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Lot 158 v The Owners-Strata Plan No 52948 and Ors (NCAT SC 20/33352)  
Medium Neutral Citation: [2021] NSWCATCD  
Applicant's brief summary on Question of Law and Procedural Fairness for:  
Hearing Date(s): 11 February 2021  
Date of Orders: 23 April 2021  
Date of Decision: 23 April 2021  
Jurisdiction: Consumer and Commercial Division,  
Before: G.J. Sarginson, Senior Member

### **Applicant's general statement**

NCAT Procedural Direction in February 2018 is significant in that NCAT has confirmed that the Tribunal is bound by the rules of evidence in only some proceedings including for example enforcement of jurisdiction of a civil panel and matters concerning professional misconduct.

The Applicant is led to believe that NCAT is bound to provide procedural fairness to all parties involved in an application. Everyone must have an opportunity to know the case against them, and an opportunity to defend the allegations made or test the evidence before NCAT.

The Applicant did not seek any party to read all documents and evidence, rather it offered it as proof of high standards that everything could be verified if required.

The more the evidence offered by the Applicant is scrutinised, the more compelling is the case in support of the Applicant's orders in NCAT case SC 20/33352.

The Applicant believes in "trust through verification".

Each of the following persons is under a duty to co-operate with the Tribunal to give effect to the guiding principle and, for that purpose, to participate in the processes of the Tribunal and to comply with directions and orders of the Tribunal:

- (a) a party to proceedings in the Tribunal,
- (b) an Australian legal practitioner or other person who is representing a party in proceedings in the Tribunal.
- (c) In addition, the practice and procedure of the Tribunal should be implemented so as to facilitate the resolution of the issues between the parties in such a way that the cost to the parties and the Tribunal is proportionate to the importance and complexity of the subject-matter of the proceedings.
- (d) However, nothing in this section requires or permits the Tribunal to exercise any functions that are conferred or imposed on it under enabling legislation in a manner that is inconsistent with the objects or principles for which that legislation provides in relation to the exercise of those functions.

## Tribunal – Executive Summary on Question of Law and other issues related to NCAT SC 20/33352

- 1.The decisions are not proportionate, are based on deductions that do not have objective grounds, did not provide procedural fairness to the Applicant (question of law), did not have any evidence to support their allegedly factual findings to defend the Respondent (question of law), ignored almost all of Applicant’s evidence through bias and discrimination, and appear to be a deliberate attempt to prevent the Applicant from having equal rights to present the case.
- 2.The Applicant provided five methods for evidence and four were ignored by the Tribunal: DVDs, USB keys, emails, and secure website, without warning to the Applicant that such course of action would proceed.
- 3.Tribunal ignored their own order given to the Applicant at Directions Hearing to provide files on secure website, which the Applicant complied with in late September 2020.
- 4.The Applicant provided full secure website login details to the Respondent (including request to allow all SP52948 to view them, which was ignored by the Respondent) on:

Subject	Recipient	Correspondents	Date
CONFIDENTIAL: NCAT SC 20/33352 website access	Stuart Greene, robert Crosbie		25/9/20, 12:13 pm
• SUMMARY: NCAT SC 20/33352 and files for John Gore			25/9/20, 3:52 pm
• SUMMARY: NCAT SC 20/33352 and files for Stan Pogorelsky			25/9/20, 3:53 pm
• SUMMARY: NCAT SC 20/33352 and files for Moses Levitt			25/9/20, 3:55 pm
SUMMARY: NCAT SC 20/33352 and files for Thomas Karolewsky			25/9/20, 3:57 pm
SUMMARY: NCAT SC 20/33352 and files for Jeffery Wang			25/9/20, 3:59 pm
Fwd: SUMMARY: NCAT SC 20/33352 and files for EC members	Stuart Greene, Robert Crosbie		25/9/20, 4:09 pm

- 5.All underline statements in this document are URLs on secure website owned and managed by the Applicant:

<https://www.vk2cot.id.au/NCAT-20-33352/>

Unlike strata documents held at BCS Strata Management and Waratah Strata Management which experienced alleged multiple data losses (including ransomware attack in 2019 which has many holes in the Respondent’s story), files on the Applicant’s website are guaranteed.

- 6.On 25<sup>th</sup> of September 2020, Applicant sent details of secure website access to Waratah Strata Management for all owners in the complex, so that owners can be prepared for NCAT case, and also discuss it at the coming General Meeting on 22<sup>nd</sup> of October 2020:

CONFIDENTIAL NCAT SC 20/33352 website access for all owners

Waratah Strata Management ignored the request silently and no owner received information about files.

- 7.Tribunal ignored undeniable evidence against Solicitor Adrian Mueller:

Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12/32675

Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12/50460

SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017

SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2018

SP52948 used Unreasonable Communications Special By-Law (as designed exclusively by Solicitor Adrian Mueller) against Applicant four times without Respondent's disclosure to NCAT SC 20/33352

Role of Solicitor Adrian Mueller is crucial in what is strongly confirmed by evidence as fraud:

Illegal Representation by Solicitor Adrian Mueller, Fraud, and Deliberate Obstruction of Law Enforcement

**Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11<sup>th</sup> of December 2020 without disclosing it to the Applicant at Hearing on 11<sup>th</sup> of February 2021**

8. Extract from Solicitor Adrian Mueller's invoice 101676 dated 11<sup>th</sup> of December 2020:

11 Dec 20	Letter to you providing advice on prospects for success in NCAT case
11 Dec 20	Email to NCAT providing contact details for telephone hearing

9. At Hearing on 11<sup>th</sup> of February 2021, the Tribunal member clearly stated that they did not have any contact details for the six committee members that were part of the proceedings.

10. Tribunal failed to inform the Applicant that they had such knowledge since 11<sup>th</sup> of December 2020.

11. Tribunal and Solicitor Adrian Mueller wasted the Respondent's time at the beginning of the Hearing due to questionable procedure by the Tribunal to ask Solicitor Adrian Mueller if the Respondent would attend the meeting:

- Tribunal called the Applicant on their mobile at 09:26 hours.
- Only at 09:59 hours the Tribunal formally allowed Solicitor Adrian Mueller to represent the Respondent, without offering any evidence to allow the Applicant to question it.
- For the sake of records, the whole Hearing process ended at 11:25 hours.

12. Tribunal failed to provide procedural fairness to the Applicant as the lack of attendance by the Respondent directly influenced Tribunal's decision to disregard Applicant's files and submissions on secure website.

**Question of Law – Procedural fairness – Tribunal failed to establish the fact that the Respondent engaged Solicitor Adrian Mueller who reviewed Applicant’s partial documents on 9<sup>th</sup> and 10<sup>th</sup> of December 2020 and as a consequence failed to comply with Tribunal’s Directions Hearing to submit files by post and email by 20<sup>th</sup> of November 2020**

13.Extract from Solicitor Adrian Mueller’s invoice 101676 dated 11<sup>th</sup> of December 2020:

TIME BILLING SUMMARY		
Date	Description	Amount
23 Oct 20	Perusing email from strata manager providing instructions to act for owners corporation in NCAT case	\$55.00
26 Oct 20	Perusing NCAT application lodged by	\$550.00
27 Oct 20	Exchanging emails with strata manager regarding date of NCAT hearing	\$55.00
12 Nov 20	Perusing email from strata manager regarding potential cross application against concerning enforcement of unreasonable communications by-law	\$55.00
13 Nov 20	Perusing communications passing between and NCAT concerning extensions of time to deliver evidence and perusing NCAT notices of procedural directions, extensions of time to comply with procedural directions and hearing details	\$220.00
23 Nov 20	Exchanging emails with strata manager regarding NCAT timetable and service of evidence by owners corporation	\$55.00
09 Dec 20	Perusing statutory declaration and folder of documents served by (500 pages)	\$3,025.00
10 Dec 20	Perusing further documents in folder of documents served by (204 pages) in NCAT case	\$1,210.00
10 Dec 20	Drafting schedule of observations regarding statutory declaration of	\$825.00
10 Dec 20	Drafting schedule of observations regarding evidence of	\$1,100.00

14.Respondent was fully aware of Directions Hearing dated 25<sup>th</sup> of September 2020, which in order 6 requested that the Respondent provides to the Applicant and the Tribunal, either in person or by post, and by email, a copy of all documents on which the Respondent wanted to rely, by 20<sup>th</sup> of November 2020.

15.Tribunal had duty to confirm if Respondent informed Solicitor Adrian Mueller of Directions Hearing orders.

16.Based on Solicitor’s invoice, it appears he was aware of the NCAT application since 26<sup>th</sup> of October 2020.

17.At Hearing on 11<sup>th</sup> of February 2021, the Tribunal member failed to acknowledge that the Respondent failed to comply with Directions Hearing two times in case 20/33352.

18.Tribunal failed to verify Solicitor Adrian Mueller’s legal engagement.

19. Tribunal ignored the Applicant who repeatedly requested evidence of legal retainer.

20.Solicitor Adrian Mueller perused the Applicant’s partial documents as late as 9<sup>th</sup> and 10<sup>th</sup> of December 2020, with direct intention to ignore Tribunal Directions Hearing order to submit documents three weeks earlier (by 20<sup>th</sup> of November 2020).

21.Tribunal failed to provide procedural fairness to the Applicant as the lack of attendance by the Respondent directly influenced Tribunal’s decision to disregard Applicant’s files and submissions on secure website.

**Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions**

22.Solicitor Adrian Mueller’s invoice 102134 dated 3<sup>rd</sup> of February 2020 contains details of communications between the Respondent and NCAT, which included the Respondent email filing their Outline of Submissions on 14<sup>th</sup> of December 2020 which the Applicant received as late as 25<sup>th</sup> of January 2021 (after the Directions Hearing deadline imposed on the Respondent), and NCAT’s confirmation of acceptance of electronically filed submissions:

**TIME BILLING SUMMARY**

Date	Description
11 Dec 20	Perusing email from NCAT regarding request for file inspection
14 Dec 20	Exchanging emails with NCAT regarding request for file inspection
14 Dec 20	Drafting outline of submissions
14 Dec 20	Drafting letter to applicant’s serving outline of submissions
14 Dec 20	Drafting letter to NCAT enclosing outline of submissions for filing
14 Dec 20	Drafting email to Tribunal and applicants filing and service electronically Outline of Submissions of owners corporation
14 Dec 20	Email to you submitting draft of Outline of Submissions of owners corporation
14 Dec 20	Attending NCAT on telephone to discuss file inspection
14 Dec 20	Review of Deed of Release and previous Tribunal litigation involving Mr [redacted] to ascertain existence of any additional defences to NCAT application by [redacted]
24 Dec 20	Perusing email from strata manager providing instructions to file and serve NCAT submissions
25 Jan 21	Perusing email from NCAT regarding electronic filing of submissions
29 Jan 21	Email to NCAT regarding electronic filing of submissions
29 Jan 21	Perusing email from NCAT confirming acceptance of electronically filed submissions

23.Tribunal failed to inform the Applicant that they would EXCLUDE the Applicant’s files provided through secure website due to lack of presence by six committee members at the Hearing, thus disallowing the Applicant’s rights to be heard and their evidence considered.

24.The Applicant would have declined to proceed at the Hearing if they had known that their evidence provided on USB keys, DVDs, secure web site, and emails were going to be disregarded. The Tribunal member did not, in any explicit or implicit form, ask the Applicant if they would adjourn the Hearing if they knew that the Tribunal would exclude evidence offered on DVD, USB keys, emails, and secure website.

25.No reasonable or sane person would proceed with the Hearing if they knew that their effort to prepare secure website evidence (amounting to 1,371 hours of hard work by the Applicant) would simply be discarded because

*Paragraph 38: The Tribunal did not investigate any of the links provided by Lot 158 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.*

26.The Applicant was not given the same opportunity to adjourn the Hearing as the Respondent was.

27.The Applicant was not given the opportunity to cross examine the Respondent because they failed to appear at the Hearing, whilst the Respondent had such opportunity (which they did not wish to entertain).

28.The Tribunal member failed to document USB keys, DVDs, emails, secure website with 48969 files with evidence (including unredacted copy of USB key with 11540 provided by BCS Strata Management for strata files for period before 1<sup>st</sup> of February 2017 that the Police and Waratah Strata Management allegedly lost), and submissions dated 1<sup>st</sup> of February 2021. Four lots of files were also sent via registered parcels:

- 31<sup>st</sup> of July 2020
- 7<sup>th</sup> of September 2020
- 15<sup>th</sup> of October 2020
- 2<sup>nd</sup> of February 2021

29. As ordered at the Directions Hearing, six members of the committee and NCAT received full details of secure website access by the Applicant on 28<sup>th</sup> and 25<sup>th</sup> of September 2020 respectively. Parties had unlimited access to all Applicant's files and submissions 24 hours a day for four and a half months before the Hearing on 11<sup>th</sup> of February 2021.
30. The Tribunal failed to review and acknowledge the Applicant's repeated attempts to reason with the committee and strata manager, which included emails and Motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reason.

**Question of Law – Procedural fairness - Tribunal ignored their own orders made at Directions Hearing on 25<sup>th</sup> of September 2020, did not verify validity of Waratah Strata Management attending the Directions Hearing, and procedural unfairness against the Applicant at final Hearing**

31. Tribunal member accepted appearance of Mr. Robert Crosbie from Waratah Strata Management without evidence of their rights to represent owners corporation.
32. Tribunal member ignored the Applicant's question about status of strata management contract and its validity on 25<sup>th</sup> of September 2020.
33. Tribunal member ignored reasonable pleas by the Applicant to provide all evidence in electronic format, as legislated by NCAT Procedural Direction 1.
34. Tribunal member threatened the Applicant that their STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 238 (a) would be dismissed without consideration if the Applicant did not provide six printed copies of files to them, and even stated that the Tribunal would request proof of Applicant's financial status to verify if the Applicant had enough funds to purchase new printer and cartridges for printing files.
35. Tribunal member ignored Applicant's statement that the Respondent did not respond to official requests by Applicant's legal representative O'Brien Civil & Criminal Solicitors dated 24<sup>th</sup> of April 2020.
36. Tribunal member did not grant the same rights to the Applicant that the Respondent provides two copies for each Applicant.
37. At Hearing on 11<sup>th</sup> of February 2021, Tribunal ignored their own order made at Directions Hearing, which allowed the Applicant to submit evidence in electronic format (secure website), with substantial abuse of processes and disallowing procedural fairness for the Applicant.

**Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633**

38. The files include evidence of multiple insurance frauds, false statements in Statutory Declaration to CTTT, false statement in Affidavit to District Court, and criminal activities by the Respondent and Solicitor Adrian Mueller since 2012 (those files were provided by BCS Strata Management to Waratah Strata management at the end of their contract on 1<sup>st</sup> of February 2017).
- Evidence satisfies "on the balance of probabilities" requirement for civil legal case,
  - Evidence satisfies "beyond reasonable doubt" requirement for criminal legal case.
39. Lot 158 Motions at general meeting 2018, including request to force Solicitor Adrian Mueller to provide copies of files to Police in Event E65804633 were excluded by deliberate, orchestrated, and planned actions by Solicitor Adrian Mueller himself, as published in minutes of general meeting on 18 October 2018 (Motions 18 and 19)
40. Lot 158 Motions at general meeting 2019, including request to force Solicitor Adrian Mueller to provide copies of files to Police in Event E65804633 were excluded by deliberate, orchestrated, and planned actions by Solicitor Adrian Mueller himself, as published in minutes of general meeting on 21 October 2019 (Motions 9 and 16)
41. As early as September 2019, strata manager Mr. Robert Crosbie prepared a plan how to avoid audits of outstanding unpaid levies for gas heating and engagement of Solicitor Adrian Mueller at cost of \$150,000.00 before owners corporation approved it at general meeting one month later, and Solicitor Adrian Mueller took an extraordinary step to prepare Deed of Agreement with baseless threats which Mr. Robert Crosbie from Waratah Strata Management handed to Lot 158 in person at general meeting on 21 October 2019
42. 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
43. 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
44. USB key that Lot 158 obtained during document search at Waratah Strata Management on 13 June 2017, where Mr. Robert Crosbie claims it contained all SP52948 provided by BCS Strata Management at end of their contract on 1 February 2017
45. 20190611-Re SP52948 Lot 158 temporarily withdraws offer for providing USB and strata files to Waratah Strata Management on 31 May 2019

**Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s repeated efforts to reason with the Respondent without legal costs at Fair Trading NSW eight times**

SM11/1348DR

SM12/1537JR

SM15/1226RH

00351498

5953035

6536692

7563482

7938059

**Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s letters of demand sent to Respondent in early October 2020 with pleas to avoid legal costs and warnings not to hinder Tribunal’s investigations**

46. Twelve documents were submitted to current and previous members of the committee.
47. Two documents were delivered to two individual strata managers at Waratah Strata Management.
48. One document was delivered to four senior members of staff at Pica Group and BCS Strata Management (previous strata agency for owners corporation).
49. Five documents were sent to ordinary owners who did not pay prescribed levies for gas heating for many years.
50. Applicant received no responses.
51. Applicant was not challenged for any statements.
52. Applicant’s statements were not refuted by any Respondent’s evidence.

[Bruce-Copland-letter-of-demand-7Oct2020.pdf](#)

[Francis-Tso-Yuan-Chow-letter-of-demand-4Oct2020.pdf](#)

[Genelle-Godbee-letter-of-demand-3Oct2020.pdf](#)

[Jeffery-Wang-letter-of-demand-2Oct2020.pdf](#)

[Joanne-Hessink-letter-of-demand-3Oct2020.pdf](#)

[John-Gore-letter-of-demand-4Oct2020.pdf](#)

[John-Ward-letter-of-demand-6Oct2020.pdf](#)

[Lorna-Zelenzuk-letter-of-demand-3Oct2020.pdf](#)

[Marianna-Paltikian-letter-of-demand-8Oct2020.pdf](#)

[Maureen-McDonald-letter-of-demand-2Oct2020.pdf](#)

[Moses-Levitt-letter-of-demand-2Oct2020.pdf](#)

[Peter-Friede-letter-of-demand-3Oct2020.pdf](#)

[Peter-Yeend-letter-of-demand-3Oct2020.pdf](#)

[Pica-Group-letter-of-demand-2Oct2020.pdf](#)

[Robert-Crosbie-letter-of-demand-2Oct2020.pdf](#)

[Robert-Lev-letter-of-demand-3Oct2020.pdf](#)

[Stan-Pogorelsky-letter-of-demand-2Oct2020.pdf](#)

[Stuart-Greene-letter-of-demand-5Oct2020.pdf](#)

[Thomas-Karolewski-letter-of-demand-3Oct2020.pdf](#)

[Upali-Aranwela-letter-of-demand-3Oct2020.pdf](#)

Folder with the [Applicant's Letters of Demand](#)

**Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s Motions being excluded from agenda at various general meetings, including Applicant’s efforts to allow owners corporation to ratify past events**

53. The Tribunal failed to review the Applicant’s Motions for each of previous years, which were neatly provided on the secure website (in addition to USB keys and DVD):

<https://www.vk2cot.id.au/NCAT-20-33352/NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#A7>

[Motions for AGM 2013](#)

[Motions for AGM 2014](#)

[Motions for AGM 2015](#)

[NSW-Fair-Trading-reference-7563482-recommending-forensic-financial-auditing-25May2015](#)

[NSW-Fair-Trading-reference-7938059-recommending-forensic-financial-auditing-9Oct2015](#)

[Extract from BCS Strata Management website with proof they were aware of Lot 158 Motions for AGM 2015](#)

[Motions for AGM 2016](#)

[Motions for AGM 2017](#)

[Motions for AGM 2018](#)

[Motions for AGM 2019](#)

[Motions for AGM 2020](#)

[AGM 2020 amendments for Motions](#)

54. The ratification of a lawful contract has a retrospective effect, and binds the principal from its date, and not only from the time of the ratification, for the ratification is equivalent to an original authority, according to the maxim, that omnis ratihabitio mandata aequiparatur (ratification is equivalent to express command).

As a general rule, the principal has the right to elect whether he will adopt the unauthorized act or not.

Having once ratified the act, upon a full knowledge of all the material circumstances, the ratification cannot be revoked or recalled, and the principal becomes bound as if he had originally authorized the act.

The ratification must be voluntary, deliberate, and intelligent, and the party must know that without it, he would not be bound.

[Ratification-Brief.pdf](#)

**Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law “Unreasonable Communications” being used four times against the Applicant before the Hearing and once after the Hearing**

55. Special By-Law "Unreasonable Communications" was specifically and exclusively created to prevent Applicant to raise any concerns about mismanagement of the complex was directly used three times (strata managers, committee members and Solicitor Adrian Mueller failed to disclose it to the NSW Fair Trading and Tribunal in NCAT case 20/33352):

- Motions 18 and 19 at AGM on 8 October 2018, with unqualified and false threats
- Motion 4 at committee meeting on 2 May 2019
- SP52948-Waratah-Strata-Management-intention-to-prevent-Strata-Roll-Access-to-Lot-158-11-days-before-document-search-20May2019
- Motion 4 at committee meeting on 20 June 2019
- Motion 3 at committee meeting on 29 April 2021, with further false statements and threats

**Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s repeated efforts to reason with the Respondent through emails**

56. The Respondent has been made aware multiple times that every possible effort was made by the Applicant to mediate with the strata managers, building managers, and the executive committee, which they declined each time and decided to engage expensive legal services without strata-compliant general meetings, without disclosure of Standard Costs Agreements, and through what the Applicant allege to be fraudulent activities and statements to CTTT, NCAT, Fair Trading NSW, and District Court, as per *Sadlo v Viceroy Gilead Pty Ltd* [2013] NSWCTTT 559 (at [10]):

*[10] ... the [respondent] opted to be represented by a lawyer. It had no obligation to do so. The tasks involved in providing evidence, and making submissions at the hearing could have been undertaken by an employee or officer of the [respondent]. The [applicants] should not be obliged to pay an expense the [respondent] had no obligation to incur.*

57. OFFICIAL REQUEST Immediate return of private property and reimbursement of Invoice on 10 and 14 May 2013
58. OFFICIAL OFFER FOR REASONABLE RESOLUTION SP52948 Pending CTTT and District Court Cases on 31 December 2013
59. Undisclosed Details of CHU Insurance Reimbursements Waratah Strata Management Contract details and Defamation of Lot 158 through false statements at EC meeting on 16 March 2017
60. CHU Insurance claim and defamation of Lot 158 on 25 March 2017
61. WITHOUT PREJUDICE Request to stop wasting strata funds on legal expenses that cannot succeed on 18 June 2019
62. Repeated plea WITHOUT PREJUDICE stop wasting strata funds on legal expenses that cannot succeed on 28 March 2020
63. O'Brien Criminal & Civil Solicitors' request to SP52948 to provide responses and detailed list of strata files to be provided to Lot 158 on 24 April 2020
64. FOLLOW UP ACTIONS Fraud Report and Police Event E65804633 on 29 April 2020
65. REQUEST Waratah Strata Management website missing notice and minutes of EC meeting dated 9Jul2012 on 22 July 2020
66. CONFIDENTIAL OFFER SP52948 Your actions today and tomorrow on 27 and 29 July 2020
67. OFFICIAL REQUEST on 12 August 2020 to immediately return private property undelivered by Solicitor Adrian Mueller and Respondent since May 2012
68. URGENT CONFIRMATION FOR NCAT SC 20/33352 required on 27 September 2020 that Waratah Strata Management legally represented Respondent at Directions Hearing
69. Lot 158 Letters of Demand to Respondents to refute or confirm Lot 158 evidence and statemenst and help NCAT in SC 20/33352
70. Demand to Solicitor Adrian Mueller on 21 October 2020 to provide immediate response to O'Brien Criminal & Civil Solicitors for Lot 158 demands dated 24 April 2020
71. NCAT SC 20/33352 Requests assisting Tribunal ignored by Respondent so far on 9 February 2021

## **Misconstrued Tribunal public statements encouraging self-representation without layers**

72.From NCAT's own website:

<https://www.ncat.nsw.gov.au/ncat/how-ncat-works/prepare-for-your-hearing/representation.html>

*NCAT encourages you to run your own case without needing a lawyer or other representative. This provides a low cost, accessible and efficient means of resolving your dispute.*

*Representing yourself gives you direct control on how your case is presented. With the right preparation and organisation, you can be your own best advocate.*

*A request for representation can be made in writing at any stage during the proceedings or in person at the hearing.*

*A representative may be a legal practitioner, real estate agent, strata managing agent, an advocate, or friend or relative with authorisation to act on your behalf.*

73.ACCC statement at:

<https://www.accc.gov.au/publications/advertising-selling/advertising-and-selling-guide/avoid-misleading-or-deceptive-claims-or-conduct/misleading-or-deceptive-conduct>

*Businesses are not allowed to make statements that are incorrect or likely to create a false impression.*

*This rule applies to their advertising, their product packaging, and any information provided to you by their staff or online shopping services. It also applies to any statements made by businesses in the media or online, such as testimonials on their websites or social media pages.*

*It is illegal for a business to engage in conduct that misleads or deceives or is likely to mislead or deceive consumers or other businesses. This law applies even if you did not intend to mislead or deceive anyone or no one has suffered any loss or damage as a result of your conduct.*

**Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012**

74. Role of Solicitor Adrian Mueller is crucial in what is strongly confirmed by evidence of fraud.

75. It took seven long and hard years for the Applicant investigations to be able to make claims as below.

76. On 2<sup>nd</sup> of July 2012 Solicitor Adrian Mueller offered his services to represent owners corporation in case SCS 12/32675 and made suggestion to use insurance claims for his legal costs in amount up to \$50,000.00:

Solicitor-Adrian-Mueller-letter-to-BCS-Strata-Management-advising-on-his-cost-estimates-and-suggesting-to-use-insurance-claims-for-legal-costs-2Jul2012

77. On 4<sup>th</sup> of July 2012, BCS Strata Management, secretly and without owners corporation approval, made the decision to withdraw the strata funds from the Sinking Fund in amount of \$50,000.00 as SP52948 already had problems to pay an invoice in amount of \$14,056.90 for creditor code 69633:

BCS-Strata-Management-hid-information-that-SP52948-had-no-readily-available-funds-to-pay-bills-4Jul2012

78. SP52948 emergency Executive Committee meeting was organised on 6 July 2012 (agenda not sent to owners and even not all members of the committee, and two Executive Committee members were unfinancial due to unpaid levies for second gas connection (Mr. Moses Levitt and Mr. Stan Pogorelsky)).

The meeting was allegedly planning to approve Solicitor's costs for attendance at CTTT Directions Hearing (no owner ever received copy of this Standard Costs Agreement). Solicitor Adrian Mueller's email to BCS Strata Management Paul Banoob on 5<sup>th</sup> of July 2012 (the email attachment has never been found in any document search):

*Letter attached.*

*I would charge about \$1,100-\$1,500 to appear at directions hearing.*



- The Minutes of this meeting clearly confirmed intention to submit Motion for special resolution for legal fees at general meeting after CTTT Directions hearing was completed (AGM 2012 proved that such special resolution and discussion never occurred).
- Meeting was held in Mr. Stan Pogorelsky's unit, who was unfinancial to vote and be a member of the committee due to unpaid levies in 2012 and 2013 and incorrectly paid gas levies since 1999.
- Mr. Moses Levitt was unfinancial to vote and be a member of the committee due to unpaid levies in 2012 and 2013 and incorrectly paid gas levies since 2001.

**80.** BCS Strata Management secretly changed the insurance contract clause without owners corporation approval or knowledge on 1 August 2012 in spite of high risks.

Of special importance is the fact that AJG Insurance Broker asked CHU Insurance to recommend lawyer who could represent SP52948, proving that SP52948 did not have signed Standard Costs Agreement with Solicitor Adrian Mueller dated 25<sup>th</sup> of July 2012 as alleged in Statutory Declaration by Mr. Peter Bone which Solicitor Adrian Mueller prepared for CTTT on 19<sup>th</sup> of April 2013 and later relied upon at District Court in February 2014:

**From:** Brian Turpin [mailto:[bturpin@chu.com.au](mailto:bturpin@chu.com.au)]  
**Sent:** Wednesday, 1 August 2012 4:22 PM  
**To:** Mark Thirgood  
**Subject:** RE: Strata Plan 52948 - Policy 9 legal defence costs

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Hi Mark

We would not refer this matter through to our Company's Lawyers nor do we impose a rate scale.

We thought being a large risk that they would be in contact with a Strata Lawyer.

They can seek advice through the SCA (Strata Committee Australia).

Two others come to mind, Bannermans and the other, Le Page.  
 Both deal in Strata Law.

Kind Regards,

**Brian Turpin** | Claims Consultant  
 CHU Underwriting Agencies Pty Ltd | [www.chu.com.au](http://www.chu.com.au)

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**From:** Mark Thirgood [mailto:[mthirgood@chu.com.au](mailto:mthirgood@chu.com.au)]  
**Sent:** Wednesday, 1 August 2012 3:55 PM  
**To:** Brian Turpin  
**Subject:** RE: Strata Plan 52948 - Policy 9 legal defence costs

Brian,

Do you have a panel lawyer which our client can appoint and use your rates?

**81.** The first claim for Solicitor Adrian Mueller's expenses was made only few weeks later (at the end of August 2012):

SP52948 Lot 3 Insurance Claim 1 on 31 August 2012 (\$367.64)

SP52948 Lot 3 Insurance Claim 2 on 7 December 2012 (\$12,714.65)

SP52948 Lot 3 Insurance Claim 3 on 2 May 2013 (\$1,320.00)

SP52948 Lot 3 Insurance Claim 4 on 4 June 2013 (\$10,517.02)

82. On 13 August 2012, BCS Strata Management Paul Banoob sent agenda for committee meeting where minutes of meeting dated 9 July 2012 were not included for owners or members of the committee.
83. On 23 July 2020, Applicant sent repeated request to Waratah Strata Management and committee members to explain why agenda and minutes did not exist on SP52948 web portal at Waratah Strata Management.
84. Minutes of committee meeting on 22 August 2012 allegedly approved minutes of committee meeting held on 9 July 2012 without providing any details to owners.
85. Mr. Peter Bone was introduced as new strata manager - he had no rights or authority to represent or act on behalf of SP52948 at any date before 22<sup>nd</sup> of August 2012.
86. In his Statutory Declaration to CTTT on 19<sup>th</sup> of April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that he was the lone recipient of email from Solicitor Adrian Mueller on 16 July 2012 whilst not acting as SP52948 representative:

Solicitor Adrian Mueller prepared Statutory Declaration for BCS Strata Management Peter Bone 19 April 2013

**From:** Adrian Mueller  
**Sent:** Monday, 16 July 2012 6:52 PM  
**To:** 'adrian.mueller@bcms.com.au'  
**Subject:** Re: SP 52948  
**Attachments:** Cost Agreement.PDF

Dear Peter,

I **attach** my costs agreement in accordance with our discussions this afternoon.

I look forward to receiving your instructions to represent the owners corporation in the CTTT appeal.

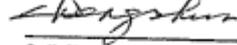
Regards  
Adrian Mueller  
Solicitor  
J.S. Mueller & Co  
Solicitors & Attorneys  
1st Floor 240 Princes Highway, Arncliffe NSW 2205  
DX 25315 Rockdale

Fax: 02 9507 8551

87. In his Statutory Declaration to CTTT on 19<sup>th</sup> of April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that he alone sent an email to Solicitor Adrian Mueller on 25<sup>th</sup> of July 2012:

**From:** Peter Bone [mailto:peter.bone@bcms.com.au]  
**Sent:** Wednesday, 25 July 2012 2:13 PM  
**To:** Adrian Mueller  
**Subject:** SP 52948 - Cost Agreement  
**Attachments:** JS Mueller Cost Agreement 250712.pdf

This is the annexure marked "E"  
referred to in the statutory declaration  
of Peter Bone declared at Epping on  
19 April 2013 before me:



Solicitor

SHUN CHENG

Good afternoon Adrian

Re: Strata Plan 52948 – 1-19 Fontenoy Road Macquarie Park

Please find attached the signed cost agreement for this scheme.

Please do not hesitate to contact me should you require any additional information.

Kind regards.

Peter Bone  
Raine & Horne Strata-Sydney  
Level 1, Building D, 240 Beecroft Road Epping NSW 2121  
P: (02) 8216 0331 F: (02) 8216 0331  
[www.bcms.com.au](http://www.bcms.com.au)

88. At CTTT Directions Hearing on 8 August 2012 Tribunal issued orders for Solicitor Adrian Mueller to provide respondents' files by 12 September 2012

89. On 5 September 2012, BCS Strata Management Peter Bone prepared a draft letter to refute Applicant's allegations and sent it to six committee members (leaving three committee members uninformed) and his manager Mr. Paul Banoob

90. On 7 September 2012, BCS Strata Management Peter Bone sent letter to all owners, except Applicant, refuting all Applicant's allegations without evidence

91. On 10 September 2012, BCS Strata Management Paul Banoob email to SP52948 Executive Committee confirming his attendance with Solicitor Adrian Mueller at CTTT Hearing scheduled for 17 October 2012

92. On 19 September 2012, single committee member sent complaint to BCS Strata Management Peter Bone about accounting errors and concerns about insurance renewal

93. On 20 September 2012, BCS Strata Management Peter Bone, Paul Banoob, and Ron Sinclair made forced admission to two members of the committee (ignoring the other seven members) why insurance premiums increased dramatically and reason why owners corporation used services of Gallagher Insurance Broker:

*From: Ron Sinclair  
Sent: Friday, 10 August 2012 10:22 AM  
To: Cathy Page  
Subject: SP52948*

*Could you please ask the insurer to provide a premium cost for renewal based on the current sum insured. We need an idea of the premium for our budget asap. We will be obtaining a new valuation but need the budget figure now. The Chairman of the Strata Scheme Bruce Copeland who I understand is a client of Gallaghers has requested the budget figure. We will be needing alternative quotes prior to renewal.*

*From: Cathy Page  
Sent: Wednesday, 29 August 2012 4:01 PM  
To: Ron Sinclair  
Subject: RE: SP52948  
Importance: High  
Strata Plan 52948*

Policy Number: NNR836665  
~~~~~

Please find attached renewal terms with current sums insured, issued by Corporate Home Unit Underwriting Agencies Pty Ltd, for the forthcoming period 21st September 2012 to 21st September 2013. The two options have a water damage deductible applicable:- Option 1 \$10,000, and Option 2 - \$5,000.

CHU have advised they do have reservations over the constant water ingress issues which have been prevalent since 2007, and have not seen a great improvement.

From: Cathy Page [mailto:@ajg.com]

Sent: Thursday, 20 September 2012 11:10 AM

To: Ron Sinclair

Subject: RE: SP52948 due 21/09

Importance: High

Further to our telephone conversation of today, Strata Unit Underwriting have declined to quote on renewal for Strata Plan 52948, due to pending legal defence claim.

94. On the same date, a response from a committee member:

[SP52948-EC-member-angry-about-insurance-renewal-and-claims-20Sep2012.png](#)

Can we please get a claims report for the last few years. The Executive committee is not seeing all these claims and there is clearly a misunderstanding as to what claims are being made when we may be better off paying these directly. There are virtually no insurance claims of any size reflected in our accounts. If payments are being made directly to contractors there is no visibility of the claims volume and we cannot assess whether these premiums are reasonable or understand the nature claims.

This dramatic jump in premium will cause us to reassess our budgets dramatically - Our strata manager Peter Bone provided me with a budget two days ago with a figure of \$60,000 does no one speak to each other? That's over \$100 per unit increase in levies that we would have been in error.

I am extremely disturbed that we are only getting follow up 24 hours before our insurance lapses. Had I been appraised of these difficulties earlier I might have been able to assist.

The committee cannot be expected to assess quotes on a reasonable basis with a shotgun held to their heads at the last minute.

If no better quote is received we need to proceed with the CHU quote with the higher excess - please supply me with a copy of the cover note as soon as insurance is placed.

Bruce Copland , Chairman SP 52948

95. SP52948 committee confirmation that Solicitor Adrian Mueller was involved in AGM 2012 preparation on 25 September 2012:

Subject to any

1. final comments on the annual report from Adrian Mueller

2. The attachment of the annual AUDITED accounts

3. resolution on which motions if any we require to include from any other owner

4. and your review of the changes, new by-laws etc this is now in the order in which I would like to run the meeting, dealing with pure administration matters first, the special by laws and finally election of a new committee.

96. Upon Applicant's complaint about not receiving documents from the Respondent on 10<sup>th</sup> of September 2012, the Tribunal issued notice of non-compliance with procedural directions on 17 September 2012 - Solicitor Adrian Mueller did not comply with the Tribunal's notice.

97. On 19 September 2012 Solicitor Adrian Mueller requested BCS Strata Management to provide documents to allow him to prepare evidence on behalf of owners for CTTT Hearing (listed in Solicitor Adrian Mueller invoice dated 15 November 2012).

98. SP52948 Executive Committee instructing BCS Strata Management Peter Bone to delay new levies and confirming he is aware of insurance covering legal costs related to Lot 158 on 19 September 2012.

99. Solicitor Adrian Mueller asked BCS Strata Management Peter Bone who would sign Statutory Declaration for his legal defence at CTTT on 19 September 2012 (Solicitor's Standard Costs Agreement and Statutory Declaration were not provided to owners at Annual General Meeting 2012, nor it existed during document searches in 2012 and 2013, and were not provided to CTTT until April 2013).

100. BCS Strata Management Peter Bone email to SP52948 Executive Committee Chairperson with Solicitor Adrian Mueller Standard Cost Agreement for preparation of By Law for gas outlets in units on 19 September 2012 (this Standard Costs Agreement was not provided to owners at Annual General Meeting 2012 or CTTT).
101. SP52948 Executive Committee instructing BCS Strata Management Peter Bone to ignore Motions submitted by Lot 158 for Annual General Meeting and find loopholes to implement it on 24 September 2012.
102. Solicitor's request was granted in Tribunal's notice issued on 26 September 2012 - Solicitor Adrian Mueller did not comply with his own request for extension of time and the Tribunal's notice.
103. Lot 158 lodged second complaint with CTTT about not receiving documents from the Respondent on 29 September 2012.
104. On 27 September 2012, BCS Strata Management Peter Bone email to SP52948 Executive Committee confirming him providing all documents to Solicitor Adrian Mueller, intention to sign Statutory Declaration for engagement of Solicitor Adrian Mueller, and attendance at CTTT hearing scheduled for 17 October 2012.
105. Solicitor's second request was extension of time to submit files was granted in Tribunal's notice issued on 9 October 2012 - Solicitor Adrian Mueller did not comply for the third time.
106. SP52948 Executive Committee was fully aware of BCS Strata Management Peter Bone refusal to include Motions from Lot 158 at Annual General Meeting on 9 October 2012.
107. SP52948 Executive Committee confirmed that levy arrears about \$10.00 would not be acceptable for voting at general meeting on 16 October 2012.
108. At CTTT Hearing on 17<sup>th</sup> of October 2012, Solicitor Adrian Mueller did not bring any evidence to court, including proof that he was legally approved to represent owners corporation through signed Standard Costs Agreement.
109. At CTTT Hearing on 17 October 2012, Solicitor Adrian Mueller signed the Agreement that Applicant would receive missing strata files (Applicant's document viewing at BCS Strata Management on 12 November 2012 including strata manager Paul Banoob's false promise that he would provide files as committed by Solicitor Adrian Mueller at CTTT Hearing on 17 October 2012).
110. On the same day, 17 October 2012 in the evening, SP52948 Annual General Meeting was conducted which did not discuss Solicitor Adrian Mueller costs or approve his engagement.

Meeting was non-compliant with SSMA 1996 Schedule 2 Section 12 2 (a) and (b), SSMA 1996 Section 80D, SSMA 1996 Section 230A, SSMA 1996 Schedule 2 Section 10 (8), SSMA 1996 Section 183, and Strata Schemes Management Regulation 2012, Part 5, Section 18:

- 32 owners present in person and 46 via proxy. Of 46 proxies, 35 were given to SP52948 Executive Committee Chairperson (who, along with a selective group of 17 (out of 26) townhouse owners (including one other member of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered By-Law since year 2000 and 2001 respectively, hence directly decreasing their voting entitlements and being unfinancial. The same applied to a group of owners and committee members who did not pay levies for gas heating connections in prescribed amount. These secret and undeclared reimbursements were never provided in accounting books.
- Quorum was not satisfied.
- Paperwork for Annual General Meeting 2012 shows that number of owners who were not financial were allowed to vote (examples: Lot 30, Lot 160, Lot 195, Lot 206) - this was discrimination of owners who were disallowed to vote at AGM 2013 due to being in debt for amount as small as \$0.10 (proxy counts at AGM 2012)
- Paperwork for Annual General Meeting 2012 shows that number of owners who did not pay prescribed levies for gas heating connection were allowed to vote or act as proxies (Lot 3, Lot 62, Lot 147, Lot 148, Lot 167, Lot 181, Lot 209)
- Secret non-prescribed proxy form delivered by hand to selective owners with special instructions how to vote. This proxy form was not part of the agenda for the meeting.
- 12 Motions by Lot 158 were misquoted and misconstrued and two Motions not even included on the agenda.
- Secret and unapproved reimbursements for private water and gas usage to selective townhouse owners applied indiscriminately and details undisclosed to owners for 13 years. Building report by Napier & Blakeley not presented to owners although it was completed in July 2012 and allegedly decided at committee meeting on 9 July 2012.
- Illegal ballot paper was used at the meeting (it must be handwritten by each owner, and only allowed for financial owners).
- Mr. Moses Levitt and Mr. Stan Pogorelsky were allowed to vote and be members of the Executive Committee whilst unfinancial (in direct non-compliance with SSMA 1996), effectively making Lot 158 a legal committee member. Extract from Minutes of AGM 2012:

No. 19 To receive nominations for the Executive Committee, and to elect the Executive Committee  
 Nominations were received for the following owners: B Copland, M Levitt, M McDonald, S Pogorelsky, S Quick, B Saultis, J Wang, R Hirshhorn & Lot 158.

There being ten (10) nominations received a ballot was conducted.

The Chairman declared the following owners elected by majority ballot:

B Copland, M Levitt, M McDonald, S Pogorelsky, S Quick, B Saultis, J Wang, R Hirshhorn

111.BCS Strata Management, Executive Committee, and Solicitor Adrian Mueller prevented owners from having knowledge that due to high number of water leaks and damages, insurance policy changed dramatically and applied excess of \$10,000.00 for water damages, burst pipes, and exploratory costs for each and every claim:

**Excesses:**

|           |                                                                |                                                                                                                                 |                                                                                                                                           |
|-----------|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
|           |                                                                | For each claim or series of claims during a period of 72 hours for loss or damage caused by Earthquake or Tsunami:              |                                                                                                                                           |
| SECTION 1 | Earthquake                                                     | i. Where the Building(s) Sum Insured is up to \$5,000,000 and the Building is occupied solely for residential purposes; or      | \$ 250                                                                                                                                    |
|           |                                                                | ii. Where the Building Sum Insured is greater than \$5,000,000 and the Building is occupied solely for residential purposes; or | \$ 20,000 or 1% of the Building Sum Insured (whichever is the lesser)                                                                     |
|           |                                                                | iii. Where the Building is occupied partly or solely for commercial purposes                                                    | \$ 20,000 or 1% of the Building Sum Insured (whichever is the lesser)                                                                     |
| SECTION 1 | Water Damage/Burst Pipe/Exploratory Cost on each & every claim |                                                                                                                                 | \$ 10,000                                                                                                                                 |
| SECTION 1 | Flood Damage claims                                            |                                                                                                                                 | \$ 5,000                                                                                                                                  |
| SECTION 1 | All Other Claims as per Policy Wording and                     |                                                                                                                                 | \$ 1,000                                                                                                                                  |
| SECTION 2 | For each and every claim                                       |                                                                                                                                 | \$ 250                                                                                                                                    |
| SECTION 3 | For each and every claim                                       |                                                                                                                                 | \$ 250                                                                                                                                    |
| SECTION 4 | 7 days                                                         |                                                                                                                                 |                                                                                                                                           |
| SECTION 5 | For each and every claim                                       |                                                                                                                                 | \$ 250                                                                                                                                    |
| SECTION 6 | For each and every claim for loss of damage to machines        |                                                                                                                                 | \$ 5,000 - Chillers, Cooling Works, Generators & Central Air Conditioners<br>\$ 2,500 – Lifts and pump motors<br>1,000 – All Other Losses |
| SECTION 7 | For each and every claim                                       |                                                                                                                                 | \$ 10% of all Legal Expenses or \$1,000 for each claim, whichever is the greater                                                          |
| SECTION 8 | For each and every claim                                       |                                                                                                                                 | \$ 250                                                                                                                                    |

112. Solicitor Adrian Mueller was made aware of CTTT case SCS 12/5460 on 19 October 2012 and submission about his false statements at Hearing in CTTT case SCS 12/32675
113. On 5 December 2012, accepting Solicitor Adrian Mueller's claims without evidence, CTTT dismissed case SCS 12/32675
114. Email exchanges on 7 December 2012 between nine committee members and BCS Strata Management Peter Bone showed their extreme pleasure with the results of CTTT dismissing case SCS 12/32675
115. After two insurance claims in amount of \$13,082.29 without disclosure to owners, Solicitor Adrian Mueller secretly initiated legal cost recovery at CTTT without owners corporation knowledge or approval on 10 December 2012
116. Two committee members asked BCS Strata Management Peter Bone to publish decision for SCS 12/32675 on notice boards after consultation with Solicitor Adrian Mueller to cause more reputation damage to Lot 158 on 14 December 2012
117. BCS Strata Management Peter Bone, as advised by Solicitor Adrian Mueller, refused access to strata files to Lot 158 on 4 February 2013 although Lot 158 was actually legal member of the committee. Solicitor Adrian Mueller was well aware that his advice was false as the following information was published in his web blog:

### **Evidence that Solicitor Mr. Adrian Mueller applied double-standards for own protection – published on his website on 2Apr2013**

**Are You Entitled to Inspect Legal Advice**

Tuesday, 02nd April 2013



The answer appears to be "yes" according to a recent decision of the NSW Supreme Court. But the jury is still out on whether a lot owner who is directly involved in the litigation with an owners corporation is entitled to inspect legal advice given to the owners corporation concerning the litigation.

**Supreme Court Case**

In *Eastmark Holding Pty Ltd - v - Kabraji (No 3)* 2012 NSWSC 1463, the Supreme Court held that the developer of a large residential building in Berry Street, North Sydney was entitled to inspect legal advice given to the owners corporation of the building concerning litigation in which the developer is involved.

118. SP52948 Executive Committee instructions to BCS Strata Management Peter Bone about CTTT evidence not allowed to be provided to anyone perhaps even after legal case is closed on 18 February 2013
119. Lot 158's submission to Office of the Hon. Anthony Roberts, Minister for Fair Trading, about Community Title Laws and anonymous death threat in relation to CTTT cases SCS 12/32675 an SCS 12/50460, which Minister's office promised to investigate on 22 March 2013
120. BCS Strata Management forged figures for legal costs and insurance claims in official six-monthly financial report for period from 1 September 2012 to 28 February 2013 for SP52948 stating that only \$1,316.19 was received in insurance claims and legal fees were \$200.00 when one single invoice for Solicitor Adrian Mueller amounted to \$12,672.00 (plus GST) in his invoice on 15 November 2012 (cheque drawn and presented on 27 November 2012), confirmed by extract from BCS Strata Management website in March 2013
121. On 23<sup>rd</sup> of April 2013, BCS Strata Management, under pressure from the Applicant and Lot 98, modified the six-monthly financial report stating that \$14,030.84 was received in insurance claims and legal fees were \$12,914.65.

122. In October just before AGM 2013, BCS Strata Management decided to hide the accurate state of the legal fees and insurance claims again:

BCS Strata Management manipulating accounting figures and then destroyed official document before AGM 2013

123. Email correspondence between committee members and BCS Strata Management confirmed that they had no understanding of Fair Trading NSW case SM12/1537JR (precursor to CTTT case SCS 12/50460) and CTTT case SCS 12/32675

124. On 28 March 2013 SP52948 committee members voted at paper EC meeting not to engage Solicitor Adrian Mueller in CTTT Hearing scheduled for 15 April 2013. The Motion said:

*That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Consumer, Trader & Tenancy Tribunal (CTTT) on 15 April 2013, in relation to an application lodged by the owner of Lot 158.  
Defeated*

125. On 15<sup>th</sup> of April 2013 Solicitor Adrian Mueller provided statement to Tribunal. Solicitor Adrian Mueller said words to the effect of (Applicant has audio recording of the event):

*What I wish to do is... continue with the Hearing today on proviso that I am able to tender some evidence on this issue. Evidence which I've only discovered... Material...*

*There's two documents:*

*Second document is email from the Strata manager to me on 6th of August 2012 returning the signed copy of my costs agreement... and the costs agreement... signed by the strata manager on behalf of the owners corporation...*

*And I apply... to... tender of these documents today on the basis that I've only been informed of the challenge...*

Solicitor's statement directly contradicts statement that he created for strata manager Mr. Peter Bone in Statutory Declaration on 19<sup>th</sup> of April 2013, where Mr. Bone claimed that he alone sent an email with attached "signed cost agreement" to Solicitor Adrian Mueller on 25<sup>th</sup> of July 2012.

126. Solicitor Adrian Mueller persuaded/coerced the Tribunal member that the Motion at the EC meeting dated 28<sup>th</sup> of March 2013 was accidentally mistaken for Fair Trading NSW mediation case SM12/1537JR although the Solicitor knew quite well that the mediation case was closed on 27<sup>th</sup> of March 2013.

At CTTT Hearing on 15 April 2013, Solicitor Adrian Mueller alleged that he did not receive any files from Lot 158, which were sent in folder to BCS Strata Management Peter Bone on 14 March 2013. Solicitor Adrian Mueller, whilst illegal to represent owners corporation, forced Lot 158 to submit another copy of files at additional unnecessary expense

127. Straight after CTTT Hearing on 15 April 2013, Solicitor Adrian Mueller sent urgent email to BCS Strata Management Paul Banoob and Peter Bone to produce signed copy of his Standard Costs Agreement and request to run urgent paper meeting to approve his engagement

In panic, members of the committee and BCS Strata Management Peter Bone received high-priority request to organise urgent paper meeting on 16 April 2013, forgetting that Fair Trading NSW mediation case SM12/1537JR was closed almost one month earlier on 27 March 2013 and could not be used as an excuse:

*Please sign and date your voting paper as soon as possible. Despite the proposed date of the meeting we must have a clear majority as soon as possible to allow Adrian Mueller to rebut the allegations that he was never appointed to represent us at CTTT.*

*Please also not in whichever way that you wish that the decision in the minutes of the last paper meeting was defeating a motion to have someone represent us at a MEDIATION at DOFT and not a hearing at CTTT. This is a confusion caused by Peter mixing up the two issues in the notice.*

*I have attached a copy of my voting paper for your information and for Peter to record my vote. Bruce*

128. At time-warped paper meeting on 19 April 2013 (scheduled for 26 April 2013, with notice sent to owners on 16 April 2013 and not allowing owners to act if they chose so) in Motion 1 committee defeated proposal for Solicitor's representation at non-existent Fair Trading NSW mediation case dated 15 April 2013:

**MOTION 1** That the minutes of the last Committee Meeting be confirmed.

It was moved that Motion 2 of the Paper Executive Committee Meeting held on 28<sup>th</sup> March 2013 be amended from:

"That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Consumer, Trader & Tenancy Tribunal (CTTT) on 15<sup>th</sup> April 2013, in relation to an application lodged by the owner of Lot 158,

**Defeated"**

to read:

"That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Office of Fair Trading (OFT) on 15<sup>th</sup> April 2013, in relation to an application lodged by the owner of Lot 158,

**Defeated"**

**Resolved** that proposed amendment to Motion 2 be approved.

**Resolved** that the Minutes of the Paper Committee Meeting held on 28<sup>th</sup> March 2013, as amended, be approved.

On the balance of probabilities, it meant Solicitor Adrian Mueller was not allowed to be engaged in Fair Trading NSW case SM12/1537JR although the case was already closed on 27<sup>th</sup> of March 2013.

129. Applicant, as forced by Tribunal, at own additional costs, delivered folder with files to Solicitor Adrian Mueller in person on 18 April 2013 and forced him to sign the document:

*By signing this form, the following has been acknowledged by Mr. Adrian Mueller, or an authorised representative of his firm:*

*a) Mr. Adrian Mueller confirms that the Strata Manager of SP52948 (Raine & Horne Epping) lost the folder that the Applicant had sent to them on 14th of March 2013;*

*b) Mr. Adrian Mueller confirms that he and the Respondent did not raise any complaints to the CTTT or the Applicant about not receiving the Applicant's documents after the deadline on 15th of March 2013;*

*c) Mr. Adrian Mueller refused offer to obtain access to the Applicant's folder at the CTTT Re-Hearing on 15th of April 2013, via the following two methods:*

*Electronic delivery*

*Document search at the CTTT The latter method was forced upon the Applicant on 27th of February 2013i, after three complaints to the CTTT that he did not get copies of the Respondent's files.*

*d) Mr. Adrian Mueller acknowledges the cost of preparing another folder for the Respondent on 18th of April 2013 will amount to around \$700.00 to the Applicant.*

*e) Mr. Adrian Mueller acknowledges that, if the evidence in the Appendix herewith which he committed to provide to the CTTT and the Applicant by next Monday is not delivered (as per the Appendix herewith), the UNNECESSARY and UNJUSTIFIED cost of the preparation and delivery of the Respondent's folder shall be charged to his firm.*

*Received the Applicant's folder with 36 sleeves at:*

*J.S.Mueller & Co.. 1st Floor, 240 Princes Highway, Arncliffe NSW 2205*

## Appendix

*The Strata Manager and Mr Adrian Mueller gave assurance to the CTTT and the Respondent at the CTTT Re-Hearing on 15th of April 2013 to provide evidence about legality of the engagement of the legal services by the Strata Plan 52948 in SCS 12/32675 (and 12/50460 later on). The following evidence and copies of the documents are required:*

*\* Agenda for the alleged meeting held on 9th of July 2012 and the proof that it was sent to all owners in the complex at least 72 hours before the meeting;*

*Minutes of this EC meeting held on 9th of July 2012 and the proof that they were distributed to all owners in the complex within 7 days after the meeting;*

*\* Proof that owners were asked to vote for Solicitor's engagement at a general meeting (both the agenda and the minutes) once the costs or estimates went above \$12,500.00 (pretty much it had to happen in July 2012 or soon afterwards because apart from the Cost Agreement on 16th of July 2012 there was also expense of around \$2,500.00 beforehand);*

*\* Agenda for the EC meeting at which it was approved to extend engagement of the Solicitor (it was actually done by private actions of Bruce Copland and the Strata Manager on 7th of December 2012) and the proof that it was distributed to all owners in the complex at least 72 hours before the meeting;*

*\* Minutes of the EC meeting at which it was approved the extended engagement of the Solicitor on 7th of December 2012 and the proof that they were distributed to all owners in the complex within 7 days after the meeting;*

*\* Evidence that owners received Tribunal orders on 17th of December 2012 about the reopened case SCS 12/32675 and this Hearing at any time before the vague, ill-conceived paper EC meeting held on 28th of March 2012;*

*\* Proof that the owners received information about the names of the EC office bearers (Secretary, Treasurer, Chairperson) since the AGM 2012 (17th of October 2012). No minutes of any meeting since then provided such information. That was requested from the Strata Manager FIVE TIMES and not responded so far. Not having office bearers means Strata Plan 52948 has a dysfunctional EC.*

*\* Proof that the owners know about the size of the Solicitor's expenses so far (not via the new web access that is still unknown to most owners, but via minutes of the EC meetings). Last week the Applicant issued the request to the Strata Manager and the Secretary (unknown person so far!) to explain where are the legal costs hiding in the balance sheet for period 1st of September 2012 and 28th of February 2013.*

*\* Proof that owners were sent a copy of the Solicitor's Cost Agreement within 7 days after its delivery to the Strata Agency and the EC on 16th of July 2012.*

### **130. Applicant sent letter with concerns to Solicitor Adrian Mueller on 18 October 2012**

No reply was received.

### **131. On 6 May 2013 Solicitor Adrian Mueller provided false statement to BCS Strata Management that that he had not been aware of CTTT case SCS 12/50460 until previous week although he was fully aware of it and acted in it illegally since early October 2012**

### **132. On 6 May 2013 Solicitor Adrian Mueller secretly issued Standard Costs Agreement for CTTT SCS 12/50460**

133. On 7 May 2013 CTTT sent an order for their non-compliance in case SCS 12/50460 to Solicitor Adrian Mueller and BCS Strata Management

**Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia – SP52948**

Reference is made to correspondence received from the Applicant on 6 May 2013.

I draw your attention to Section 136 of the Strata Schemes Management Act 1996 (the Act) which outlines the obligation of the Owners Corporation's to display and give certain notices. Specifically, section 136(1) states that:

An Owners Corporation given a copy of an application for an order under this Chapter accompanied by the relevant notice must:

- a) immediately cause the application and notice or a copy of the application and notice to be prominently displayed on any notice board required to be maintained by or under the by-laws on some part of the common property, and
- b) keep the application and notice so displayed until the expiration of the time specified in the notice for the making of submissions, and
- c) immediately serve a copy of the application and notice on each person whose name appears on the strata roll.

I have attached a copy of section 136 for your convenience.



**R Komban**  
Deputy Registrar  
07/05/13

Solicitor Adrian Mueller did not notify CTTT that he was not authorised to represent owners corporation in the Fair Trading NSW mediation case SM12/1537JR and CTTT case SCS 12/50460.

**134.** On 10<sup>th</sup> of May 2013 Applicant issued request to Solicitor Adrian Mueller to return private property and reimburse owners corporation:

*a) As agreed at the CTTT Hearing today, since you are not a properly endorsed legal representative of the SP52948 in File SCS 12/50460, and based on the fact that you kept falsely claiming it to the DFT and the CTTT until 6 May 2013 (when I forced you to issue a new contract), you are instructed to return two folders with my evidence in SCS 12/50460 by registered post or in person immediately.*

*This request has to be taken in context that I will allow seven days (five working days from today) for my files to be returned (by the end of business hours on 17 May 2013).*

*You are currently holding these PRIVATE documents illegally and without authority.*

*I will allow service by post as per NSW Interpretation Act 1897 Section 76:*

*(b) in Australia or in an external Territory-is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected on the fourth working day after the letter was posted...*

*Silence will be taken as agreement with my request.*

*b) The Strata Manager, the EC and you, must immediately review the invoice in amount of \$1,452.00 that you submitted to the owners corporation on 6 March 2013 because almost all expenses in it were related to the CTTT File SCS 12/50460 (and corresponding DFT SM12/1537JR), and some even private financial matters between Raine & Horne Strata and myself (which you cannot claim from owners corporation).*

*A quick reimbursement of the illegal expenses is required immediately as the funds of the owners corporation have been abused without approval.*

*c) You will disclose to owners corporation and myself all costs (current estimate above \$25,000.00) from the Standard Cost Agreement of \$11,550.00 as "approved" by the EC members on 16 July 2012.*

*d) Finally, you are requested to provide evidence why you failed to notify the owners corporation about all expenses and substantial changes to the Cost Agreement as per Legal Profession Act 2004:*

*If the Solicitor becomes 'aware' of a substantial 'change' in anything 'included in' prior disclosure, there is a duty to update the disclosure under Section 316*

*It is actually covered by Section 309(1)(b)(iv) (and Section 316) of the Legal Profession Act 2004.*

*That has not happened in our complex.*

*This was also listed in your Standard Cost Agreement but not adopted by the Solicitor.*

*This clause imposes on the Solicitor an obligation to inform the client of any substantial changes to anything (as soon as practicable after he becomes aware of the changes) required to be disclosed to the client.*

**135.** After Solicitor Adrian Mueller's refusal to comply, Applicant sent an updated response on 14 May 2013

**136.** Applicant sent another updated request to Solicitor Adrian Mueller on 1 June 2013. The important extract from the email:

*Based on yet another evidence that you do not have authority to represent the owners corporation in SCS 12/50460 (nor you ever had authority to work in SCS 12/32675 and SCS 12/05845 through properly convened EC or general meetings), it is your obligation to return the folders that are in your custody ILLEGALLY.*

*You have deceived the DFT and the CTTT by claiming so and you have provided false statements about it to the owners corporation.*

*In addition, it is your duty and the EC's obligation to force you to refund the fees you overcharged and wrongly claimed.*

*Based on calls to the Strata Manager and emails to me, close to 30 owners are now firm in their opinion that your services are not required in our complex and do not want any CTTT cases (providing an EGM is convened shortly). For details, ask the EC and the Strata Manager.*

**137.** Solicitor Adrian Mueller was made aware of CTTT case SCS 12/50460 on 19 October 2012 and submission about his false statements at Hearing in CTTT case SCS 12/32675

**138.** Solicitor Adrian Mueller was firstly engaged in Fair Trading NSW mediation case SM12/1537JR on 4 January 2013, without Standard Costs Agreement or authorisation of owners corporation at any legally-convened meeting

**139.** Solicitor Adrian Mueller continued engagement in Fair Trading NSW mediation case SM12/1537JR on 24 January 2013, without Standard Costs Agreement or authorisation of owners corporation at any legally-convened meeting

**140.** Lot 158 confirmed intention to attend Fair Trading NSW mediation case SM12/1537JR on 27 January 2013 and stating that this was a serious sacrifice due to his work commitments

**141.** SP52948 declined to attend Fair Trading NSW mediation case SM12/1537JR on 20 February 2013 (Fair Trading NSW decision)

**142.** Solicitor Adrian Mueller engaged in reopening Fair Trading NSW mediation case SM12/1537JR on 22 February 2013, incurring costs to owners corporation without legal reasons

**143.** SP52948 committee members received information about reopened Fair Trading NSW mediation case SM12/1537JR on 5 March 2013

**144.** Lot 158 complaint to Fair Trading NSW for reopened mediation case SM12/1537JR on 5 March 2013, with warning that owners corporation was not even aware of the Fair Trading an CTTT cases and that Solicitor Adrian Mueller was illegally representing owners corporation. Strata Manager Mr. Peter Bone was notified on the same day as well. Part of the email contains the following statements:

*... Therefore, it is fact that the Executive Committee and the Strata Manager already have lot of documents in regards to DFT SM12/1537JR. Every photocopy of the financial and other documents that I submitted to CTTT is readily available at the Strata Agency. They have never attempted to speak to me in person or via email. They know very well that I would like to engage in talks with them.*

*In addition, it is important to state that the owners corporation did not approve any engagement of the Solicitor. The owners do not even know that two CTTT cases are opened at the moment:*

*12/32675 and 12/50460*

**145.**Lot 158 second complaint to Fair Trading NSW for reopened mediation case SM12/1537JR on 7 March 2013. Of special importance was the following statement in part of the email:

*... The Respondent declined to provide evidence why they failed to respond to the DFT in written form by the due date on 16 January 2013 (oral messages are not a proof of delivery).*

*The urgent email from the Strata Manager Mr. Peter Bone to the Solicitor Mr. Adrian Mueller on 15 of January 2013 asking on direction what to do (although the DFT gave them the information on 4 January 2013) is a proof of their delayed and uncoordinated actions. I have the proof of that email and can submit it to the DFT at any time.*

*Each party attending a mediation session is fully responsible for their own costs - which means that one party cannot be held liable for the costs of the other party, no matter what or who those costs might involve.*

*The Respondent failed to provide evidence why they did not act upon advance notice of CTTT cases SCS 12/50450 and 12/50460, which they received early in October, two weeks before the AGM 2012. They had ample opportunity to mediate at the internal meeting.*

*They also must provide evidence that they attempted to rectify the issues as reported in the SCS 12/50450 and 12/50460 at the AGM 2012 because they were aware of them in advance.*

*Same applies to two official EC meetings and one special EC meeting since the AGM 2012 held on:*

*6 December 2012*

*4 January 2013*

*20 February 2013*

*The Respondent failed to provide acknowledgement that they received significant information about CTTT SCS 12/50460 during December 2012 (when information was provided to the Strata Manager), and January 2013 (when additional and significant information was provided to them via Mr. Jim Robertson).*

**146.**Solicitor Adrian Mueller invoice dated 6 March 2013 confirm that he was involved in Fair Trading NSW mediation case SM12/1537JR since 21 February 2013 and charged owners corporation for such services. Of special importance is the fact that Solicitor did not charge for or list emails dated 4 and 24 January 2013.

**147.**On 6 March 2013 Solicitor Adrian Mueller sent letter to Fair Trading NSW claiming that he was legally representing SP52948 in mediation case SM12/1537JR (precursor to CTTT file SCS 12/50460)

**148.**On 13 March 2013 Fair Trading NSW confirmed that each party meets their own costs in mediation case SM12/1537JR and that mediation is not supposed to deal with volume of files but brief outline of concerns

**149.**On 27 March 2013 SP52948 committee refused to attend Fair Trading NSW mediation in case SM12/1537JR for the second time.

**150.**On 17 May 2013 Applicant sent warning to BCS Strata Management with owners' votes against Solicitor Adrian Mueller's engagement

**151.**Some of the owners' emails requesting Solicitor not be involved:

SP52948 owners against legal costs ignored by executive committee and BCS Strata Management in May 2013

**152.**On 22 May 2013 Mr. Peter Bone replied to a concerned owner. In part of the email, he said:

*The engagement of lawyers was a decision of the Owners Corporation, not our office.*

*Attendance at CTTT hearings is a responsibility of the Owners Corporation, not our office, though representatives of our office may attend such hearings for the purpose of providing information, if so requested by the Owners Corporation (personally we would prefer not to have to attend CTTT at any time).*

153. On 20 May 2013, Applicant sent request to Waratah Strata Management for voluntary forensic analysis of alleged signed Standard Costs Agreement with Solicitor Adrian Mueller:

*Are you willing, voluntarily, to submit the Standard Cost Agreement of Mr. Adrian Mueller that your agency signed on behalf of SP52948 on 25 July 2012 to be forensically analysed if I provide the official resources?*

*In other words, is your company willing to voluntarily allow the scientific verification if the signature on the document is 10 months old and tampered with in any form.*

154. CTTT Tribunal member Mak Harrowell made decision in case SCS 12/32675 on 8 November 2013 based exclusively on Statutory Declaration prepared by Solicitor Adrian Mueller for BCS Strata Management Peter Bone that contract with Solicitor Adrian Mueller was allegedly signed on 25 July 2012 without knowledge there were four versions of Solicitor Adrian Mueller's Standard Costs Agreement

155. Solicitor Adrian Mueller's Standard Costs Agreement had no signature on behalf of SP52948 when BCS Strata Management initiated official insurance claims for legal costs in spite of CHU Insurance warnings about high risks on 28 August 2012 (full insurance claim document is [here](#)):

### Initialisation of insurance claim on 28 August 2012

BCS Strata Management initiating insurance claim process for legal expenses on 28 August 2012, backdated to 8 August 2012 when Executive Committee and BCS Strata Management engaged Solicitor Mr. Adrian Mueller without approval of owners corporation. Document title in strata files is "legal defence costs claim\_20170131144949". This document does not have signature in Standard Costs Agreement:

I. **Authorisation to Transfer Money from Trust Account**

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

|                                                                                     |              |
|-------------------------------------------------------------------------------------|--------------|
| Signed:                                                                             |              |
| Client                                                                              | Date         |
|  | 16 July 2012 |
| Solicitor                                                                           | Date         |

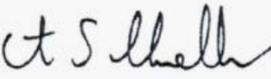
156. Solicitor Adrian Mueller provided his Standard Costs Agreement which had no signature on behalf of SP52948 to CTTT on 29 January 2013 (full document [here](#) and Applicant's complaint to CTTT about Solicitor Adrian Mueller not providing any files by due date on 28 January 2013):

### Solicitor's submission to CTTT on 29 January 2013

The following screenshot was part of submission sent by Solicitor Mr. Adrian Mueller, allegedly representing strata plan SP52948 to CTTT on 29 January 2013. Of special importance is the fact that the Solicitor's Standard Costs Agreement on page 19 did not contain signature on behalf of strata plan SP52948, hence no legal approval to engage him:

I. **Authorisation to Transfer Money from Trust Account**

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

|                                                                                    |              |
|------------------------------------------------------------------------------------|--------------|
| Signed:                                                                            |              |
| Client                                                                             | Date         |
|  | 16 July 2012 |
| Solicitor                                                                          | Date         |

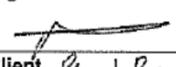
157. BCS Strata Management Paul Banoob signature on behalf of SP52948 on Solicitor Adrian Mueller's Standard Costs Agreement backdated to 17 July 2012 but actually created on 16 April 2013 after CTTT hearing request for proof that Solicitor Adrian Mueller had been legally engaged since 2012 (full document [here](#)) - PDF metadata in this document shows that the creation date was 16 April 2013:

## Branch Manager Mr. Paul Banoob secret signed document dated 17 July 2012 that was created on 16 April 2013 (after the CTTT Hearing) – Part 1

The following screenshot was found as part of document in strata files on 13 June 2017, four years after the events. This allegedly signed Standard Costs Agreement titled "JS Mueller Costs Agreement", was never presented to owners, CTTT, Department of Fair Trading, and District Court. It was allegedly signed by Branch Manager Mr. Paul Banoob on 17 July 2012:

**i. Authorisation to Transfer Money from Trust Account**

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

|                                                                                           |                                               |              |
|-------------------------------------------------------------------------------------------|-----------------------------------------------|--------------|
| Signed:  | AS per Emergency meeting of EC on 9 July 2012 | Date         |
| Client Paul Banoob                                                                        |                                               | 17/7/12      |
|         |                                               | 16 July 2012 |
| Solicitor                                                                                 |                                               | Date         |

## Branch Manager Mr. Paul Banoob document properties dated 17 July 2012 that was created on 16 April 2013 (after the CTTT Hearing) – Part 2

Document Properties

| Description   | Security                                                    | Fonts | Custom           | Advanced |
|---------------|-------------------------------------------------------------|-------|------------------|----------|
| Description   |                                                             |       |                  |          |
| File:         | J S Mueller Costs Agreement-signed-by-Paul-Banoob-17Jul2012 |       |                  |          |
| Title:        |                                                             |       |                  |          |
| Author:       |                                                             |       |                  |          |
| Subject:      |                                                             |       |                  |          |
| Keywords:     |                                                             |       |                  |          |
| Created:      | 16/04/2013 9:08:12 AM                                       |       |                  |          |
| Modified:     | 23/08/2017 8:57:48 PM                                       |       |                  |          |
| Application:  | ApeosPort-IV C5575                                          |       |                  |          |
| Advanced      |                                                             |       |                  |          |
| PDF Producer: | ApeosPort-IV C5575                                          |       |                  |          |
| PDF Version:  | 1.3 (Acrobat 4.x)                                           |       |                  |          |
| Location:     | C:\Users\Dusan\Documents\Lorna-Zelenzuk\                    |       |                  |          |
| File Size:    | 228.00 KB (233,470 Bytes)                                   |       |                  |          |
| Page Size:    | 8.27 x 11.70 in                                             |       | Number of Pages: | 6        |
| Tagged PDF:   | No                                                          |       | Fast Web View:   | Yes      |

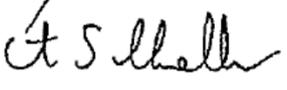
158. Solicitor's Adrian Mueller Standard Costs Agreement with signature on behalf of SP52948 in Statutory Declaration prepared by Solicitor Adrian Mueller for BCS Strata Management Peter Bone to CTTT on 19 April 2013 (full document [here](#)):

## Strata Manager Mr. Peter Bone signed document dated 19 April 2013 (after the CTTT Hearing) – Part 1

The following screenshot is part of Statutory Declaration by Strata Manager Mr. Peter Bone to CTTT on 19 April 2013. This Standard Costs Agreement was allegedly signed by another Strata Manager Mr. Gary Webb and sent via email by Mr. Peter Bone to the Solicitor. The name of the contract file in BCS Strata Management documents with alleged signature is not what Mr. Peter Bone stated in his Statutory Declaration to CTTT "JS Mueller Standard Cost Agreement 25072012" but actually "JS Mueller Standard Costs Agreement\_20170131144914", as found in strata document search on 13 June 2017:

I. **Authorisation to Transfer Money from Trust Account**

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

|                                                                                           |                    |
|-------------------------------------------------------------------------------------------|--------------------|
| Signed:  | <u>25. 7. 2012</u> |
| Client                                                                                    | Date               |
|          | 16 July 2012       |
| Solicitor                                                                                 | Date               |

## Strata Manager Mr. Peter Bone document properties dated 19 April 2013 (after the CTTT Hearing) – Part 2

Document Properties

Description Security Fonts Custom Advanced

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The Standard Costs Agreement had to be sent to all owners within seven days after disclosure, as per Strata Schemes Management Act 1996,

230A *Disclosure of matters relating to legal costs*

*If a disclosure under Division 3 of Part 4.3 of the Legal Profession Uniform Law (NSW) is made to an owners corporation in respect of the costs of legal services to be provided to the owners corporation, the owners corporation must give a copy of the disclosure to each owner and executive committee member within 7 days of the disclosure being made", and that has never happened even as of June 2020.*

**159.**In all four versions of the Standard Costs Agreement, the following is stated:

*If you are an owners corporation then you are required to give a copy of our costs disclosure to each owner and executive committee member within 7 days of the disclosure being made in accordance with section 230A of the Strata Schemes Management Act 1996*

**160.**Since 2013, Solicitor Adrian Mueller should have been aware of, and should have notified owners corporation about, *Sadlo v Viceroy Gilead Pty Ltd* [2013] NSWCTTT 559 (at [10]):

*[10] ... the [respondent] opted to be represented by a lawyer. It had no obligation to do so. The tasks involved in providing evidence, and making submissions at the hearing could have been undertaken by an employee or officer of the [respondent]. The [applicants] should not be obliged to pay an expense the [respondent] had no obligation to incur.*

**161.**Since 2018, Solicitor Adrian Mueller has been aware that he was listed as person-of-interest in Applicant's submission for fraud. Solicitor failed to provide full assistance to Police, as confirmed in Police Detective A/Inspector, Crime Manager - HVPD, email on 22 August 2018:

*I have not been contacted by anyone since May. Adrian Mueller to email me regarding his attempt to locate the emails but from memory they were not located.*

**162.**Submitted Applicant's evidence confirms that Solicitor Adrian Mueller illegally represented SP52948 in CTTT case SCS 12/32675 and 12/50460 and continued to act to protect own interests and interest of members of the Respondent and strata managers at BCS Strata Management (lost contract with strata plan in 2016) and Waratah Strata Management (since 1<sup>st</sup> of February 2017).

- Evidence satisfies "on the balance of probabilities" requirement for civil legal case,
- Evidence satisfies "beyond reasonable doubt" requirement for criminal legal case.

**163.**Applicant satisfied court that the accounts given by the Respondent (and any possible defence witnesses) should not be accepted as a version of events that could reasonably be true. Hence, the accuser's guilt is beyond reasonable doubt. The amount of events and actions by the accused parties that some allege to be "pure speculations" are too large and frequent to be coincidental. Solicitor Adrian Mueller and the Respondent have engaged in deliberate, premeditated, and orchestrated efforts to hamper Police, NSW Legal Commissioner, Fair Trading NSW, and CTTT/NCAT investigations.

**164.**It is alleged that the Respondent committed fraudulent activities in four insurance claims for Solicitor Adrian Mueller, provided false statements (lied) to CTTT and Fair Trading NSW, prevented CTTT/NCAT from access to strata files and failed to disclose facts of material importance, and knew about false statements provided by Solicitor Adrian Mueller and strata manager Mr. Peter Bone in their Statutory Declaration to CTTT and Affidavit to District Court, creating losses to owners corporation above \$80,000.00, losses to the Applicant close to \$30,000.00, massive increase of insurance premiums for owners corporation due to their high-risk litigation (they were even warned by CHU Insurance in advance), and so on. In 2017, CHU Insurance figured out some problems (they also did not have the full evidence) and requested that the owners corporation repays \$8,800.00 (for claims made in 2012 and 2013).

**165.**Solicitor Adrian Mueller, strata manager, and committee members failed to provide any evidence to the Applicant and the Tribunal to confirm validity of legal engagement and the Tribunal accepted Solicitor's oral statement without verification. A costs agreement must be written or evidenced in writing (s. 180(2) of the LPUL). The offer can be accepted in writing or by "other conduct" (s. 180(3) of the LPUL).

It is best practice to have the client sign the costs agreement as evidence of their receipt and acceptance of it. Even if invoices have been paid by the client, this may not be sufficient to protect the law practice from an allegation that the costs agreement is unenforceable  
LEGAL PROFESSION UNIFORM LAW (NSW) - SECT 180

## 180 MAKING COSTS AGREEMENTS

(1) A costs agreement may be made--

- (a) between a client and a law practice retained by the client; or
- (b) between a client and a law practice retained on behalf of the client by another law practice; or
- (c) between a law practice and another law practice that retained that law practice on behalf of a client; or
- (d) between a law practice and an associated third party payer.

(2) A costs agreement must be written or evidenced in writing.

(3) A costs agreement may consist of a written offer that is accepted in writing or (except in the case of a conditional costs agreement) by other conduct.

(4) A costs agreement cannot provide that the legal costs to which it relates are not subject to a costs assessment.

166. NCAT was notified, and had full evidence that Solicitor Adrian Mueller engaged in fraudulent activities in previous CTTT cases (SCS 12/32675 and 12/50460, which included preparing false statements and forged files for Strata Manager to CTTT and Affidavit to District Court, false statements to Office of Legal Services Commissioner and NSW Fair Trading, direct involvement in four fraudulent insurance claims, false claims about his Signed Costs Agreement in 2012 and 2013, and much more).

167. Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12/32675

168. Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12/50460

169. Illegal Representation by Solicitor Adrian Mueller, Fraud, and Deliberate Obstruction of Law Enforcement

170. SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017

171. SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2018

172. *Solicitor Adrian Mueller was aware of submission to Office of Legal Services Commissioner when he was advised by Waratah Strata Management in email on 21 June 2019.*

In it, Waratah Strata Management said:

*We advise that your advice is being funded jointly by the OC, Waratah Strata Management, and Uniqueco (building manager) and therefore your advice should be on behalf of all 3 parties We do however provide you with the attached email from Lot 158 which states that he lodged a complaint against you with the Office of Legal Services Commissioner. Please advise whether there is a conflict of interest for you in acting on this matter based on the complaint. If yes, please suggest how we should proceed ...*

*On a related issue, we received from BCS at the change of strata managers a USB of their archive records. In April 2018, we provide that USB to the Police who were investigating a complaint lodged with them by Mr. Lot 158. Unfortunately, the Police lost the USB (We have correspondence to support that fact) We have requested on a number of occasions for BCS to provide us with a copy of that USB (which we assume they will still have in their archive records), with no response. Please advise whether you have any connection with BCS management that may assist in having a copy of that USB provided*

173. Solicitor Adrian Mueller's response to O'Brien Criminal & Civil Solicitors in regards to Deed of Agreement for Lot 158 on 14 November 2019. Extract from the document:

*The representatives of the owners corporation are mindful of the expense of defamation litigation. However, they consider that litigation is likely to be the only way to resolve the dispute between the parties particularly if Lot 158 do not enter into the Deed of Settlement and Release that was given to them.*

*The representatives of the owners corporation certainly have the fortitude to litigate. Turning to the requests set out in your letter, the representatives of the owners corporation have instructed us to reject them.*

*They do not see why Lot 158's entry into the deed should be conditional on those requests being met. Mr Lot 158 has undertaken repeated inspections of the records of the owners corporation.*

*The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.*

*Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?*

*In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158's request for those records to be provided to him and they are not prepared to agree to the request. The strata legislation imposes on the owners corporation a duty to maintain and repair the common property.*

174. Solicitor Adrian Mueller prepared Deed of Agreement for Lot 158 with unfounded threats before AGM without owners corporation approval and delivered by Waratah Strata Management Director Robert Crosbie in person at AGM on 17 October 2019

175. O'Brien Criminal & Civil Solicitors' response to Mr. Robert Crosbie at Waratah Strata Management in regards to Deed of Agreement for Lot 158 on 30 October 2019

- 176.O'Brien Criminal & Civil Solicitors' response to Solicitor Adrian Mueller's on 21 November 2019
- 177.Solicitor Adrian Mueller's response to O'Brien Criminal & Civil Solicitors in regards to Deed of Agreement for Lot 158 on 10 December 2019
- 178.Lot 158 repeated official request to Solicitor Adrian Mueller to return private property on 14 May 2013
- 179.Lot 158 Motion for AGM 2014 investigations about professional misconduct of Solicitor Adrian Mueller on 2 November 2014
- 180.Lot 158 offer for reasonable resolution for pending CTTT and District Court cases on 31 December 2013
- 181.Lot 158 request to stop wasting strata funds on legal expenses on 18 June 2019
- 182.Lot 158 Request to urgently pass information and evidence to Fair Trading NSW and Office of Legal Services Commissioner on 23 June 2019
- 183.Lot 158 summary on Deliberate and premeditated delay by Waratah Strata Management to pay Solicitor Adrian Mueller invoice in 2017 sent on 23 June 2019
- 184.Lot 158 summary on Undisclosed Fair Trading NSW case 9761719 - costs for Solicitor Adrian Mueller possibly creeping up towards \$90,000.00 without owners knowledge or approval and high risks on 29 June 2019
- 185.The Applicant sent the following, repeated requests to Solicitor Adrian Mueller, one day before AGM 2020, on 21<sup>st</sup> of October 2020:

IMMEDIATE RESPONSE REQUESTED from Solicitor Adrian Mueller for Applicant's demands dated 24Apr2020  
*YOU ARE REQUESTED to PROVIDE RESPONSE to all demands dated 24 April 2020, as per attachment.*  
*The response with evidence must arrive by tomorrow before AGM 2020.*

*On 21/10/20 6:13 pm, SP52948 owner wrote:*

*Good afternoon,  
Please refrain from sending emails to us directly and trying to issue threats at the time when NCAT case 20/33352 is underway.*

*Attached is your latest correspondence dated 14 November 2019 and 10 December 2019.*

*Evidence exists that website in question was not active in the period you specified. In fact, the website is maintained automatically and only accidental release of files could have happened occasionally. Two examples are in attachments. Much more is in our evidence for court.*

*After Waratah Strata Management and committee members rejected to attend FREE mediation at Fair Trading NSW in March 2020, refused to respond to numerous attempts to reason with them, NCAT case 20/33352 was opened. The submitted files include firm evidence of Solicitor Adrian Mueller's past actions.*

*Letter of demand was sent to number of members of the committee and Waratah Strata Management to refute or confirm allegations with evidence.*

*You are requested to send your email/letter to O'Brien Criminal & Civil Solicitors and confirm the following as well:*

*a) That you have been approved to represent SP52948 strata committee and Waratah Strata Management at legally convened general meeting before today.*

*b) That owners and Lot 158 have been provided with signed Standard Costs Agreement at any time since 5 September 2019, when you were asked to create so-called Deed before AGM 2019 and owners corporation approval.*

**Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller failing to comply with CTTT/NCAT orders for the Hearings six times since 2012, incurring costs to Applicant, owners corporation, insurance industry, and the Respondent**

186. The Respondent and NCAT were fully informed and had evidence that since 2012, Solicitor Adrian Mueller failed to comply with CTTT orders for the Hearings five times.
187. CTTT Directions Hearing in file SCS 12/32675 on 8 August 2012
188. Solicitor Adrian Mueller letter to CTTT trying to dismiss SCS 12/32675 on 5 September 2012
189. Instead on providing evidence to counter Lot 158 claims and provide evidence to CTTT, Solicitor Adrian Mueller sent letter with defamation threats dated 6 September 2012 which arrived on 10 September 2012
190. Solicitor Adrian Mueller failed to comply with Directions Hearing orders in file SCS 12/32675 on 13 September 2012 (deadline was 12 September 2012)
191. CTTT sent reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 17 September 2012
192. CTTT changed Solicitor Directions Hearing orders for Solicitor Adrian Mueller in file SCS 12/32675 on 26 September 2012 (extended to 8 October 2012)
193. CTTT sent another reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 9 October 2012 (deadline was 8 October 2012)
194. On 7 May 2013 CTTT sent an order for their non-compliance in case SCS 12/50460 to Solicitor Adrian Mueller and BCS Strata Management

**Application to the Tribunal concerning 1–15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia – SP52948**

Reference is made to correspondence received from the Applicant on 6 May 2013.

I draw your attention to Section 136 of the Strata Schemes Management Act 1996 (the Act) which outlines the obligation of the Owners Corporation's to display and give certain notices. Specifically, section 136(1) states that:

An Owners Corporation given a copy of an application for an order under this Chapter accompanied by the relevant notice must:

- a) immediately cause the application and notice or a copy of the application and notice to be prominently displayed on any notice board required to be maintained by or under the by-laws on some part of the common property, and
- b) keep the application and notice so displayed until the expiration of the time specified in the notice for the making of submissions, and
- c) immediately serve a copy of the application and notice on each person whose name appears on the strata roll.

I have attached a copy of section 136 for your convenience.

  
**R Kombar**  
Deputy Registrar  
07/05/13

Solicitor Adrian Mueller did not notify CTTT that he was not authorised to represent owners corporation in the Fair Trading NSW mediation case SM12/1537JR and CTTT case SCS 12/50460.

195. Lot 158 sent another updated request to Solicitor Adrian Mueller on 1 June 2013. The important extract from the email:

*Based on yet another evidence that you do not have authority to represent the owners corporation in SCS 12/50460 (nor you ever had authority to work in SCS 12/32675 and SCS 12/05845 through properly convened EC or general meetings), it is your obligation to return the folders that are in your custody ILLEGALLY.*

*You have deceived the DFT and the CTTT by claiming so and you have provided false statements about it to the owners corporation.*

*In addition, it is your duty and the EC's obligation to force you to refund the fees you overcharged and wrongly claimed.*

*Based on calls to the Strata Manager and emails to me, close to 30 owners are now firm in their opinion that your services are not required in our complex and do not want any CTTT cases (providing an EGM is convened shortly). For details, ask the EC and the Strata Manager.*

196. On 17 May 2013 Lot 158 sent warning to BCS Strata Management with owners' votes against Solicitor Adrian Mueller's engagement
197. Some of the owners' emails:  
SP52948 owners against legal costs ignored by executive committee and BCS Strata Management in May 2013
198. On 24 May 2013 BCS Strata Management wrote to CTTT, asking for extension of time to submit response in case SCS 12/50460, and confirming that engagement of Solicitor would require general meeting
199. On 3 June 2013 BCS Strata Management wrote to single SP52948 committee member, explaining their attempt to delay their responses in case SCS 12/50460 until October 2013
200. On 2 September 2013 CTTT reached decision in case SCS 12/50460
201. On 2 September 2013 committee confirmed to BCS Strata Management that Solicitor Adrian Mueller did not need to be notified about outcome of CTTT case 12/50460 because he was not engaged to legally represent owners corporation
202. On 9 September 2013 committee member instructed BCS Strata Management to make Lot 158 document search as inconvenient as possible
203. Lot 158 document viewing at BCS Strata Management including strata manager's own written notes on 17 October 2013 (Outcome on 17 October 2013 - Lot 158 refused access to files for CTTT SCS 12/32675, SCS 12/50450, SCS 12/50460, and Annual General Meeting (AGM))
204. BCS Strata Management secretly engaged Solicitor Adrian Mueller to manipulate and misquote Lot 158's Motions at AGM 2014
205. Waratah Strata Management secretly engaged Solicitor Adrian Mueller to prevent Lot 158 from submitting Motions at AGM 2017
206. Solicitor Adrian Mueller provided advice how to ignore Lot 158's Motions for AGM on 23 August 2017 with details how to achieve it:  
Solicitor Adrian Mueller suggested that strata manager sends letter to Lot 158 on the day of agenda being sent which would not give enough time for amended agenda, effectively excluding Lot 158's Motions  
Waratah Strata Management followed Solicitor Adrian Mueller's advice to the letter and send Lot 158 a letter excluding all his Motions on 10 October 2017.
207. Waratah Strata Management followed Solicitor Adrian Mueller's advice again at AGM 2018 and disallowed all Lot 158's Motions, including ones related to fraud and false statements in Police Event E65804633
208. In FY 2018, Solicitor Adrian Mueller charged SP52948 \$5,550.00 for services which include attempt to silence Lot 158 through "Bylaw Prohibiting Unreasonable Communication". None of the owners were notified about the amount of costs incurred by the Solicitor at any time during 2018 and 2019. The registration of the By-Laws was illegal because there was no quorum to approve them at the general meeting
209. Applicant sent multiple requests to Waratah Strata Management and committee members to stop wasting owners' funds on legal costs, as per one example of email on 19 June 2019
210. Under pressure from the Applicant Waratah Strata Management sent secret email to Solicitor Adrian Mueller on 21 June 2019 asking for help to obtain copy of allegedly lost USB key with SP52948 strata files from BCS Strata Management and warning about complaint with Office of Legal Services Commissioner
211. Applicant's request to urgently pass information to Fair Trading NSW and Office of Legal Services Commissioner about deliberate and premeditated plan by Waratah Strata Management to exclude Lot 158 Motions for AGM 2017 was ignored by Waratah Strata Management on 23 June 2019
212. Waratah Strata Management handwritten notes at committee meeting on 5 September 2019 engaging Solicitor Adrian Mueller without general meeting to prepare Deed for Lot 158 that was ready and presented to Lot 158 at AGM on 17 October 2019

213.Solicitor Adrian Mueller letter to O'Brien Criminal & Legal Solicitors on 14 November 2019, refusing access to strata files for Lot 158

214.Applicant's complaint about Respondent's non-compliance with Directions Hearing to NCAT on 29 November 2020

215.Applicant's response to belated submission by Solicitor Adrian Mueller on 1 February 2021

**Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves**

216. At Hearing in case SCS 12/32675 on 12<sup>th</sup> of October 2012, Solicitor Adrian Mueller successfully argued that because SP52948 Lot 3 (Mr. and Mrs. Zelenzuk) were overseas and could not be present, the Applicant's order against the Respondent should be considered for striking out. The Applicant reluctantly agreed to remove this item from the proceedings, with genuine wish to be co-operative and give opportunity to Lot 3 to plead their case when they were available.

217. All owners in the complex were fully aware of the case as early as 22<sup>nd</sup> of August 2012, which was documented in the minutes of the committee meeting:

[SP52948-Minutes-EC-meeting-22Aug2012](#)

218. The same evening on the day of the Hearing was Annual General Meeting in the complex and Lot 3 attended in person, as confirmed in the minutes of the meeting:

[SP52948-Minutes-AGM-2012](#)

219. Applicant sent an email to Solicitor Adrian Mueller on 18<sup>th</sup> of October 2012, which was never responded to:

[Applicant-email-to-Solicitor-Adrian-Mueller-18Oct2012](#)

220. On 19<sup>th</sup> of October 2012, Applicant sent the following summary and complaint in facsimile to the Tribunal:

[faxcoversheet-SCS-12-32675-False-Statement-for-Order-4-Hearing-19Oct2012](#)

The document stated, amongst the other:

*At the Hearing for SCS 12/32675 on 17<sup>th</sup> of October 2012, the Solicitor Mr. Mueller, on behalf of Respondents, wrongly stated that owners of Lot 3 were absent and not able to attend the Hearing in regards to Order 4 as listed in my request (I believe he made a claim of them being overseas on holidays – the audio recording can confirm it).*

*As a reminder, my Order 4 was:*

*To invalidate Special By-Law 4 (Exclusive Rights to Common Property by Owners of Lot 3) pursuant to section 159 of the Act due to invalid count and record of proxy votes and refusal to disclose public liability insurance by the owners of Lot 3 over many years.*

*I would be satisfied to revoke order to invalidate Special By-Law 4 if the owners of Lot 3 indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs, and expenses whether for injury to persons, or damage to property, arising in any way out of carrying out the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in the sum of not less than \$5,000,000 to cover the owners obligations hereunder (as per registered By-Law, or enforced pursuant section 147 of the Act).*

*This Solicitor's false statement had a grave consequence that we were forced to agree not to proceed with it due to owners' absence. As a matter of fact, my request to obtain access to the public insurance details had been outstanding for the last five months and the notice about the Hearing was released by the CTTT as early as 5<sup>th</sup> of September 2012.*

*The Respondents had a duty to prepare their evidence, or reasons for adjournment on this matter but failed to do so. By pure coincidence, the Annual General Meeting (AGM) of SP52948 was held on the same day as our Hearing (just three hours later).*

*To my surprise, one of the owners of Lot 3 (for whom the Special By-Law 4 applies) was PRESENT at the meeting and he claimed two things:*

*That nobody told him about the Hearing;  
That his wife provided insurance details to the managing agent.*

*There are more than 40 witnesses to confirm it, including the managing agent himself and all nine members of the executive committee. Based on that statement, I sent an email to the Solicitor Mr. Mueller (on 18<sup>th</sup> of October) and the Managing Agent (on 17<sup>th</sup> of October) to provide me with the insurance details by this morning (Friday, 19<sup>th</sup> of October). I would have been happy with any reply but got nothing at all. I very clearly stated that I need a response by today so that I can either leave it as is, or contact the CTTT. I would like*

that CTTT acknowledges and investigate implications of the fact that the Order 4 at the Hearing was cancelled due to FALSE statement by the Solicitor on behalf of the Respondents (CTTT Act Section 71).

I will leave it to the CTTT to make an assessment of the consequences of such serious error and I will verify my options too (I know I can submit details to the Chairperson of the CTTT (reference case: R vs Samuel Faraj Cohen, 2011)).

221. On 26<sup>th</sup> of October 2012, Solicitor Adrian Mueller sent the following summary to the Tribunal and the Applicant:

Solicitor-Adrian-Mueller-Letter-to-Tribunal-26Oct2012

In the document, Solicitor also stated, trying to defend their actions and denying that they made statements at the Hearing as alleged by the Applicant:

*Lot 158 submits that at the hearing on 17 October 2012 the writer “falsely stated that owners of Lot 3 were absent and not able to attend the hearing in regards to order 4 as listed in my request”. That accusation is wrong. The writer indicated that no order could be made against the owners of Lot 3 (such as order 4) because the owners were not present at the hearing and, more importantly, are not a party to the proceedings as a result of which it would be a denial of procedural fairness to make any order against them.*

222. In their decision after Hearing in case SC 20/33352 on 11<sup>th</sup> of February 2021, the Tribunal made identical decision to ignore the Applicant evidence due to:

*The Tribunal did not investigate any of the links provided by Lot 158 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.*

The Tribunal ignored the fact that the Respondent had four months to prepare for the Hearing and had full access to all Respondent files, including secure website, folders, USB keys, DVD, and emails.

**Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondent’s history of repeated data losses and efforts to destroy strata files and records**

223. Destroying evidence is common and repetitive.

224. BCS Strata Management and committee members destroyed details of accounting figures for legal fees in 2013

225. SP52948-FONTENOY FIN REPORT 1Sep2012 28Feb2013-balance-sheet-without-legal-costs and SP52948-Accounting-balance-sheet-1Sep2012-to-28Feb2013-CORRECTION-on-23Mar2013

226. 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

227. 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.

228. Not read and deleted by BCS Strata Management Debbie

Stephenson: REQUEST FOR REPAIR: SP52948 Lot 158 burnt and faulty power point socket in kitchen.

229. 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.

230. Not read and deleted by Maureen McDonald: IMPORTANT CORRECTION Validity of Proxy Papers at AGM 2014.

Not read and deleted by Pica Group Greg Freeman: INVITATION TO ATTEND SP52948 AGM on 26Nov2014

231. Not read and deleted by Pica Group Greg

Freeman: SP52948 Tender Declarations by Strata Agency and EC Members for AGM 2014.

232. Not read and deleted by Pica Group Greg Freeman: SP52948 Some of Real Expenses in 2014.

233. Not read and deleted by Pica Group Greg Freeman: IMPORTANT CORRECTION Validity of Proxy Papers at AGM 2014.

234. Not read and deleted by Pica Group Greg

Freeman: SUMMARY SP52948 Sinking Fund unknown to Strata Manager until 11April2014.

235. Waratah Strata Management and committee members destroyed printed and electronic copies of CTTT and District Court legal files

236. Sententia 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

237. Waratah Strata Management refusing to respond to inquiry about two alleged data losses on 10 August 2019

238. 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.

239. Not read and deleted by Waratah Strata Management Stuart Greene: Re: SP52948 What is Stalking 2021-03-22 2033.

240. 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.

241. INQUIRY SP52948 Who gave permission to Waratah Strata Management staff to delete strata files on 17 April 2021.

242. SUMMARY - SP52948 actions to lodge complains about Eden Garden development extended to 21May2021 sent on 12 May 2021.

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

**Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondent’s history of selective use of phrase “democracy”**

244. Respondent’s actions and use of phrase democracy is based on totalitarian view that it is their way or highway”.

245. SP52948-Lot-10-EC-Treasurer-using-democracy-phrase-for-CTTT-submission-14Feb2011

246. SP52948-Lot-202-EC-Chairperson-using-democracy-for-CTTT-submission-27Feb2011

247. SP52948-Lot-218-EC-member-using-democracy-for-CTTT-submission-13Mar2012

248. Waratah Strata Management using own version of democracy and calling the Applicant delusional on 22 January 2020

249. SP52948-Waratah-Strata-Management-email-to-Fair-Trading-NSW-with-their-definition-of-democracy-17May2019 (full document: Waratah Strata Management email to Fair Trading NSW on 17 May 2019 part 1 and part 2)

250. Waratah Strata Management email to Fair Trading NSW with false claim that access to strata file was never denied to the Applicant on 17 May 2019

251. Waratah Strata Management confirmed to Fair Trading NSW that they would not allow Lot 158 access to Strata Roll on 20 May 2019

252. In spite of having clear knowledge of the responsibilities in regards to Strata Roll, the Respondent failed to provide access to it so that the Applicant could not contact other owners and notify them of the problems in the complex, as per email to Fair Trading NSW on 20<sup>th</sup> of May 2019, making it even worse because the Applicant also claimed that they were legal member of the committee at the time.

253. On 31<sup>st</sup> of August 2019, Applicant wrote the following email to Waratah Strata Management

Solicitor Adrian Mueller explaining strata roll access and personal information sharing to Waratah Strata Management on 22 August 2017

**Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondent’s history of repeated denials to the Applicant to access strata files in spite of paid document searches**

254. Full details of all Applicant’s document searches and missing strata documents (some even signed by the strata managers acknowledging then lack of documents:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#DSEARCH](#)

255. The Respondent and NCAT were fully informed and documentary evidence provided that the Applicant had number of unsuccessful document searches (even in years when the Respondent was legally valid member of the committee), where the Respondent paid the following amounts for incomplete or no-delivery delivery of services:

|           |            |                                                             |
|-----------|------------|-------------------------------------------------------------|
| 16Nov2011 | \$154.00   | Document search at BCS Strata Management                    |
| 7Nov2012  | \$132.00   | Document search at BCS Strata Management                    |
| 28Feb2012 | \$72.00    | Document search CTTT                                        |
| 7Mar2013  | \$33.00    | Document search at BCS Strata Management                    |
| 11Mar2013 | \$172.80   | Document search at BCS Strata Management                    |
| 11Sep2013 | \$45.00    | Document search at BCS Strata Management                    |
| 15Oct2013 | \$45.00    | Document search at BCS Strata Management                    |
| 18Oct2013 | \$32.00    | Document search at BCS Strata Management                    |
| 16Feb2016 | \$164.80   | Document search at BCS Strata Management                    |
| 16Feb2016 | \$3.40     | Document search at BCS Strata Management                    |
| 15Jun2017 | \$61.05    | Document search at Waratah Strata Management                |
| 29Mar2020 | \$2,200.00 | O’Brien Criminal & Civil Solicitors demand for strata files |
| 13Jun2019 | \$212.85   | Document search at Waratah Strata Management                |
| 13Jun2019 | \$2.75     | Document search at Waratah Strata Management                |
| 26Sep2019 | \$234.30   | Document search at Waratah Strata Management                |

256. Solicitor Adrian Mueller and the Respondent have been well aware of multiple document searches the Applicant conducted at strata managers’ offices, where they failed to provide required files, even in years when the Applicant was legally valid member of the committee (due to owners like Mr. Stan Pogorelsky, Mr Moses Levitt, Mrs. Lorna Zelenzuk, owing levies for gas heating and not paying 10% simple interest per year for outstanding debt for more than 18 years).

257. Applicant's document viewing at BCS Strata Management on 12 November 2012 including strata manager's false promise that he would provide files as committed by Solicitor Adrian Mueller at CTTT Hearing on 17 October 2012 (Signed agreement by Solicitor Adrian Mueller at CTTT Hearing on 17 October 2012)

258. BCS-Strata-Management-invoice-to-Applicant-for-SP52948-document-search-on-5Mar2013-which-found-no-evidence-of-signed-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-email-correspondence-and-many-other-strata-documents-missing

259. BCS Strata Management Peter Bone's Affidavit to District Court on 31 January 2014 contained false statements as access to strata files was disabled for Applicant multiple times. An example from March 2013:

BCS Strata Management organised strata document viewing for Applicant on 8 March 2013 (Applicant paid \$33.00).

When Applicant arrived at BCS Strata Management's office on 8 March 2013, almost none of the files were made available, including Solicitor Adrian Mueller's signed Standard Costs Agreement.

Applicant made copies of some files and was charged \$172.80 by BCS Strata Management.

Applicant made payment on 11 March 2013.

260. Applicant's failed document search on 5 June 2013 - unfinancial committee member Mr. Moses Levitt was fully aware of it

261. Applicant's document viewing at BCS Strata Management including strata manager's own written notes on 17 October 2013

262. BCS Strata Management refused access to files for CTTT SCS 12/32675, SCS 12/50450, SCS 12/50460, and Annual General Meeting (AGM) on 17 October 2013.

263. Applicant's document viewing at BCS Strata Management on 17 November 2014

264. Applicant's request to Executive Committee to provide access to files not available in document search in 2013 and 2014 on 29 March 2015
265. Applicant's document viewing at BCS Strata Management on 18 December 2015 (Applicant's request with more details of mismanagement)
266. BCS Strata Management giving false appearance of providing good services for strata files management in January 2016
267. Applicant's document viewing at Waratah Strata Management on 13 June 2017
268. Waratah Strata Management giving false promise to provide files in document search and providing only one of many missing documents required for Crime Stoppers Reference CAS-729649-W6P0 and Police Event E65804633 on 16 June 2017
269. Applicant's document viewing at Waratah Strata Management on 31 May 2019
270. Applicant's document viewing at Waratah Strata Management on 20 September 2019
271. Applicant's document viewing at Waratah Strata Management on 20 September 2019

**Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013**

272.24 submissions by committee members and strata managers have been collected by the Applicant through paid document search at CTTT:

[SP52948-campaign-of-false-or-deliberately-misleading-submissions-to-CTTT-2012-2013/](#)

273.The files also contain submission by Solicitor Adrian Mueller:

[CTTT SCS 12/05845 Solicitor-Adrian-Mueller-submission-13Mar2012](#)

274.Some of the Respondents, whilst unfinancial for unpaid full levies, hampered CTTT investigations:

Mr. Stan Pogorelsky  
Mr. Moses Levitt  
Mrs. Lorna Zelenzuk  
Mr. Upali Aranwela (previous Treasurer)  
Mr. Jeffery Wang

275.The Applicant obtained copies of audio recordings from three Hearings in SCS 12/32675 with evidence of serious (mis)conduct by Solicitor Adrian Mueller, abusing the court processes, coercing Tribunal into making wrong decisions, whilst illegally representing owners corporation:

[CTTT SCS 12/32675 Audio-Recordings-17Oct2012](#)

[CTTT SCS 12/32675 Audio-Recordings-15Apr2013](#)

[CTTT SCS 12/32675 Audio-Recordings-10May2013](#)

**Question of Law – Procedural fairness - Tribunal ignored evidence of their refusal to issue summonses to the Respondent two times in 2013 without any justification and failed to reimburse the Applicant for the summons fee**

[276.SCS-12/32675-Applicant's-request-for-summonses-rejected-in-spite-of-overwhelming-evidence-of-fraud-by-the Respondent-5Mar2013](#)

[277.SCS-12/32675-Applicant's-request-for-summonses-rejected-second-time-in-spite-of-overwhelming-evidence-of-fraud-by-the Respondent-25Apr2013](#)

**Question of Law – Procedural fairness - Through ignored evidence of Police Events and other incidents, Tribunal tacitly supported safety, intimidation, and harassment risks to the Applicant, including anonymous death threat**

278. Even physical safety of the Applicant has been threatened and the Tribunal failed to review or acknowledge it.

279. SP52948 extract from secret letter sent by Waratah Strata Management to owners falsely claiming Police dismissed all events logged by the Applicant on 24 July 2017

280. Jason McSweeney, Chief Inspector Professional Standards Duty officer offered oral and written apology for Police not acting upon some of the events logged by the Applicant and categorically denying that Police would notify alleged perpetrators that they dismissed cases against them on 7 February 2018

281. Police Event E45617744. Anonymous hate notice in letterbox on 6<sup>th</sup> of November 2011.

282. Committee's member Ms. Sandy Quick assault on the Applicant in garage area on 20<sup>th</sup> of November 2011. The event happened four years after she had two mild strokes and her health was (still is) very fragile. It is so sensitive that in 2015 and 2021, based on specialist's assessment, she was excused from Jury duty.

283. Anonymous death threat in 2012 and on 26 February 2013 (reported to CTTT two times in 2013). The event on 26 February 2013 was related to Lot 158 requests to summons three committee members and strata manager to provide evidence to CTTT:

Lot 158-email-to-Fair-Trading-Minister-ignored-2013.pdf

SP52948-Single-file-for-extension-of-time-CTTT-13-50737-complaint-about-CTTT-bias-46-pages-including-Tribunal-Member-Thode-ignorance-15Nov2013

NSW-Fair-Trading-Minister-promised-to-address-SP52948-Lot-158-concerns-22Mar2013, but no further updates or help was ever received.

284. Report to Police at Ryde LAC about illegal ISP BigAir running in the complex, without benefits to owners since 2005 and without contract with strata plan 52948 since 31<sup>st</sup> of January 2014. In period 2004 to 2014, the ISP failed to comply with the contract requirements: did not cover costs for electricity supply, did not pay 5% of earnings to owners corporation, did not provide any useful services to owners corporation, and did not provide proof of license to run the business.

285. Complaint to Police in email on 10<sup>th</sup> of April 2015. In it, Applicant documented brief details of financial (example: of secret cash advance that was not reported to owners) and other misconducts of strata agency BCS Strata Management. Applicant provided over 3000 documents confirming financial and other mismanagement issues (including threats and bullying against the Applicant). Short reply was received on 14<sup>th</sup> of April 2015 from Constable Adam Ginnane. He decided that no further action would follow up by Police and gave advice to contact ACCC and Department of Fair Trading. Department of Fair Trading failed to investigate BCS Strata Management.

ACCC refused to investigate BCS Strata Management on 5<sup>th</sup> of August 2015.

Land and Property NSW recommended Police investigation for fraudulent and illegally registered By-Laws on 17<sup>th</sup> of March 2015.

286. Police Event E115593702 on 31<sup>st</sup> of October 2015. Verbal attack and assault in lift area by Executive Committee member Mr. Moses Levitt on the Applicant.

287. Police Event E59750519 on 18<sup>th</sup> of November 2015. Evidence of mismanagement by Executive Committee member Mr. Bruce Copland and BCS Strata Management. Report updated with more evidence on 15<sup>th</sup> of May 2016. Mr. Bruce Copland is listed as person-of-interest in Crime Stoppers Reference CAS-729649-W6P0 with Police Event E65804633.

288. Police Event H64596706 on 14<sup>th</sup> of May 2017. Staff member of Uniqueco Property Services tried to cause criminal record to the Applicant who tried to defend his wife against persistent stalking. The attempt was dismissed in court. In fact, Uniqueco Property Services staff committed an assault three times and then tried to prevent its investigations by lodging the event with the Police first.

The only reason why we did not raise an assault case before Uniqueco staff was due to the fact that his Manager persuaded us not to do it.

289. Police Event E66107079 on 31<sup>st</sup> of August 2017. Continuous stalking of the Applicant by Building Manager .

**290.**Police report on serious fraud on behalf of SP52948 (four insurance claims and false statements in Statutory Declaration to CTTT on 19<sup>th</sup> of April 2013 and Affidavit to District Court in January 2014) - Crime Stoppers Reference CAS-729649-W6P0 on 25<sup>th</sup> of July 2017.

**291.**Police Event E65804633 opened by Constable McIntyre on 14<sup>th</sup> of September 2017.

Eventually, Police lost all files without notification to the Applicant but the Applicant had (and still has the copies of them) and they were given to NCAT on USB keys, DVD, and secure website for SC 20/33352.

**292.**Waratah Strata Management and Uniqueco Property Services ignored repeated pleas by Lot 158 to stop stalking and intimidating her on 18 February 2018

No reply was ever received.

**293.**Police Event E244254697 on 26<sup>th</sup> of March 2018. One week after the alleged assault committed by the Applicant against Uniqueco Property Services staff was dismissed in court, Uniqueco staff again followed the Applicant and caused her harassment, intimidation, and fear.

**294.**Dashboard camera proving Uniqueco Property Services staff threatening Lot 158 - she was sent to emergency due to blood pressure 218/107. Police complained that they were not allowed to view or obtain copies of video recordings from two CCTV by Uniqueco Property Services and Waratah Strata Management.

**295.**Police event E372820993 on 11<sup>th</sup> of August 2019. Staff members of Uniqueco Property Services staff stalked and tried to intimidate the Applicant whilst they were collecting video and photo evidence of damages to the tennis court. Uniqueco Property Services and Waratah Strata Management refused to allow viewing or obtaining copies of video recordings from CCTV.

**296.**SP52948 INCIDENT reported to Waratah Strata Management rude unprofessional and aggressive Uniqueco Property Service staff on 29 September 2019

**297.**Police event E72924428 on 11<sup>th</sup> of October 2019. Applicant's car damaged whilst parked on common property. Uniqueco Property Services and Waratah Strata Management were notified and they declined to respond.

**298.**Police event E74640451 on 17<sup>th</sup> of October 2019. Executive Committee member Mr. Jeffery Wang illegal recording of the Applicant on his mobile at Annual General Meeting.

**299.**REQUEST to keep copy of CCTV recording Block A basement for event dated 13 February 2020 sent to Waratah Strata Management on 21 February 2020

**300.**Attempt by long-serving Executive Committee member Mr. Moses Levitt to stalk or intimidate the Applicant on 16<sup>th</sup> of January 2020.

**301.**Police event E145042401 on 10<sup>th</sup> of June 2020. Deliberate attempt by committee member Mr. Moses Levitt to cause fear and ignore requests by the Applicant to not enter elevator after her.

After persistent Applicant's requests, Waratah Strata Management provided CCTV:

Police-Event-145042401-10Jun2020.m4v

**302.**Waratah Strata Management deliberately let CCTV recording expire for stalking event linked to Mr. Stan Pogorelsky on 29 June 2020

**303.**CCTV RETENTION REQUEST SP52948 on 27Oct2020

**Applicant's email to the Respondent with pleas to avoid NCAT case and provide evidence for OLSC case 56561 for professional misconduct by Solicitor Adrian Mueller and Police Event E65804633 on 27<sup>th</sup> of July 2020**

304. Original email with seven attachments:

[20200727-CONFIDENTIAL%20OFFER\\_%20SP52948%20Your%20actions%20today%20and%20tomorrow-32967.html](mailto:20200727-CONFIDENTIAL%20OFFER_%20SP52948%20Your%20actions%20today%20and%20tomorrow-32967.html)

Extract from the email – the Respondent never replied:

*This email justifies your direct notification, without strata managers at present.*

*Last week, Waratah Strata Management claimed they let CCTV footage that we requested of Mr. Stan Pogorelsky to be "overwritten" and only under strong pressure, after one month of silence, provided CCTV recording for security event related to Mr. Moses Levitt dated 10 June 2020.*

*But, that is just a tip of the iceberg.*

*Based on below brief statements, we are giving you an opportunity to take proper actions now:*

*a) Provide written statements to Lot 158 in next 24 hours that you were personally misled about these events by Solicitor Adrian Mueller in the past and that you did not know about fraudulent activities, and now offer full support for investigations to proceed.*

*b) Provide written authorization to Lot 158 in next 24 hours to represent owners corporation and deal with:*

*Office of Legal Services Commissioner case 56561 (professional misconduct by Solicitor Adrian Mueller)*

*Police Event E65804633*

*Fair Trading NSW cases (there are seven of them)*

*Pending NCAT case (if you persist in defending the indefensible)*

*c) Provide written authorization to Lot 158 in next 24 hours to assist with access to any strata file that has been listed in previous document searches.*

*d) Issue immediate order to Solicitor Adrian Mueller to reimburse owners corporation for all SP52948, of which \$26,500.00 will promptly have to be repaid to Lot 158 (plus around \$4,000.00 for legal costs).*

*e) Notify owners about these events.*

*f) As a friendly advice, you might consider if your position as committee member is justifiable any longer.*

*Regards,*

*Since 24 April 2020, you have been requested to respond to our Civil and Criminal lawyers and failed to attend free mediation at Fair Trading NSW. You declined to inform owners about the details of the request and also failed to provide each and every owner with copy of the Standard Costs Agreement within 14 days for all legal engagements in last three years (practice you did so many times with Solicitor Adrian Mueller too).*

*You are herewith provided with information (we now have much more) that prove:*

*a) Solicitor Adrian Mueller intentionally provided false and misleading statements to Fair Trading NSW and hid information from them to hamper their investigations*

*b) Solicitor Adrian Mueller intentionally provided false and misleading statements to CTTT and hid information from them to hamper their investigations*

*c) Solicitor Adrian Mueller intentionally mislead District Court to obtain personal benefits and protect selective group of owners and strata managers*

*d) Mr. Peter Bone intentionally provided false and misleading statements in Statutory Declaration to CTTT (the document was written by Solicitor Adrian Mueller)*

*e) Mr. Peter Bone intentionally provided false and misleading statements in Affidavit to District Court*

f) Mr. Stan Pogorelsky and Mr. Moses Levitt provided misleading and false statements in their submissions to CTTT, without disclosure that they were unfinancial and could not be legal members of the committee

g) Mr. Jeffery Wang provided misleading and false statements in his submissions to CTTT

h) Other owners and previous members members of the committee provided false and misleading statements to CTTT

Here are two pieces of crucial evidence:

**Solicitor Adrian Mueller illegally represented SP52948 in SM12/1537 and CTTT SCS 12/50460**

1. CTTT SCS 12/50450 interim order to stop Annual General Meeting 2012 due to serious misconduct was dismissed until after Annual General Meeting and CTTT forced SCS 12/50460 to go to mediation on 10 September 2012
2. Lot 158 sent email to Solicitor Adrian Mueller about facsimiles sent to CTTT SCS 12/32675, 12/50450, and 12/50460 on 19 October 2012
3. NSW Fair Trading forwarded files to BCS Strata Management Peter Bone in CTTT SCS 12/50460 mediation events on 17 January 2013
4. On 6 March 2013, Solicitor Adrian Mueller sent letter to Fair Trading NSW claiming that he was legally representing SP52948 in mediation case SM12/1537 (precursor to CTTT file SCS 12/50460)
5. Solicitor Adrian Mueller was paid invoices which included work for mediation case SM12/1537 and CTTT SCS 12/50460
6. In spite of all involvement, Solicitor Adrian Mueller claimed not knowing about CTTT SCS 12/50460 in email sent to BCS Strata Management on 6 May 2013
7. Solicitor Adrian Mueller issued Standard Costs Agreement for CTTT SCS 12/50460 on 6 May 2013
8. Letter from CTTT in file SCS 12/50460 sent to Solicitor Adrian Mueller about non-compliance order for SP52948 Secretary and Solicitor on 7 May 2013
9. Solicitor Adrian Mueller invoice charging for involvement in CTTT SCS 12/50460 mediation events at NSW Fair Trading on 10 May 2013 without owners corporation approval or Standard Costs Agreement
10. Lot 158 repeated complaints about false representation by Solicitor Adrian Mueller and expenses in CTTT SCS 12/50460 on 13 May 2013
11. Lot 158 provided summary of owner's votes against any engagement of Solicitor Adrian Mueller to BCS Strata Management on 17 May 2013
12. BCS Strata Management provided false statement to a single owner about owners corporation engaging Solicitor Adrian Mueller not BCS Strata Management and planning how to recover Solicitors costs if CTTT case is rejected on 22 May 2013
13. BCS Strata Management requesting extension of time to respond in CTTT SCS 12/50460 and confirmed that Solicitor engagement had to be approved at Extraordinary General Meeting on 24 May 2013
14. Lot 158 repeated requests to Solicitor Adrian Mueller to return files due to false representation by Solicitor Adrian Mueller in CTTT SCS 12/50460 on 1 June 2013
15. Lot 158 Folder 12 submission in CTTT SCS 12/50460 with evidence of illegal engagement of Solicitor Adrian Mueller on 4 June 2013
16. Lot 158 request to access strata files for CTTT file SCS 12/50460 on 5 June 2013
17. Mr. Moses Levitt email confirming he was fully aware of Lot 158 rights to access strata files on 5 June 2013

18. Lot 158 request to BCS Strata Management and committee about their refusal to organise general meeting and accept owners wishes for CTTT file SCS 12/50460 on 6 June 2013

19. SP52948 CTTT SCS 12/50460 decision on 2 September 2013

20. EC member confirming Solicitor Adrian Mueller not engaged for CTTT 12/50460 on 2 September 2013. Email recipients:

Mr. Peter Bone (BCS Strata Management)

Mr. Paul Banoob (BCS Strata Management)

Mr. John Ward

Mr. Moses Levitt

Mr. Stan Pogorelsky

Mrs. Maureen McDonald

Mr. Jeffery Wang

Mr. Rafael Hirschorn

**Mr. Peter Bone and Solicitor Adrian Mueller statement to CTTT (other references to false statements will not be shared with you yet!)**

21. Statutory Declaration by Mr. Peter Bone (written by Solicitor Adrian Mueller) on 19 April 2013:

On 25 July 2012 the Standard Costs Agreement was signed by Gary Webb on behalf of the owners corporation. I know Gary Webb personally. He is employed by Raine & Horne Strata - Sydney. Mr. Webb was the person at Raine & Horne Strata Sydney who throughout July 2012 was the person responsible for the day to day strata tile management of the owners corporation. I have seen Mr Webb sign document and I recognise the signature on the costs agreement as his signature.

On 25 July 2012 I emailed to Adrian Mueller a copy of the Standard Costs Agreement signed by Gary Webb.

22. Solicitor Adrian Mueller letter to CTTT on 19 April 2013:

On 25 July 2012 the then strata manager of the owners corporation, Gary Webb, signed the lawyer's costs agreement on behalf of the owners corporation and the signed costs agreement was emailed to the lawyer by the strata manager on that day.

(EC meeting on 22 August 2012 introduced Mr. Peter Bone as new strata manager!)

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s repeated pleas to them and the Respondent to allow electronic delivery of documents on 18<sup>th</sup> and 25<sup>th</sup> of August, and 18<sup>th</sup> of September 2020 was ignored – as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges**

305. Tribunal effectively and selectively supported unsustainable use of natural resources by forcing the Applicant (possibly many, many others customers) to print their documents instead of electronic delivery.

Each tonne of paper that is recycled saves 13 trees, 2.5 barrels of oil, 4100 kWh of electricity, 4 cubic metres of landfill and 31,780 litres of water (source: Green Office Guide 2001 [www.environment.gov.au](http://www.environment.gov.au)).

In 2017, research by the Forest ethics has highlighted Australia's unenviable crown as the largest consumer of paper products per capita in the world.

306. Since 2012, the Respondent and Solicitor Adrian Mueller have clear plan to financially exhaust the Applicant and incur costs:

307. [SP52948-Executive-Committee-Chairperson-confirming-that-BCS-Strata-Management-must-engage-independent-legal-advice-and-suggesting-to-force-Applicant-to-provide-all-printouts-in-forders-in-duplicate-on-4Jan2013.png](#)

308. [Solicitor-Adrian-Mueller-signed-Applicant's-document-confirming-delivery-of-documents-which-BCS-Strata-Management-lost-at-additional-cost-of-\\$700.00-to-Applicant-on-18Apr2013](#)

309. The efforts by the Respondent and Solicitor Adrian Mueller already made huge costs to the Applicant, above \$100,000.00 since 2012, including four failed attempts and threats of defamation that did not even reach the court.

310. That they have only one goal - to financially ruin the Applicant - is best shown through the Applicant’s sensible request on 18<sup>th</sup> of August 2020, which was sent twice but the Respondent never replied:

Documents for delivery to respondent for NCAT 20/33352

Extract from the Applicant’s email:

*You would have received correspondence from NCAT on two occasions so far.*

*Updated Statutory Declaration is enclosed herewith.*

*Although owners corporation should already have all the evidence, just to comply with NCAT directions, we offer the following and expect reasonable response:*

*a) Allow us to delay delivery of documents by two weeks with end-date of 8 September 2020 due to slight illness in the family and very busy schedule at work. Without disclosing the details, work we do is of utmost importance to Australia.*

*b) Agree with us to deliver documents to you in one of the following forms (safe, virus-free, reliable, and low-cost):*

- *CD-ROM, or*
- *USB key, or*
- *Online, via secure web site and special access.*

*It is reasonable to do it that way because it:*

*1. NCAT allows it in their Procedural Direction 1:*

*Documents do not need to be served in one of the ways set out above if the receiving party (or their representative) agrees to accept service of the documents by some other means.*

*2. Saves unnecessary paperwork and waste of natural resources,*

*3. Avoids unnecessary costs of printing, which we intend to charge owners corporation after we confirm that Lot 158 is legal member of the committee,*

*4. Some files are color photographs which would not look correct in black-and-white prints,*

5. *Some files are in video format which cannot be printed.*

**Question of Law – Procedural fairness – Tribunal ignored Applicant’s email to Tribunal with Applicant’s problems accessing strata files, being legal member of the Executive Committee, and requesting electronic-delivery of documents on 18<sup>th</sup> of September 2020**

**311. Applicant’s email stated:**

*We need to provide some crucial updates.*

*I, Lot 158, represent my wife, in this NCAT case as she is emotionally and physically too upset to act alone (events related to her stalking, harassment, intimidation are well documented). All actions taken are on her behalf, and attempts by the respondent to use my own Deed of Agreement in 2014 with the owners corporation cannot apply at all because:*

- 1. Mrs. Lot 158 is not party to which Deed of Agreement applies.*
- 2. The issues in current NCAT case were not raised previously.*
- 3. Lot 158 is legal member of the committee for the last three years and was prevented from conducting duties as prescribed by the regulations.*
- 4. All attempts to reason with the respondent via emails were met with silence.*
- 5. Attempt to mediate without costs at Fair Trading NSW was rejected by the respondent.*
- 6. In the respondent's reply to Lot 158 Solicitors on 14 November 2019 (attachment "E94.pdf") they clearly rejected request to provide access to strata files:*

*Lot 158 has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.*

*Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?*

*In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158’s request for those records to be provided to him and they are not prepared to agree to the request.*

- 7. Since 24 April 2020, the respondent failed to respond to Lot 158 Solicitors on crucial legal matters (attachment "E95.pdf"). It appears that the respondent again wants to engage Solicitor Adrian Mueller (attachment "SP52948-Minutes-EC-meeting-10Sep2020.pdf").*

*We strongly object and request such representation be disallowed on the following grounds:*

- Apprehension of bias by Solicitor Adrian Mueller and his team, who is personally trying to defend his prior actions of misconduct and fraud.*
- On 12 August 2020, we sent repeated request to the respondent for private property be returned by Solicitor Adrian Mueller (attachment "20200812-Re\_OFFICIAL REQUEST on 10 May 2013\_ Immediate return of private property and reimbursement of Invoice on 6 March 2013-33175.pdf"). Those files were illegally obtained by Solicitor Adrian Mueller and need to be presented to NCAT as further evidence. We have FULL EVIDENCE (it took us seven years to complete it) that Solicitor Adrian Mueller falsely represented owners corporation to Fair Trading NSW and CTTT in files SCS 12/32675 and SCS 12/50460. In that process, Solicitor was involved in creating false statements for strata manager in Statutory Declaration to CTTT and Affidavit to District Court. That evidence is now part of our case proving committee members being actively involved in those activities and causing significant financial losses to owners corporation. The respondent did not reply to our letter.*
- Owners corporation did not approve such engagements at any general meeting or other meetings that comply with strata laws.*
- Attachment "SP52948-written-notes-for-EC-meeting-by-Waratah-Strata-Management-about-Solicitor-Adrian-Mueller-Deed-preparation-for-AGM-2019-and-confirmation-committee-members-not-willing-to-audit-unpaid-gas-levies.png" shows that the respondent engaged Solicitor Adrian Mueller as early as EC meeting on 5 September 2019 with estimated costs of \$150,000.00 without owners corporation approval at general meeting until 17 October 2019, by which time Solicitor Adrian Mueller already worked very hard to prevent Lot 158 from acting on behalf of owners corporation.*

- Since AGM 2019 which we allege did not satisfy quorum, Solicitor Adrian Mueller was "approved" to act on behalf of owners corporation, and so far no owner received ANY copy of the Standard Costs Agreement. Legal costs throughout late 2019 and 2020 do not exist in strata finances (attachments "SP52948-Income-and-Expenditure-Report-1Sep2020-to-18Sep2020.pdf" and "SP52948-Income-and-Expenditure-Report-1Sep2019-to-31Aug2020.pdf").

On 22 July 2020, we sent request to the respondent to provide evidence of Standard Costs Agreements provided to each owners within 14 days (attachment "REQUEST: Evidence of Standard Costs Agreements provided to each owners within 14 days-32883-1.pdf". No reply was received.

No legal representation at NCAT case should proceed without owners corporation knowledge or approval at legally convened general meeting.

- Lot 158 is, legally, valid member of the Executive Committee for the last three years and has every right and duty to represent owners corporation and act with full transparency for the benefit of all owners.

a) The respondent did not reply two times to our request to agree with us to deliver documents to you in one of the following forms (safe, virus-free, reliable, and low-cost):

CD-ROM, or  
 USB key, or  
 Online, via secure web site and special access.  
 It is reasonable to do it that way because it:

1. NCAT allows it in their Procedural Direction 1:

Documents do not need to be served in one of the ways set out above if the receiving party (or their representative) agrees to accept service of the documents by some other means.

2. Saves unnecessary paperwork and waste of natural resources,

3. Avoids unnecessary costs of printing, which we intend to charge owners corporation after we confirm that Lot 158 is legal member of the committee,

4. Some files are color photographs which would not look correct in black-and-white prints,

5. Some files are in video format which cannot be printed.

b) We, the applicant, have complied with directions hearing to provide the Tribunal and the respondent with the files and USB key (since some files are too large and cannot be printed).

c) Owners did not receive any information about NCAT case until notice boards published it on 14 September 2020 in spite of knowledge of the even since early August. Photo taken in evening on Friday 11 September 2020 prove that nothing was published.

d) As for most of notices during 2018, 2019 and 2020, Lot 158 did not receive notice of this meeting (neither via email nor post). In addition, screenshot of the Waratah website shows that the notice for the meeting was created on 4 September 2020, which did not allow proper notifications to owners as per Interpretation Act 1987 (NSW).

The "postal" rule which used to provide that a document served by post was deemed served on the fourth (4th) working day, has been amended to now provide that a document is deemed served on the seventh (7th) working day after the day of postage.

This amendment was effected by Schedule 1.18 of the Justice Legislation Amendment Bill (No 3) 2018 (NSW) which amends section 76(1)(b) of the Interpretation Act 1987 (NSW) ("IA") and was assented to on 28th November 2018.

Under the Strata Schemes Management Act, 2015 (NSW), the notice period for a general meeting (other than the first) is seven (7) days. In addition to this seven (7) day period, allowance must also be made for the postal rule, which is a further seven (7) day period. The day of postage cannot be included nor can the day of the meeting itself (Section 36 of the IA) – in other words, those days must be left clear and not be counted in either the postal or strata period. The seven (7) day postal rule is for seven (7) working days – working days are not public holidays, bank holidays in the state to which the agenda applies, Saturdays or Sundays.

*Strata committee meetings require three (3) days notice with minutes issues within 7 days:*

<https://www.fairtrading.nsw.gov.au/housing-and-property/strata-and-community-living/strata-schemes/meetings-of-the-strata-committee>

*Each member of the strata committee, and every lot owner, need to be notified of an intended strata committee meeting at least 3 days before the meeting is due to be held. The notice of the meeting must include a detailed agenda for the meeting.*

*e) Minutes of the meeting on 10 September 2020 were not published on notice boards or sent to owners. Photo taken today, 18 September 2020 prove it.*

**Question of Law – Procedural fairness – Tribunal ignored Applicant’s email to Tribunal with Applicant’s Motions for Annual General Meeting (AGM) on 18<sup>th</sup> of September 2020 and evidence of problems with AGM 2020**

312. Applicant’s email stated:

*As part of full transparency, Lot 158 submitted Motions for AGM 2020 (most of them were previously illegally disallowed at AGM 2017, 2018 and 2019).*

*These files were added in our evidence for NCAT case last week.*

313. The email had two attachments:

SP52948-Motions-by-Lot-158-AGM-2020.pdf

20200903-OFFICIAL SUBMISSION\_ Lot 158 Motions for AGM 2020-33491.pdf

314. Tribunal ignored this email in spite of knowledge that AGM 2020 excluded the Motions that would have allowed owners corporation to ratify past events.

315. Misleading and misconstrued strata files including serious problems with Auditor's reports and expired contract with strata agency due to non-compliant AGM 2019 on 19 March 2020

316. Request for tenders for Macquarie Gardens SP52948 strata and building management on 30 July 2020

317. Tenders for Macquarie Gardens SP52948 strata and building management as of 29 September 2020

318. Tenders for Macquarie Gardens SP52948 strata and building management failed to be included in agenda for AGM 2020, including warnings about non-compliant meeting and suggestion to delay the general meeting

319. Lot 158 Motions for AGM 2020

320. Lot 158 amendments for Motions for AGM 2020

321. Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s Motions being excluded from agenda at various general meetings, including Applicant’s efforts to allow owners corporation to ratify past events

322. Waratah Strata Management send notice for Annual General Meeting on 30 September 2020, disallowing all tenders for building and strata management contract renewals

323. Minutes of AGM on 22 October 2020 excluded all Lot 158 motions and did not include Auditor report for 2020 (Audit requirements are prescribed by the Strata Schemes Management Act and Regulation – large schemes and those with a budget exceeding \$250k (budget defined under regulations): STRATA SCHEMES MANAGEMENT ACT 2015 – SECT 95, STRATA SCHEMES MANAGEMENT REGULATION 2016 – REG 21)) and valid Insurance Policy for 2020

324. Auditor report for 2020 was signed at least 11 days after the AGM 2020 and contains metadata that that raised concerns on 17 November 2020

325. Auditor report for 2020 was signed at least 11 days after the AGM 2020 and contains metadata that that raised concerns on 13 December 2020

326. Auditor report for 2020 was signed at least 11 days after the AGM 2020 and contains metadata that that raised concerns on 18 December 2020

327. Auditor report for 2020 was signed at least 11 days after the AGM 2020 and contains metadata that that raised concerns on 31 December 2020

328. Fourth request to Economos to provide full details of their alleged Audits in 2018, 2019, and 2020 for NCAT on 20 December 2020. In it, it also said:

*Provide copies of UNREDACTED emails that you originally sent to Waratah Strata Management for your Audited reports for strata plan SP52948 in 2018, 2019, and 2020. The copies should be sent to [ccdsydney@ncat.nsw.gov.au](mailto:ccdsydney@ncat.nsw.gov.au). Audit requirements are prescribed by*

the Strata Schemes Management Act and Regulation – large schemes and those with a budget exceeding \$250k (budget defined under regulations).

STRATA SCHEMES MANAGEMENT ACT 2015 – SECT 95

STRATA SCHEMES MANAGEMENT REGULATION 2016 – REG 21

Very obvious discrepancies and concerns for audited accounts for the previous years were collected and given to Economos (and a reply never received).

Auditor's report for FY 2020 was signed on 3 November 2020, 12 days AFTER the general meeting! As an example, there is evidence that at least three versions of Balance Sheet exist, which raise questions of quality of keeping the financials and validity of reporting and auditing:

SP52948-Balance-Sheet-extract-31Aug2020-at-1943-hours

Admin Fund \$233,330.15

Capital Works Fund \$709,724.06

SP52948-Balance-Sheet-extract-dated-4Sep2020-sent-in-agenda-for-AGM-on-30Sep2020

Admin Fund \$232,620.15

Capital Works Fund \$699,824.06

SP52948-Balance-Sheet-extract-allegedly-approved-by-Economos-3Nov2020

Admin Fund \$231,788.69

Capital Works Fund \$699,824.06

**329.** Dubious insurance policy disclosures for owners in 2020, consistently hiding information about policy details.

**330.** Agenda for AGM 2020 was not sent to all owners on time (Applicant is one of them), not published on notice boards, and full document not sent to owners who received partial copy of the notice.

- Block A notice board four days before the general meeting – no agenda for the meeting.
- Block C notice board four days before the general meeting – no agenda for the meeting.
- Block D notice board four days before the general meeting – no agenda for the meeting.

- Partial agenda listed in foyers of four buildings, with clear instruction if owners wanted full document with attachments to request them from strata manager:



**Question of Law – Procedural fairness – Tribunal ignored Applicant’s email to Tribunal and the Respondent with details of secure website access for SC 20/33352 files and evidence on 25<sup>th</sup> of September 2020**

331. Applicant’s email stated:

*Not to be shared with any party without disclosure.*

*No files can be shared with any party without disclosure.*

*This information can and should be provided by the Secretary of the committee to ALL owners as part of AGM 2020 agenda (safest option is to publish it on Waratah Strata web portal).*

URL <https://www.vk2cot.id.au/NCAT-20-33352/>

Login <redacted>

Password <redacted>

*For security reasons, and in compliance with laws, access is monitored at all times.*

332. Similar emails with unique individual accounts and passwords were sent to NCAT and each of six members of the committee that are listed in NCAT SC 20/33352.

**Question of Law – Procedural fairness – Tribunal ignored Applicant’s justified plea to Tribunal and the Respondent about delivery of documents and preparation for Annual General Meeting (AGM) on 25<sup>th</sup> of September 2020**

333.Extract from the Applicant’s email – no reply was ever received:

*In line with NCAT Directions Hearing today:*

*a) Please return allegedly faulty USB key immediately. It was fully tested before delivery to the strata plan. It is unusual to make claim that it is faulty now.*

*Since it is of no use to you, return it to the rightful owners.*

*However, you confirmed that paper copies of the documents were received.*

*b) Secure website accounts have been created for electronic delivery of documents. Emails were sent to each party individually (one for NCAT and one for owners corporation).*

*c) You failed to confirm the owner's Motions submitted for AGM 2020, as per email sent to you on 3 September 2020. The Motions are very carefully designed to RATIFY past events, which can only be done with full disclosure. Not ratifying them would make invalid and void all previous decisions, non-compliant meetings, unpaid levies, and so on.*

*d) No responses were received to emails dated:*

*30 July 2020*

*18 September 2020*

*They were related to inquiries which LEGAL (FINANCIAL) members of the committee should receive quotes for strata and building management contract tenders for AGM 2020.*

*Lot 158 obtained six quotes so far and they are far superior to the contracts currently being delivered by Waratah Strata Management and Uniqueco property Services. No reply was provided to our questions regarding to strata and building management contract renewals dated 30 July 2020.*

*To ensure proper contract management, due to extensive experience with contracts and proven fact that Lot 158 acts with duty of care and diligence at all times, please provide information on who, from the current LEGAL and FINANCIAL members of the committee needs to receive quotes for building and strata management contracts for AGM 2020.*

- Lot 158 will provide information to them, except the figures for contract values to ensure that insider-trading or predatory pricing (undercutting) by current service providers occurs.*
- The cost figures of the quotes shall be presented at the AGM itself.*
- Lot 158 has no vested interest or connection with any strata and building management service providers.*
- Lot 158 has not acted with any conflict of interest or hidden agendas during collection of quotes for strata and building management contracts.*
- Current service providers for SP52948 strata and building management are strongly encouraged to provide signed statement that they did not engage in any action that could be interpreted as conflict of interest or illegal actions at any time in the past.*

**Question of Law – Procedural fairness - On 25<sup>th</sup> of September 2020 Tribunal refused to reschedule Applicant’s submission after Annual General Meeting 2020 and ignored information that CTTT failed to reimburse the Applicant for being disallowed to issue summonses as per Mr. Harrowell's' decision in SCS 12/32675 on 29<sup>th</sup> of April 2013**

334. On 25<sup>th</sup> of September 2020, the Applicant sent the following request to NCAT (the same information was provided to the Respondent multiple times and no response was received):

*Please disregard the previous email sent an hour ago. It contained typing errors and was sent before it was a complete message. This is the correct version.*

- *The first concern is in relation to making six copies of the files to the respondent, which does not make sense. If it has been decided or agreed at today's hearing that due to exorbitant printing costs the applicants decided not pursue SECT 238 (a) (orders removing the members of the Executive Committee), then it is logical to only send ONE COPY of the files (to owners corporation). NCAT must note that there are NINE members of the committee, so why would six only receive the files?*
- *Second concern: if, and only if, some solicitor is approved by owners corporation at LEGALLY-CONVENED general meeting where ONLY FINANCIAL OWNERS CAN VOTE, then it does not make any sense for the applicants to send six copies of the same files when only one of them would be read and used by a legal entity.*

*That is why it is crucial to wait for the outcome of the general meeting on 22 October 2020 because at the meeting number of outcomes that the applicants seek might be resolved in natural way, making NCAT case unnecessary and simple to close without high costs.*

- *Third concern: we ask Tribunal to extend time for the applicants to provide to each of the respondents (six members of the committee) a copy of the strata schemes application and the documents relied on by the applicants by 2 October 2020.*

*We need more time and propose new date of 26 October 2020 for the following VERY STRONG reasons:*

*a) Organising new printer and the toner as the old is out-of-order now (quite costly for laser printers and we need to look for reasonable purchase costs),*

*b) Wait for agenda of the general meeting scheduled for 22 October 2020 to verify if Lot 158 Motions will be included intact and without changes.*

*c) See outcome of the general meeting (validity of the meeting, conduct of the meeting, which owners allowed to vote, and so on)..*

*d) Although we are trying very hard to avoid any party to incur unnecessary costs, we now want to consult with our Criminal & Civil Solicitors, who have requested owners corporation to respond on the following dates and received no responses so far:*

*14 November 2019*

*21 November 2019*

*24 April 2020*

*We also remind NCAT that it should not be necessary to engage legal help, especially since the respondent appears to want to use the Solicitor who has been found, with irrefutable evidence, to deliberately provide false statements (lied) to Fair Trading NSW and CTTT in files SCS 12/32675 and SCS 12/50460, acted without approval to represent owners corporation, and even prepared false statements for strata manager in their Statutory Declaration and Affidavit (engaging him or his colleagues would be a serious conflict due to his personal apprehension of bias):*

*Sadlo v Viceroy Gilead Pty Ltd [2013] NSWCTTT 559 (at [10]):*

*“[10] ... the [respondent] opted to be represented by a lawyer. It had no obligation to do so. The tasks involved in providing evidence, and making submissions at the hearing could have been undertaken by an employee or officer of the [respondent]. The [applicants] should not be obliged to pay an expense the [respondent] had no obligation to incur.”*

- *We are very concerned with different attitude towards us and the respondents. NCAT appears, or gives impression, of favouritism. And it seems not to be the first time. In spite of strong suspicions, in 2013, CTTT refused to issue summonses to strata manager and EC members, allowed Solicitor Adrian Mueller to continue with his actions, and then failed to reimburse us as per Mr. Harrowell's' decision in SCS 12/32675 on 29 April 2013:*

*"You will receive a refund of the summons fee in due course"*

We never received our money back.

We, the applicants, were forced to submit our files to the Tribunal in paper format, and email was strictly disallowed. Yet, the respondents are not doing the same in return. Based on the orders made by Senior Member G. Blake, in Item 6:

*The respondents shall provide to the applicant and the Tribunal, either in person or by post, and by email, a copy of all documents (see note below), on which the respondent seeks to rely at the hearing by 20 November 2020.*

*We, the applicants, were not allowed to provide evidence by email.*

- Today, we, the applicants, have again approached the five members of the committee (email to the sixth member bounced back with unknown user), and asked them to be reasonable and accept electronic delivery of documents.

Five members of the committee already got from us personal login details on a secure website with all files, so Item 5 has been complied with one week ahead of the schedule (2 October 2020).

- Members of the committee were notified by us today that we have reconsidered the application:  
If six members of the committee refuse or ignore reasonable request to receive/send files in electronic format, we, the applicants, decided to proceed with making copies of the evidence in paper format (in spite of UNNECESSARY costs) and proceed by reinstating the following order:

*STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 238 (a), Orders removing the following members of the Executive Committee: Mr. Moses Levitt (Lot 147), Mr. Stan Pogorelsky (Lot 181)*

*We trust common sense will prevail and equal rights be allowed to all parties.*

- On 29<sup>th</sup> of September NCAT sent the following letter to both parties:

*The Respondent may wish to provide a written response, advising whether they consent, or if they do not consent, what prejudice/inconvenience they will suffer if the request is granted.*

*The Respondent's written response should be received on or before 02/10/2020.*

*If a response is not received on or before 02/10/2020, the Tribunal will determine the application for an extension of time without a response.*

*You should note that the timetable made on 25/09/2020 remains unchanged unless you are advised by the Tribunal that it has been amended. The parties must attempt to submit their documents by their compliance date.*

- On 8<sup>th</sup> of October 2020, NCAT rejected the Applicant's request to allow owners corporation to consider the Applicant's Motion s at Annual General Meeting (AGM) and extended Applicant's submission date to 16<sup>th</sup> of October 2020, one week before the AGM:

*1. Timetable made by the Tribunal on 25/09/20 is amended.*

*2. Time for compliance with direction 4 is extended to 16/10/20.*

*The matters raised in a lengthy email on 25-Sept-20 are matters which could and should have been raised at the hearing earlier that day. An additional two weeks is ample time to comply with Order 4 by either providing documents via the internet or using an external printing facility.*

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s notification about SP52948 failing to send notice of AGM 2020 on time, incomplete Motions in the agenda, and non-compliance with Strata Schemes Management Amendment (COVID-19) Regulation 2020 (NSW) on 19<sup>th</sup> of October 2020**

335.Extract from the Applicant's email:

*This is being sent to NCAT for safeguarding evidence of yet another attempt by strata manager and the committee to hold meetings in non-compliance with regulations and prevent owners from having important information to make reasonable decisions. Owners so far received absolutely no information about details of NCAT case SC 20/33352 (including Direction Hearing and its outcome), no information about it has been published on notice boards, and no information about it has been published on Waratah Strata website portal.*

*As always, Lot 158 complied with all NCAT orders.*

*Subject: REQUEST TO PROVIDE DETAILS OF AUDIO/VISUAL LINK FOR AGM 2020*

*Date: Mon, 19 Oct 2020 07:36:57 +1100*

*From: Lot 158*

*To: Robert Crosbie, Stuart Greene*

*Due to high health concerns, Lot 158 cannot attend the AGM 2020 in person. It would be an unacceptably high risk to Lot 158 and possibly other attendees who are FULLY FINANCIAL BEFORE THE MEETING (since 1999, apart from short period in 2013/2014, levies for gas heating connections were set to \$200.00 per year - with GST added on 1 July 2000):*

*Owners corporations by resolution at a general meeting can enter into a payment plan for overdue contributions. The payment plan is limited to a 12 month period.*

*Subject to a resolution at a general meeting, the scheme can also agree to reduce contributions by 10% if they are paid before their due date.*

*Levy contributions in arrears accrue interest at a rate of 10%. The interest is payable if the contribution is not paid within one month of the contribution being due and payable.*

*Owners corporations can decide, by resolution at a general meeting, that no interest applies to individual lot owners or across all lot owners. Currently, there is no provision available to reduce the interest rate.*

*For that reason, you are requested to provide full details of audio/visual link for electronic voting and attendance (presumably Zoom session). To ensure owners aren't excluded or disadvantaged, the scheme's secretary must take reasonable steps to ensure all owners can participate in and vote at meetings. This should have been done at the time when notices of AGM 2020 were sent (for the record, Lot 158 received letter with the agenda for AGM 2020 on 12 October 2020, which again failed to comply with the Interpretation Act 1987 NSW).*

*Since the information about electronic voting and attendance cannot be distributed in a timely manner to all owners, it is prudent to delay the AGM 2020 and organise it properly.*

*NSW government introduced temporary measures to help owners corporations manage the running of their strata and community schemes during the COVID-19 pandemic - on 5 June 2020, they published the Strata Schemes Management Amendment (COVID-19) Regulation 2020 (NSW) (strata schemes regulation).*

*From 5 June 2020 until 5 December 2020, owners corporations and community, precinct and neighbourhood associations can:*

- Organise meetings electronically;*
- Vote electronically before or at meetings;*
- Execute documents electronically without a seal having to be affixed to the documents; and*
- Hold a first general meeting at a later date.*

336.Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s notification about SP52948 preparing to conduct another non-compliant AGM on 21<sup>st</sup> of October 2020**

337.Extract from the Applicant’s email:

*This is being sent to NCAT for safeguarding evidence of AGM 2020 plans to be conducted in non-compliance with regulations, with clear indication that the management of the complex has serious problems and is dysfunctional.*

338.The email also included attachments:

- AGM-2020-amendments-20Oct2020.pdf
- AGM-2020-Lot-158-proxy-paper-and-instructions-how-to-vote.pdf

339.Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness and what evidence did Tribunal used to support their decision – Tribunal notified by the Applicant about SP52948 non-compliant AGM with Minutes of the meeting on 27<sup>th</sup> of October 2020**

**340.** Extract from the Applicant's email:

*This is being sent to NCAT for safeguarding evidence.*

*AGM 2012 happened the way we predicted. Attachment "SP52948-Minutes-AGM-2020-published-on-27Oct2020.pdf" contain minutes of the meeting.*

*Unfinancial owners were again allowed to vote and some of them on the committee.*

*Four companies who submitted their tenders for building manager's contract were not even considered and evidence that strata manager's contract is valid is missing.*

*In addition, in spite of repeated requests, auditor's report was not published or provided to any owner before or even after the general meeting. Attachment "SP52948-waratahstrata.com.au-website-Documents-folder-part-1-27Oct2020.png" shows proof that auditor's report is missing.*

*Access to CCTV evidence for two more security/safety incidents were ignored by Waratah Strata Management and Uniqueco Property Services (attachment "20201021-Re\_FW\_REQUEST TO PROVIDE COPIES OF TWO CCTV RECORDINGS\_SP52948 events on 17 and 18Oct2020-34344-1.pdf").*

**341.** Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness - Tribunal ignored Applicant ‘s notification about SP52948 non-compliance with Tribunal Orders, no files provided to the Applicant, and late Auditor’s report for AGM with dubious accounting figures on 23<sup>rd</sup> of November 2020**

**342.**The Applicant’s email stated:

*Today is 23 November 2020 and we have received no emails, or documents in person from SP52948 representative who is LEGAL to act on behalf of owners corporation.*

*As per Senior Member G. Blake's orders dated 25 September 2020:*

*“The respondents shall provide to the applicant and the Tribunal, either in person or by post, and by email, a copy of all documents (see note below), on which the respondent seeks to rely at the hearing by 20 November 2020.”*

*To make our case even more robust, auditor's report for FY 2020 was signed on 3 November 2020, 12 days AFTER the general meeting. We will present the evidence that three versions of Balance Sheet exist, which raise questions of quality of keeping the financials and validity of reporting and auditing:*

*SP52948-Balance-Sheet-extract-31Aug2020-at-1943-hours*

| <i>Admin Fund</i>         | <i>Current Period</i> | <i>Previous Year</i> |
|---------------------------|-----------------------|----------------------|
|                           | <i>\$233,330.15</i>   | <i>\$300,506.22</i>  |
| <i>Capital Works Fund</i> | <i>\$709,724.06</i>   | <i>\$848,932.54</i>  |

*SP52948-Balance-Sheet-extract-dated-4Sep2020-sent-in-agenda-for-AGM-on-30Sep2020*

| <i>Admin Fund</i>         | <i>Current Period</i> | <i>Previous Year</i> |
|---------------------------|-----------------------|----------------------|
|                           | <i>\$232,620.15</i>   | <i>\$300,506.22</i>  |
| <i>Capital Works Fund</i> | <i>\$699,824.06</i>   | <i>\$848,932.54</i>  |

*SP52948-Balance-Sheet-extract-allegedly-approved-by-Economos-3Nov2020*

| <i>Admin Fund</i>         | <i>Current Period</i> | <i>Previous Year</i> |
|---------------------------|-----------------------|----------------------|
|                           | <i>\$231,788.69</i>   | <i>\$300,506.22</i>  |
| <i>Capital Works Fund</i> | <i>\$699,824.06</i>   | <i>\$848,932.54</i>  |

**343.**Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s repeated notification about SP52948 non-compliance with Tribunal Orders, no files provided to the Applicant on 29<sup>th</sup> of November 2020**

344. The Applicant’s email stated:

*As of today (29 November 2020), we have received no emails, or documents in person or by post, from SP52948 representatives who are LEGAL to act on behalf of owners corporation.*

*As per Senior Member G. Blake's orders dated 25 September 2020:*

*“The respondents shall provide to the applicant and the Tribunal, either in person or by post, and by email, a copy of all documents (see note below), on which the respondent seeks to rely at the hearing by 20 November 2020.”*

*SP52948 strata manager and the committee members had obligation to respond to Lot 158 700-page submission by 20 November 2020. Not a single page of their response was received, which means, in February 2021 they cannot rely on any evidence or statements.*

*SP52948 allegedly engaged Solicitor Adrian Mueller to represent them in NCAT SC 20/33352, in spite of knowledge and evidence of his fraudulent activities and efforts to provide false statements to Fair Trading NSW, CTTT and District Court in 2012, 2013, and 2014, and failing to assist Police investigations in 2018. In CTTT case 12/32675 Solicitor Adrian Mueller failed to comply with CTTT Directions Hearing orders THREE times, whilst representing SP52948 without legal rights.*

*They, obviously, did not refute any evidence that Lot 158 offered in NCAT 20/33352, and provided no documents to make such claims.*

*The attachment NCAT-20-33352-as-of-29Nov2020.pdf contains details (easily backed up by undeniable evidence), that Waratah Strata Management and committee members took extreme steps to prevent owners from having access to NCAT SC 20/33352 files and conducting another AGM without compliance with strata and other laws.*

345. Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s notification about third major safety incident with failed sun-room window frame (this time from unit on seventh floor in Block A), and confirming lack of evidence of legally-approved representatives of SP52948 in NCAT case 20/3335 on 30<sup>th</sup> of November 2020**

346. The Applicant’s email with 14 attachments with photo evidence and secret insurance claim in 2011 stated:

*The event yesterday is of such serious nature that requires to be reported immediately.*

*For the second time in last nine years, large frame with glass was blown away and shattered in sunroom and thrown in front of the building just a few meters away from people and children who were enjoying lunch at BBQ area. Pure luck had it that nobody was hurt.*

*Video evidence was collected and is displayed at password-protected secure website (details provided to NCAT on 28 September 2020): <https://www.vk2cot.id.au/NCAT-20-33352/16Oct2020/Videos/>*

*When something happens once, it could be an accident. Same things happening twice or more times is SHEER NEGLIGENCE and LACK of PROPER MAINTENANCE and DUTY of CARE.*

*A simple question: do we need to wait for somebody to get hurt or killed before proper actions are taken?*

Regards,

----- Forwarded Message -----

Subject: Re: Major incident report: SP52948 Lot 190 Sunroom frame blown away on 29Nov2020

Date: Mon, 30 Nov 2020 07:04:43 +1100

From: Lot 158

To: Robert Crosbie, Stuart Greene

*And evidence of similar event in 2011: Lot 82 windows sucked out.*

- *Minutes of committee meetings confirm that no owner received information about it:*

*SP52948-EC-Minutes-16Feb2011.pdf*

*SP52948-EC-Minutes-13Apr2011.pdf*

*SP52948-EC-Minutes-20Jul2011.pdf*

- *SP52948 made claim in amount of \$9,190.50 but insurance covered only \$6,355.00.*

*Attachment "BCS-Strata-Management-secret-insurance-claims-and-costs-2011.PNG" gives examples of secret insurance claims (huge losses of owners) that were never disclosed to owners and investors (we suspect it is because some believe it is democratic and good business practice to do so).*

*As Lot 158 received absolutely no responses or evidence from any legally-approved representatives of SP52948 in NCAT case 20/33352 (in non-compliance with NCAT Directions Hearing orders), we are looking forward to hearing in February 2021.*

347. Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s notification on 1<sup>st</sup> of February 2021 about the Respondent’s failures to comply with Tribunal orders, with request that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct**

**348.** Extract from the Applicant’s email:

*As predicted by us in advance, the Respondent failed to comply with multiple Tribunal orders. Please refer to attachment "NCAT-20-33352-Applicant-letter-1Feb2021.pdf". This made the Applicant's actions very difficult and unnecessarily complex.*

*Completely unrelated to us, another owner, Lot 160 sent an urgent plea to all letterboxes two weeks ago, complaining about misconduct of strata manager and the management of the complex (attachment "SP52948-Lot-162-letterbox-notice-call-for-EGM-and-better-management-18Jan2021.jpg").*

*The Applicant requests that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct.*

*Instead of dealing with the CTTT/NCAT cases, Solicitor Adrian Mueller secretly attempted to initiate four alleged “defamation cases”, last time on 21 October 2020. His persistence to obstruct legal processes disqualify him from acting on behalf of few owners.*

*Solicitor Adrian Mueller, even in the short outline of his response sent in email on 25 January 2021, failed to comply with Section 71 of the Civil and Administrative Tribunal Act 2013 which states that a person must not in any proceedings or application provide any information, or make any statement, to NCAT knowing that the information or statement is false or misleading.*

**349.** Tribunal ignored this warning and evidence.

**Question of Law – Procedural fairness - Tribunal ignored Applicant’s notification on 10<sup>th</sup> of February 2021 about the Respondent’s attempt to make insurance claims for legal costs (same process used by the Respondent four times in 2012 and 2013, where CHU Insurance forced the Respondent to repay \$8,800.00 in 2017) , Respondent’s failures to comply with Tribunal orders, with request that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct**

350. The Applicant’s email stated:

*Today's event does not provide enough time to send a letter due to fact that Hearing is tomorrow.*

*a) As predicted, Waratah Strata Management and committee members are again trying to claim legal costs for Solicitor Adrian Mueller, who did not prove he was legal to represent owners corporation in pending NCAT case 20/33352.*

*Attachment "SP52948-minutes-EC-meeting-4Feb2021.pdf" that was published for owners only today (10 February 2021), contain the following statement in Motion 3:*

*NCAT Application lodged by Lot 158 - JS Mueller & Co have prepared and lodged the Owners Corporation response to the NCAT*

*Application lodged by the owners of Lot 158. An NCAT Hearing is taking place on 11 February and will be attended by Adrian Mueller on behalf of the Owners Corporation. A Legal Defence insurance claim has been lodged on behalf of the Owners Corporation, with a decision on that claim still to be made by the insurance company.*

*SUU Insurance has been informed about this attempt to make legal claims.*

*b) Evidence that Solicitor Adrian Mueller was engaged at any legally-convened general meeting has neither been provided to owners or NCAT. So far, no owner or NCAT have received a copy of Standard Costs Agreement and Waratah Strata Management website contains no information about it (attachments "SP52948-waratahstrata.com.au-website-Documents-folder-part-1-10Feb2021.png" to "SP52948-waratahstrata.com.au-website-Documents-folder-part-12-10Feb2021.png" provide proof).*

*c) Owners were disallowed from receiving information that NCAT has been requested to strike out Solicitor Adrian Mueller from the proceedings (attachment "20210202-NOTIFICATION FOR ALL OWNERS\_ SP52948 NCAT case 20\_33352 - NCAT asked that Solicitor Adrian Mueller be struck out of the proceedings-35713-2.pdf").*

*d) Five members of the committee declined to inform owners or prevent illegal use of common funds (attachment "20210209-SUMMARY\_ NCAT SC 20\_33352 Requests assisting Tribunal ignored so far – 9Feb2021-35822.pdf").*

*e) We again emphasize that the committee and previous strata agency (BCS Strata Management) tried to involve SUU in what we claim to be fraudulent insurance claims (it took us eight years to collect full evidence).*

*In 2012, SUU declined to quote insurance renewal due to high risk in CTTT legal case (attachment "SP52948-SUU-declined-to-quote-due-to-risky-legal-case-with-Solicitor-Adrian-Mueller-and-CHU-worried-about-water-leaks-Sep2012.png").*

*After eight years, evidence has been collected for NCAT case 20/33352 detailing four fraudulent insurance claims in 2012/2013 amounting to above \$26,000.00, where CHU Insurance (without having evidence) forced repayment in amount of \$8,800.00 in March 2017.*

*The allegations of fraudulent insurance claims also contain irrefutable evidence of false statements in Statutory Declaration to CTTT in 2013 and Affidavit to District Court in 2014 that was exclusively prepared and written by Solicitor Adrian Mueller.*

*As of 10 February 2021, Waratah Strata Management and the committee members failed to provide ANY response to us or NCAT by due date and did not submit any evidence to refute the claims of misappropriation of funds, maintenance problems, failure to run tenders, non-compliant meetings, fire safety problems, and much more.*

351. Tribunal ignored this warning and evidence.

Long-term lack of maintenance, including serious OH&S and fire safety risks and:

[SP52948-some-of-long-term-OHS-and-fire-safety-risks-and-maintenance-status-Jul2021](#)

### **Question of Law – Procedural fairness - Applicant’s legal cases missed to be cited by the Tribunal**

352. In their decision, the Tribunal member failed to include the following cases listed by the Applicant multiple times in advance and some of them even orally at the Hearing on 11<sup>th</sup> of February 2021:

- Hoare and Ors v The Owners-Strata Plan No 73905 [2018] NSWCATCD 45 – information provided in Applicant’s email submission on 1<sup>st</sup> of February 2021 and registered mail on 2<sup>nd</sup> of February 2021.
- Bischoff v Sahade [2015] NSWCATAP 135 (‘Bischoff’) - information provided in Applicant’s email submission on 1<sup>st</sup> of February 2021 and registered mail on 2<sup>nd</sup> of February 2021.
- Strata-Plan-No-76317-v-Ho-2020-NSWCATAP-205-6-October-2020 - information provided in Applicant’s email submission on 1<sup>st</sup> of February 2021 and registered mail on 2<sup>nd</sup> of February 2021.
- Legal Services Commissioner v Yakenian [2019] NSWCATOD - information provided in Applicant’s email submission on 1<sup>st</sup> of February 2021 and registered mail on 2<sup>nd</sup> of February 2021.
- Sadlo v Viceroy Gilead Pty Ltd [2013] NSWCTTT 559 - information provided in Applicant’s first Statutory Declaration dated 30<sup>th</sup> of July 2020, updated Statutory Declaration dated 18<sup>th</sup> of August 2020, email submission on 1<sup>st</sup> of February 2021, and registered mail on 2<sup>nd</sup> of February 2021.
- Rodney v Stricke (No 2) [2020] NSWSC 1126 - information provided in Applicant’s email submission on 1<sup>st</sup> of February 2021 and registered mail on 2<sup>nd</sup> of February 2021.
- Walker v The Owners -Strata Plan No.1992[2020] NSWCATAP 192.
- Judge Einfeld (NSW Court of Appeal concluded that on top of his admitted criminal offences, the 70-year-old repeatedly lied over a seven-year period to avoid traffic offence penalties) – information provided to NCAT in email on 31<sup>st</sup> of July 2020.

353. Tribunal ignored this warning and evidence.

## Question of Law – Procedural fairness - NCAT SC 20/33352 Decision, Paragraphs 2-4

### 354. Applicant's submission:

- The Tribunal failed to cite the Applicant's reference to *Sadlo v Viceroy Gilead Pty Ltd* [2013] NSWCTTT 559 (at [10]), which was listed in multiple files for NCAT, including first Statutory Declaration dated 30<sup>th</sup> of July 2020 and updated Statutory Declaration dated 18<sup>th</sup> of August 2020 in paragraph 4 on page 2:

*[10] ... the [respondent] opted to be represented by a lawyer. It had no obligation to do so. The tasks involved in providing evidence, and making submissions at the hearing could have been undertaken by an employee or officer of the [respondent]. The [applicants] should not be obliged to pay an expense the [respondent] had no obligation to incur.*

- The Tribunal failed to clearly list the correct version of the Statutory Declaration: Statutory Declaration dated 30<sup>th</sup> of July 2020 was superseded by updated Statutory Declaration dated 18<sup>th</sup> of August 2020.
- The Tribunal failed to peruse DVDs and USB keys, which were also part of evidence accepted at the hearing on 11<sup>th</sup> of February 2021.
- The Tribunal failed to peruse evidence on secure website which were provided to all parties since late September 2020, as per orders made by the Tribunal at Directions Hearing on 25<sup>th</sup> of September 2020.
- Applicant made every possible effort to reason with strata managers and members of the committee to no avail. The Tribunal member had access to many examples of Applicant's efforts, such as:

20121003 Please pass this to the EC members for consideration

OFFICIAL OFFER FOR REASONABLE RESOLUTION SP52948 Pending CTTT and District Court Cases 31Dec2013

Undisclosed-Details-of-CHU-Insurance-Reimbursements-Waratah-Strata-Management-Contract-and-Defamation-of-Lot-158-through-false-statements-at-EC-meeting-16Mar2017

20170613 Unfinancial EC members and other owners second gas connection

20170325 CHU Insurance claim and defamation of Lot 158

20170625 OFFICIAL REQUEST Convene Extraordinary General Meeting in 20July2017

20190618 WITHOUT PREJUDICE Request to stop wasting strata funds on legal expenses that cannot succeed

20200328 WITHOUT PREJUDICE Request to stop wasting strata funds on legal expenses that cannot succeed

### 355. Tribunal ignored this warning and evidence.

**Question of Law – What evidence did Tribunal use to support this statement and decision - NCAT SC 20/33352 Decision, Paragraphs 2**

356. Tribunal statement:

*Between 2004 and about 2010 Lot 158 was a member of the strata committee.*

357. Applicant’s submission:

- Question of law: What evidence did the Tribunal peruse to support this particular finding?
- Question of law: the Tribunal failed to provide justification for this statement, because, by their own admission, they did not review voluminous evidence the Applicant provided and could have only made such decision based on the Applicant’s Statutory Declaration.
- If Applicant’s Statutory Declaration is accepted in one part without verifying the evidence, then it has to be accepted for all other statements in the declaration.
- Based on comprehensive evidence, Applicant was/is a valid member of the Executive Committee in the following years due to the following owners not declaring second gas connection and not paying prescribed levies (including 10% simple interest for overdue levies per year):

FY 2013, two unfinancial members on the committee: Lot 147, Lot 181 (total number of candidates: 10, selected 9, two not valid, hence Applicant should have been automatically elected on 17 October 2012). Six proxy votes for Applicant (of which two were disabled due to outstanding debt of \$0.10 and \$5.40):

|    |     |                |     |        |
|----|-----|----------------|-----|--------|
| 25 | 98  | Brincat-Lisano | No  | \$0.10 |
| 26 | 102 | Park & Kim     | Yes |        |
| 27 | 111 | Chan           | No  | \$5.40 |
| 28 | 153 | Kim            | Yes |        |
| 29 | 188 | Lee            | Yes |        |
| 30 | 190 | Poulos         | Yes |        |

Tally for proxies and ballot at AGM 2013:

| Copland   | Luxmore   | Levitt    | McDonald  | Pogorelsky | Quick     | Wang      | Ward      | Hirschhorn |          | Gee      |
|-----------|-----------|-----------|-----------|------------|-----------|-----------|-----------|------------|----------|----------|
| 1         | 1         | 1         | 1         | 1          | 1         | 1         | 1         | 1          |          |          |
|           | 7         |           |           |            |           |           |           |            | 7        | 7        |
|           | 1         |           |           |            |           | 1         |           |            | 1        | 1        |
| 36        | 36        | 36        | 36        | 36         | 36        | 36        | 36        | 36         |          |          |
| 1         | 1         | 1         | 1         | 1          | 1         | 1         | 1         | 1          |          |          |
| 1         | 1         | 1         | 1         | 1          | 1         | 1         | 1         | 1          |          |          |
| 2         | 2         | 2         | 2         | 2          | 2         | 2         | 2         | 2          |          |          |
|           |           |           |           |            |           |           |           |            |          |          |
| <b>41</b> | <b>49</b> | <b>41</b> | <b>41</b> | <b>41</b>  | <b>41</b> | <b>42</b> | <b>41</b> | <b>41</b>  | <b>8</b> | <b>8</b> |

SP52948-AGM-2013-paperwork

FY 2015, two unfinancial members on the committee: Lot 147, Lot 181 (total number of candidates: 10, selected 9, two not valid, hence Applicant should have been automatically elected on 26 November 2014)

FY 2018, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 11, selected 9, three not valid, hence Applicant should have been automatically elected on 18 October 2017). It includes evidence of unfinancial owners allowed to vote, non-compliant ballot (handwritten by strata manager), and more. Five proxy votes for Applicant and five votes for Applicant in ballot papers.

SP52948-AGM-2018-proxy-summary

FY 2019, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Applicant should have been automatically elected on 17 October 2018)

FY 2020, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Applicant should have been automatically elected)

- Procedural fairness: the Tribunal failed to acknowledge and verify the evidence that the Applicant was valid member of the committee in many other years since 2012:

ECMEMBER

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision – NCAT SC 20/33352 Decision, Paragraph 4**

358. Tribunal statement:

*On 30 July 2020 Lot 158 filed these proceedings in the Tribunal. Attached to the application was a 103 page statutory declaration of Lot 158.*

359. Applicant's submission:

- Statutory Declaration dated 30<sup>th</sup> of July 2020 was superseded by updated Statutory Declaration dated 18<sup>th</sup> of August 2020 that was provided to the Respondent and NCAT. Tribunal failed to document the updated version of the Statutory Declaration, which was also clearly mentioned at the Hearing itself.
- Tribunal did not list most of Applicant's evidence in their recital.
- Tribunal failed to acknowledge the evidence on the DVDs, USB keys, and emails.

360. Tribunal received Applicant's files in the following formats:

- Registered letter (including DVD) on 31<sup>st</sup> of July 2020.
- Email sent on 18<sup>th</sup> of August 2020.
- Registered mail with around 400 pages (each file was tagged with labels on pages that required special attention) sent on 7<sup>th</sup> of September 2020. In addition, USB key with unredacted files and evidence was provided. The index page that was submitted in the registered parcel contained the following Application's handwritten statement:

*Most critical evidence (rest on USB key due to size)*

- Email to NCAT titled "ADVANCED NOTICE Lot 158 lodged NCAT case for SP52948 on 31July2020".
- Email to NCAT titled "UPDATE: NSW Civil & Administrative Tribunal - SC 20/33352 on 18Sep2020".
- Email to NCAT titled "Re: NSW Civil & Administrative Tribunal - SC 20/33352 - Lot 158 vs The Owners - Strata Plan No 52948", with two attachments:

Updated Statutory Declaration dated 18<sup>th</sup> of August 2020.

Copy of email sent to the Respondent asking them to be reasonable.

- Email to NCAT titled "UPDATE: NSW Civil & Administrative Tribunal - SC 20/33352 on 18Sep2020" with 11 attachments (including email dated 29<sup>th</sup> of July 2020 with warning to committee members and offer to settle outside of court "CONFIDENTIAL OFFER: SP52948 Your actions today and tomorrow" which documented all strata files that the Responded paid for and requested in the past).
- Registered mail with files and DVD sent on 15<sup>th</sup> of October 2020.
- Email to NCAT titled "FOR REGISTRAR: Request for extension of time NSW Civil & Administrative Tribunal - SC 20/33352 - Lot 158 vs The Owners - Strata Plan No 52948 on 25Sep2020".
- Email to NCAT titled "FOR NCAT RECORDS: SC 20/33352 - SP52948 failed to send notice of AGM 2020 on time, incomplete Motions, and non-compliance with Strata Schemes Management Amendment (COVID-19) Regulation 2020 (NSW)" with five attachments on 19<sup>th</sup> of October 2020, warning that Annual General Meeting was proceeding without strata compliance (Applicant's Motions removed from the agenda, four tenders for building and strata manager contracts removed from voting, financial audit missing, Minutes of AGM 2019 not corrected, and more), and also said:  
"Owners so far received absolutely no information about details of NCAT case SC 20/33352 (including Direction Hearing and its outcome), no information about it has been published on notice boards, and no information about it has been published on Waratah Strata website portal."
- Email to NCAT titled "FOR NCAT RECORDS: SC 20/33352 - SP52948 preparing to conduct another non-compliant AGM on 21Oct2020" with two attachments.

- Email to NCAT titled “Re: NSW Civil & Administrative Tribunal - SC 20/33352 - Lot 158 vs The Owners - no responses by the responded as of 23Nov2020” with one attachment.
- Email to NCAT titled “SUMMARY NSW Civil & Administrative Tribunal - SC 20/33352 - Lot 158 vs The Owners - Respondent failed to comply with Directions Hearing 29Nov2020” with one attachment.
- Email to NCAT titled “SUMMARY NSW Civil & Administrative Tribunal - SC 20/33352 - Lot 158 vs The Owners - Major incident report: SP52948 Lot 190 Sunroom frame blown away on 29Nov2020” on 30<sup>th</sup> of November 2020 with 14 attachments showing major incident with blown sunroom frame with glass from level 7 of the building that almost killed people in the BBQ area below the building.
- Email to NCAT titled “APPLICANT'S BELATED RESPONSE DUE TO LACK OF ACTIONS BY RESPONDENT: SC 20/33352 - Lot 158 -v- SP 52948 and Ors – 1Feb2021” with two attachments.
- Email to NCAT titled “Re: High-Priority updated due to event on 10Feb2021- SC 20/33352 - Lot 158 -v- SP 52948 and Ors” with 16 attachments.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision – NCAT SC 20/33352 Decision, Paragraph 7**

**361.**Tribunal statement:

*The NCAT proceedings were listed for directions before Blake SM on 25 September 2020.*

*Orders were made for the parties to file and serve documentary evidence and the matter was set down for a special fixture hearing. Individual strata committee members were joined as parties to the proceedings. A further order was made that both parties have leave to be represented by an Australian Legal Practitioner in the proceedings.*

**362.**Applicant's submission:

- At Directions Hearing on 25<sup>th</sup> of September 2020, the Respondent raised concerns of Mr. Robert Crosbie (Waratah Strata Management) having legal rights to act on behalf of the Applicants to lack of evidence that he was legally elected strata manager (and cited the Respondent's Solicitor's letter (O'Brien Criminal & Civil Solicitors) sent to Secretary of the Executive Committee on 24<sup>th</sup> of April 2020. The Tribunal member disregarded the Applicant's comments without obtaining any evidence to verify validity of strata management contract and his right to be present at the Directions Hearing.
- At Directions Hearing, Tribunal threatened the Applicant that if their evidence and folder were not provided to each individual member of the committee (the Respondent), they would strike out the relevant Applicant's order from the proceedings without further investigations.
- The Tribunal did not give rights to the Respondent to engage any legal services without due process of approval at valid general meeting, as per strata laws.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 9**

**363.**Tribunal statement:

*The matter was listed for hearing before the Tribunal on 11 February 2021. The hearing was conducted by telephone. Lot 158 appeared for the applicant. Mr Mueller, Solicitor appeared for the owners corporation. None of the members of the strata committee whom the applicant sought to be removed under s 238 of the SSMA appeared, and the submissions of the owners corporation dealt with the reasons why the individual strata committee members opposed orders being made under s 238 of the SSMA.*

**364.**Applicant's submission:

- Tribunal failed to establish fact that Solicitor Adrian Mueller had retainer, was approved to represent the Respondent through legally-compliant general meeting that satisfied strata laws, and that all owners received signed copies of his Standard Costs Agreement.
- Tribunal failed to document that none of the six executive Committee members provided phone numbers to be contacted at the Hearing and that the Tribunal had such information since 11<sup>th</sup> of December 2020 without disclosure to the Applicant (reference: Solicitor Adrian Mueller invoice 101676 dated 11<sup>th</sup> of December 2020).
- Tribunal failed to document that they called Mr. Robert Crosbie from Waratah Strata Management on his mobile multiple times but no response was received.
- Tribunal failed to inform the Applicant that they would EXCLUDE the Applicant's files provided through secure website due to lack of presence of six committee members at the Hearing, thus disallowing the Applicant's rights to be heard and their evidence considered.
- Tribunal failed to give opportunity to the Applicant to adjourn the Hearing if they had known that their evidence provided on USB keys, DVDs, secure web site, and emails were going to be disregarded.
- Tribunal failed to provide Respondent's evidence of which part of Applicant's submissions were opposed/refuted by the owners corporation in regards to orders under Section 238 of the SSMA.

**Question of Law – What evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 10**

365. Tribunal statement:

*At the commencement of the hearing, Lot 158 made an application that the Tribunal rescind the order made by Blake SM on 25 September 2020 that the owners corporation could be legally represented.*

366. Applicant's submission:

- The Respondent raised issue of legal representation to Tribunal multiple times before the Hearing and repeated it at the Hearing.
- The Applicant never requested or wished to “rescind the order made at the Directions Hearing”, but simply declared, with evidence, that legal representation by Solicitor Adrian Mueller was void and invalid.
- In most elaborate request through email and registered letter dated 1<sup>st</sup> and 2<sup>nd</sup> of February 2021, the Applicant stated in clear terms:
  1. *The Applicant requests that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct. Instead of dealing with the CTTT/NCAT cases, Solicitor Adrian Mueller secretly attempted to initiate four alleged “defamation cases”, last time on 21 October 2020. His persistence to obstruct legal processes disqualify him from acting on behalf of few owners.*
  2. *Solicitor Adrian Mueller, even in the short outline of his response sent in email on 25 January 2021, failed to comply with Section 71 of the Civil and Administrative Tribunal Act 2013 which states that a person must not in any proceedings or application provide any information, or make any statement, to NCAT knowing that the information or statement is false or misleading. The Solicitor made such statements many times before and now tries to prevent NCAT to deal with them.*

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 11**

**367.**Tribunal statement:

*The basis of the application to rescind the order granting leave for legal representation was that the owners corporation had “illegally” appointed Mr Mueller and that strata committee members; the strata manager; and Mr Mueller had engaged in a long history of illegal and unethical behaviour.*

**368.**Applicant’s submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- The Respondent raised issue of legal representation to Tribunal multiple times before the Hearing and repeated it at the Hearing.
- The Applicant never requested or wished to “rescind the order made at the Directions Hearing”, but simply declared, with evidence, that legal representation by Solicitor Adrian Mueller was void and invalid. Refer to NCAT SC 20/33352 Decision, Paragraph 10 on the previous page.
- Applicant provided immense evidence, including unredacted strata files, in five formats to the Tribunal (USB keys, DVD, printed files, emails, and especially annotated documents on secure website (Tribunal received email about it on 1st of February 2021 and registered letter sent on 2nd of February 2021, which was accepted as evidence at the Hearing but mostly disregarded in the decision), documenting that Solicitor Adrian Mueller committed criminal acts multiple times.
- The Respondent relied on not assisting the Tribunal in the proceedings and even providing false statements, directly impeding the investigations. Their only goal was to induce the Tribunal to “award costs to punish unsuccessful parties”.
- The evidence of false statements by Solicitor Adrian Mueller satisfy both “on balance of probabilities” and “beyond reasonable doubt” conditions and confirm his own efforts for self-preservation.
- False statements are a very serious offence in their own right. Deliberate lying in a Statutory Declaration (Solicitor Adrian Mueller prepared and got paid for Statutory Declaration for strata manager on 19th of April 2013) is punishable by up to five years in prison, according to the NSW Oaths Act. Former judge Marcus Einfeld served two years in prison for knowingly making a false statement under oath and for attempting to pervert the course of justice. The case stemmed from the improbable catalyst of a false statutory declaration over a \$77.00 speeding fine.

Some examples with evidence that the Tribunal ignored:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#A2](#)

[Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12-32675/](#)

[Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12-50460/](#)

[SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017.pdf](#)

[SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2018.pdf](#)

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 12**

**369.**Tribunal statement:

*Lot 158 further submitted that Mr Mueller had provided no evidence of a fee agreement with the owners corporation, nor had the owners corporation complied with the provisions of s 101 of the SSMA; nor Regulation 26 of the Strata Schemes Management Regulation 2015 (NSW) ('the SSM Regulation') regarding the appointment of a legal representative.*

**370.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 13**

**371.**Tribunal statement:

*Mr Mueller submitted that a resolution appointing his firm as legal representatives for the owners corporation in the proceedings had occurred on 22 October 2020; and that there had been compliance with s 101 of the SSMA and the SM Regulations. Mr Mueller rejected the allegations of unethical or improper behaviour by himself; the strata committee members; and/or the strata manager.*

**372.**Applicant's submission:

- Tribunal accepted Solicitor's statements without full verification.
- Tribunal did not allow the Applicant to view alleged evidence of legal representation that the Respondent relied on.
- Tribunal was fully aware in advance that evidence against Solicitor Adrian Mueller and the Respondent in regards to conduct of AGM 2020 was overwhelming.
- Ignoring the evidence does not provide valid grounds for making conclusion that does not stand reason.
- Tribunal refused to acknowledge, verify, and accept irrefutable Applicant's evidence that Solicitor Adrian Mueller lied to CTTT and other law-enforcing agencies on behalf of the Respondent many times since 2012, making him the fraud simpliciter, and accessory in fraudulent falsification of records before, at, after the facts.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 14**

**373.**Tribunal statement:

*Mr Mueller further submitted that if leave was rescinded at the hearing it would prejudice the ability of the owners corporation to present its case, as the strata manager and strata committee members had not prepared on the basis that they may have to present the case for the owners corporation at the hearing.*

**374.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 15**

**375.**Tribunal statement:

*The submissions of Lot 158 involving the purported conduct of Mr Mueller were without any substance, and considering the duty of legal practitioners under s 36 (3) of the Civil and Administrative Tribunal Act 2015 (NSW) ('the NCAT Act') the Tribunal accepted the submission of Mr Mueller regarding appointment by the owners corporation at the general meeting on 22 October 2020.*

**376.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal used to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 16**

**377.**Tribunal statement:

*The orders of Blake SM did not place any condition on either party being legally represented in the proceedings. The Tribunal refused the application of Lot 158 to rescind the order made by Blake SM on 25 September 2020. It also refused to make an order that Mr Mueller be disqualified from representing the owners corporation at the hearing.*

**378.**Applicant’s submission:

- The Applicant argued that the Tribunal did not make at the Directions Hearing, and could not have made, any order to allow legal representation that did not comply with processes (decision made at valid general meeting, copies of signed Standard Costs Agreement given to each owner and published on website).
- Directions Hearing only provided right to both parties to consider legal representation.
- The Respondent raised issue of legal representation to Tribunal multiple times before the Hearing and repeated it at the Hearing.
- The Applicant never requested or wished to “rescind the order made at the Directions Hearing”, but simply declared, with evidence, that legal representation by Solicitor Adrian Mueller was void and invalid.
- As an example, in most elaborate request through email and registered letter dated 1<sup>st</sup> and 2<sup>nd</sup> of February 2021, the Applicant stated in clear terms:
  - *The Applicant requests that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct. Instead of dealing with the CTTT/NCAT cases, Solicitor Adrian Mueller secretly attempted to initiate four alleged “defamation cases”, last time on 21 October 2020. His persistence to obstruct legal processes disqualify him from acting on behalf of few owners.*
  - Solicitor Adrian Mueller, even in the short outline of his response sent in email on 25<sup>th</sup> of January 2021, failed to comply with Section 71 of the Civil and Administrative Tribunal Act 2013 which states that a person must not in any proceedings or application provide any information, or make any statement, to NCAT knowing that the information or statement is false or misleading. The Solicitor made such statements many times before and now tries to prevent NCAT to deal with them.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 17**

**379.**Tribunal statement:

*The hearing proceeded. Neither party sought an adjournment. Lot 158 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 Lot 158. As discussed previously, the owners corporation did not call any witnesses. Both Lot 158 and Mr Mueller then made oral submissions.*

**380.**Applicant’s submission:

- At the beginning of Hearing, the Tribunal member called strata manager by phone several times and received no response. He then asked Solicitor Adrian Mueller if he would help with finding the strata manager, and the Solicitor’s response was that it was not necessary for strata manager to attend. The Tribunal member then stated that he received no contact details for the six committee members and asked if Solicitor Adrian Mueller could help. Solicitor did not provide an assistance. The Tribunal member explicitly asked Solicitor Adrian Mueller if he would then consider to adjourn the Hearing due to lack of presence by the strata manager and six committee members. Solicitor Adrian Mueller stated that he would proceed alone.
- Tribunal failed to inform the Applicant that they would EXCLUDE the Applicant’s files provided through secure website due to lack of presence by six committee members at the Hearing, thus disallowing the Applicant’s rights to be heard and their evidence considered. The Applicant would have declined to proceed at the Hearing if they had known that their evidence provided on USB keys, DVDs, secure web site, and emails were going to be disregarded. The Tribunal member did not, in any explicit or implicit form, ask the Applicant if they would adjourn the Hearing if they knew that the Tribunal would exclude evidence offered on DVD, USB keys, emails, and secure website. No reasonable or sane person would proceed with the Hearing if they knew that their effort to prepare secure website evidence (amounting to 1,371 hours of hard work by the Applicant) would simply be discarded because “Paragraph 38: The Tribunal did not investigate any of the links provided by Lot 158 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.” The Applicant was not given the same opportunity to adjourn the Hearing as the Respondent was.
- The Applicant was not given the opportunity to cross examine the Respondent because they failed to appear at the Hearing, whilst the Respondent had such opportunity (which they did not wish to entertain).
- The Tribunal member then summarised evidence from the Applicant, which included: DVDs, USB keys, two sets of printed documents, secure web site, and latest evidence dated 1<sup>st</sup> of February 2021 (sent via email, and by registered post on 2<sup>nd</sup> of February 2021).

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 18**

**381.**Tribunal statement:

*In addition to the statutory declaration of Lot 158 filed with the application, he had filed and served two volumes of documents; and had filed and served submissions in reply to the submissions of the owners corporation.*

**382.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored Applicant's repeated pleas to them and the Respondent to allow electronic delivery of documents on 18th and 25th of August, and 18th of September 2020 was ignored – as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 19**

**383.**Tribunal statement:

*The two volumes of documents were filed on 8 September 2020. They were admitted into evidence, subject to weight and relevance.*

**384.**Applicant’s submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored Applicant’s repeated pleas to them and the Respondent to allow electronic delivery of documents on 18th and 25th of August, and 18th of September 2020 was ignored – as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 20**

**385.**Tribunal statement:

*The two volumes of documents comprised of a total of 703 pages.*

**386.**Applicant's submission:

- Tribunal statement is misleading and wrong.
- The first registered parcel sent on 7<sup>th</sup> of September 2020 contained around 200 pages of printed evidence and files, first version of the Statutory Declaration dated 30<sup>th</sup> of July 2020, and USB key.
- The second registered parcel sent on 15<sup>th</sup> of October 2020 had 704 pages which included 105 pages of updated Statutory Declaration dated 18<sup>th</sup> of August 2020, so the printed evidence were the remaining 599 pages.
- The third registered letter sent of 2<sup>nd</sup> of February 2021 contained 16 pages.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 21**

**387.**Tribunal statement:

*It is not an easy task to summarise the documents of the applicant.*

**388.**Applicant’s submission:

- Subjective statement without relevance to good conduct of the NCAT case.
- It belittles the Applicant’s huge efforts to help NCAT with their assessment (“trust through verification”).
- Applicant has significant expertise in IT forensic investigations and attempted to avoid legal costs to all parties.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 22**

**389.**Tribunal statement:

*The applicant's documents were a mish-mash of emails of Lot 158; statements of Lot 158; and correspondence from Lot 158 to various individuals (including the strata manager; Mr Mueller; NSW Police; and NSW Fair Trading).*

**390.**Applicant's submission:

- Very offensive and discriminatory statement by the Tribunal, who excluded Applicant's evidence with prejudice.
- Most of Applicant's evidence was not considered and the Tribunal failed to inform itself about validity of the Applicant's statements and claims.
- The Tribunal failed to review photo and video evidence as well.
- Applicant's evidence included UNREDACTED financial files, audit reports, minutes of meeting, photos and videos of major problems in the complex, brief details of Police, Office of Legal Services Commissioner, correspondence from other owners, summaries of eight document searches, previous cases documenting fraud and false statements to District Court, CTTT, NSW Fair Trading and Office of Legal Services Commissioner.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 23**

**391. Tribunal statement:**

*There was a large volume of documents with an index under the heading “Allegations of dubious activities allowing Liftronic to win contract without due diligence and proper tender”.*

**392. Applicant’s submission:**

- Due to large volume of printed files in the second registered parcel (704 pages), the Applicant listed some of the documents in brief form. One of them, that the Tribunal member mentioned herewith, contained just index of the file as a short reference. The full file with evidence was made available on DVD, USB keys, and secure website. The Tribunal ignored to view this evidence.
- The Tribunal failed to mention or show proof that they considered many full documents that were printed in the folder, around the “Allegations of dubious activities allowing Liftronics to win contract without due diligence and proper tender” document:

20130322-Re\_Update on the Strata and Community Title Law Review-528, pages 1-4

Lot 158-signed-Statutory-Declaration-18Aug2020.pdf, pages 5-110

SP52948-Motions-by-Lot-158-AGM-2020.pdf, pages 111-202

Adrian-Mueller-Lot 158-Deed-of-Agreement-17Oct2019.pdf, pages 203-214

Lot 158Letter-Obrien-Criminal-and-Civil-Solicitors-24April.pdf, pages 215-224

Marianna-Paltikian-letter-of-demand-8Oct2020.pdf, pages 225-228

Stuart-Greene-letter-of-demand-5Oct2020.pdf, pages 229-230

Robert-Crosbie-letter-of-demand-2Oct2020.pdf, pages 231-232

OFFICIAL-REQUEST-on-10May2013-Solicitor-Adrian-Mueller-immediate-return-of-private-property-and-reimbursement-of-invoice-update-on-12Aug2020.pdf, pages 233-236

SP52948-Police-and-Waratah-Strata-management-attempts-to-secretly-find-another-copy-of-lost-USB-key-April-to-October-2018.pdf, pages 237-248

SP52948-repeated-email-to-BCS-Strata-Management-asking-for-copy-of-USB-23Nov2018.png, pages 249-250

CONFIDENTIAL-OFFER-SP52948-expired-29Jul2020.pdf, pages 251-256

URGENT-CONFIRMATION-FOR-NCAT-20\_33352-REQUIRED-Waratah-Strata-Management-legally-present-at-Directions-Hearing-27Sep2020.pdf, pages 257-258

SP52948-brief-log-of-events-related-to-contracts-for-strata-and-building-managers-Oct-2020.pdf, pages 259-308

SP52948-brief-log-of-events-related-to-BigAir- eviction-and-deed-of-settlement-2018.pdf 309-338

SP52948-Stan-Pogorelsky-CTTT-Submission-personal-2011.pdf, pages 409-410

SCS-12-05845-Stan-and-Tessa-Pogorelsky-Submission.pdf, pages 411-412

SP52948-Jeffery-Wang-CTTT-Submission-personal-2011.pdf, pages 413-414

SCS-12-05845-Jeffery-Wang-Submission.pdf, pages 415-416

SCS-12-05845-Simcha-and-Moses-Levitt-Submission.pdf, pages 417-418

SP52948-CTTT-SCS-12-50460-Mozes-Levitt-submission-23Jun2013.pdf, pages 419-420

CTTT-SCS-11-00711-signature-campaign-full-summary-SP52948.pdf, pages 421-428

Stan-Pogorelsky-trying-to-prevent-information-about-CHU-Insurance-claim-and-fraud-3Apr2017.pdf, pages 429-432

SP52948-Stan-Pogorelsky-and-Moses-Levitt-difficulties-with-second-gas-connection-charges-April2017.png, pages 433-434

SP52948-repayment-of-8800-dollars-to-CHU-Insurance-for-invalid-claim-for-alleged-CTTT-defence-of-Lot-3-EC-member-Lorna-Zelenzuk-in-2012-and-2013.pdf, pages 435-436

SP521948-Minutes-EC-Meeting-4Mar2015-F1110818909.pdf Retrospective charges for gas usage, pages 437-438

SP52948-brief-log-of-events-related-to-electricity-supply-contract-in-2011-2015-and-2018.pdf, pages 439-456

CTTT-SCS-12-32675.html, pages 457-468

CTTT-SCS-12-50460.html, pages 469-480

Polite-note-to-Treasurer-members-of-committee-personally-liable-9May2019.pdf, pages 481-492

Strata-Plan-SP52948-undisclosed-use-of-Ryde-Council-land-for-parking-May2019.pdf, pages 493-498

SP52948-Risks-due-to-repetitive-water-leaks-without-proper-repairs-and-roof-membrane-neglected-maintenance-Block-A-Jan2019.pdf, pages 499-500

Request-to-urgently-pass-this-to-Fair-Trading-NSW-and-Office-of-Legal-Services-Commissioner-Deliberate-and-premeditated-plan-by-Waratah-Strata-Management-to-exclude-Lot-158-Motions-for-AGM-2017-23Jun2019.pdf, pages 501-504

SP52948-written-notes-for-EC-meeting-by-Waratah-Strata-Management-about-Solicitor-Adrian-Mueller-Deed-preparation-for-AGM-2019-and-confirmation-committee-members-not-willing-to-audit-unpaid-gas-levies.png, pages 533-534

SP52948-Solicitor-Adrian-Mueller-advice-on-23Aug2017-how-to-remove-Motions-by-Lot-158-and-prevent-them-for-AGM2017-by-simply-sending-letter-to-Lot-158-on-the-day-of-agenda-being-sent-in-October-2017-which-would-not-give-enough-time-for-amended-agenda.png, pages 535-536

SP52948-Waratah-Strata-Management-secret-letter-to-exclude-Lot-158-Motions-23Aug2017, pages 537-538

- The Tribunal member hand-picked a file, to which he had full access in three types of media but decided not to peruse them.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 24**

**393.**Tribunal statement:

*The applicant's documents included screen shots of meetings of minutes of the owners corporation. Some minutes had been extracted with Lot 158 making written comments about the particular resolution passed.*

**394.**Applicant's submission:

- Tribunal failed to review full copies of notices and minutes of meetings that were provided by the Applicant on USB keys, DVD, emails, and secure web site (due to voluminous evidence).
- The Tribunal had full access to unredacted notices and minutes of the meetings at:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#MEETINGS](#)

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored Applicant's repeated pleas to them and the Respondent to allow electronic delivery of documents on 18th and 25th of August, and 18th of September 2020 – as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 25**

**395. Tribunal statement:**

*The applicant's documents included a letter from the strata committee to Lot owners dated 21 July 2017 where the strata committee refers to the numerous legal proceedings taken by Lot 158 and the cost to the owners corporation of defending those proceedings. It also contained an exchange of correspondence in 2019 between the Solicitor for the owners corporation and a Solicitor who was acting for Lot 158 at that time. This correspondence (and other correspondence) involved allegations by the owners corporation that Lot 158 had engaged in conduct which was defamatory.*

**396. Applicant's submission:**

- Applicant submitted this file in four formats: paper copy, USB keys, DVD, and secure web site.
- Applicant's paper copy of this document was on pages 694 to 704 and was the last document in the folder.
- In the same folder, Applicant provided the following files documenting false statements to NCAT in 2011 and 2012, by two members of the committee who were part of Respondent group in NCAT 20/33352 (Mr. Moses Levitt and Mr. Stan Pogorelsky)

[SP52948-Stan-Pogorelsky-CTTT-Submission-personal-2011.pdf](#), pages 409-410

[SCS-12-05845-Stan-and-Tessa-Pogorelsky-Submission.pdf](#), pages 411-412

[SCS-12-05845-Simcha-and-Moses-Levitt-Submission.pdf](#), pages 417-418

[CTTT-SCS-11-00711-signature-campaign-full-summary-SP52948.pdf](#), pages 421-428

- Tribunal failed to review full copies of Respondent submissions to CTTT in 2011, 2012, and 2013, which were designed to hinder investigations and prevented proper review, where a group of owners and committee member who were not even financial in those years due to unpaid full levies for gas heating:

[SP52948-campaign-of-false-or-deliberately-misleading-submissions-to-CTTT-2011-2012-2013/](#)

- Tribunal failed to document in printed form on pages 567-568:

[E76.docx](#) Secret plan how to rebut Lot 158 statements on 25 June 2017

On page 2, committee members did not declare personal interest in changing gas levies.

On page 2 Mr. Moses Levitt confirmed he was paying \$55.00 from year 2001 but unknown date when it started, whilst not mentioning that gas levies were set to \$200.00 per year since 21<sup>st</sup> of July 1999:

[SP52948-Minutes-EC-meeting-yearly-gas-usage-levy-200-dollars-21Jul1999](#)

... confirmed at meeting on 17<sup>th</sup> of November 1999:

[SP52948-Minutes-EC-meeting-17Nov1999](#)

- Tribunal failed to review and inform itself about uncollected full levies (including 10% simple interest for each year) for gas heating for 20 years and the Respondent hiding it from owners.

[Folder with files](#) where four worst offenders are:

[Mrs. Lorna Zelenzuk \(ex-Chairperson and committee member\), Lot 3](#)

[Mr. Upali Aranwela \(ex-Treasurer and committee member\), Lot 62](#)

[Mr. Moses Levitt \(committee member\), Lot 147](#)

[Mr. Stan Pogorelsky \(ex-Chairperson and current committee member\), Lot 181](#)

- Tribunal failed to review full copies of notices and minutes of meetings that were provided by the Applicant on USB keys, DVD, emails, and secure web site (due to voluminous evidence).
- Tribunal failed to inform itself that secret letter dated 21<sup>st</sup> of July 2017 (sent by three unfinancial committee members Mrs. Lorna Zelenzuk, Mr. Moses Levitt, and Mr. Stan Pogorelsky) contained false and defamatory statements against the Applicant, trying to expose the Applicant to ridicule for uncovering fraud and mismanagement in the complex, engaging Solicitor Adrian Mueller for alleged defamation of committee members and strata managers which they never followed through, and preventing access to strata files:

[SP52948-Outcome-of-request-for-inspection-of-records-at-Waratah-Strata-Management-on-13Jun2017.html](#)

[SP52948-Minutes-EC-meeting-20Jul2017.pdf](#)

[2017/20170611-Re\\_Incident%20at%20Macquarie%20Garden%202011%20June%202017-2823.html](#)

[DOC240717-24072017164820-Letter-to-owners-24Jul2017.pdf](#)  
[SP52948-Solicitor-Adrian-Mueller-letter-23Aug2017.pdf](#)

- Tribunal failed to review and acknowledge persistent and deliberate attempts to cause fear, harassment, intimidation, stalking, and threats to the Applicant (including anonymous death threat that was reported to CTTT and Minister two times in 2013):
- [NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#A8](#)
- Tribunal failed to review and acknowledge that *uncollected full levies (including 10% simple interest for each year) for gas heating for 20 years and hiding full details from owners:*

*Folder with files where four worst offenders are:*

*Mrs. Lorna Zelenzuk (ex-Chairperson and committee member), Lot 3*  
*Mr. Upali Aranwela (ex-Treasurer and committee member), Lot 62*  
*Mr. Moses Levitt (committee member), Lot 147*  
*Mr. Stan Pogorelsky (ex-Chairperson and current committee member), Lot 181*

- Tribunal failed to review and verify that the Respondent attempted four times to conduct defamation case and each time cause unnecessary costs to the Applicant.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored Applicant’s repeated pleas to them and the Respondent to allow electronic delivery of documents on 18th and 25th of August, and 18th of September 2020 – as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 26**

**397.**Tribunal statement:

*The applicant's documents also contained multiple submissions by Lot 158 about the conduct of the owners corporation and his dissatisfaction with its management.*

**398.**Applicant's submission:

- Unqualified Tribunal statements without verification of the Applicant's documents, including photo and video evidence.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision -- NCAT SC 20/33352 Decision, Paragraph 27**

**399.**Tribunal Statement:

*The applicant's documents also contained purported links to websites that Lot 158 asserted supported his complaints against certain strata committee members; Mr Mueller; and the strata manager.*

**400.**Applicant's submission:

- Unqualified Tribunal statements without verification of the Applicant's documents, including photo and video evidence.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored Applicant's repeated pleas to them and the Respondent to allow electronic delivery of documents on 18th and 25th of August, and 18th of September 2020– as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 28**

**401.**Tribunal statement:

*The Tribunal did not investigate any of the links provided by Lot 158 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.*

**402.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored Applicant's repeated pleas to them and the Respondent to allow electronic delivery of documents on 18th and 25th of August, and 18th of September 2020 – as a consequence of it the Applicant had unnecessary costs above \$2,900.00 for printouts, new printer and cartridges.

## **Question of Law – Procedural fairness - NCAT SC 20/33352 Decision, Paragraph 29**

### **403. Tribunal statement:**

*The owners corporation did not file and serve any documentary evidence; nor did the individual strata committee members.*

### **404. Applicant's submission:**

- Tribunal failed to acknowledge that the Applicant warned them about the Respondent's repeated attempts to prevent investigations and engage in fraudulent activities, including non-compliant Annual General Meetings 2019 and 2020.
- Tribunal accepted the Respondent's single file (Solicitor Adrian Mueller's belated letter in January 2021) that contained no reference to any evidence, hence Tribunal directly acting with bias and prejudice.

### **Refer to Sections:**

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 30**

405. Tribunal statement:

*The only document relied upon by the owners corporation was written submissions dated 18 January 2021.*

406. Applicant's submission:

- Tribunal statement is misleading and wrong. Tribunal failed to confirm that Solicitor Adrian Mueller sent email to the Applicant and NCAT with three-and-half-page attachment "Respondent's Outline of Submissions.pdf" on 25<sup>th</sup> of January 2021:

From Adrian Mueller   
Subject Re: SC 20/33352 - Filing Party: First Respondent -v- SP 52948 and Ors - Filing Party: First Respondent 25/1/21, 3:35 pm (JSM 37289)  
To NCATCCDSydney <ccdsydney@ncat.nsw.gov.au>   
Cc 

Dear Registrar

I act for the first respondent in these proceedings.

I **attach** the First Respondent's Outline of Submissions.

I have included the applicants in this email and have arranged for a hard copy of the First Respondent's Outline of Submissions to be filed with the Tribunal and provided to the applicants.

Yours faithfully

**Adrian Mueller**

Partner | BCOM LLB FACCAL  
JS Mueller & Co Lawyers



**JS MUELLER & CO**  
LAWYERS

Level 1, 240 Princes Highway  
Arncliffe NSW 2205



- Tribunal failed to acknowledge that the Respondent did not include any evidence and used the same principles of statements-without-facts as in previous cases CTTT SCS 12/32675 and 12/50460, which were, after many years proved by the Applicant to be based on false statements and fraudulent activities.
- In email on 1<sup>st</sup> of February 2021 and registered letter on 2<sup>nd</sup> of February 2021, the Applicant provided 14-page document to the Tribunal and the Respondent (the Tribunal ignored this submission) which stated, among the others:

- 1. The Applicant requests that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct. Instead of dealing with the CTTT/NCAT cases, Solicitor Adrian Mueller secretly attempted to initiate four alleged "defamation cases", last time on 21 October 2020. His persistence to obstruct legal processes disqualify him from acting on behalf of few owners.*
- 2. Solicitor Adrian Mueller, even in the short outline of his response sent in email on 25 January 2021, failed to comply with Section 71 of the Civil and Administrative Tribunal Act 2013 which states that a person must not in any proceedings or application provide any information, or make any statement, to NCAT knowing that the information or statement is false or misleading. The Solicitor made such statements many times before and now tries to prevent NCAT to deal with them.*

To make his defence more vulnerable, the document that he emailed on 25 January 2021 has the following hidden metadata, showing with reasonable level of confidence, that Solicitor Adrian Mueller deliberately kept the document undisclosed to the Applicant and NCAT until the deadline to submit it expired:

**Producer:** Aspose.Words for .NET 18.4  
**Creator:** Microsoft Office Word  
**Created:** Mon 14 Dec 2020 00:55:00 AEDT  
**Modified:** Thu 24 Dec 2020 00:43:00 AEDT  
**Format:** PDF-1.5|  
**Number of Pages:** 4  
**Optimized:** No  
**Security:** No  
**Paper Size:** A4, Portrait (210 × 297 mm)  
**Size:** 83.4 kB

He performed similar conduct in the previous instances, including his advice how to prevent the Applicant from submitting Motions at AGM 2017.

Schedule 4, Clause 10(2) of the NSW Civil & Administrative Tribunal Act 2013 provides the following:

(a) If the party causing the disadvantage is the applicant – order that the proceedings (or part of the proceedings) be dismissed or struck out, or (b) If the party causing the disadvantage is not the applicant:

(i) determine the proceedings (or part of the proceedings) in favour of the applicant and make any appropriate orders, or  
(ii) order that the party causing the disadvantage be struck out of the proceedings (or part of the proceedings).

The Applicant submits the case where the Council of the NSW Law Society is seeking a finding of unsatisfactory professional conduct and a caution against a solicitor for making a false statement:

<https://www.lawyersweekly.com.au/biglaw/30449-solicitor-who-made-false-statements-faces-caution-and-costs-order>

3. The Applicant is aware that any party to proceedings in the Tribunal can apply for the issue of a summons, which was denied two times in previous CTTT cases without explanations. For that reason, and to avoid costs and procedures which are complex and not easy for the Applicant, we rely on the fact that the Tribunal itself can direct a registrar to issue summonses.

The complexity of requesting summonses (must provide 4 copies of the summons form to each party, fees, filling in the forms), made it difficult for the Applicant to address. The Tribunal is asked to have regard to the competing interests of the inconvenience and expense of compliance with the request to a summons recipient and the need for the party to the proceedings to have access to evidence to prove the case.

4. The Applicant strongly believes, based on fact that they were genuinely legal member of the committee in many previous years, had/has right to access all strata files, enforce Motions at AGMs be considered, organise EGMs, ensure tenders are conducted for all major contracts and multiple quotes obtained for major expenses, proper 10-Year Capital Works Fund planned, and all owners and tenants having equal rights in the complex, and prevent continuous bullying, stalking, harassment, and exposure to ridicule like it has happened to us. For those reasons, the Applicant requests that NCAT makes all orders as listed in the Statutory Declaration.

5. The Applicant is confident that if all owners and tenants had had access to full information of affairs in the complex (which they did not because of the Respondent's repeated and deliberate actions), they would have replaced/removed the Respondents from managing SP52948 on their own, without need for legal cases. The Applicant tried to avoid legal costs, hence multiple Fair Trading NSW Mediations that have no expenses but the Respondent declined to attend....”

From page 3 to 14 the Applicant provided brief details for the Hearing in response to Solicitor Adrian Mueller dated 25<sup>th</sup> of January 2021, with many links and evidence at the Applicant's secure web site for easy access and convenience. Extract from the document:

1) Even without the need to go through 700-odd pages of evidence that the Applicant provided in paper format (plus thousands of pages via emails, USB key, CD-ROM, and web site), the Respondent and Solicitor Adrian Mueller failed to refute the Applicant's Statutory Declaration in any form that is backed by evidence. Not a single reference to evidence was offered by the Respondent. It is irrelevant

that the Solicitor Adrian Mueller appears to be overwhelmed by the Applicant's evidence because the files were not meant for him but for the Respondent who should have full knowledge of the affairs in the complex.

2) The Respondent and Solicitor Adrian Mueller were offered to dispute the Applicant's evidence and allow democratic processes to vote on Applicant's Motions at many general meetings, which the Respondent and Solicitor Adrian Mueller prevented without valid reasons:

<https://www.vk2cot.id.au/NCAT-20-33352/NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/index.html#A7>

One of the efforts by the Applicant was to allow owners corporation to ratify past events with full disclosure of information. The ratification has a retrospective effect, and binds the principal from its date, and not only from the time of the ratification, for the ratification is equivalent to an original authority, according to the maxim, that omnis rati habitio mandata aequiparatur (ratification is equivalent to express command). As a general rule, the principal has the right to elect whether he will adopt the unauthorized act or not.

But having once ratified the act, upon a full knowledge of all the material circumstances, the ratification cannot be revoked or recalled, and the principal becomes bound as if he had originally authorized the act. The ratification must be voluntary, deliberate, and intelligent, and the party must know that without it, he would not be bound. Even the rushed and ill-prepared Extraordinary General Meeting on 15 January 2021 had the opportunity to comply with the strata laws and the Respondent chose to act contrary to them (notice of meeting not sent to Lot 158 in paper format, as requested since 2017), notice of the meeting not published on notice boards, agenda failed to include the Applicant's Motions that were not listed at AGM 2020, agenda failed to include Auditor's report that was done 11 days after the AGM 2020, agenda failed to include full details of SP52948 insurance, minutes of the meeting not published on notice boards, continuous fire safety non-compliance, second major event with blown sunroom 2x3 meter frame in last 9 years, which almost killed owners enjoying lunch in the BBQ area, disallowed four companies to compete for building management contract in spite of numerous failures of the current building manager and allowed contract worth close to \$350,000.00 per year to proceed without competition, still missing evidence of where around \$92,000.00 (GST incl) was spent on townhouses' improvements where no evidence of such work exists, lack of warranties for building painting, elevator upgrades, and much more).

3) The Respondent and Solicitor Adrian Mueller are fully aware of reasons why evidence goes back to 1999 because that is the time when levies were introduced for gas heating in amount of \$200.00 (plus GST from 1 July 2000), which a group of owners and few EC members failed to pay for 20 years, with many attempts to hide it from owners. Solicitor Adrian Mueller is fully aware of the Applicant's allegations of unfinancial owners and the Applicant has provided evidence about it. Unpaid levies do not have expiration date.

4) The Respondent and Solicitor Adrian Mueller are fully aware that the Applicant has both sufficient and irrefutable evidence of serious misconduct and lack of standards offered by EC members in question, strata managers, and the building manager, so much so that:

Evidence satisfies "on the balance of probabilities" requirement for civil legal case,

Evidence satisfies "beyond reasonable doubt" requirement for criminal legal case.

SSMA 2015 S238 states the Tribunal may, even on its own motion make any of the following orders: (a) an order removing a person from a strata committee, (b) an order prohibiting a strata committee from determining a specified matter and requiring the matter to be determined by resolution of the owners corporation, (c) an order removing one or more of the officers of an owners corporation from office and from the strata committee. The Tribunal may order the removal from office of a person, the Tribunal may remove a person if it is satisfied that the person has (a) failed to comply with this Act or the regulations or the by-laws of the strata scheme, or (b) failed to exercise due care and diligence, or engaged in serious misconduct, while holding the office. The Applicant does not seek all nine members of the committee to be removed but only six, those who persistently engaged in activities contrary to SSMA 2015 S238.

5) Solicitor Adrian Mueller provided false statements that "numerous documents and videos have not been served on the Owners Corporation which gives rise to the possibility that the Owners Corporation will be denied procedural fairness at the hearing". Not only the Applicant provided five sets of evidence (paper copies, DVD, USB keys, emails, online web accounts) but also has proof that the Respondent never tried to use them.

6) The Respondent and Solicitor Adrian Mueller yet again used regurgitated statements of "extensive and voluminous evidence to review". They are known for making such statements to legal entities and law-enforcement agencies with pleas not to investigate.

Examples from their requests to Police and Fair Trading NSW:

[SP52948-Waratah-Strata-Management-urging-Police-not-to-investigate-whilest-refusing-access-to-files-with-evidence-of-fraud-that-Lot-owner-alleges-13Apr2018.pdf](#)

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

7) The Applicant has irrefutable evidence that, being valid member of the committee who was disallowed to act as one due to other owners being elected whilst unfinancial, was prevented to act with duty of care at numerous general meetings:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/index.html#ECMEMBER](#)

8) The Respondent and Solicitor Adrian Mueller yet again used regurgitated statements of “orders being too vague to be capable of being made by the Tribunal, order that would prohibit the strata committee of the Owners Corporation from making any decision concerning all other major maintenance upgrades, the order to resolve disputes and settle complaints enforce compliance with the by-laws, act to prevent nuisance or hazards”... The Applicant states that the orders are very simple and easy to implement. In addition, Tribunal can, on its own, make a decision for Compulsory Strata Manager, which the Applicant did not officially request on purpose but provided NCAT with details of strata agency which is willing to help:

[StrataExcellence-8Oct2020.pdf](#)

Strata Excellence is one of the strata companies which the Respondent disallowed to be considered for contract at AGM 2020. The Applicant is giving chance to the Tribunal to make order for Compulsory Strata Manager based on, for example, legal cases:

- Hoare and Ors v The Owners-Strata Plan No 73905 [2018] NSWCATCD 45
- Bischoff v Sahade [2015] NSWCATAP 135 ('Bischoff') at [22]
- Strata-Plan-No-76317-v-Ho-2020-NSWCATAP-205-6-October-2020

9) Five sets of evidence (paper copies, CD-ROM, USB key, emails, online web accounts) have been provided to NCAT and the Respondent. The Applicant received nothing in return. The Applicant has made extraordinary steps to further simplify the evidence by providing streamlined Statutory Declaration (identical in text to the paper copy sent to NCAT in August 2020) that has online web links to critical references. Easy to follow and understand:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/index.html](#)

Of special interest are two links related to Solicitor Adrian Mueller and the fraud we allege happened (false statements to the Tribunal, OLSC, and Fair Trading NSW, false statements in Statutory Declaration to CTTT and District Court that he had prepared for BCS Strata Management, illegal representation of SP52948, earned fees through proceeds of crime - fraudulent insurance claims, and much more):

[Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12-32675/](#)

[Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12-50460/](#)

Those activities are of criminal nature, and indictable offences do not have expiration date. Both the Tribunal and all six parties for the Respondent have been provided with secure web site access since October 2020 and previously since 2015. The Applicant emphasises secure web site logs show that none of the Respondents ever attempted to view files or video evidence on the Applicant's website since October 2020.

10) NCAT Procedural Direction in February 2018 is significant in that NCAT has confirmed that the Tribunal is bound by the rules of evidence in only some proceedings including for example enforcement of jurisdiction of a civil panel and matters concerning professional misconduct. Applicant is led to believe that NCAT is bound to provide procedural fairness to all parties involved in an application. Everyone must have an opportunity to know the case against them, and an opportunity to defend the allegations made or test the evidence before NCAT. The Applicant does not seek any party to read all documents and evidence, rather it offers it as proof of high standards that everything can be verified if required. The Applicant believes in “trust through verification”.

11) Two-months late response by the Respondent, through Solicitor Adrian Mueller who failed to prove his retainer, came as late as 25 January 2021 and has little substance for any Applicant's response. Yet again, the Respondent failed to comply with Tribunal's order that “the parties must attempt to submit their documents by their compliance date”.

12) On 21 October 2020, with due diligence to avoid costs for all parties, the Applicant sent a repeated request to Solicitor Adrian Mueller to provide evidence of his retainer to represent SP52948:

a) That he had been approved to represent SP52948 strata committee and Waratah Strata Management at legally convened general meeting.

b) That all owners and the Applicant had been provided with signed Standard Costs Agreement at any time since 5 September 2019 (more than a year ago).

c) Provide NCAT with files that he illegally obtained in the past that would help prove the Applicant's statements. No response has been received, and no SP52948 owner has any detailed knowledge of his alleged legal representation. No SP52948 owner has any information about details of NCAT case 20/33352.

13) The Applicant's lawyers (O'Brien Criminal & Civil Solicitors) still have not received any response to official letter dated 24 April 2020. On 24 April 2020 O'Brien Criminal & Civil Solicitors sent legal letter with demand of access to SP52948 strata files (including those required for Police Event E65804633) to Executive Committee Secretary Mrs. Marianna Paltikian, who forwarded it to Waratah Strata Management:

Lot 158Letter24April.pdf

All Applicant's demands were left unanswered, in spite of statement to owners in minutes of EC meeting dated 7 May 2020: "Legal advice regarding Lot 158, including acceptance of barrister fee proposal - Subject to amendments required to the content of the costs agreement, the strata manager is instructed to sign the costs agreement under common seal for and on behalf of the Owners Corporation. The barrister is also to be requested to respond to the letter received from O'Brien Criminal & Civil Solicitors on behalf of Lot 158." Not only owners were deceived by such statements in the minutes of the meeting, but as well, strata manager and solicitors failed to comply.

14) Selective items related to legal representation of SP52948 by Solicitor Adrian Mueller (since 2012 he deliberately acted in non-compliance with CTTT/NCAT directions four times so far)...

15) Solicitor Adrian Mueller was aware of submission to Office of Legal Services Commissioner when he was advised by Waratah Strata Management in email on 21 June 2019 about complaint against him. In it, Waratah Strata Management said: "We advise that your advice is being funded jointly by the OC, Waratah Strata Management, and Uniqueco (building manager) and therefore your advice should be on behalf of all 3 parties.

We do however provide you with the attached email from Lot 158 which states that he lodged a complaint against you with the Office of Legal Services Commissioner. Please advise whether there is a conflict of interest for you in acting on this matter based on the complaint. If yes, please suggest how we should proceed ... On a related issue, we received from BCS at the change of strata managers a USB of their archive records. In April 2018, we provide that USB to the Police who were investigating a complaint lodged with them by Mr. Lot 158. Unfortunately, the Police lost the USB (We have correspondence to support that fact) We have 4 requested on a number of occasions for BCS to provide us with a copy of that USB (which we assume they will still have in their archive records), with no response. Please advise whether you have any connection with BCS management that may assist in having a copy of that USB provided". Currently, Solicitor Adrian Mueller has conflict of interest and is not acting for SP52948 but to defend own benefits and interests of small group of owners. The Applicant has a genuine concern that the Solicitor will not be impartial and as a result may not deal with the matter in a fair and balanced way. The test for determining whether a judge (read: any person) should disqualify himself or herself by reason of apprehended bias is objective: "whether a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial and unprejudiced mind to the resolution of the question the judge is required to decide": Johnson v Johnson (2000) 201 CLR 488 at [11], affirmed in Ebner v Official Trustee in Bankruptcy (2000) 205 CLR 337; applied in Michael Wilson & Partners Ltd v Nicholls (2011) 244 CLR 427; distinguished in British American Tobacco Australia Services Ltd v Laurie (2011) 242 CLR 283; see also Slavin v Owners Corporation Strata Plan 16857 [2006] NSWCA 71; Barakat v Goritsas (No 2) [2012] NSWCA 36 and Isbester v Knox City Council (2015) 89 ALJR 609. See also Chamoun v District Court of NSW [2018] NSWCA 187 per Gleeson JA at [39] (citing Tarrant v R [2018] NSWCCA 21) for discussion as to the four discrete elements required for the "double might" test.

16) Solicitor Adrian Mueller is fully aware that he is listed as person-of-interest in the following cases which now have irrefutable evidence of his involvement in fraud with personal benefits from proceeds of crime (fraudulent insurance claims and illegal representation of SP52948 in the past), which still need to be followed through:

Police Event E65804633  
Office of Legal Services Commissioner case 56561

He personally provided advice to the Respondent and prevented the Applicant's Motions at AGMs requiring him to co-operate with the Police and Office of Legal Services Commissioner since 2017.  
and more...

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 31**

**407.**Tribunal statement:

*The owners corporation submitted that the documents of the applicant were prolix and confusing. Such a submission accurately describes the documents.*

**408.**Applicant's submission:

- Statement by the Tribunal member is subjective and based on lack of understanding of the case and unwillingness to review the evidence. As the Tribunal ignored most of evidence, based on what facts could they have made such decision.
- At the Hearing, Solicitor Adrian Mueller admitted that he did not have access to the Respondent's files and that he did not read them in full. The Applicant poses the question: how can the Respondent's short response be considered as valid and acceptable?
- At the Hearing the Applicant clearly stated that the lack of knowledge of the case by Solicitor Adrian Mueller was irrelevant for the following reasons:
  - It was duty of legal representative to prepare properly,
  - Strata Manager and committee members did not have to engage legal help (especially not through non-compliant processes), because they had duty of care to know the events in the strata complex.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 32**

**409.**Tribunal statement:

*It was not a fact in dispute that the persons the applicant sought to have disqualified as strata committee members are currently members of the strata committee.*

**410.**Applicant's submission:

- Tribunal made a material error by submitting this statement.
- Solicitor Adrian Mueller deliberately mislead the Tribunal member by not disclosing that one member of the committee (Mr. Moses Levitt) resigned three weeks after the general meeting and was not a valid member on the day of Hearing on 11<sup>th</sup> of February 2021, as per Minutes of committee meeting held via internet on 11<sup>th</sup> of November 2020:

*Resignation of Mo Levitt from strata committee - Mo Levitt has submitted his resignation from the strata committee. A vote of thanks was passed to Mo for his many years of service to the committee.*

- Tribunal failed to acknowledge that because the Applicant is not given copies of notices and minutes of meeting since 2017, the Applicant was unable to warn the Tribunal about resignation of the committee member.
- Due to lack of access to strata files, the Applicant was prevented from disputing Solicitor Adrian Mueller's statement that all six owners listed in this case were current members of the committee, which further proved dysfunctional committee and serious mismanagement of the complex.
- The Applicant only belatedly obtained the minutes of this meeting:

[SP52948-Minutes-EC-meeting-11Nov2020.pdf](#)

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 34**

**411. Tribunal statement:**

*The Tribunal has considered all of the documents relied upon by the applicant. The Tribunal cannot discern from those documents any failure of strata committee members to comply with the SSMA; the SSM Regulations or the By-laws of the strata scheme. The Tribunal cannot discern any failure of strata committee members to exercise due care and skill; or engage in any serious misconduct.*

**412. Applicant's submission:**

- The Tribunal explicitly confirmed that they excluded reviewing files offered on secure website, in spite of their own orders at Directions Hearing on 25<sup>th</sup> of September 2020 and confirmation that such evidence was listed at Hearing on 11<sup>th</sup> of February 2021.

**Refer to Sections:**

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 35**

**413.**Tribunal statement:

*The Tribunal cannot discern any other grounds as having been established by the applicant to justify the removal of strata committee members.*

**414.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 36**

**415.**Tribunal statement:

*The Tribunal has no doubt that Lot 158 and Ms Lot 158 have strongly held views about certain strata committee members and the management of the strata scheme. However, those views are purely subjective. Viewed objectively, the documents provided by the applicant; the oral evidence of the applicant; and the submissions of the applicant do not satisfy the Tribunal that the identified strata committee members should be removed from office.*

**416.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 37**

**417.**Tribunal statement:

*When weighing the evidence the Tribunal has taken into account that the strata committee members did not give evidence.*

**418.**Applicant's submission:

- Tribunal showed significant bias and discrimination against the Applicant.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 38**

**419.**Tribunal statement:

*However, their failure to give evidence does not prove the case of the applicant. The onus is upon the applicant to establish (applying an objective test) that the conduct of the strata committee members is sufficiently improper, negligent, incompetent, or illegal (in the sense of failing to comply with legal obligations relevant to the operation of the strata scheme and the duties of strata committee member set out in s 37 of the SSMA) that the Tribunal should exercise its discretion to remove strata committee members from office.*

**420.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 39 and 40**

**421. Tribunal statement:**

*If allegations involve serious misconduct or significant illegal activity, then the standard of evidence required may involve application of the principles in *Briginshaw v Briginshaw* [1938] HCA 34; (1938) 60 CLR 336 at 362 (see also *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* [1992] HCA 66; (1992) 110 ALR 449 at 450.*

*However, it is unnecessary to express a concluded view as to whether or not the *Briginshaw* principles apply to consideration of whether a strata committee member should be removed under s 238 of the SSMA as, irrespective of the *Briginshaw* principles, the applicant has not provided sufficient evidence to satisfy the Tribunal that any of the strata committee members identified should be removed from office.*

**422. Applicant's submission:**

- Tribunal showed significant bias and discrimination against the Applicant.
- The Applicant's evidence that the Tribunal ignored satisfies both criminal and civil requirements for prosecution.

**Refer to Sections:**

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 41 to 45**

**423. Tribunal statement:**

*Under s 241 of the SSMA, the Tribunal has the discretionary power to order persons to do or refrain from doing a specified act. In essence, the Tribunal has the power to make injunctive orders.*

*However, s 241 of the SSMA is a remedy, not a cause of action. To consider making an injunctive order, the applicant must establish a relevant breach of the SSMA; the SSM Regulations; or the By-laws of the strata scheme, and then further persuade the Tribunal that it is appropriate to make the orders sought to remedy the identified breach.*

*The applicant has failed to satisfy the Tribunal that the owners corporation and/or the strata committee has breached the SSMA by making decisions regarding building management; maintenance; and/or capital works that were ultra vires. The applicant has been unable to clearly identify and support with documentary evidence any decisions of strata committee members that were undertaken without an appropriate resolution having been passed or being outside the functions identified in ss 36, 42, 43 and 44 of the SSMA.*

*The applicant has also failed to satisfy the Tribunal that strata committee members have failed to act with due care and diligence under s 37 of the SSMA.*

*Even if a breach of the SSMA; or the SSM Regulations; or the By-laws had been established, the order sought is that the Tribunal order the strata committee to comply with its legal obligations. An injunctive order for future compliance with existing statutory obligations is usually inappropriate because it has no utility: *Australian Competition and Consumer Commission v Dataline.Net. Au Pty Ltd* [2007] FCAFC 146; (2007) FCR 513 at [110]-[114]). The Tribunal is not persuaded that any order should be made that the strata committee perform future obligations that are already imposed by the provisions of the SSMA and the SSMA Regulations.*

**424. Applicant's submission:**

- Tribunal provided conditional statement to justify their lack of action, knowing that they were wrong.
- Tribunal allowed annual general meeting 2020 to proceed with advanced knowledge that it was going to be conducted in non-compliance with strata laws.
- Tribunal ignored evidence that Applicant's Motions for annual general meeting 2020 to allow owners corporation to ratify past events was disallowed without reasons by the Respondent.
- Tribunal avoided responsibility and duty of care for not only the Applicant, but 218 owners in the complex as well.
- Tribunal ignored evidence that annual general meeting 2019 was illegal and void and deliberately disallowed the Applicant to allow them to submit evidence after the general meeting 2020.

**Refer to Sections:**

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.

- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 46 to 49**

**425. Tribunal statement:**

*Special By-law 9 of the strata scheme gives the owners corporation power to: (a) Enter a Lot to inspect the common gas supply to cooking appliances. b) Determine whether the common gas supply has been tapped for appliances other than the internal bench top cooking appliances ('additional appliances'). (c) Impose on Lot owners who have diverted common gas to additional appliances an annual charge equal to the reasonable estimate of gas usage. Such a charge is to be by way of a levy and may be imposed retrospectively.*

*Special By-law 10 of the strata scheme imposed on Lot owners who own townhouses, from 15 February 2018 an obligation to have any gas water heater or gas heating appliance connected to a gas bayonet to be separately metered, and to pay for gas consumption. The special by-law also empowered the owners corporation to determine the fair and equitable manner for sharing gas and water charges amongst Lot owners.*

*Special By-law 11 prohibited Lot owners and occupants of the strata scheme from engaging in "unreasonable communications" or publishing "personal information". The By-law contains extensive definitions, including definitions of "communications"; "unreasonable communications" and "personal information".*

**426. Applicant's submission:**

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 51**

Tribunal statement:

*There was no information put before the Tribunal to indicate that the applicant was not entitled to vote at the meetings when Special By-laws 9, 10 and 11 were passed.*

Applicant's submission:

- Tribunal failed to acknowledge that the Applicant was prevented to submit Motions at general meetings:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#A7](#)

- Tribunal failed to acknowledge that the Applicant was prevented to act as member of the committee even though three (or in some years four) other owners were elected who were unfinancial to vote or be committee members:

[NCAT-20-33352-Lot-158-annotated-Statutory-Declaration-with-web-links/#ECMEMBER](#)

Refer to sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 53**

**427.**Tribunal statement:

*The applicant’s documentary submissions in respect of Special By-laws 9 and 10 do not appear to assert that the said by-laws affect any right or interest of the applicant (or any Lot owner or occupant) in the use of the applicant’s Lot or common property.*

**428.**Applicant’s submission:

- Tribunal failed to understand that the Applicant never made assertions about use of common property, unless Admin and Capital Works Funds common property are taken into account.
- Applicant’s provided irrefutable evidence that the by-laws were not applied equally, were approved at general meetings which did not satisfy quorums and allowed unfinancial owners to vote, prevented owners corporation to collect rightful income from some owners, and allowed special privileges to selective owners.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s Motions being excluded from agenda at various general meetings, including Applicant’s efforts to allow owners corporation to ratify past events.
- The Tribunal failed to review and acknowledge the Applicant’s repeated attempts to reason with the committee and strata manager, which included emails and Motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reasons.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 54**

**429.**Tribunal statement:

*Rather, Lot 158 asserts that members of the strata committee and the strata manager failed to properly audit and collect overdue levies for gas heating; and that members of the strata committee were not up to date with payment of levies that Lot 158 believed was owed by them. Accordingly, in Lot 158's opinion, they were not able to vote at general meetings of the owners corporation or be elected to the strata committee because they were in arrears of levies (statutory declaration of Lot 158 dated 18 August 2020 pp. 23-26 and 87-92). Lot 158 asserts that the strata committee has not fairly enforced Special By-laws 9 and 10 and has not collected the levies owed.*

**430.**Applicant's submission:

- If Tribunal accepted Applicant's statements in Statutory Declaration on pages 23-26 and 87-92 without reviewing any evidence, on what basis did the Tribunal ignore other Applicant's statements and claimed that they were not valid because their evidence was insufficient. This is especially important because the Tribunal failed to provide justification for this statement - by their own admission they did not review voluminous evidence the Applicant provided and could have only made such decision based on the Applicant's Statutory Declaration.
- If Applicant's Statutory Declaration is accepted in one part without verifying the evidence, then it has to be accepted for all other statements in the declaration.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law "Unreasonable Communications" being used two times against the Applicant before the Hearing and once after the Hearing.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant's Motions being excluded from agenda at various general meetings, including Applicant's efforts to allow owners corporation to ratify past events.
- The Tribunal failed to review and acknowledge the Applicant's repeated attempts to reason with the committee and strata manager, which included emails and Motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reasons.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraphs 55 to 57**

**431. Tribunal statement:**

*The Tribunal is not satisfied that the applicant has established that Special By-laws 9 and 10 are harsh, unconscionable or oppressive under s 150 of the SSMA. Lot 158’s subjective view that the Special By-laws have not been fairly enforced (which is not supported by any clear documentary evidence) is insufficient to have the said By-laws declared invalid.*

*In respect of Special By-law 11, Lot 158 asserts (at pp. 83-86 of his statutory declaration dated 18 August 2020) that it “victimises” Lot owners criticising the operation and management of the strata scheme; and exerts pressure on Lot owners to be silent.*

*Having considered the terms of Special By-law, the Tribunal is not satisfied that it unfairly restricts or fetters the rights of Lot owners to raise genuine issues pertaining to the operation and management of the strata scheme. The Tribunal infers that a reason behind the Special By-law being passed was the conduct of Lot 158 over a number of years, and in particular his voluminous documentation and complaints over a number of years.*

**432. Applicant’s submission:**

- If Tribunal accepted Applicant’s statements in Statutory Declaration on pages 23-26 and 87-92 without reviewing any evidence, on what basis did the Tribunal ignore other Applicant’s statements and claimed that they were not valid because their evidence was insufficient. This is especially important because the Tribunal failed to provide justification for this statement - by their own admission they did not review voluminous evidence the Applicant provided and could have only made such decision based on the Applicant’s Statutory Declaration.
- If Applicant’s Statutory Declaration is accepted in one part without verifying the evidence, then it has to be accepted for all other statements in the declaration.

**Refer to Sections:**

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
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- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law “Unreasonable Communications” being used two times against the Applicant before the Hearing and once after the Hearing.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s Motions being excluded from agenda at various general meetings, including Applicant’s efforts to allow owners corporation to ratify past events.
- The Tribunal failed to review and acknowledge the Applicant’s repeated attempts to reason with the committee and strata manager, which included emails and Motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reasons.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 58**

**433.**Tribunal statement:

*The applicant's documents contain correspondence from the strata manager; Mr Mueller Solicitor; and Lot owners where reference is made to Lot 158 sending large volumes of correspondence (most of which emanate from Lot 158) and the conduct of Lot 158 constituting, or verging on, harassment.*

**434.**Applicant's submission:

- Tribunal failed to review and acknowledge the Applicant's repeated attempts to reason with the committee and strata manager, which included emails and motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reasons.

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law "Unreasonable Communications" being used two times against the Applicant before the Hearing and once after the Hearing.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant's Motions being excluded from agenda at various general meetings, including Applicant's efforts to allow owners corporation to ratify past events.
- The Tribunal failed to review and acknowledge the Applicant's repeated attempts to reason with the committee and strata manager, which included emails and Motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reasons.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 59**

**435.**Tribunal statement:

*Considering the volume of Lot 158's documents and complaints over many years and the manner in which Lot 158 expresses criticism, the Tribunal is not satisfied that Special By-law 11 is harsh, unconscionable, or oppressive.*

**436.**Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law "Unreasonable Communications" being used two times against the Applicant before the Hearing and once after the Hearing.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant's Motions being excluded from agenda at various general meetings, including Applicant's efforts to allow owners corporation to ratify past events.
- The Tribunal failed to review and acknowledge the Applicant's repeated attempts to reason with the committee and strata manager, which included emails and Motions submitted at general meetings that Solicitor Adrian Mueller and strata manager disallowed without any valid reasons.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraph 60**

**437.**Tribunal statement:

*There is no evidence that the owners corporation has ever issued Lot 158 with a breach of by-law notice in respect of Special By-law 11 under s 146 of the SSMA; nor taken action against him for failure to comply with the by-law under s 147 of the SSMA.*

**438.**Applicant’s submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law “Unreasonable Communications” being used two times against the Applicant before the Hearing and once after the Hearing.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraph 61 to 63**

**439. Tribunal statement:**

*Special By-law 11 does not prevent Lot owners from attending meetings of the owners corporation, nor putting forward Motions to be considered at general meetings; nor bringing proceedings in the Tribunal.*

*Special By-law 11's restrictions on the manner in which Lot owners or occupiers can engage in "unreasonable communications" (which is defined as "communications which are unreasonable due to the content (defamatory, offensive or otherwise), volume, length or duration, or frequency of the communications") or disseminate "personal information" of Lot owners or occupiers is not, on the evidence before the Tribunal, harsh, unconscionable or oppressive.*

*The Tribunal is not satisfied that Special By-laws 9, 10 and/or 11 should be declared invalid under s 150 of the SSMA.*

**440. Applicant's submission:**

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law "Unreasonable Communications" being used two times against the Applicant before the Hearing and once after the Hearing.
- Tribunal statement is not factual and discriminates against the Applicant.
- Tribunal member used generic phrases, disregarding evidence, and even failed to make orders for access to strata documents that the Applicant paid for eight times in last nine years. The Tribunal member made statement in his decision that he could not figure out which files the Applicant wanted. Apart from USB keys, DVDS, and first registered parcel, in second registered parcel dated 16<sup>th</sup> of October 2020, NCAT received direct information about documents that the Applicant sought.
- The Tribunal member, by ignoring evidence that they had requested themselves at Directions Hearing, made decisions that do not comply with the strata and other laws.
- The Tribunal member, by ignoring evidence that they had requested themselves at Directions Hearing, allowed selective group of owners who did not fully pay prescribed special levies for 19 years to be on the committee, make by-laws supporting own interests, and disallowing the Applicant to be valid member of the committee as a full-levy-paying owner, and even prevented him to fully investigate Police Events, two alleged massive losses of strata files that Waratah Strata Management experienced in last three years and much more.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement and decision - NCAT SC 20/33352 Decision, Paragraphs 64 to 66**

**441. Tribunal statement:**

*Even if irregularities (i.e. the meetings did not comply with the SSMA or the SSMA Regulations) were established, the Tribunal would not exercise its discretion under s 24 of the SSMA to declare all of the Motions passed at such meetings invalid. Such an order would have a profound and deleterious effect on Lot owners and third parties. For example, Motions passed and acted upon involving the appointment of contractors to perform works to common property would be retrospectively declared invalid; and insurance entered into by the owners corporation would also be retrospectively declared invalid. There are overwhelming discretionary considerations against making the order sought by the applicant even if any breach was established.*

**442. Applicant's submission:**

- Tribunal's bias and discrimination of the Applicant is difficult to justify and understand.
- Speculative nature of the Tribunal's statements is not backed up facts.
- At a minimum, when significant irregularities are established, it should at least raise valid grounds to dismiss six members of the committee, refer Solicitor Adrian Mueller to Police and Office of Legal Services Commissioner, enforce tenders for strata and building management contracts at the earliest opportunity, and enforce that Applicant's Motions are considered by owners corporation at general meeting (thus allowing alleged democratic processes to proceed).

**Refer to Sections:**

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law "Unreasonable Communications" being used two times against the Applicant before the Hearing and once after the Hearing.
- Tribunal statement is not factual and discriminates against the Applicant.
- Tribunal member used generic phrases, disregarding evidence, and even failed to make orders for access to strata documents that the Applicant paid for eight times in last nine years. The Tribunal member made statement in his decision that he could not figure out which files the Applicant wanted. Apart from USB keys, DVDS, and first registered parcel, in second registered parcel dated 16<sup>th</sup> of October 2020, NCAT received direct information about documents that the Applicant sought.
- The Tribunal member, by ignoring evidence that they had requested themselves at Directions Hearing, made decisions that do not comply with the strata and other laws.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement - NCAT SC 20/33352 Decision, Paragraphs 64 to 65, and 67 to 70**

443.Applicant's submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal's bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal's decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant's USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents' history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law "Unreasonable Communications" being used two times against the Applicant before the Hearing and once after the Hearing.
- Tribunal statement is not factual and discriminates against the Applicant.
- Tribunal member used generic phrases, disregarding evidence, and even failed to make orders for access to strata documents that the Applicant paid for eight times in last nine years. The Tribunal member made statement in his decision that he could not figure out which files the Applicant wanted. Apart from USB keys, DVDS, and first registered parcel, in second registered parcel dated 16<sup>th</sup> of October 2020, NCAT received direct information about documents that the Applicant sought.
- The Tribunal member, by ignoring evidence that they had requested themselves at Directions Hearing, made decisions that do not comply with the strata and other laws.

**Question of Law – Procedural fairness and what evidence did Tribunal use to support their statement ad decision - NCAT SC 20/33352 Decision, Paragraphs 71**

**444.**Tribunal statement:

*The order sought that the owners corporation provide Lot 158 with documents from the past 7 years is clearly beyond the scope of s 232 of the SSMA. Firstly, no breach has been established (the relevant obligation to make records available for inspection being set out in ss 182 and 183 of the SSMA). Secondly, the orders sought go well beyond the rights of Lot 158 under s 182 (3) of the SSMA. Thirdly, the order sought is so vague and indeterminate that it would be inappropriate to make such an order.*

**445.**Applicant’s submission:

Refer to Sections:

- Question of Law – Procedural fairness - General concerns about Tribunal’s bias and discrimination against the Applicant, denying equal rights, procedural fairness, and natural justice - applies to all paragraphs in Tribunal’s decisions.
- Question of Law – Procedural fairness - Tribunal had advanced knowledge that the Respondent would not attend Hearing since 11th of December 2020 without disclosing it to the Applicant at Hearing on 11th of February 2021.
- Question of Law – Procedural fairness - Tribunal ignored evidence on Applicant’s USB keys, DVDs, and secure website that contains unredacted copies of 11,540 strata files the Police and Waratah Strata Management allegedly lost in early stages of Police investigations in Event 65804633.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller being engaged by the Respondent in persistent abuse of law, abuse of court processes to obtain personal benefits through fraud and proceeds of crime, and apprehension of bias since 2012.
- Question of Law – Procedural fairness - Tribunal ignored evidence of Solicitor Adrian Mueller using the same principle of not allowing Respondent to be present at Hearings in two cases SCS 12/32675 and SC 20/33352 and coercing the Tribunal to dismiss orders against the Respondent due to their non-attendance and alleged inability to defend themselves.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondents’ history of false and deliberately misleading submissions to CTTT in 2012 and 2013.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Special By-Law “Unreasonable Communications” being used two times against the Applicant before the Hearing and once after the Hearing.
- Tribunal statement is not factual and discriminates against the Applicant.
- Tribunal member used generic phrases, disregarding evidence, and even failed to make orders for access to strata documents that the Applicant paid for eight times in last nine years. The Tribunal member made statement in his decision that he could not figure out which files the Applicant wanted. Apart from USB keys, DVDS, and first registered parcel, in second registered parcel dated 16<sup>th</sup> of October 2020, NCAT received direct information about documents that the Applicant sought.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondent’s history of repeated data losses and efforts to destroy strata files and records.
- Question of Law – Procedural fairness - Tribunal ignored the evidence of Applicant’s Motions being excluded from agenda at various general meetings, including Applicant’s efforts to allow owners corporation to ratify past events.
- Question of Law – Procedural fairness - Tribunal ignored evidence of the Respondent’s history of repeated denials to the Applicant to access strata files in spite of paid document searches (even O’Brien Criminal and Civil solicitors were prevented from access to strata files).
- The Tribunal member, by ignoring evidence that they had requested themselves at Directions Hearing, made decisions that do not comply with the strata and other laws.

## **Examples of public and Member of Parliament views and concerns about NSW strata and operation of the Tribunal**

### **446.479 signatures for campaign for royal-commission-into-the-administration-of-civil-law-in-nsw**

### **447.Alex Greenwich Private Member's Statement about strata and problems in NSW, 4 June 2019, Legislative Assembly, NSW Parliament**

Extracts from his submission:

*The Government's responses to my representations show how difficult it can be to get fairness in schemes where serious corruption and dysfunction exist. Owners concerned that their strata manager and committee collude to misappropriate funds were told to raise their concerns about the strata manager with the strata committee or to ask the strata manager to add a motion to a general meeting to discuss the matter. Owners who were unable to get urgent repairs to damage that creates serious risks to health and safety were told to try mediation and tribunal action, despite the likelihood of a drawn-out case and lack of remedy even if the tribunal rules in their favour.*

*The Owners Corporation Network reports that this sort of serious dysfunction occurs regularly. In other cases of corruption, serious maladministration or when someone's health and safety is at risk there are oversight bodies that can investigate, such as the police, the Australian Securities and Investments Commission or SafeWork NSW. Fair Trading is not sufficiently resourced or empowered to enforce the law. We urgently need a dedicated commissioner for strata who has oversight and audit powers to review serious issues. A commissioner would address other strata challenges including defects, fire safety, proxy farming, short-term letting, renewal and sustainability.*

*Strata communities are more than just consumers of property services; they are constituents of the fastest-growing form of housing. They warrant a dedicated statutory officer to provide support and to advise government.*

### **448.Complaints-board nsw-civil-and-administrative-tribunal-ncat-corrupt-government-officials**

### **449.Bernard Gaynor public information that-aint-a-court**

Extracts from the website:

*The President of the New South Wales Law Society issued a very interesting newsletter last Monday, noting the win we achieved in the High Court.*

*He had this to say about tribunals in general after the New South Wales Civil and Administrative Tribunal (NCAT) was told to leave me alone by the High Court:*

*There has been criticism that appointments to tribunals in other states and at Commonwealth level have been political in nature. Notwithstanding the veracity of such claims, it does little to evoke public confidence in the justice system. Nor does it support the premise of the rule of law and the separation of powers.*

*You don't say.*

*I'll just point out here that during my merry adventures in the land of NCAT I was privileged to experience the full force of a tribunal system so politically impartial that the head of the Administrative and Equal Opportunity Division was forced to recuse herself from proceedings involving the world's most offended man.*

*The reason: unchallenged evidence was placed before the Tribunal that this magistrate and Mr Burns had been engaged in private conversations.*

*This same magistrate also liked to assist the HIV Legal Service with its fundraising events while presiding over matters in which the HIV Legal Service was acting. That is a big 'no no' under the NCAT code of conduct.*

*Or, at least, it should be.*