

Special By-Law "Unreasonable Communications" that was specifically and exclusively created and prepared by Solicitor Adrian Mueller to prevent Lot 158 from raising any concerns about mismanagement of the complex was directly used four times before NCAT Hearing in case SC 20/33352 and three times after the Hearing (strata managers, committee members and Solicitor Adrian Mueller failed to disclose it to the NSW Fair Trading and Tribunal in NCAT case 20/33352) and by not attending the Hearing influenced the Tribunal to ignore Lot 158 evidence and prevent them from cross-examining the Respondent:

17 The hearing proceeded. Neither party sought an adjournment. [redacted] gave oral evidence expounding his complaints against certain strata committee members; the management of the owners corporation; and Mr Mueller. The owners corporation did not cross examine [redacted]. As discussed previously, the owners corporation did not call any witnesses. Both [redacted] and Mr Mueller then made oral submissions.

28 The Tribunal did not investigate any of the links provided by [redacted] as it would have been clearly procedurally unfair to the owners corporation for the Tribunal to view material which had not been filed and served in the proceedings and which the owners corporation could not see at the hearing as the hearing was conducted by telephone.

Explicit usage of "Unreasonable Communications" by the Respondent:

1. **Motions 18 and 19 at AGM on 18 October 2018, with unqualified and baseless threats, preventing owners to have access to Lot 158 Motions and vote on them**
2. **Motion 4 at committee meeting on 2 May 2019**
3. **Waratah Strata Management secret email to Fair Trading NSW on 20 May 2019 (11 days before Lot 158 was scheduled for document search in strata manager's office), confirming that Lot 158 was not allowed to have access to strata files including Strata Roll – email was fully supported by all members of the committee**
4. **Motion 4 at committee meeting on 20 June 2019**
5. **Motion 3 at committee meeting on 29 April 2021, with further false statements and threats against Lot 158**
6. **Motion 6 at committee meeting on 10 February 2022 (notice of meeting not sent to all owners and minutes not published on notice board).**
7. **Waratah Strata Management email response on 16 June 2023, refusing to deal with serious SP52948 risks and insurance fraud.**

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4 November 2011

Our ref: DB:SP52948
Your ref: Simon Wicks

The Secretary
The Owners – Strata Plan No. 52948
c/- Body Corporate Services - Epping
BY-EMAIL

Principal: David Bannerman
dbannerman@bannermans.com.au

Dear Secretary

MEETING WITH EXECUTIVE COMMITTEE REGARDING CONTROLLING COMMUNICATIONS AND RESTRICTING APPLICATIONS TO THE CONSUMER, TRADER AND TENANCY TRIBUNAL

Thank you for inviting me to provide a fee proposal.

Attachments

Please find attached:

(a) our costs agreement and disclosure as required under the *Legal Profession Act 2004*.

General comments

Meeting with the executive committee

Due to the numerous issues involved and the many different ways to approach the issues, I suggest that the executive committee attend my office to provide further details, obtain verbal advice and provide further instructions.

Email from Waratah Strata Management to Solicitor Adrian Mueller, authorising his proposal to create By-Law for unreasonable communications that applies to SINGLE OWNER in SP52948

From: Robert Crosbie
Sent: 29 September 2017 11:15 AM
To: 'Adrian Mueller'
Subject: RE: SP52948 - Advice Regarding Communications By L [REDACTED] (30996)

Adrian,

Following is an extract from your recent advice to the Owners Corporation of the above property. The strata committee request that you prepare such a by-law.

"The owners corporation should consider making a by-law prohibiting owners and occupiers sending unreasonable communications to the owners corporation, strata committee members and other owners and occupiers, or publishing the personal details of owners obtained from records held by the owners corporation, and enforcing that by-law."

Please note that the AGM is being held on 24 October and we need to finalise the agenda next week so request this by-law be provided as soon as possible.

Regards,

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

Fax (02) 9114 9598
www.waratahstrata.com.au

From: Adrian Mueller [REDACTED]
Sent: 23 August 2017 1:36 PM
To: Robert Crosbie <[REDACTED]>
Subject: Re: SP52948 - Advice Regarding Communications By [REDACTED] (30996)

PRIVATE & CONFIDENTIAL – SUBJECT TO CLIENT LEGAL PRIVILEGE

Dear Robert,

I attach:

1. Letter of advice.
2. Tax invoice.

Thank you for your instructions.

Yours faithfully

Adrian Mueller
Partner

Secret letter by Solicitor Adrian Mueller dated 10 October 2017:

[SP52948-Solicitor-Adrian-Mueller-personally-responsible-for-Unreasonable-Communications-By-Law-Motion-10Oct2017](#)

Extract from the letter:

In our view, the owners corporation does have power to make a by-law that prohibits owners and occupiers engaging in unreasonable communications with the owners corporation, the strata committee, your strata manager and other owners and occupiers or disseminating personal information about an owner or occupier to any of those parties. This is because a by-law covering these matters clearly relates to the administration and management of the lots and common property. Nevertheless, the by-law is certainly novel and no Court or Tribunal has ever passed comment on the ability of an owners corporation to make a by-law that deals with the topics that are covered by the by-law we have prepared. Therefore, even though we consider that the owners corporation has power to make the by-law, we cannot provide you with a guarantee that the by-law will withstand scrutiny if it is ever challenged.

Destroying SP52948 files and evidence is common and repetitive. Examples collected by Lot 158 and given to NCAT and the Respondent on USB key, DVD, secure web site, and (some of them) in printed form

1. SP52948 Minutes of adjourned AGM destroyed ballot paper straight after meeting on 17 October 2001
2. BCS Strata Management and committee members destroyed details of accounting figures for legal fees in 2013
SP52948-FONTENOY_FIN REPORT_1Sep2012_28Feb2013-balance-sheet-without-legal-costs and SP52948-Accounting-balance-sheet-1Sep2012-to-28Feb2013-CORRECTION-on-23Mar2013
SP52948-BCS-Strata-Management-website-with-amended-six-monthly-report-for-undisclosed-legal-costs-30Apr2013 and SP52948-BCS-Strata-Management-website-with-removed-amended-six-monthly-report-for-undisclosed-legal-costs-31Oct2013
3. Not read and deleted by BCS Strata Management Debbie Stephenson: _REQUEST_Why_is_information_about_serious_water_leaks_in_SP52948_Block_A_top_floor_hidden_from_owners.
4. Not read and deleted by BCS Strata Management Debbie Stephenson: _REQUEST_FOR_REPAIR:_SP52948_Lot_158_burnt_and_faulty_power_point_socket_in_kitchen.
5. Not read and deleted by BCS Strata Management Mallory Costen: _REQUEST_TO_STOP_SENDING_INVALID_INVOICES:_Reminder__for_payment_was_sent_to Lot 158_28Jan2014_2014-01-29_0830.
6. Not read and deleted by Maureen McDonald: _IMPORTANT_CORRECTION_Validity_of_Proxy_Papers_at_AGM_2014.
7. Not read and deleted by Pica Group Greg Freeman: _INVITATION_TO_ATTEND_SP52948_AGM_on_26Nov2014.
8. Not read and deleted by Pica Group Greg Freeman: _SP52948_Tender_Declarations_by_Strata_Agency_and_EC_Members_for_AGM_2014.
9. Not read and deleted by Pica Group Greg Freeman: _SP52948_Some_of_Real_Expenses_in_2014.
10. Not read and deleted by Pica Group Greg Freeman: _IMPORTANT_CORRECTION_Validity_of_Proxy_Papers_at_AGM_2014.
11. Not read and deleted by Pica Group Greg Freeman: _SUMMARY_SP52948_Sinking_Fund_unknown_to_Strata_Manager_until_11April2014.
12. Waratah Strata Management and committee members destroyed printed and electronic copies of CTTT and District Court legal files
13. Sentientia brief analysis with limited evidence ransomware attack against Waratah Strata Management undisclosed to owners of strata plan SP52948 in 2019.
Waratah Strata Management allegedly sending letter reporting loss of SP52948 strata files to all owners on 12 March 2019 page 1 and page 2
14. Waratah Strata Management refusing to respond to inquiry about two alleged data losses on 10 August 2019
15. SP52948 lost USB key without having any backups and desperate attempts by Police and Waratah Strata Management to find it without notifying owners and hiding it at Annual General Meeting in 2018. After the Annual General Meeting there was another Waratah Strata Management plea to BCS Strata Management asking for copy of USB key on 23 November 2018.
16. Not_read and deleted by Waratah Strata Management Stuart Greene: _Re:_SP52948_What_is_Stalking_2021-03-22_2033.
17. Not_read and deleted by Waratah Strata Management Stuart Greene: _FAILURE_TO_MAINTAIN_COMMON_PROPERTY_SP52948_Block_A_level_6_fire_stair_door_not-self-latching_an_closing_on_21Mar2021_2021-03-22_0822.
18. INQUIRY_ SP52948 Who gave permission to Waratah Strata Management staff to delete strata files on 17 April 2021.
19. SUMMARY - SP52948 actions to lodge complains about Eden Garden development extended to 21May2021 sent on 12 May 2021.

20. Partial listing of email delivery receipts for other messages sent to strata managers and committee members that were never replied or attended to.

Motions 18 and 19 at AGM on 18 October 2018, with unqualified and baseless threats, preventing owners to have access to Lot 158 Motions and vote on them

18 LOT 158 MOTIONS

The motions provided by the owners of Lot 158 were tabled. Resolved that as the owners of Lot 158 had submitted 83 pages of motions for the 2017 AGM and 61 pages of motions for the 2018 AGM and that as a substantial number of the motions were the same or similar each year, the correspondence was deemed to be in breach of Special By-Law 14 - Unreasonable Communications, in that they are considered unreasonable due to the content (defamatory, offensive or otherwise), volume, length or duration, or frequency of the communications. The proposed motions were therefore not considered or approved.

19 LOT 158 MOTIONS MUELLERS LEGAL ADVICE

The advice of JS Muellers Solicitors on the Lot 158 motions were tabled at the meeting.

The strata manager advised that [redacted] co-owner of Lot 158 had between 2011 and 2014 lodged 3 separate Adjudication applications against the Owners Corporation, which were all lost by Lot 158; had lodged 3 Consumer Trader Tenancy Tribunal (CTTT) applications appealing the Adjudication decisions, which were all lost by Lot 158; had lodged a District Court application appealing the CTTT decision, which was withdrawn by Lot 158, and then entered into a Deed of Settlement with the Owners Corporation agreeing to cease any further proceedings and to pay the Owners Corporation \$17,700 of its costs, in addition to an earlier \$8,800 costs order from CTTT.

It was discussed whether to seek legal advice to determine whether Lot 158 is in breach of that Deed of Settlement by continuing to publicly distribute serious allegations against the Owners Corporation, past and present members of the strata committee, its past and present strata managing agents, and past and present employees of the strata managing agents.

[redacted] co-owner of Lot 158, committed to cease all correspondence from Lot 158 to the Owners Corporation, the strata committee, lot owners and the strata managing agents unless it is an issue directly affecting Lot 158.

Resolved that legal advice on the above issues is not to be commenced at this time, however the strata committee are authorised to seek legal advice at any time should the owners of Lot 158 breach the commitment to cease all correspondence unless it is an issue directly affecting Lot 158.

Unredacted copy of the Minutes of AGM 2018:

[SP52948-Minutes-AGM-2018-18Oct2018](#)

Motion 4 at committee meeting on 2 May 2019

- Email from Lot 158 regarding Treasurers position and lost BCS USB - No further action to be taken.
- Email from Lot 158 to Thomas Karolewski concerning gas charges, 1999 to 2016 - It is noted that this matter was raised before by the owner of Lot 158. To avoid breach of Special By -Law 13 Unreasonable Communications, owners are advised to direct all communication via the Strata Manager. It is also noted that the 2018 treasurers appointment was specifically for the functional purpose of the strata committee, reporting only to the committee during that tenure. It is also noted that the functions of the treasurer are delegated to Waratah Strata Management in their management agreement.

Full unredacted copy of minutes of the meeting:

[SP52948-Minutes-EC-meeting-2May2019](#)

Waratah Strata Management secret email to Fair Trading NSW on 20 May 2019 (11 days before Lot 158 was scheduled for document search in strata manager's office), confirming that Lot 158 was not allowed to have access to strata files including Strata Roll – email was fully supported by all members of the committee

From: Robert Crosbie
Sent: 20-May-19 11:30:28 AM
To: 'sc@finance.nsw.gov.au', 'tk_sydney@', 'marianna.avoc', 'everolth@', 'jgore5@', 'genellegodbee@', 'zellev@', 'mcdonald151@', 'pogo@', 'jefferyadc@'
Subject: RE: NSW Fair Trading - Reference Number 9761719
Attachments:

Lynn,

A copy of your letter has been forwarded to the strata committee.

Some of the SC members have expressed concern about the information provided to you being provided to [redacted], specifically the Strata Roll, including the owners contact details. [redacted] has for many years emailed many of the owners that he has been able to obtain email addresses for. Many of those owners and many of the rest of the owners do not wish to be contact by [redacted], as he also sends them 50-100 page emails on a regular basis. The SC understand that [redacted] is entitled to obtain a copy of the Strata Roll when he conducts a strata inspection, but he is not entitled to a copy of the owners contact details such as phone and email addresses and they would not want that information passed on to him as a result of the complaint he has lodged. Please confirm that none of the documents provided will be passed on to [redacted].

The SC also ask to be advised of the nature of the complaint/s that have been lodged against Waratah Strata Management.

Regards,

Robert Crosbie

Waratah Strata Management

Full unredacted copy of the email:

[SP52948-Waratah-Strata-Management-intention-to-prevent-Strata-Roll-Access-to-Lot-158-11-days-before-document-search-20May2019](#)

In another secret email to Fair Trading NSW on 17 May 2019, Waratah Strata Management urgent the public officer at Fair Trading NSW not waste time on Lot 158 submissions:

• As mentioned above, [redacted] has been a serial complainer about almost

every aspect of SP 52948 for over a decade. Many past members of the strata committee have ceased being committee members because of his constant and repeated complaints and threatening behaviour. The OC passed Special By-Law 14 - Unreasonable Communications (Copy attached) specifically to try to deal with his activities. [redacted] has sent numerous 50 – 100 page emails dredging up issues from 10 years ago. He has received numerous and repeated responses to the same issues and he just never accepts anything he is told. [redacted] submitted 83 pages of motions for the 2017 AGM. Those motions were reviewed by Adrian Mueller Solicitor and the vast majority were rejected as they were non-compliant. For the 2018 AGM he submitted 61 pages of motions and the AGM resolved that as a substantial number were the same or similar to the previous year they were deemed to be in breach of Special By-Law 14 in that they were unreasonable due to the content (defamatory, offensive or otherwise), volume, length, duration and frequency. The Owners Corporation resolved not to consider or approve the motions. [redacted] is now wasting Fair Trading's time and resources.

An Owners Corporation is a democracy – everyone has a say and everyone a vote and the majority rules. 218 owners in SP 52948 are very happy with the operation of the Owners Corporation and its strata committee. One owner thinks all of the other owners are idiots or thieves. Why should the OC and SC have to continue to respond to and waste its time and resources on one recalcitrant, obsessive owner? We understand you have to investigate this complaint, but ask you to take into account the above information and do not require ourselves or the OC to waste any more time on!

Full unredacted copy of the email:

[SP52948-email-by-Waratah-Strata-Management-to-Fair-Trading-NSW-case-9761719-17May2019](#)

Outcome of document viewing at Waratah Strata Management on 31 May 2019 showed many missing files, including Strata Roll:

[SP52948-outcome-of-document-search-at-Waratah-Strata-Management-by-Lot-158-on-31May2019](#)

Outcome of document viewing at Waratah Strata Management on 20 September 2019 showed many missing files again, including Strata Roll:

[SP52948-outcome-of-document-search-at-Waratah-Strata-Management-by-Lot-158-and-deliberate-refusal-by-strata-manager-to-provide-access-to-files-on-20Sep2019](#)

Motion 4 at committee meeting on 20 June 2019

- Fee proposal from JS Mueller & Co (Lawyers) to review correspondence from Lot 158 since 2018 AGM and provide legal advice - Resolved that the fee proposal from JS Mueller to provided legal advice on the correspondence that has been distributed to owners by the owners of Lot 158 since the 2018 AGM is accepted. Waratah Strata Management and Uniqueco (Building Managers) have each agreed to contribute 1/3 of the cost of this legal advice.
- Draft letter to owners - A letter is to be sent to all owners to refute statements that have been made by the owners of Lot 158.
- Correspondence from Lot 158 - All correspondence received from the owners of Lot 158 is to be referred to JS Mueller as part of the legal review and whether it is in breach of the "Unreasonable Communications" by-law.

Full unredacted copy of minutes of the meeting:

[SP52948-Minutes-EC-meeting-20Jun2019](#)

Motion 3 at committee meeting on 29 April 2021, with further false statements and threats

- NCAT Application by Lot 158 - The Notice of Orders issued by the NSW Civil and Administrative Tribunal were tabled. Those orders dismissed all applications made by [redacted]. The strata manager is instructed to attach a copy of those orders to the minutes of this meeting when they are distributed to all owners. The strata committee is currently awaiting advice from JS Mueller & Co on whether an application for reimbursement of the Owners Corporations legal costs should be submitted to NCAT. It is noted that the \$80,000 legal fee allowance in the 2020 - 2021 Administrative Fund budget is unlikely to be required unless [redacted] appeals the NCAT

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decision. Mo Levitt has requested that he be kept informed on any correspondence relating to this issue as he is no longer on the strata committee but has been named in the NCAT application.

- Lot 158 Unreasonable Communications - The Strata Manager advises that over 600 emails have been received from Lot 158 since January 2019 therefore Lot 158 is in breach of the Unreasonable Communications By-Law. The Strata Manager is authorised to archive all correspondence from Lot 158, but is not required to respond to any of the correspondence.

Full unredacted copy of minutes of the meeting:

[SP52948-minutes-EC-meeting-29Apr2021](#)

Motion 6 at committee meeting on 10 February 2022

Agenda did not have any details for the meeting, was not sent to all owners, and did not even have details of the venue and time of the meeting:



Waratah Strata Management
ABN 75161033745
P.O. Box 125, Eastwood, NSW 2122.
Ph (02) 9114 9599
Fax (02) 9114 9598
www.waratahstrata.com.au

NOTICE OF AN STRATA COMMITTEE MEETING

THE OWNERS - **STRATA PLAN 52948**

ADDRESS OF THE STRATA SCHEME:

1-15 FONTENOY ROAD, MACQUARIE PARK, NSW, 2113

DATE, PLACE & TIME OF MEETING: An Strata Committee Meeting of The Owners - Strata Plan 52948 will be held on **Thursday, 10 February 2022 at**. The meeting will commence at .

This meeting is being held in accordance with Schedule 2 Sec 9(2) of the Strata Schemes Management Act 2015. It is not necessary for you to attend this meeting in person. Please complete and return the attached written voting form prior to the meeting.

The Agenda for the Meeting is:

MOTIONS:

- 1 MINUTES**
That the minutes of the previous strata committee meeting be confirmed as a true record of the proceedings of that meeting.
- 2 FINANCIAL REPORT**
That the financial reports for the current financial year be tabled and discussed.
- 3 GIGACOMM PROPOSAL**
That the proposal for installation of internet service equipment supplied by Gigacomm be tabled and discussed and a decision made to hold a general meeting for the decision of the owners corporation
[Explanatory Note: All proposal information and correspondence to date is attached below.]
- 4 CORE ENGINEERING FIRE AUDIT**
That the fire audit report provided by Core Engineering be tabled and discussed.
- 5 ELECTRIC VEHICLE CHARGING SOLUTIONS**
To discuss implementing a plan to accommodate electric vehicle charging in the future. Progress update on site inspection with Smart EV.
- 6 GENERAL BUSINESS**
That any general business items be raised and discussed.

Minutes of meeting not published on notice boards:

6 GENERAL BUSINESS

The following general business items were discussed:

- ENERGY CONTRACTS: Energy contracts will be placed out for tender to source any services offered at more competitive rates.
- Lot 162: Lot 162 has requested a copy of the caretakers contract, the strata manager will provide the owner with this document.
- LOT 158: It was discussed that lot 158 has communicated with members of the strata committee. The correspondence has been ignored by all receiving members as per Special By-Law 11 - Unreasonable Communications.
- RENOVATION LOT 168: The application for renovation provided by lot 168 has been approved.

Waratah Strata Management email response on 16 June 2023, refusing to deal with serious SP52948 risks and insurance fraud

This was a response by Waratah Strata Management to an email dated 8 June 2023, which was also Bcc-ed to insurance broker, insurance company, and all nine members of the committee:

[Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-8Jun2023.html](#)

From Robert Crosbie | Waratah Strata Management
To [redacted] 11:08
Cc Heath Crosbie | Waratah Strata Management
Subject **FW: SUMMARY Insurance risks and mismanagement of strata plan SP52948 with high concerns for safety, financial health (bankruptcy risk), and non-compliance with laws on 8Jun2023**
Send Later

DUB, (No other information provided, as you do not have the common decency to put your name on your emails)

The strata committee have previously decided that you are in breach of the unreasonable communications by-law. As the following correspondence is unreasonable due to the content (defamatory, offensive or otherwise), volume, length or duration, or frequency of the communications, we will not be further responding to this email.

Regards,

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