
- BigAir draft a Deed of Release to release both parties from any previous arrangements

SP52948 - Waratah Strata Management email to EC members with BigAir counter offer with payment in amount of \$12,000.00 on 3rd of May 2018

Robert Crosbie

From: Robert Crosbie
Sent: Thursday, 3 May 2018 9:38 AM
To: 'tk_sydney@'; 'marianna.paltikian@'; 'everolth@'; 'jgore5@'; 'genellegodbee@'; 'zellev@'; 'mcdonald151@'; 'pogo@'; 'jeffrey@'
Subject: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park

SC Members,

We have received the following \$12,000 counter-offer from Superloop/BigAir to settle our claim with them for their internet installation in the building.

I propose to vote on this motion by way of an email vote in accordance with Schedule 2 Sec 9(2) of Strata Schemes Management Act.

Please do a "reply to all" email to indicate whether you vote for or against the following motion:

1. That the Owners Corporation accept the offer from Superloop of \$12,000 being full consideration of the Owners Corporations income rights from its contract with W Home Pty Ltd and its successors dated December 2003, subject to (a) Superloop removing all of its equipment and poles from the rooftop, its conduit and equipment cabinet from the plantroom and making good any damage caused to the building within 60 days, and (b) a Deed of Release being signed by both parties.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

robert@waratahstrata.com.au

From: Peter Brownsdon [mailto:pete@superloop.com]
Sent: Wednesday, 2 May 2018 5:46 PM
To: Robert Crosbie <robert@waratahstrata.com.au>
Subject: Re: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Hi Robert,

This is correct.

Regards,
Peter

Peter Brownsdon
Commercial
Facilities Manager
p 1300 244 247



SP52948 - Email from Waratah Strata Management to BigAir requesting payment in amount of \$20,000.00 on 18th of May 2018

Robert Crosbie

From: Robert Crosbie
Sent: Friday, 18 May 2018 11:31 AM
To: 'Peter Brownsdon'
Subject: RE: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Peter,

I have referred the following proposal to the strata committee and it has not been accepted for the following reasons:

- This matter has been ongoing since 2003. The estimated lost revenue during that period in accordance with the original WHome agreement is in the vicinity of \$10,000.
- The cost of the Owners Corporations electricity used by your equipment during the 15 years is estimated at \$500 - \$1,000 per annum, so \$7,500 - \$15,000 in total.
- The Owners Corporation incurred significant legal expenses in 2013-2014 trying to resolve this issue.
- WHome and BigAir have not acted in good faith with the Owners Corporation during that period as they have continually failed to meet the contract obligations to make payments and have failed to enter into a meaningful discussions to resolve this situation. It is yet to be seen whether Superloop will act in good faith in this matter.

For these reasons, the Owners Corporation require payment of the full amount of \$20,000 previously discussed.

Regards,

Robert Crosbie
Waratah Strata Management
P.O. Box 125, Eastwood NSW 2122

robert@waratahstrata.com.au

From: Peter Brownsdon [mailto: [REDACTED]@superloop.com]
Sent: Wednesday, 2 May 2018 5:46 PM
To: Robert Crosbie < [REDACTED]@waratahstrata.com.au >
Subject: Re: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Hi Robert,

This is correct.

Regards,
Peter

Peter Brownsdon
Commercial
Facilities Manager
p 1300 244 247



SP52948 - BigAir offer of settlement with only \$12,000.00 payment using bullying language on 5th of June 2018

txdlaw

Lawyers & Consultants

T: 0423 942 454

E: [REDACTED]@txdlaw.com.au

www.txdlaw.com.au

5 June 2018

Robert Crosbie
Waratah Strata Management

By email: [REDACTED]@waratahstrata.com.au

Dear Mr Crosbie

Without prejudice except for costs

BigAir – Macquarie Gardens

I act for BigAir and refer to correspondence exchanged between BigAir and you regarding rental payment to the Owners of Strata Plan 52948 (**the Body Corporate**) in relation to a facility (**the facility**) installed at Macquarie Gardens, 1-15 Fontonoy Road, North Ryde NSW 2153 (**the building**).

I understand that the facility was installed on the building by W Home pursuant to an agreement with the Body Corporate dated 19 December 2003 (**the facility agreement**). I am instructed that BigAir acquired the facility from W Home in 2007.

The facility agreement includes the following relevant terms:

- SkyNetGlobal, which I assume is a trading name for W Home, will pay the Body Corporate 5% of all income derived from the facility [Special Condition (a)]. (**rent**).
- The Body Corporate will pay for the supply of electricity to the facility [clause 3.5].

I am instructed that rent has not been paid by BigAir to the Body Corporate since BigAir acquired the facility from W Home and that over several years various settlement offers have been made and rejected by both parties. I understand the latest offers exchanged are as follows:

- The Body Corporate has offered to settle this matter on payment of \$20,000 from BigAir. This figure is based on:
 - a) Estimated lost revenue since 2003 of \$10,000
 - b) Estimated electricity costs since 2003 of \$500 - \$1000 per annum or \$7500 - \$15,000 total
 - c) Legal expenses.
- BigAir has offered to settle this matter on payment of \$12,000 to the Body Corporate. This figure is based on:
 - a) \$7000 representing an estimate of 5% of the income derived from the facility in the period between 2007 and 2018.
 - b) An additional payment of \$5000 as an incentive to settle this matter.

SP52948 - Email from Waratah Strata Management to EC members BigAir asking for confirmation if \$12,000.00 was sufficient and planning discussion at EC meeting scheduled for 21st of June 2018 on 6th of June 2018

Big Air

Robert Crosbie

From: Robert Crosbie
Sent: Wednesday, 6 June 2018 5:37 PM
To: 'tk_sydney@'; 'marianna.paltikian@'; 'everolth@'; 'jgore5@'; 'genellegodbee@'; 'zellev@'; 'mcdonald151@'; 'pogo@'; 'jeffrey@'
Subject: FW: BigAir - Macquarie Gardens
Attachments: BigAir - Macquarie Gardens - letter to R Crosbie 5 June 2018.pdf; BigAir - Macquarie Gardens - settlement deed.pdf; Revenue generated from R2MAC.xlsx; Revenue1FontenoyRoad.xlsx

SC Members,

Please see the attached letters from BigAir. I suggest this be discussed at the committee meeting on 21 June.

Regards,

Robert Crosbie
 Waratah Strata Management
 P.O. Box 125, Eastwood NSW 2122
 @waratahstrata.com.au

Accept \$12,000 ?

<i>no</i>	<i>yes</i>
<i>Marianna</i>	<i>Yes</i>
<i>Stan</i>	<i>Yes</i>
<i>Thomas</i>	<i>yes</i>
<i>Maurice</i>	<i>yes</i>
<i>Jeffrey</i>	<i>yes</i>
<i>John</i>	<i>Yes</i>

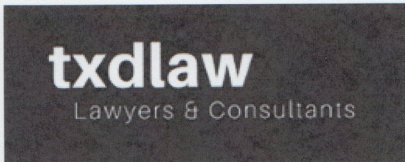
From: Tony Dooley [mailto: @txdlaw.com.au]
Sent: Tuesday, 5 June 2018 3:49 PM
To: Robert Crosbie < @waratahstrata.com.au>
Subject: BigAir - Macquarie Gardens

Dear Mr Crosbie

Please refer to the attached letter and other documents on behalf of BigAir.

Regards

Tony Dooley – Director
 P: @waratahstrata.com.au
 E: @txdlaw.com.au



Waratah Strata Management undisclosed levy arrears for committee members at EC meeting on 20th of July 2017, making such owners unfinancial to vote

- Four members of the committee were unfinancial to be members due to unpaid gas heating levies, without disclosure to owners corporation:

Mr. Stan Pogorelsky

Mr. Moses Levitt

Mrs. Marianna Paltikian

Mrs. Lorna Zelenzuk

- Levies were due on 1st of May 2017 and were overdue even as late as 20th of July 2017, well after the committee meeting in June 2017:

Strata Plan 52948		Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113						
Lot	Unit	UE	Contact name	Position	Vote	Name on title Nominated by	Lot Nominated arrears (-)prepaid	Lot Nominated arrears (-)prepaid
218	218	54.00	Jeffrey Wang	Member	Yes	Jeffery Ching-Hao Wang & Rebecca Grace Ein Hoi Wang Nominated by N/A	0.00	N/A
200	200	54.00	John Gore	Member	Yes	John Lewis Gore & Elizabeth Gore Nominated by N/A	-218.55	N/A
181	181	52.00	Stan Pogorelsky	Chairman	Yes	Stan Pogorelsky & T L Pogorelsky Nominated by N/A	0.00	N/A
151	151	47.00	Maureen McDonald	Member	Yes	Maureen McDonald Nominated by N/A	-1,344.25	N/A
147	147	36.00	Moses Levitt	Member	Yes	Moses Levitt & Simcha Zelda Levitt Nominated by N/A	0.00	N/A
142	142	47.00	Genelle Godbee	Member	Yes	Genelle Godbee Nominated by N/A	0.00	N/A
112	112	38.00	Carlos Fornieles Montoya	Treasurer	Yes	Carlos Fornieles Montoya & Chiharu Fornieles Nominated by N/A	0.00	N/A
88	88	47.00	Marianna Paltikian	Member	Yes	Marianna Hagop Jin Ibrahim Paltikian & Awidis Makasian Nominated by N/A	-1,344.25	N/A
3	3	44.00	Lorna Zelenzuk	Secretary	Yes	Lorna Zelenzuk & Yigal Zelenzuk Nominated by N/A	-1,258.40	N/A
9			Total				-4,165.45	0.00

Handwritten notes:
 - Next to Carlos Fornieles Montoya: *Apology*
 - Next to Lorna Zelenzuk: *Apology*
 - Under Total: *Zelda Levitt 147*
 Rupali Aranzuela 62
 Simon Robert

- Document with arrears also confirmed that none of the committee members were nominated by other parties, in breach of SSMA 2015, Sec 31 (1) (c): self-nomination to the strata committee is invalid, which Waratah Strata Management confirmed in email to Lot 158 on 28 of October 2021.

SP52948 - Document search at Waratah Strata Management on 31st of May 2019 found no evidence of EC members formally approving BigAir offer via emails or letters

At document search at Waratah Strata Management on 31st of May 2019, no evidence was found of EC members making the decision to accept BigAir offer (emails, paper EC meeting, or letters) before Waratah Strata Management signed the Settlement Deed on 15th of June 2018.

SP52948 -Waratah Strata Management signed BigAir Settlement Deed 15th of June 2018 without planned discussion at EC meeting scheduled for 21st of June 2018

Flup 7/7

Settlement Deed

Parties

BigAir Group Pty Ltd 098 572 626
(BigAir)

Owners of Strata Plan 52948

~~BCMS Pty Ltd~~ *Cl Waratah Strata Management*
~~Locked Bag 22~~ *P.O. Box 125*
~~Haymarket NSW 1238~~ *Eastwood NSW 2122*
(the Owners Corporation)

Recitals

- A. BigAir owns a facility (**the facility**) installed on common property at Macquarie Gardens, 1-15 Fontoney Road, North Ryde NSW 2153 (**the building**), which is owned by the Owners Corporation. A dispute has arisen regarding BigAir's liability to pay the Owners Corporation for locating and operating the facility at the building (**the Dispute**).
- B. The Parties have agreed to settle the dispute in accordance with the terms of this Deed.

It is agreed:

- 1. BigAir must pay \$12,000 to the Owners Corporation (**Settlement Sum**).
- 2. The Settlement Sum is payable:
 - (a) Within 21 days of the Owners Corporation issuing a valid tax invoice to BigAir.
 - (b) By electronic funds transfer into the Owners Corporation's nominated bank account.
- 3. BigAir must remove the facility from the Building within 60 days of the Owners Corporation providing an executed copy of this Deed to BigAir, subject to the Owners Corporation providing BigAir and its contractors access to the Building for this work to occur at times reasonably requested by BigAir.
- 4. Following removal of the facility, BigAir must within a reasonable period reasonably remediate any damage caused to the Building by the facility or its removal, subject to the Owners Corporation providing BigAir and its contractors access to the Building for this work to occur at times reasonably requested by BigAir.
- 5. Upon execution of this Deed, receipt of the Settlement Sum, removal of the facility and reasonable remediation of the facility site, the parties forever release, discharge, indemnify and hold each other harmless from all past, present or future claims, actions, suits, demands, damages, expenses and liabilities of any description whatsoever, howsoever arising connected with or incidental to:
 - (a) the Dispute; and
 - (b) any other circumstances or matters whether connected with the Dispute or otherwise, which were or could reasonably have been known to the Parties as at the date of this Deed.

WARATAH
Strata Management

6. The release and indemnity referred to in this document includes a release in favour of any Party's directors, related bodies corporate, officers, employees and agents from time to time.
7. The Parties undertake not to assert a claim or commence or maintain any action in laws or equity against each other in relation to the facts and circumstances giving rise to the Dispute. This document may be raised or pleaded as a complete defence to the continuance or commencement of any proceedings in respect of the subject matter of the Dispute.
8. The contents of this Deed are strictly confidential. A Party must not disclose or permit to be disclosed either directly or indirectly the contents of this Deed, or details of any discussions or negotiations between the parties in relation to this Deed, except:
 - (a) With the express consent of the other Party.
 - (b) To the extent required by law; and
 - (c) On a confidential basis to their insurers, legal, financial or accounting advisors.
9. The Parties agree that:
 - (a) Each Party must bear its own legal costs of, and incidental to, this Deed and the Dispute.
 - (b) The laws of New South Wales govern this Deed and each Party agrees to submit to the jurisdiction of New South Wales.

Date: 15 June 2018

To:

Amount: \$1,000.00

GST: \$1,000.00

Total: \$2,000.00

For: For the Settlement Deed

Bank Account Details

Executed as a Deed this 15th of June 2018

Account Name: Waratah Strata Management P/L Trust A/c SP 52948


Signed on behalf of BigAir by its solicitor

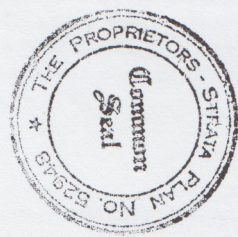
Account Number: 2128-43833

Tony Dooley
TXD Law

WARATAH STRATA MANAGEMENT PTY LTD

Signed on behalf of the Owners Corporation by its strata managing agent


.....
Robert Crosbie
Waratah Strata Management



SP52948 -Waratah Strata Management issued Tax Invoice to BigAir on 15th of June 2018 without planned discussion at EC meeting scheduled for 21st of June 2018

WARATAH
Strata Management

Address: P.O. Box 125, Eastwood NSW 2122 Phone: 02 9114 9599 Fax: 02 9114 9598
Email: enquiry@waratahstrata.com.au Web: www.waratahstrata.com.au

TAX INVOICE

Issued on behalf of Strata Plan 52948

Address: 1-15 Fontenoy Road, Macquarie Park NSW

ABN: 79 491 891 602

Date: 15 June 2018

To: BigAir Group Pty Ltd

Amount: \$10,909.09

GST: \$ 1,090.91

Total Owing: \$12,000.00

For: Facility Settlement Deed Sum

Bank Account Details

Account Name: Waratah Strata Management P/L Trust A/c SP 52948

BSB: [REDACTED]

Account Number: [REDACTED]

Yours faithfully,

WARATAH STRATA MANAGEMENT PTY LTD

Robert Crosbie

Strata Manager

SP52948 - Extract from Minutes of EC meeting on 21st of June 2018 alleging that the offer was accepted at that meeting without disclosure that Waratah Strata Management had already signed the Settlement Deed on 16th of June 2018

**MINUTES OF A STRATA COMMITTEE MEETING
THE OWNERS - STRATA PLAN 52948**

ADDRESS OF THE STRATA SCHEME:

Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113

DATE, PLACE & TIME OF MEETING: A meeting of the Strata Committee of The Owners - Strata Plan 52948 was held on 21/06/2018 at 06:00 PM at the offices of Waratah Strata Management, Suite 200, 160 Rowe Street, Eastwood.

PRESENT:

Lot #	Unit #	Attendance	Owner Name Representative
21	21	Yes	Thomas Karolewski
88	88	Yes	Marianna Paltikian
112	112	Apology	Carlos Fornieles Montoya
142	142	Apology	Genelle Godbee
147	147	Yes	Moses Levitt
151	151	Yes	Maureen McDonald
181	181	Yes	Stan Pogorelsky
200	200	Yes	John Gore
218	218	Apology	Jeffrey Wang

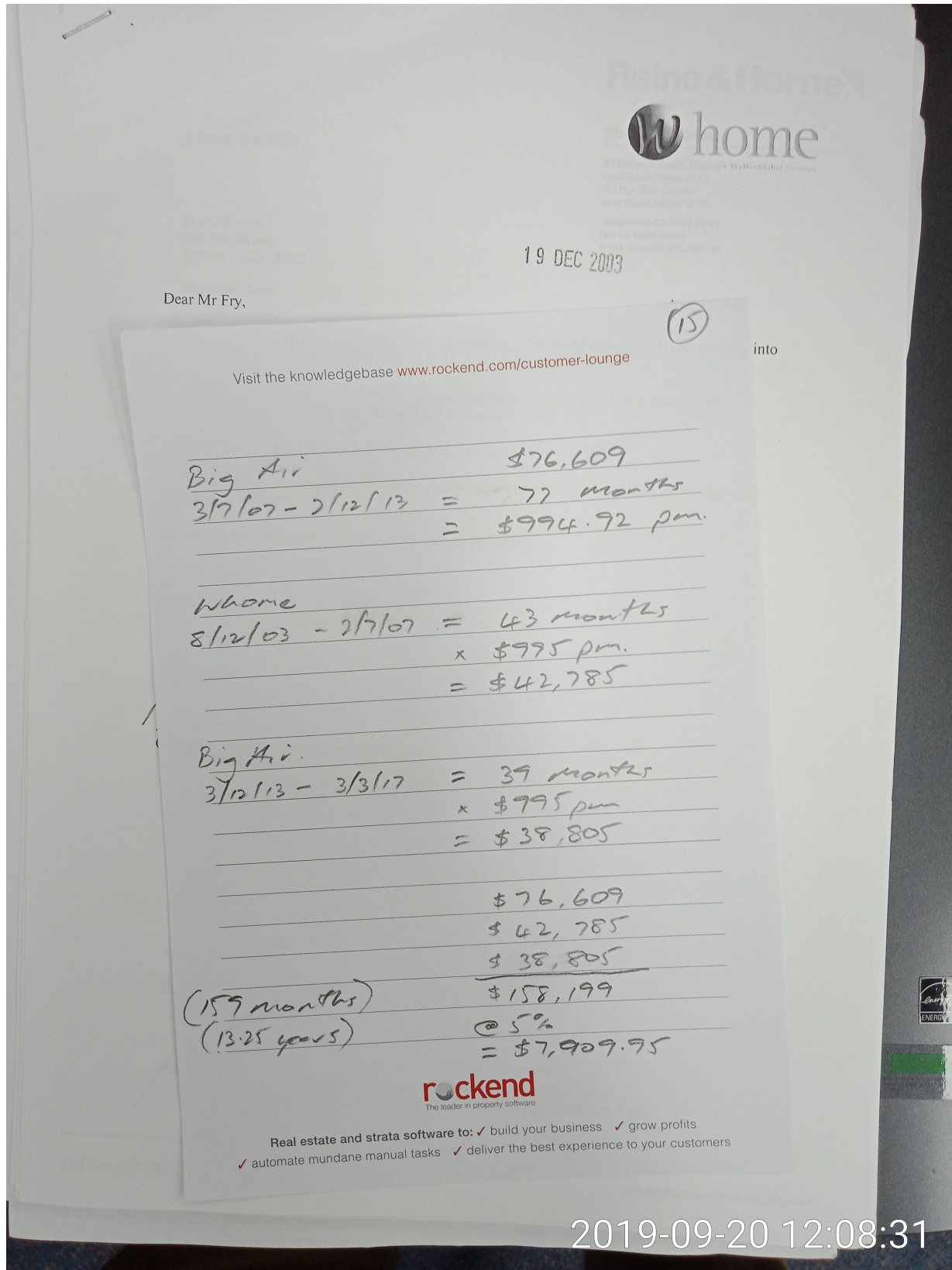
IN ATTENDANCE: Arpenik Vartazarian (92)
Robert Crosbie - Waratah Strata Management

CHAIRPERSON (acting): Robert Crosbie

Minutes of the meeting:

- 1 MINUTES**
Resolved that the minutes of the previous strata committee meeting be confirmed as a true record of the proceedings of that meeting.
- 2 FINANCIAL REPORT**
The financial reports for the current financial year were tabled, discussed and resolved as follows:
 - The strata manager is to check the \$4,206.35 invoice in pool cleaning to see whether that cost has been correctly allocated.
 - The strata manager is to check the Energy Australia and Origin Energy electricity invoices to ensure the correct sequence of payments has been made.
- 3 MATTERS ARISING FROM PREVIOUS MINUTES**
The following matters arising from the previous minutes were discussed and resolved as follows:
 - Telecommunications Equipment - A settlement payment from BigAir in the amount of \$12,000 (being \$7,000 for the 5% income in the original WHome agreement and \$5,000 for electricity and other costs) has been accepted and BigAir are going to remove their equipment from the building within 60 days.

SP52948 -Secret calculation by EC members and Waratah Strata Management for losses incurred by illegal ISP running in the complex since 31st of January 2014 - found in document search on 20th of September 2019



W home
A SkyNet Global Company

19 DEC 2003

Dear Mr Fry,

15

Visit the knowledgebase www.rockend.com/customer-lounge

into

$$\begin{aligned} \text{Big Air} & \quad \$76,609 \\ 3/7/07 - 2/12/13 & = 77 \text{ months} \\ & = \$994.92 \text{ pm.} \end{aligned}$$

$$\begin{aligned} \text{Whome} & \\ 8/12/03 - 2/7/07 & = 43 \text{ months} \\ & \times \$995 \text{ pm.} \\ & = \$42,785 \end{aligned}$$

$$\begin{aligned} \text{Big Air.} & \\ 3/12/13 - 3/3/17 & = 39 \text{ months} \\ & \times \$995 \text{ pm} \\ & = \$38,805 \end{aligned}$$

$$\begin{aligned} & \$76,609 \\ & \$42,785 \\ & \$38,805 \end{aligned}$$

$$\begin{aligned} (159 \text{ months}) & \quad \$158,199 \\ (13.25 \text{ years}) & \quad @ 5\% \\ & = \$7,909.95 \end{aligned}$$

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2019-09-20 12:08:31

SP52948 – Waratah Strata Management refused to notify owners about Australian Taxation Ruling 2015/3

Taxation Ruling TR 2015/3 does not alter the Taxation Office's view of the taxation of strata title bodies, the main aspects of which may be summarised as follows:

- Income from personal property which the strata title body owns in its own right (such as its own money and other moveable property such as washing machines, driers, lawn mowers) is taxed in the hands of the strata title body, including:
 - Interest on bank accounts and investments.
 - Search and certificate fees from non-proprietors. Costs or fees for providing searches or certificates should be generally deductible against this income.
 - Laundry money from a coin-operated washing machine, telephone money from a pay telephone, or hire fees from movable property. Expenses relating to this income, including depreciation, are deductible against this income. If a portion of this income is received from proprietors, the portion is excluded as mutual income.
 - Proceeds from the sale of an item of personal property.
- Income received from proprietors is broadly excluded from taxation under the principle of mutuality. Examples include:
 - Levies.
 - Interest on arrears.
 - Laundry money received from proprietors.
- Income from common property (other than personal property) is taxable in the hands of the individual proprietors in proportion to their unit entitlements. Paragraphs 42 and 43 include an example of the increasingly common situation of income received from a telecommunication company for placing a cellular telephone tower on a strata building's roof. The Taxation Office's view of this income is that it is taxable in the hands of proprietors even if there is no physical distribution of this income to proprietors or where the rental income is paid directly to the strata title body (refer paragraph 96). Deductions against this income are also allowable in proportion to proprietors' unit entitlements under Division 40 and Division 43 of the Income Tax Assessment Act 1997.

In those instances where a strata title body makes a physical distribution of funds to proprietors, the income tax position is:

- Where any surplus contributions are returned to proprietors, such surpluses are not assessable income to proprietors.
- Where the distributed funds represent profits from outside sources (i.e. from non-proprietors), the distribution is taxable to the proprietors and may be franked by the strata title body under the imputation system.
- Where the funds are a distribution of income from common property, the funds are taxable in the hands of proprietors as noted in point 3 above. Care should be taken not to duplicate this income to proprietors since this income is taxed in the hands of proprietors regardless of any physical distribution.

As a result of being GST registered an owners corporation must include GST on the levies it raises (being for a taxable supply) and pay this GST to the ATO.