

Subject: Cordial invitation to attend NCAT 2024/00454780

From: SP52948 Lot 158 owner

Date: 14/3/25, 05:54

To: Barrister Hussein Elachkar

Dear Mr. Elachkar,

It is noted that you refused to respond to our email dated 28 June 2022.

You are now given an opportunity to defend your actions at pending NCAT case 2024/00454780. It would be unfair not to give you a chance to show how well you represented SP52948 owners corporation and how you acted in compliance with the laws of the land. But this time, you would have to sign a statutory declaration or affidavit, provide evidence to support your statements, and attend the Hearing in person.

Three recent Orders are attached:

- Directions Hearing Order dated 20 February 2025.
- Hearing Notice dated 3 March 2025, scheduled for 22 April 2025.
- Issue of Summonses for Mr. Stan Pogorelsky, Lot 181, dated 7 March 2025.

Mr. Stan Pogorelsky is now ordered to surrender some evidence and attend the NCAT Hearing in person, making cross-examination possible.

It took us 12 years to issue the summonses successfully.

1) Civil case has a relation to Solicitor Adrian Mueller as well (on top of two Police Events which await further actions). This is what the NCAT case is about:

Document 0: NCAT-2024-00454780-001-Points-of-Claim

Document 1: NCAT-2024-00454780-001-explanation-why-Lot-158-uses-phrase-lie

Document 2: NCAT-2024-00454780-001-strata-documents-SSMA-2015-Sec188

Document 3: NCAT-2024-00454780-001-remove-committee-member-Stan-Pogorelsky-SSMA-2015-Sec238-part-1

Document 4: NCAT-2024-00454780-001-remove-committee-member-Stan-Pogorelsky-SSMA-2015-Sec238-part-2

Document 5: NCAT-2024-00454780-001-remove-committee-member-Stan-Pogorelsky-SSMA-2015-Sec238-part-3

Document 6: NCAT-2024-00454780-001-Rescind-Special-By-Law-11-Unreasonable-Communications-SSMA-2015-Sec150

Document 7: NCAT-2024-00454780-001-summons-committee-member-Stan-Pogorelsky

Document 8: NCAT-2024-00454780-001-electronic-delivery-of-documents-and-website-evidence

Document 9: NCAT-2024-00454780-001-Bannermans-Lawyers-conflict-of-interest-and-disclosure

Separately, Section 237 of SSMA 2015 empowers the NCAT to make an order that either all, or part, of the functions of the owners corporation are delegated to a compulsory strata manager. On 15 January 2025, at Directions Hearing, none of five strata managers and none of the nine committee members appeared. Tribunal member repeated several times that, based on brief readings of Lot 158 submissions, and numerous problems in the complex, there should be a Motion for removing (compulsory) strata manager. Lot 158 does not need to do it themselves, because NCAT has powers to appoint a strata manager on its own motion, by its discretion. The evidence of dysfunctional owners corporation is undeniable and irrefutable.

2) Solicitor Adrian Mueller and details of Police Events are listed as part of Mr. Stan Pogorelsky's case, where he was/is a witness and accessory to Solicitor Adrian Mueller's actions, as much as you are.

3) Mr. Pogorelsky relied on exposing Lot 158 to ridicule, discrimination, stalking, and intimidation, whilst using lies to protect own interests and interests of small group of his personal friends and owners. Similar behaviour is presented to NCAT and courts for other committee members too.

Their repetitive efforts to undermine Lot 158 evidence and investigative work cannot be excused or accepted as accidental.

In this NCAT case, evidence exists that Mr. Pogorelsky is unfinancial since 1999, when he was elected to be a committee member without disclosure of outstanding debt for gas heating levies (non-democratic process), and used his position to benefit himself as a lot owner and a small group of other owners (who were also unfinancial and allowed to vote, and some of them even be elected as committee members), contrary to the interests of majority of other owners.

To illustrate the point: it took 13 years for Mr. Pogorelsky to admit at an official committee or general meeting that he had enjoyed use of gas heating without Special By-Law and resolution at general meeting, and it took 17 years for Mr. Pogorelsky to admit at an official committee or general meeting that he had enjoyed use of gas heating without paying prescribed levies and 10% simple interest per year, and then continued to mislead the owners about his real debt, directly defrauding owners corporation.

4) NCAT Orders on 20 February 2025 make significant requirements for any party representing SP52948, making it obligatory to attend in person and be forced to respond to cross-examination:

4 On or before 20 March 2025 the respondent shall send, to the applicant and the Tribunal, a copy of all documents on which the applicant intends to rely at the hearing.

5 Any documents so provided are to be in HARD COPY form, with the PAGES NUMBERED, and an INDEX to facilitate reference to them during the hearing.

6 Any evidence from a witness is to be in the form of a signed witness statement, statutory declaration, or affidavit and each such witness is to be available for cross-examination at the hearing.

5) News from the Police last week was that Waratah Strata Management and Solicitor Adrian Mueller refused to properly co-operate with them. Police was already updated on latest events and plans of actions and what they can or should do now. The same was done with the Insurance company and broker over the weekend.

We trust you will help the Police and NCAT.

Regards,

On 28/6/22 13:49, SP52948 Lot 158 owner wrote:

Dear Mr. Elachkar,

This is an unsolicited email, sent in good faith.

Executive Summary

It appears you were involved in alleged defamation case against us, and were paid \$1,218.75 on 23 November 2020.

On 13 August 2020, Waratah Strata Management sent email to Solicitor Adrian Mueller listing "unknown" barrister who was initially involved in alleged defamation case.

Waratah Strata Management provided these figures in the Agenda for Annual General Meeting in October 2021 on pages 14 to 17 (for account code 153200), which include costs not related to NCAT case 20/33352 (preventing our Motions at AGM 2020 and fourth defamation attempt which was not approved by owners corporation, never achieved its alleged goal, and wasted owner's funds). Mr. Elachkar was allegedly paid on 23 November 2020.

We requested access to strata files which Solicitor Adrian Mueller and Waratah Strata Management refused to provide both to us (in spite of paid document search as per SSMA 2015 SSMA 2015 Section 182) but to Supreme Court Cost Assessor, NCAT, and OLSC as well. Last effort to seek their co-operation was on 8 June 2022.

There are very complex investigations that are underway, and you are accidentally dragged into them (which include our strong allegations of insurance frauds, threats, intimidation, contempt of court by Solicitor Adrian Mueller, false statements and forged document provided to courts by Solicitor Adrian Mueller, refusal by Solicitor Adrian Mueller to Assist OLSC, Police, and courts, and much more).

Desired Outcome

Your help is sought to respond to the following questions:

1. On which date you were approached to be engaged for alleged defamation case against us and by whom (an unredacted document would be appreciated)?
2. Were you the barrister who was supposed to respond to requests by O'Brien Criminal & Civil Solicitors (on our behalf), as listed in minutes of committee meeting dated 7 May 2020?

3. On which date you submitted Standard Costs Agreement and who approved it (note that so far, no owner has received copy of your costs agreement and it is hidden from all owners and investors)? A copy of your Standard Costs Agreement would be appreciated.

4. On which date you submitted alleged documents with analysis of the defamation case (an unredacted copy of the document would be appreciated)?

What was the nature of your advice to Solicitor Adrian Mueller on topics of defamation case?

5. Are you aware of irrefutable evidence that Waratah Strata Management contract (including its current version) with SP52948 was signed three times by unfinancial owners who were illegal to vote or be elected on the executive committee, making all decision made by Waratah Strata Management exposed to serious litigation:

- Waratah Strata Management and Solicitor Adrian Mueller declined to inform owners and investors, Fair Trading NSW, NCAT, Supreme Court, and insurance company that any owner who did not pay all levy arrears, including 10% simple interest per each year of outstanding debt, before any meeting (including Annual General Meetings and Extraordinary General Meetings) is not allowed to vote or be elected on the executive committee – Waratah Strata Management contract dated 14 December 2016 was signed by two unfinancial owners Mr. Moses Levitt and Stan Pogorelsky without competitive tender or disclosure of contract details.
- Waratah Strata Management and Solicitor Adrian Mueller declined to inform owners and investors, Fair Trading NSW, NCAT, Supreme Court, and insurance company that any owner who did not pay all levy arrears, including 10% simple interest per each year of outstanding debt, before any meeting (including Annual General Meetings and Extraordinary General Meetings) is not allowed to vote or be elected on the executive committee – Waratah Strata Management contract dated 14 December 2016 was signed by two unfinancial owners Mr. Moses Levitt and Stan Pogorelsky without competitive tender or disclosure of contract details.
- Waratah Strata Management and Solicitor Adrian Mueller declined to inform owners and investors, Fair Trading NSW, NCAT, Supreme Court, and insurance company that any owner who did not pay all levy arrears, including 10% simple interest per each year of outstanding debt, before any meeting (including Annual General Meetings and Extraordinary General Meetings) is not allowed to vote or be elected on the executive committee – Waratah Strata Management contract dated 24 October 2017 was signed by two unfinancial owners Mr. Moses Levitt and Stan Pogorelsky without competitive tender or disclosure of contract details.

6. Are you aware that your work for alleged defamation case against us was never approved by owners corporation at any legally compliant general meeting?

7. Are you aware that SP52948, with Solicitor Adrian Mueller, attempted four times to scare us and deter from investigations:

- 6 September 2012 (attempt by Solicitor Adrian Mueller to prevent us from proceeding with CTTT case SCS 12/32675, claimed payment for his legal costs from owners corporation insurance). Solicitor Adrian Mueller's activities related to CTTT case SCS 12/32675 and 12/50460 through illegal representation of owners corporation and defrauding owners corporation in amount of \$62,218.77 (GST inclusive) by November 2014, which resulted in four insurance claims for non-existent "Defence of Lot 3" in amount of \$24,919.31 (\$367.64 on 31 August 2012, \$12,714.65 on 7 December 2012, \$1,320.00 on 26 April 2013, and \$10,517.02 on 4 June 2013), false statements to Office of Legal Services Commissioner in case 41366 in 2013, insurance premium increase above 60% in 2012 due to high risk legal claims, preparation of false statements in strata manager's Statutory Declaration to CTTT on 19 April 2013, and preparation of strata manager's Affidavit to District Court in February 2014),
- 20 June 2019 (Solicitor Adrian Mueller used his own "Unreasonable Communications" Special By-Law to prevent us from reporting problems with strata management, whilst ignoring conflict of interest due to Police Event E65804633 and Office of Legal Services Commissioner case 56561),
- 17 October 2019 (premeditated attempt by Solicitor Adrian Mueller to force us to sign Deed of Agreement for alleged defamation of Uniqueco Property Services, Waratah Strata Management, and committee members). Undeclared Admin Fund balance sheet on 17 October 2019 (day of Annual General Meeting), when Solicitor Adrian Mueller was allegedly approved to spend up to

\$150,000.00 in defamation case against the Costs Respondent, had a negative balance of \$131,852.25. Unnamed barrister and Solicitor Adrian Mueller tried to force the Costs Respondent into Deed under duress and failed in all attempts. In financial statements for FY 2020 (1 September 2019 to 31 August 2020), in spite of extensive legal involvement, Waratah Strata Management reported only \$2,940.00 for legal costs in audited accounts, which is an impossible amount considering daily rates for barristers and senior legal professionals,

- 21 October 2020 (attempt by Solicitor Adrian Mueller to prevent us from proceeding with NCAT case SC 20/33352). Balance in Admin Fund had \$1,019.14 whilst three days later on 31 October 2021 they had negative balance of \$120,210.65. Solicitor Adrian Mueller eventually claimed \$19,758.14 for SP52948 for his work through insurance claim and, at the same time, requested same invoices to be paid by us through Supreme Court!

These are valid questions not only for the investigations, but also every owner and investor in the complex.

Your help would speed up the processes. Eventually, we will get those documents and answers through other methods if forced.

Regards,

—Attachments:—

SP52948-Directions-Hearing-Order-20Feb2025.pdf	139 KB
Summons issued to Stan Pogorelsky-7Mar2025.pdf	4.7 MB
Hearing-Notice-of-Listing-22Apr2025.pdf	62.2 KB
NCAT-2024-00454780-001-remove-committee-member-Stan-Pogorelsky-SSMA-2015-Sec238-extract-from-part-1.pdf	299 KB