

Executive Summary:

According to available documents (files for many years are still undisclosed by BCS Strata Management and Waratah Strata Management) \$107,432.95 was paid for private water and gas reimbursements to selective townhouse owners in period 1997 to 2016, without a special resolution or registered by-law until 2013. Hidden scheme as allegedly applied to provide more equitable levies to townhouse owners who do not use lifts and have to share water and gas expenses for common property in buildings (units in buildings do not have individual water and gas meters).

Data for eight years is deliberately hidden from owners and undisclosed even though Strata Schemes Management Act 1996 S108 requires the financial documents to be provided upon payments. BCS Strata Management refused to provide access to full financial statements and receipts seven times in period 2011 to 2016.

Reasonable calculation of losses in the Admin Fund that includes data from missing years in period 1999 to 2017: \$200,000.00.

After uncovering this hidden scheme, BCS Strata Management, together with the Executive Committee of the large strata scheme at Macquarie Park, rushed to approve Special By-Law at general meeting in October 2012, without giving owners any details of the size of reimbursements. The Annual General meeting (AGM) was conducted without quorum and implemented number of steps in non-compliance with NSW strata laws. The Special By-Law was registered eight months later, on 6 May 2013. Since its registration, water and gas reimbursements were paid to selective townhouse owners in non-compliance with the by-law.

On average, only 18 (out of 26) townhouse owners claimed water and gas reimbursements. The financial data for these claims were undisclosed in balance sheets for owners at every Annual General Meeting (AGM) since 1997 (including the general meeting in November 2014).

Years 1997 to 2000: All gas and water reimbursements were illegal without a Special Resolution or Registered By-Law; owners who claimed these expenses were unfinancial; AGMs were void and invalid due to lack of quorum.

Years 2001 to 6 May 2013: All gas and water reimbursements were illegal without a Special Resolution or Registered By-Law; GST and Service Charges claimed by owners for gas usage as well; owners who claimed these expenses were unfinancial; AGM were void and invalid due to lack of quorum; owners corporation made illegal GST claims from the Australian Taxation Office for private expenses paid to townhouses from common funds.

6 May 2013 till August 2017: GST and Service Charges claimed by owners for gas usage in non-compliance with Special By-Law 13; owners who claimed these expenses were unfinancial at AGM 2013, AGM 2014, and AGM 2015; AGM 2013 and two following General Meetings were void and invalid due to lack of quorum; owners corporation made illegal GST claims from the Australian Taxation Office for private expenses paid to townhouses from common funds.

By having inequitable private water and gas usage reimbursements for selective townhouse owners (typically 18 owners out of 26), another illegal activity occurred over 15 years and at AGM 2014: the rights to vote at general meeting is affected by differences in lot entitlement. Drastic example for FY 2014: Townhouse owner of Lot A, with Lot Entitlement 55, did not have any water and gas claims and paid all levies in amount of \$5,125.82. Townhouse owner of Lot B, also with Lot Entitlement 55, after getting water and gas reimbursements, contributed in levies only \$4,607.16. Law says they cannot have equal rights to vote in NSW!

Details of all general meetings that did not comply with NSW strata laws or did not satisfy quorums in SP52948:

<http://www.nswstratasleuth.id.au/BCS-Strata-Management-SP52948-General-Meetings-without-Quorum-for-16-Years.pdf>

Details of water and gas reimbursements tpaid to selective townhouse owners and EC members in inequitable manner for various years:

<http://www.nswstratasleuth.id.au/BCS-Strata-Management-Illegal-and-Inequitable-Gas-and-Water-Reimbursements-for-Townhouses-1997-to-2016.pdf>

Details of engagement of Solicitor Mr. Adrian Mueller:

<http://www.nswstratasleuth.id.au/BCS-Strata-Management-Secretly-Engaging-Solicitor-Illegaly-and-Making-Premeditated-Insurance-Claims-2012-2013.pdf>

Motions by Lot 158 that EC members deliberately misquoted and misrepresented to ensure failure at AGM on 23 October 2013.

Motion: Occupational Health and Safety Risk Assessment

The Owners Corporation SP52948 by SPECIAL RESOLUTION pursuant to Section 47 of the Strata Schemes Management Act 1996, make an additional By-Law in the following terms:

SPECIAL BY-LAW: "Occupational Health and Safety Risk Assessment"

1. To comply with the Work Health Safety (WHS) Laws that commenced on 1st of January 2012 and accompanied by the Model Work Health and Safety Regulations (MWHRS), the owners corporation shall conduct professional OH&S Risk Assessment before each and every annual general meeting;
2. The OH&S Risk Assessment results shall be included in the agenda for every annual general meeting.

Motion: Repeal Special By-Law 13 "Sharing of water and gas costs"

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, approve the following changes to the Special By-Laws:

1. Repeal Special By-Law 13 "Sharing of water and gas costs";
2. To the extent of any inconsistency with previous by-laws, this by-law prevails.

Motion: Dispute Resolution Process

The Owners Corporation SP52948 by SPECIAL RESOLUTION pursuant to Section 47 of the Strata Schemes Management Act 1996, make an additional By-Law in the following terms:

SPECIAL BY-LAW: "Dispute Resolution Process"

1. The Executive Committee shall attempt to resolve all management disputes at the meetings within the complex;
2. If such resolution is unsuccessful or deemed unsatisfactory to any party, the Executive Committee shall request mediation at private meetings with help of voluntary members of the owners corporation;
3. If still unsuccessful, and any party requests mediation through free services provided by the Mediation Services Unit at the Department of Fair Trading, it shall be compulsory for the Executive Committee and the Strata Manager to attend and attempt to resolve the conflict through compromise and collaboration;
4. In the event that none of the above actions bring reasonable outcome of the dispute and any party requests adjudication through the Consumer, Trader and Tenancy Tribunal, the Executive Committee shall ask for an authority to seek legal advice at a general meeting by providing full details of the anticipated costs and reasons why the other mediation steps failed;
5. To the extent of any inconsistency with previous by-laws or motions, this motion prevails.

Motion: Equitable sharing of gas usage costs for townhouse owners

The Owners Corporation SP52948 by SPECIAL RESOLUTION pursuant to Section 47 of the Strata Schemes Management Act 1996, after any amendments, make an additional By-Law in the following terms:

SPECIAL BY-LAW: "Equitable sharing of gas usage costs for townhouse owners"

1. After each billing quarter, all townhouse owners shall receive a refund from the Administration Fund that is equal to gas usage incurred by an average owner in Blocks A, B, C, and D. The formula for a refund to townhouse owners shall be:
 - a) Add subtotal charges before GST for common gas supply in Blocks A, B, C, and D (invoice for pool area gas meter must not be included), as issued by utility provider for four gas meters at the end of each billing quarter;
 - b) Calculate the sum of per-quarter levies (1/4 of yearly levies) that designated lot owners in four buildings pay for additional gas appliances as per Special By-Law 12 "Control of common gas supply";
 - c) Subtract b) from a);
 - d) Divide figure obtained in Step c) by 192 (total number of lots in Blocks A, B, C, and D).
2. Strata Manager shall make prompt payment to each of 26 townhouse owners in amount obtained in Step 1. d) at the end of every gas billing quarter;
3. The Treasurer of the Executive Committee shall monitor these payments and report the progress every quarter;
4. A new accounting code shall be introduced in the bookkeeping to keep records of the gas refunds for townhouse owners;
5. Individual townhouse owners shall have the choice to opt-out of the gas usage refunds;
6. Strata Manager shall keep a register of townhouse owners who wish not to receive the refunds and shall make it public knowledge for all owners. Townhouse owners can only issue such requests in written form. These requests become enforceable as of date of the application.
7. A townhouse owner who submits request not to receive the gas refunds, and then decides differently at other time, shall not be entitled to receive these benefits retrospectively.
8. To the extent of any inconsistency with previous by-laws, this by-law prevails.

Motion: Equitable sharing of water usage costs for townhouse owners

The Owners Corporation SP52948 by SPECIAL RESOLUTION pursuant to Section 47 of the Strata Schemes Management Act 1996, after any amendments, make an additional By-Law in the following terms:

SPECIAL BY-LAW: "Equitable sharing of water usage costs for townhouse owners"

1. After each billing quarter, all townhouse owners shall receive a refund from the Administration Fund that is equal to 1% of water usage invoiced by shared water meter HDTC0039. The formula for a refund to townhouse owners shall be:

a) Obtain figure from invoice for common water meter HDTC0039,
as issued by the utility provider at the end of each billing quarter;

b) Multiply figure obtained in step a) by 0.01.

2. Strata Manager shall make prompt payment to each of 26 townhouse owners in amount obtained in step 1. b) at the end of every water billing quarter;

3. The Treasurer of the Executive Committee shall monitor these payments and report the progress every quarter;

4. A new accounting code shall be introduced in the bookkeeping to keep records of the water refunds for townhouse owners;

5. The decision to alter the water reimbursement percentage in step 1. b) for townhouse owners shall only be made at a general meeting;

6. Individual townhouse owners shall have the choice to opt-out of the water usage refunds;

7. Strata Manager shall keep a register of townhouse owners who wish not to receive the refunds and shall make it public knowledge for all owners. Townhouse owners can only issue such requests in written form. These requests become enforceable as of date of the application;

8. A townhouse owner who submits request not to receive the water refunds, and then decides differently at other time, shall not be entitled to receive these benefits retrospectively;

9. To the extent of any inconsistency with previous by-laws, this by-law prevails.

Motion: Improved Financial Reporting and Auditing

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, make an additional By-Law in the following terms:

SPECIAL BY-LAW: "Improved Financial Reporting and Auditing"

1. All invoices and payments shall be uploaded to Strata Manager's web site at the time of their settlement;
2. All quotes and tenders for work and services that relate to common property and the management of the complex shall be uploaded to Strata Manager's web site as soon as they become available;
3. Every month, a Treasurer of the Executive Committee (and Financial Subcommittee if applicable) shall receive a statement of all drawings from the trust account, together with a balance left in the bank. The Treasurer (and the Financial Subcommittee if applicable) shall review the statements and act promptly to correct any errors;
4. In each six-month period (February and August), a full report on the management of funds shall be sent to every owner (secure web access or email as preferred method of delivery to save the postage costs);
5. Every year, full expense transaction records income and expenditure statements together with balance sheet shall be provided to all owners at least 14 days before the annual general meeting to allow them to review the financials and make informed decisions (secure web access, email, or by post);
6. Individual townhouse owners shall have the choice to opt-out of the financial reporting scheme;
7. Strata Manager shall keep a register of owners who wish not to receive these reports and shall make it public knowledge. Owners can only issue such requests in written form. These requests become enforceable as of date of the application;
8. In the agenda for the annual general meeting the Treasurer of the Executive Committee shall provide written statement that they reviewed all accounts personally;
9. To the extent of any inconsistency with previous by-laws, this by-law prevails.

Motion: Repeal Motion 8 at AGM 205 with Re-Enactment of NSW SSMA 1996 Section 80A

The Owners Corporation SP52948 by ORDINARY RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, approve the following changes to enforce compliance with the NSW Act and enforce better duty of care in financial management:

1. Repeal (with re-enactment of the NSW Strata Schemes Management Acts 1996, Division 3, Section 80A (1)) Motion 8 at AGM 2005 that deleted limit on spending by executive committees of large strata schemes.
2. Re-enact NSW Strata Management Acts 1996, Division 3, Section 80A (1). The full text, as prescribed by the Strata Schemes Management Act 1996, Division 3, Section 80A shall be:

80A Limit on spending by executive committees of large strata schemes

(1) If a specific amount has been determined as referred to in section 75 (5) for expenditure on any item or matter, the executive committee of the owners corporation concerned must not, in the period until the annual general meeting next occurring after the determination was made, spend on the item or matter an amount greater than that determined amount for expenditure on the item or matter plus 10 per cent.

(2) The owners corporation of a large strata scheme may by resolution at a general meeting remove the limitation imposed by subsection (1) generally or in relation to any particular item or matter.

3. To the extent of any inconsistency with previous decision, this decision re-enacts (reintroduce) the NSW Strata Management Acts 1996, Division 3, Section 80A in full.

Motion: Repeal Special By-Law 8 “Acquisition of Additional Common Property”

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, approve the following changes to the Special By-Laws:

1. Repeal Special By-Law 8 “Acquisition of Additional Common Property”;
2. The Executive Committee shall not be allowed to acquire additional common property and have the unchallenged authority to make decision to spend 10% of the current Sinking Fund for common property acquisitions without general meetings.

Motion: Mandate Water Savings Program

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, make an additional By-Law in the following terms:

SPECIAL BY-LAW: “Mandate Water Savings Program”

- a) All owners in Blocks A, B, C, and D shall commit to Waterfix or similar program to install water saving devices within seven months of its approval at a general meeting. The investors can claim such small expense immediately through their tax return, whilst owner-occupier lots will benefit from lower shared expenses;
- b) Lot owners who experience and can prove insufficient water flows when saving devices are installed shall be excluded from the scheme;
- c) Monitoring of water, gas, and electricity usage shall be collected on a monthly basis from all common utility meters in the complex and usage patterns reported at each Executive Committee meetings.

Motion: Amend Special By-Law 9 "Control of excessive water usage"

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, approve the following changes to the Special By-Law 9 "Control of excessive water usage":

1. Delete the following Clause as unenforceable and non-compliant with owner's rights.

- Not keep more than one washing machine within their lot space.

1. Replace the following Clause in the Special By-Law:

The Owners Corporation shall by its agents, employees or contractors have the right to enter a lot to inspect the laundry, bathroom and kitchen areas to ensure compliance with this By Law and may also arrange for the necessary repairs to leaking taps/cisterns to be undertaken and recover the cost of such maintenance from the lot owner.

With the following:

If approved by the owner, the Owners Corporation shall by its agents, employees or contractors enter a lot to inspect the laundry, bathroom and kitchen areas to ensure compliance with this By Law.

2. Add the following clauses:

3. If Owners Corporation has reasonable and documented suspicion of excessive water usage in an individual lot, the Owners Corporation shall have the right to request access to that lot and investigate the claim;

4. If an owner of a lot is proven to cause excessive water usage, the Owners Corporation shall have the right to impose levy for that owner in the amount approved at a general meeting.

3. The full text of the amended Special By-Law shall say:

An owner and/or occupier of a lot must:

1. Ensure that leaking taps and/or cisterns within the lot are promptly repaired to prevent loss of water;

2. Not use the washing machine in their lot space for any purpose other than to wash clothing, towels, bedding etc used by residents of that lot;

3. If Owners Corporation has reasonable suspicion of excessive water usage in an individual lot, the Owners Corporation shall have the right to request access to that lot and investigate the claim;

4. If an owner of a lot is proven to cause excessive water usage, the Owners Corporation shall have the right to impose levy in the amount approved at a general meeting.

Motion: Training for Executive Committee Members and Declaration of Conflict of Interest

The Owners Strata Plan 52948 No. 52948 (the "Owners Corporation") by ORDINARY RESOLUTION (simple majority vote), pursuant to Section 47 of the Strata Schemes Management Act 1996, to approve training for Executive Committee members and declaration of conflict of interest in the following terms:

- a) Owners shall commit to FREE EC training either before or within two months after they become members of the Executive Committee. They shall confirm it in writing at the first consecutive meeting after the general meeting;
- b) Once a year, before their nomination at the general meeting, all candidates for the Executive Committee shall provide written declaration to the owners corporation stating that they do not have any conflict of interest that would preclude them from being members of the EC;
- c) The EC members shall declare any conflict of interest at the start of each meeting or before discussion of the relevant agenda item. Details of any conflict shall be minuted.

Motion: Positive Covenant

The Owners Corporation SP52948 by ORDINARY RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1996, approve and commit to proper proactive management of the complex to ensure increased value of properties and decrease financial losses due to delayed repairs:

1. Comply with an obligation imposed by a positive covenant and relating to the proactive maintenance and repair of property in the strata scheme pursuant to Strata Schemes Management Act (SSMA) 1996 Section 160;
2. Meet requirements pursuant to SSMA 1996 Section 75 (estimate amounts to be credited to the Sinking Fund that take into account anticipated major expenditure and schedule identified in the plan for the 10-year period to which the plan relates);
3. At every general meeting provide full details of at minimum two quotes for non-emergency major repairs, projects, and contracts due for renewal, and their funding from the Administration and Sinking Funds in the following year.

Motion: Introduction of Subcommittees

The Owners Corporation SP52948 by ORDINARY RESOLUTION (simple majority vote), pursuant to Section 47 of the Strata Schemes Management Act 1986, approve the introduction of subcommittees consisting of owners who are not members of the Executive Committee and one representative from the EC. The nominations for the subcommittees shall be open to all owners who are not already members of the Executive Committee.

1. The owners corporation may establish the following subcommittees (or as applicable):

- Finance and Legal
- Gardening
- Event and Social Activities
- Project (Capital) Works and Engineering
- Contract Management

2. The subcommittee shall operate for such a period of time as the owners' corporation may determine at the annual general meetings;

3. A subcommittee shall be constituted of the following persons who shall be appointed by the owners corporation at the general meetings (normally AGM) and subject to the removal and replacement thereby:

- a) A member of the Executive Committee (designated as the convenor of the subcommittee).
- b) Up to six (6) other owners who are not members of the Executive Committee.
- c) Members of the subcommittee cannot self-appoint themselves.
- d) In instance when more applicants wish to be members of a subcommittee, the preference shall be based on MERITS, SKILLS IN RELEVANT AREA, and CULTURAL DIVERSITY.
- e) Maximum term for any member of a subcommittee shall be two consecutive years. Compulsory "rotation" shall ensure "fresh blood" is introduced on a regular basis.
- f) Owner cannot be a member of more than two subcommittees.

4. The functions of a subcommittee shall be confined to those of an advisory and supervisory nature. For example, the Finance and Legal subcommittee shall review all invoices, payments, term deposits, expenditures, and provide summaries to the Executive Committee on monthly basis. They shall also look at legal obligations and conformance;

5. The members of a subcommittee shall elect their chairperson who shall preside at its meetings whenever possible. The chairperson is simply a coordinator with equal rights to all other members;

6. The meetings and proceedings of a subcommittee shall be regulated in such a manner as the subcommittee may from time to time determine;

7. The frequency of meetings of subcommittees shall be decided at discretion of their members;

8. The reports of the subcommittees shall be presented at each Executive Committee meeting (if applicable);

9. To the extent of any inconsistency with previous by-laws or motions, this motion prevails.

Motion: Procedure for convening Extraordinary General Meetings that directly relate to usage of Common Property

The Owners Corporation SP52948 by ORDINARY RESOLUTION (simple majority vote), pursuant to Section 47 of the Strata Schemes Management Act 1996, discuss and adopt the following process for convening extraordinary general meetings:

1. A request by any member of the owners corporation that relates to COMMON PROPERTY in the complex must not be submitted or considered for the extraordinary general meeting unless:

- a) It is fully documented,
- b) The proposer discloses all costs and financial or other benefits to themselves, their family, and their company (if applicable), and connections to the business that might create conflict of interest,
- c) The proposer justifies the requirement for an emergency meeting.

2. Proposals from third-parties (non-owners in the complex) shall be fully considered on their merits and the quality of information they provide. Proposals must be thoroughly reviewed at the Executive Committee level and rejected if incomplete. Only fully documented proposals shall proceed to be voted at the extraordinary general meeting;

The proposals from third-party in relation to common property must provide reason given why it should happen through emergency meeting and why it cannot wait until the scheduled annual general meeting;

3. In all other instances, to avoid unnecessary costs, the extraordinary general meeting shall occur as per NSW Strata Schemes Management Act 1996 and NSW Strata Schemes Management Regulation 2010.

Motion: Amend Special By-Law 12 "Control of common gas supply"

The Owners Corporation SP52948 by SPECIAL RESOLUTION, pursuant to Section 47 of the Strata Schemes Management Act 1998, approve the following changes to the Special By-Law 12 "Control of common gas supply":

1. Replace Clause 1 in the Special By-Law:

Enter a lot to inspect the common gas supply to cooking appliances

With the following:

If approved by the owner, enter a lot to inspect the common gas supply to cooking appliances;

2. Modify Clause 3 in the Special By-Law to state:

Impose on the owner of those lots in which the common gas supply has been diverted to additional appliances, an annual charge equal to reasonable estimate usage of gas having regard to the rated gas consumption of the additional appliances;

3. Modify Clause 5 in the Special By-Law to state:

The decision about the gas usage levy payable by each such individual owner shall be made at the annual general meeting, taking into account differences in power ratings for appliances each owner has and yearly increases in cost for gas delivery as imposed by the service providers;

4. Delete Clause 6 in the Special By-Law:

Introduce a retrospective levy on lots found to have tapped the common gas supply without permission from the Owners Corporation, any such charge to be at the absolute discretion of the Owners Corporation acting reasonably;

5. After amendments, the full text of the amended Special By-Law shall be:

In Addition to the powers, authorities, duties and functions conferred upon the owners Corporation by the Act and by-laws it shall have the following additional powers, duties and functions.

1. If approved by the owner, enter a lot to inspect the common gas supply to cooking appliances;

2. Determine whether the common gas supply has been tapped for the supply to appliances other than the internal bench top cooking appliances ("additional appliances");

3. Impose on the owner of those lots in which the common gas supply has been diverted to additional appliances, an annual charge equal to reasonable estimate usage of gas having regard to the rated gas consumption of the additional appliances;

4. Determine that such annual charge be a levy for the purpose of enforcing the payment thereof;

5. The decision about the gas usage levy payable by each such individual owner shall be made at the annual general meeting, taking into account differences in power ratings for appliances each owner has and yearly increases in cost for gas delivery as imposed by the service providers;

6. Continue to bill such levy until confirmation from a licensed gas fitter is received advising that no diversion of gas supply exists within a lot;

7. An owner and/or occupier of a lot must NOT connect an additional appliance to the common gas supply without:

a. First notifying the Owners Corporation in writing of the intention to do so;

b. Using only the services of a licensed gas fitter as approved by the Owners Corporation to carry out the installation;

c. Paying any charge when levied for the consumption of gas determined by the Owners Corporation;

d. Be responsible for the maintenance and repair of all fittings, pipe work and appliances attached to the common gas supply other than the gas supply piping to the boundary of the lot.

8. In the event that individual gas meters are installed to each and every lot such that consumption can be billed to each lot on a strictly metered basis the above requirements shall cease to have effect from the date of commencement of such direct billing of gas consumption.

6. To the extent of any inconsistency with previous by-laws, this by-law prevails.

AGM 2013: 20 owners present in person and 45 via proxy on 23 October 2013.

Of 45 proxies, 34 were given to EC member, who, along with a selective group of 19 (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 in period before 6 May 2013, and applied in non-compliance with new Special By-Law since 6 May 2013, hence directly decreasing their voting entitlements and being unfinancial. These secret and undeclared reimbursements were never provided in accounting books even in 2017.

One proxy vote given to a member of EC who was 1 ½ hours late for the meeting but counted as valid in all motions.

Reimbursements for private water and gas usage to selective townhouse owners applied discriminately and details undisclosed to owners for 13 years by 2013 and continued even in 2017.

13 owners, including few EC members did not pay levies for second gas connection in FY 2012 and 2013 (confirmed in secret invoice by BCS on 1 August 2016).

During document inspection on 13 June 2017, it was finally uncovered that group of 19 (possibly even more) owners in SP52948 failed to declare or pay full levies for second gas connection. Among them are units that still belong, or used to belong, to members of the Executive Committee. For some of them, the details of the installation of the second gas connection are unknown, so it is difficult to ascertain if the specific EC member was involved in avoiding levies and for how long (for example Lot 192).

Based on all available documents and minutes of meetings, so far the conclusion that can be reached with reasonable level of confidence is that the four EC members alone (Mrs. Lorna Zelenzuk Lot 3, Mr. Upali Aranwela Lot 62, Mr. Moses Levitt Lot 147, and Mr. Stan Pogorelsky Lot 181) owe to owners corporation around \$10,000.00 (plus 10% interest applied in each year) in UNPAID GAS LEVIES for the period of at least 15 years. It also means they were UNFINANCIAL and could not make any decisions at general meetings. The evidence shows that gas levies were set to \$200.00 as early as 21 July 1999 but never paid by EC members and owners with second gas connection until 2015!

Building report by Napier & Blakeley not presented to owners and CTTT Hearing although it was completed in July 2012.

Solicitor Mr. Adrian Mueller's engagement in CTTT cases during 2012/2013/2014 was not approved by the owners corporation at general meeting. BCS Strata Management changed insurance policy for SP52948 and made claim within several weeks without owners corporation approval.

EC members were fully aware of such requirement, as per email to another owner in 2010:

[BMC] Incredibly Body corporates are not allowed to appoint lawyers without a general meeting! Despite this we have obtained independent legal advice at the cost of Optus and both John and I are well aware of the typical lease issues. Please note that the expression "on terms not less favourable" means that we can negotiate after approval to lease. The ability to negotiate is greatly restricted by the uncertainty of whether a lease will be approved at all hence the unattractive position of signaling the lowball position to the lessee. All of the issues you have raised have already been discussed but nobody will spend time or money to resolve these if there is no certainty that a lease will be available. Complain to the NSW government about the ludicrous position that puts us in as joint owners!

Solicitor Mr. Adrian Mueller failed to comply with the CTTT orders on the following occasions:

CTTT non-compliance warning to the Solicitor in File SCS 12/32675 on 17 September 2012

Non-compliance with extension to submit evidence upon Solicitor's own request on 19 September 2012

CTTT non-compliance warning to the Solicitor in File SCS 12/32675 on 9 October 2012

BCS Strata Management and EC members approved the following status for the quorum:

QUORUM: A number of Lot owners present at the meeting own, and thus represented, more than one Lot. Owners present represented 25 Lots. Of these 25 Lots, owners representing 11 of these Lots had also submitted Proxies prior to the start of the meeting. Thus the quorum for this meeting comprised: Owners of 14 Lots representing themselves; and Proxies representing 46 Lots; being a total of 60 Lots represented either in person or by proxy. The quorum required was determined as 51 Lots after allowing for those Lots not fully paid. A quorum was therefore formed and the number of lots required to vote in the negative to prevent a Special Resolution being passed was determined as 16.

Evidence of secret invoice by BCS Strata Management for late levies for second gas connection sent in 2016 for FY 2012 and 2013 and examples of EC members who did not pay it on time but kept it undisclosed at all meetings.

(accounts only) GD Ref:	
<input checked="" type="checkbox"/> GENERAL DEBTOR REQUEST / <input type="checkbox"/> CHARGE TO LOT	
SP 52948	Body Corporate for
If charge is to be allocated to lot please complete below	
Lot No (if applicable):	
Authorization between body corporate and owner of lot.	YES NO
Name of Debtor	10FS, 147, 148, 163, 167, 181, 182, 3, 59, 62
Address for notice*	68, 102, 127, 44
Contact (ph/email)	
Amount (Excl. GST)*	\$ 100
GST*	\$ 10
Total Payable (Incl. GST)*	\$ 110
Date for payment	1/18/16
Charge Description (to appear on notice) (max characters - 20)	Gas line charges 2012 + 2013

**LEVY NOTICE AND TRUST RECEIPT
FOR STRATA PLAN 52948**

ABN: 79 491 891 602
1-15 FONTENOY ROAD
MACQUARIE PARK NSW 2113

Account Enquiries: 1300 889 227

BODY CORPORATE SERVICES
ABN 63 001 615 587

TAX INVOICE

Y & L ZELUNZUK
UNIT 3
1-15 FONTENOY ROAD
MAQUARIE PARK NSW 2113

Owner Reference No N 496749
Lot No: 3
Unit No: 3
Lot Entitlement: 44

Total \$ 2246.60

Issued 17 July 2015 on behalf of the owners of STRATA PLAN 52948

Account Summary

	Balance brought forward	1161.60
01/05/15	Cash Receipt 3962	1161.60-
01/08/15	Admin. Levy 01/08/15-31/10/15	836.00
01/08/15	Sinking Levy 01/08/15-31/10/15	220.00
17/08/15	Gas Usage 1/09/2000-31/10/2015	1085.00
	GST	105.60

TOTAL DUE BY 17/08/2015 (INCLUDES GST) \$2246.60

Payments received after 16/07/2015 will appear on the next notice

**LEVY NOTICE AND TRUST RECEIPT
FOR STRATA PLAN 52948**

ABN: 79 491 891 602
1-15 FONTENOY ROAD
MACQUARIE PARK NSW 2113

Account Enquiries: 1300 889 227

BODY CORPORATE SERVICES
ABN 63 001 615 587

TAX INVOICE

MR & MRS S POGORELSKY
181/1-15 FONTENOY ROAD
MACQUARIE PARK NSW 2113

Owner Reference No N 496571
Lot No: 181
Unit No: 181
Lot Entitlement: 52

Total \$ 1684.46

Issued 17 July 2015 on behalf of the owners of STRATA PLAN 52948

Account Summary

	Balance brought forward	1372.80
01/05/15	Cash Receipt 3973	1372.80-
31/07/15	Gas Usage up to 31/10/2015	311.66
01/08/15	Admin. Levy 01/08/15-31/10/15	988.00
01/08/15	Sinking Levy 01/08/15-31/10/15	260.00
	GST	124.80

TOTAL DUE BY 01/08/2015 (INCLUDES GST) \$1684.46

Payments received after 16/07/2015 will appear on the next notice

INVOICE**FOR STRATA PLAN 52948**

ABN: 79 491 891 602
1-15 FONTENOY ROAD
MACQUARIE PARK NSW 2113

MR & MRS U ARANWELA
UNIT 62
1-15 FONTENOY ROAD
MACQUARIE PARK NSW 2113

Account Enquiries: 1300 889 227

BCS STRATA MANAGEMENT PTY LTD
ABN 86 010 633 351

TAX INVOICE

Your Reference Number **N 463410**

Total \$ 55.00

Issued 15-July-2016 on behalf of the owners of STRATA PLAN 52948

Account Summary

	Balance brought forward	0.00
12/08/16	Gas Line Charge 2012	50.00
	GST	5.00
TOTAL DUE BY 12/08/2016 (INCLUDES GST)		\$55.00

Payments received after 14/07/2016 will appear on the next notice

SP52948 AGM
2013

Lot Number	Owner	Aggregate Entitlements 10000 Entitlement	Evidence
2	R & N Gonsalves	41	Proxy Paper AGM 2013 Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
3	L & Y Zelenzuk	44	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Unfinancial at AGM due to unpaid gas levies for second gas connection for more than 15 years until invoice sent by BCS Strata Management on 17 July 2015. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid. Ex Chairperson of the EC. Occasional EC member. Secretary of the EC in 2016/2017.
5	K Klein	44	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
10	E Saulits	44	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
15	M Baskin	46	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
21	T Karolewski	44	Proxy vote given to Stan Pogorelsky who was unfinancial at EGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 15 July 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid. Stan Pogorelsky is long-serving EC member. Stan Pogorelsky is Chairperson since 2016.
27	A Panda & S Tripathy	45	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
33	J & Q Wang	52	Present at AGM in person.
34	J & Q Wang	48	Present at AGM in person.
218	J & Q Wang	54	Present at AGM in person.
35	P Ng	51	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.

49	J Ward	43	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Came to meeting in person late by 1 1/2 hours. Long-serving EC member. Suddenly sold both properties and left in 2015.
57	J Ward	43	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Came to meeting in person late by 1 1/2 hours. Long-serving EC member. Suddenly sold both properties and left in 2015.
53	D & R Baskin	43	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
54	A Green	42	Proxy vote given to John Ward who was late for the meeting by 1 1/2 hours by which time most motions were already voted on.
62	U & M Aranwela	43	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Unfinancial at EGM due to unpaid gas levies for second gas connection for 2012 until invoice sent by BCS Strata Management on 15 July 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid. Long-serving EC member (Treasurer) until 2010.
70	A Pawlak	41	Present at AGM in person.
73	S & S Blechman	48	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
75	G & N Cohen	43	Proxy vote illegal, present at meeting in person.
80	Widjaya & van der Walt	49	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
93	P Gibbons	51	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
91	J Tao	58	Present at AGM in person.

93	P Gibbons	51	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
98	M Brincat-Lisano	37	Proxy vote given to Lot 158 but DISCARDED by BCS Strata Management and EC members due to Lot 98 owing \$0.10 (10 cents!) in strata funds. Present at AGM in person.
102	Y Park & H Kim	37	Proxy vote given to Lot 158. Unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 1 August 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.
107	J Cohen	37	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
111	T Chan	39	Proxy vote given to Lot 158 but DISCARDED by BCS Strata Management and EC members due to Lot 98 owing \$5.40 in strata funds.
130	S Quick	42	Proxy vote illegal, present at meeting in person. EC member who suddenly sold her property and left in 2016.
133	Hirschhorn	52	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
135	J Bonello	47	Present at AGM in person.
136	T & S Kemsley	46	Proxy vote illegal, present at meeting in person. Granted exclusive rights to common property at rushed Extraordinary General Meeting without compliance with the Special By-Law in May 2012.
137	T Kemsley	46	Proxy vote illegal, present at meeting in person. Granted exclusive rights to common property at rushed Extraordinary General Meeting without compliance with the Special By-Law in May 2012.
142	G Godbee	47	Present at AGM in person.
147	M & S Levitt	36	Proxy vote illegal, present at meeting in person. Unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 1 August 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.

148	B & P Yeend	32	Proxy vote given to Moses Levitt, who was unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 1 August 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid. Unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 1 August 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.
151	M McDonald	47	Proxy vote illegal, present at meeting in person. Long-serving EC member.
153	F & R Kim	36	Proxy vote given to Lot 158.
156	B Slon	37	Proxy vote given to Moses Levitt, who was unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 1 August 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.
158	DB	47	Present at AGM in person. The only owner who, along with proxies vested in him, voted against inequitable water and gas reimbursements to selective townhouse owners, and levies for second gas connection.
162	J Raymond	39	Present at AGM in person.
164	P Keating & K Narayan	49	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
167	M & P Friede	44	Proxy vote illegal, present at meeting in person. Unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 15 July 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.
159	R & K Desai	38	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
164	P Keating & K Narayan	49	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
176	S Zhu	52	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
172	S Luxmoore	46	Present at AGM in person.

177	M Chan	42	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
181	S & T Pogorelsky	52	Proxy vote illegal, present at meeting in person. Unfinancial at EGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 15 July 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid. Long-serving EC member. Chairperson since 2016.
183	Hendra Gunawan	46	Present at AGM in person.
188	R Lee	57	Proxy vote given to Lot 158.
190	K Poulos	50	Proxy vote given to Lot 158.
195	M Diacono	49	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013.
200	J & E Gore	54	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Recipient of undisclosed reimbursements for private gas and water usage.
203	Y Chen	55	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Proxy vote DISCARDED by BCS Strata Management and EC members due to Lot 203 owing \$8.66 in strata funds. Collected \$1,066.85 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage.
205	S Hwang	58	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution before 6 May 2013. Collected \$820.66 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage.
207	A Lee	55	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution before 6 May 2013. Collected \$1,267.85 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage.

212	G Anderson	57	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Proxy vote DISCARDED by BCS Strata Management and EC members due to Lot 212 owing \$3.87 in strata funds.
213	Ozer		Proxy vote given to Moses Levitt, who was unfinancial at AGM due to unpaid gas levies for second gas connection for 2012 and 2013 until invoice sent by BCS Strata Management on 1 August 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.
216	C Perera	54	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution before 6 May 2013. Collected \$413.19 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage.
219	J Young	54	Proxy vote given to EC member who was unfinancial due to undeclared water and gas reimbursements for private use without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution before 6 May 2013. Collected \$344.43 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage. Surviving wife suddenly sold her property and left in 2016.
	EC Member	55	Present at EGM in person. Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution since 1999 until registered Special By-Law on 6 May 2013. Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution before 6 May 2013. Collected \$242.91 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage.

SP52948
AGM 2013

AGM 2013: 20 owners present in person and 45 via proxy on 23 October 2013.

Of 45 proxies, 34 were given to EC member, who, along with a selective group of 19 (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 in period before 6 May 2013, and applied in non-compliance with new Special By-Law since 6 May 2013, hence directly decreasing their voting entitlements and being unfinancial. These secret and undeclared reimbursements were never provided in accounting books even in 2017.

One proxy vote given to a member of EC who was 1 ½ hours late for the meeting but counted as valid in all motions.

13 owners, including few EC members did not pay levies for second gas connection in FY 2012 and 2013 (confirmed in secret invoice by BCS on 1 August 2016). During document inspection on 13 June 2017, it was finally uncovered that group of 19 (possibly even more) owners in SP52948 failed to declare or pay full levies for second gas connection. Among them are units that still belong, or used to belong, to members of the Executive Committee. For some of them, the details of the installation of the second gas connection are unknown, so it is difficult to ascertain if the specific EC member was involved in avoiding levies and for how long (for example Lot 192). Based on all available documents and minutes of meetings, so far the conclusion that can be reached with reasonable level of confidence is that the four EC members alone (Mrs. Lorna Zelenzuk Lot 3, Mr. Upali Aranwela Lot 62, Mr. Moses Levitt Lot 147, and Mr. Stan Pogorelsky Lot 181) owe to owners corporation around \$10,000.00 (plus 10% interest applied in each year) in UNPAID GAS LEVIES for the period of at least 15 years. It also means they were UNFINANCIAL and could not make any decisions at general meetings. The evidence shows that gas levies were set to \$200.00 as early as 21 July 1999 but never paid by EC members and owners with second gas connection until 2015!

These are exact benefits to selective townhouse owners in FY 2013 alone that have never been disclosed to owners, Department of Fair Trading and CTTT (now NCAT):

MINYI XIA	\$2,104.45
A LEE	\$1,267.85
Y CHEN	\$1,066.85
FRANCOIS DEGROS & R PAN	\$910.13
SUN MIN HWANG	\$820.66
PING JI & QING ZHANG	\$759.52
HUIMIN RONG & JOHN LEE	\$752.74
K HA & H JIN	\$734.21
ROBERT BROWN	\$658.18
ANDREW CHOW	\$609.10
ANNA NG	\$602.88
ZIBA ZOHREHVANDI	\$466.37
HAN HONG YUN	\$427.18
ANNE PERERA	\$413.19
J YOUNG	\$344.43
ANGELINA LEUNG	\$611.79
EC MEMBER	\$242.91
Y GEE & S WOO	\$234.57
SEUNG HEE WOO	\$142.55

Agenda for AGM 2013:

MEETING INSTRUCTIONS

1. A vote may be cast in respect of each lot:
 1. In Person (if a Corporation by Company Nominee) or
 2. By duly appointed proxy (on prescribed form attached), which must be provided to the Secretary at or before the meeting. Note that for large schemes (over 100 lots) the proxy must be provided at least 24 hours before the meeting.

Note: A Proxy Appointment Form must be signed by all owners of the lot.

2. Motions listed requiring a Unanimous or Special resolution will clearly indicate so.
3. QUORUM: A quorum will consist of 25% of persons entitled to vote by considering:
 - a) Persons and Proxies present.
 - b) Unit entitlements of persons and proxies present.
4. VOTING ELIGIBILITY AND RIGHTS MAY BE EXERCISED ONLY IF EACH VOTER:
 - **1. Is financial (i.e. all levies and interest paid).
 2. Has answered all section 118 requirements.
 3. The 1st Mortgagee does not exercise Voting Rights.
 4. Is entered in the Strata Roll as Owner.

** Being unfinancial does not affect voting on a Unanimous Resolution.

STRATA SCHEMES MANAGEMENT ACT 1996 - SCHEDULE 2

10 Persons entitled to vote at general meetings

(1) Who has voting rights? Each owner, and each person entitled to a priority vote, has voting rights that may be exercised at a general meeting of the owners corporation, but only if the owner or person is shown on the strata roll and, in the case of a corporation, the company nominee is shown on the strata roll.

...

(8) Voting rights may not be exercised if contributions not paid A vote at a general meeting (other than a vote on a motion requiring a unanimous resolution) by an owner of a lot or a person with a priority vote in respect of the lot does not count unless payment has been made before the meeting of all contributions levied on the owner, and any other amounts recoverable from the owner, in relation to the lot that are owing at the date of the notice for the meeting.

(9) Effect of casting of priority vote If a priority vote is cast in relation to a lot, a vote on the same matter by the owner of the lot does not count. However, a priority vote has no effect unless at least 2 days' written notice of intention to exercise the priority vote at the particular meeting has been given to the owner of the lot.

(10) Effect of section 118 (notice to owners corporation of right to vote) This clause does not confer a right to vote on a person deprived of the right by failing to comply with section 118.

(11) Definition of motion In this clause, "motion" means a motion submitted at a general meeting of an owners corporation or on any election of members of the executive committee.

11 Proxies

(1) Who is a "duly appointed proxy"? A person is a duly appointed proxy for the purposes of this Part if the person is appointed as a proxy by an instrument in the form prescribed by the regulations.

(2) Form of proxy The prescribed form is to make provision for the giving of instructions on:

(a) whether the person appointing the proxy intends the proxy to be able to vote on all matters and, if not, the matters on which the proxy will be able to vote, and

(b) how the person appointing the proxy wants the proxy's vote to be exercised on a motion for the appointment or continuation in office of a strata managing agent.

(3) Proxy to be given to secretary of owners corporation The instrument is ineffective unless it contains the date on which it was made and it is given to the secretary of the owners corporation:

(a) in the case of a large strata scheme-at least 24 hours before the first meeting in relation to which the instrument is to operate, or

(b) in any other case-at or before the first meeting in relation to which the instrument is to operate.

(4) Period for which proxy effective An instrument appointing a proxy has effect for the period commencing with the day on which it takes effect and ending with the later of the first anniversary of that day and the conclusion of the second annual general meeting held after that day, unless it is sooner revoked or a shorter period is provided by the instrument.

(5) Proxy cannot vote if person appointing proxy votes A proxy cannot exercise a vote in relation to a matter if the person who appointed the proxy is exercising personally a power to vote on that matter.

(6) Effect of subsequent proxy An instrument made by a person appointing a proxy has no effect if the person makes a later instrument appointing a proxy and delivers it to the secretary of the owners corporation in accordance with subclause (3).

Ballot paper at AGM 2013.

Ballot paper conducted in non-compliance with SSMR 2010 Section 18.

Stephen Luxmore
V. 144 & 175

✓
S Luxmore ✓
M Levitt ✓
M McDonald ✓
S Pogorelsky ✓
S Quick ✓
J Wang ✓
J Ward ✓
R Hirschhorn ✓

✓
FRIEDR #167

✓
S Luxmore ✓
M Levitt ✓
M McDonald ✓
S Pogorelsky ✓
S Quick ✓
J Wang ✓
J Ward ✓
R Hirschhorn ✓

SP52948 Inequitable and Undisclosed Water and Gas Expenses Reimbursements to Selective Townhouse Owners 1997-2016

Cash Accounting Method - 26 Lots in Financial Year (FY): 1 September in any year to 31 August the following year

FY	Reimbursements	Average Reimbursements per Townhouse which Received Benefits	Number of Townhouses Receiving Reimbursements	Percentage of Townhouses Receiving Reimbursements vs Total Townhouses (x / 26)	Non-compliance with SSMA 1996 S108 (BCS Strata Management and Executive Committee refuse to provide access to files)
1997					Full accounting data undisclosed
1998					Full accounting data undisclosed
1999					Full accounting data undisclosed
2000					Full accounting data undisclosed, three EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2001					Full accounting data undisclosed, three EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2002					Full accounting data undisclosed, three EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2003	\$4,714.98	\$362.69	13	50.0%	Three EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2004	\$5,959.95	\$350.59	17	65.4%	Three current and ex- EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2005					Full accounting data undisclosed, two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2006					Full accounting data undisclosed, two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2007	\$6,973.47	\$435.84	16	61.5%	Two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2008	\$7,510.97	\$469.44	16	61.5%	Two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2009	\$6,686.64	\$417.92	16	61.5%	Two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2010	\$10,636.99	\$559.84	19	73.1%	Two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2011	\$6,435.25	\$459.66	14	53.8%	Two members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2012	\$10,563.18	\$621.36	17	65.4%	Two EC members recipients of benefits without disclosure, without Special By-Law, and without Special Resolution
2013	\$13,169.56	\$693.13	19	73.1%	Two EC members recipients of benefits without disclosure, Special By-Law not applied correctly

2014	\$12,099.05	\$672.17	18	69.2%	Two EC members recipients of benefits without disclosure, Special By-Law not applied correctly
2015	\$12,083.36	\$710.79	17	65.4%	One EC member recipient of benefits without disclosure, Special By-Law not applied correctly
2016	\$10,599.55	\$706.64	15	57.7%	One EC member recipient of benefits without disclosure, Special By-Law not applied correctly
Total	\$107,432.95				

SP52948 EC members and BCS Strata Management conducted illegal meeting and hired Solicitor Mr. Adrian Mueller secretly and in non-compliance with laws

The EC meeting was initiated by EC member's email sent to the members of the EC (except one elderly EC member), Strata Manager, and the Branch Manager on Friday, 6th of July 2012. **During 2012 and 2013, as proven four years later, Mr. Moses Levitt and Mr. Stan Pogorelsky were unfinancial due to unpaid second gas connection levies.**

This evidence was published on my public web site since 2012. No EC member or strata manager could refute the claims:

<http://www.nswstratasleuth.id.au/BCS-Strata-Management-Secretly-Engaging-Solicitor-Illegally-and-Making-Premeditated-Insurance-Claims-2012-2013.pdf>

<http://www.nswstratasleuth.id.au/SP52948-BCS-Strata-Management-Ran-Timewarped-EC-Meeting-to-Hinder-CTTT-Investigations-19Apr2013.pdf>

The costs to [owners corporation](#) for legal expenses, without providing any evidence to counter my extremely serious claims of mismanagement, were above \$62,218.00:

Cred. Code	Doc. Ref.	Doc. Date	Doc. Total (GST inclusive)	Chq. Date
4446	69179	28/10/2014	\$742.50	30/10/2014
84446	67976	29/07/2014	\$484.00	31/07/2014
84446	65777	6/03/2014	\$242.00	25/03/2014
84446	65461	14/02/2014	\$20,624.75	05/03/2014
84446	65483	18/02/2014	\$6,980.28	04/03/2014
84446	64289	8/11/2013	\$484.00	19/11/2013
84446	61904	24/06/2013	\$1,452.00	04/07/2013
84446	61223	10/05/2013	\$11,568.72	20/05/2013
84446	60252	6/03/2013	\$1,452.00	22/03/2013
84446	58762	15/11/2012	\$13,986.12	27/11/2012
84446	57380	10/08/2012	\$1,504.40	22/08/2012
84446	56130	28/05/2012	\$198.00	31/05/2012
84446	55003	13/03/2012	\$2,500.00	27/03/2012
	Total		\$62,218.77	

CTTT declared, after my serious but firm actions against Mr. Adrian Mueller, that this EC meeting was illegal and non-compliant with strata laws more than one year after the event! Here is an extract from CTTT's decision by Mr. Mak Harrowell dated 8th of November 2013:

84. This case is referring to a ratification of the acts of agent. Clearly the first resolution (motion 2 in the notice of meeting of 26 April 2013) is not a motion to ratify the actions of an agent or subordinate authority. Rather, it is a motion to approve the actions of the Owner Corporation through the Executive Committee taken on 9 July 2012 which the Owners Corporation has conceded in this application was not validly passed.

85. In my opinion, insofar as motion 2 sought to ratify the appointment of the lawyers to act on behalf of the Owners Corporation it was ineffective to do so. An Executive Committee cannot, in my opinion, use principles of ratification to validate an invalid resolution which the Executive Committee attempted to pass some 9 months earlier.

86. However, there was a second motion (motion 3) which sought to ratify the acts of the strata managing agent (being the actions of Mr Web in signing the costs agreement and the actions of Mr Bone in sending the cost agreement to the lawyer) in entering the costs agreement on behalf of the Owners Corporation with the lawyer.

87. For the reasons indicated above, in my view ratification was unnecessary. However, if I am incorrect in the view expressed above, in my view the resolution of the Executive Committee past 26 April 2013 would constitute a ratification of the acts of its appointed strata managing agent. The actions are "clear adoptive acts" by the Executive Committee which had power (if a valid resolution had been passed July 2012) to enter into the cost agreement with the lawyer without the need for a resolution passed by the Owners Corporation in general meeting.

The reason to impose penalty of \$8,800.00 on me (instead of \$15,580.00 as requested by EC members and their Solicitor Mr. Adrian Mueller) was based on ONE SINGLE alleged piece of "evidence": signed Standard Cost Agreement by BCS Strata Management on 25th of July 2012. After four years, by pure accident, I obtained access to many strata files at Waratah Strata Management which has evidence that BCS Strata Management did not have any signature on behalf of owners corporation AFTER the alleged signature date on 25th of July 2012.

The reason to impose penalty of \$8,800.00 on me (instead of \$15,580.00 as requested by EC members and their Solicitor Mr. Adrian Mueller) was based on ONE SINGLE alleged piece of "evidence": signed Standard Cost Agreement by BCS Strata Management on 25th of July 2012. After four years, by pure accident, I obtained access to many strata files at Waratah Strata Management which has evidence that BCS Strata Management did not have any signature on behalf of owners corporation AFTER the alleged signature date on 25th of July 2012.

An additional piece of belated evidence is the fact that alleged paper EC meeting that was carried out one week before the scheduled date on 19th of April 2013 had three members of the committee that were UNFINANCIAL:

Two of them for unpaid second gas connection levies in 2012 and 2013 (Mr. Moses Levitt and Mr. Stan Pogorelsky) and incomplete payments in other years (levies were set to \$200.00 since late 1999)

One of the for unapproved and secret reimbursements for private gas and water usage since 2000 without Special By-Law and Special Resolution

This information was hidden from CTTT by all EC members and BCS Strata Management.

To top it up, huge courier bill was secretly paid from owners corporation funds on the same day:

Plan:	NSW 52948	1-15 FONTENOY ROAD MACQUARIE P						
Creditor Code:	1	BODY CORPORATE SERVICES						
Document Ref.:	08090129	Document Total: 4717.86						
Invoice Document:								
Disstn Amount	Exp. Code	Expense Description	Raised By	Date Raised	Qty	Fund Ind	Batch Seq	Batch Date
851.56	COUR	Courier Service	Manual	19/04/2013	2	A	999	24/05/2013
85.16	GSTEX	GST Courier Service	Manual	19/04/2013	2	A	999	24/05/2013

Details of the secret EC meeting in Lot 181 (Mr. Stan Pogorelsky) who was unfinancial at the time:

Sent: Friday, 6 July 2012 12:48 PM
To: Gary Webb; 'jeffrey@adifferentcorner.com'; 'jhessink@rocketmail.com'; 'JWARD@doh.health.nsw.gov.au'; 'mcdonald151@bigpond.com'; 'zellew@primus.com.au'; 'pogo@ozemail.com.au'
Cc: Paul Bancob
Subject: Re: SP52948

Can we please convene an urgent meeting at anyone's apartment that is available on Monday 9 July at 7.30 PM for no more than 30 minutes for committee members only so I can respond with one voice to our strata manager

This is the only "evidence" of the agenda for this meeting. Several serious non-compliance issues:

- This unscheduled EC meeting was not convened in accordance with the SSMA 1996

Schedule 3 Part 2 Section 7 Clause 1 and 2:

7 Executive committee meetings may be required to be convened

(1) The secretary of an owners corporation or, in the secretary's absence, any member of the executive committee must convene a meeting of the executive committee if requested to do so by not less than one-third of the members of the executive committee, within the period of time, if any, specified in the request.

(2) If a member of the executive committee other than the secretary is requested to convene a meeting of the executive committee under this clause, the member may give, on behalf of the executive committee, the notice required to be given under clause 6.

The official Secretary of the EC was not invited to the meeting and was therefore absent: it was the Strata Manager himself, as appointed after the resignation of elderly EC member and reported in the minutes of the EC meeting held on 22nd of February 2012.

The single EC member alone organized this emergency meeting (other members of the EC blindly followed his orders and instructions).

The Strata Manager and the members of the Executive Committee did not provide any evidence to the contrary that the alleged EC meeting was convened without 1/3 of the members requesting it.

- This notice did not contain the exact specification where the meeting was to be held and detailed agenda. This was non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 6 Clause 3:

6 Notice of executive committee meetings

(3) The notice must specify when and where the meeting is to be held and contain a detailed agenda for the meeting.

"anyone's apartment" was certainly not a properly defined venue. The detailed agenda for the meeting did not exist too.

- This agenda was not sent to any owner on the strata roll who were not on the committee in the prescribed timeframe (at least 72 hours (clear-day notice – working days) before the meeting). Even one member of the EC did not get it, which was confirmed in "minutes" on 9th of July 2012. This was non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 6 Clause 1 and 4:

6 Notice of executive committee meetings

(1) An executive committee of a large strata scheme must give notice of its intention to hold a meeting at least 72 hours before the time fixed for the meeting:

(a) by giving written notice (which may be done by electronic means) to each owner and executive committee member, and
(b) if the owners corporation is required by the by-laws to maintain a notice board, by displaying the notice on the notice board.

...

(4) A notice may be given to a person by electronic means only if the person

has given the owners corporation an e-mail address for the service of notices under this Act and the notice is sent to that address

The 72-hour advanced notice is based on clear-day definition: working days. Since the invitation for the meeting was sent on Friday, 6th of July 2012 at 12:48 (early afternoon), and the alleged meeting was held on the following Monday, 9th of July 2013 at 19:30, it would have been impossible to deliver the agenda to all owners and comply with the 72-hour notice.

The Strata Manager and the members of the Executive Committee did not provide any evidence to the contrary that the agenda of the alleged EC meeting which the single EC member initiated alone on 6th of July 2012 failed to be distributed to owners in the complex at least 72 hours before the meeting (in fact, it has never been provided to owners or listed in the official Minutes Book).

This complex has the notice boards, and it is even a clause in the Schedule of Services in Strata Management Contract 2671 as signed between this strata complex and BCS Strata Management on 16th of June 1999 (page 7, item C). In this complex, the notice boards are very selectively used – only when it suites the Strata Manager and the EC members.

- Since the agenda was not sent to owners on the strata roll, it denied the right and natural justice to owners due to non-compliance with SSMA 1996 Schedule 3 Part 2 Section 11 Clause 2:

11 Decisions of executive committee

(2) A decision of an executive committee has no force or effect if, before that decision is made, notice in writing is given to the secretary of the executive committee by one or more owners, the sum of whose unit entitlements exceeds one-third of the aggregate unit entitlement, that the making of the decision is opposed by those owners.

Clause 6(3) of Part 2 of Schedule 3 of the Strata Schemes Management Act 1996 requires a notice of executive committee meeting to "contain a detailed agenda for the meeting", however unlike general meetings there is no express prohibition on passing resolutions that were not notified, and no (specific) power for a strata schemes adjudicator to invalidate such a resolution.

However if the issues voted on ranged outside of the "detailed agenda" there should be some capacity for adjudicators orders under the general power in section 138 of the Act. This needs to be considered in the context that the Act does not expressly require a strict connection between the agenda and the resolutions passed (in contrast to the requirement for general meetings).

There, however, must be some connection, however, or the requirement for an agenda to be provided would be superfluous. Moreover if business did not need to correlate in some way to the agenda, there would be no meaningful way for the veto in clause 11(3) of Schedule 3 to be exercised (which clause allows unit owners having more than one-third of the unit entitlements to prevent the executive committee from making a particular decision).

That veto must be exercised before the meeting, so necessarily it could not be exercised in respect of business raised at the meeting without notice (and hence potentially making the power to veto meaningless, which is unlikely to have been intended by Parliament).

• The Strata Manager and the members of the Executive Committee did not provide any evidence to the contrary that the alleged EC meeting held on 9th of July 2012 did not contain motion to confirm the minutes of the previous EC meeting. This was non-compliance with the SSMA 1996 Part 3 Section 22 Clause a and b:

22 What are the functions of the secretary of an owners corporation?

The functions of a secretary of an owners corporation include the following:

- (a) to prepare and distribute minutes of meetings of the owners corporation and submit a motion for confirmation of the minutes of any meeting of the owners corporation at the next such meeting,**
- (b) to give on behalf of the owners corporation and of the executive committee the notices required to be given under this Act.**

• The Strata Manager and the members of the Executive Committee did not provide any evidence to the contrary that the alleged EC meeting held on 9th of July 2012 was not attended by the Secretary of the EC (Strata Manager) and that he was not even invited to attend.

This was non-compliance with the SSMA 1996 Part 3 Section 22 Clause f and g:

22 What are the functions of the secretary of an owners corporation?

The functions of a secretary of an owners corporation include the following:

...

- (f) to convene meetings of the executive committee and (apart from its first annual general meeting) of the owners corporation,**
- (g) to attend to matters of an administrative or secretarial nature in connection with the exercise, by the owners corporation or the executive committee, of its functions.**

- The alleged minutes of the EC meeting held on 9th of July 2012 were not distributed to owners on the strata roll within 7 days after the meeting or at any time afterwards in following five years! This was non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 16.

16 Display of minutes

(1) Within 7 days after a meeting of the executive committee of a large strata scheme, the executive committee must:

- (a) give each owner and executive committee member a copy of the minutes of the meeting, and**
(b) if the owners corporation is required by the by-laws to maintain a notice board, cause a copy of the minutes of the meeting to be displayed on the notice board.

The Strata Manager and the members of the Executive Committee did not provide any evidence to the contrary that the minutes of the alleged EC meeting held on 9th of July 2012 were NOT distributed to owners in the complex within 7 days after the meeting, or at any time so far.

- The Minutes of this meeting have never not been recorded in the official Minutes Book:

4737863	N52948	PARK NSW	MACQUARIE	Minute Book	PCM Minute 04/01/2013	4/01/2013
4711985	N52948	PARK NSW	MACQUARIE	Minute Book	PCM Notice	21/12/2012
4641496	N52948	PARK NSW	MACQUARIE	Minute Book	AGM 17/10/12	10/12/2012
4641502	N52948	PARK NSW	MACQUARIE	Minute Book	ECM 05/12/12	10/12/2012
4590540	N52948	PARK NSW	MACQUARIE	Minute Book	Bld Mgr report for ECM	30/11/2012
4580084	N52948	PARK NSW	MACQUARIE	Minute Book	ECM Notice	28/11/2012
4305611	N52948	PARK NSW	MACQUARIE	Minute Book	AGM NOTICE & AGENDA on 17th October 2012	2/10/2012
3782295	N52948	PARK NSW	MACQUARIE	Minute Book	CM MINUTES	19/06/2012

This is non-compliance with the SSMA 1996 Section 102:

102 Minutes of meetings

An owners corporation must keep minutes of its meetings that include particulars of motions passed at those meetings

- The alleged minutes of this EC meeting were not written on stationery that contains Strata Agency's official letterhead.

- The meeting was held in Unit 181, owned by Mr. Stan Pogorelsky, who was unfinancial in 2012 and 2013 due to unpaid gas levies. That information was deliberately hidden from CTTT and Department of Fair Trading, and all owners.

Sent: Monday, 9 July 2012 10:18 PM
To: 'GaryW@bcms.com.au'; 'Paul.Banoob@bcsm.com.au'
Cc: 'jeffrey@adifferentcorner.com'; 'jessink@rocketmail.com'; 'JWARD@doh.health.nsw.gov.au'; 'mcdonald151@bigpond.com'; 'zeilev@primus.com.au'; 'pogo@ozemail.com.au'
Subject: RE: SP52948

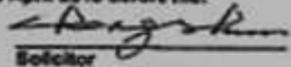
Paul/Gary

Please find minutes of our meeting held 7.30pm to 8.30pm tonight

Emergency Committee Meeting of SP52948
Held on: 9th July 2012
Location: Apt 181 Macquarie Gardens
Present: John, Sandy, , Joanne, Stan, Mo
Apologies: Maureen McDonald, Jeffrey Wang
Minutes:

1. The committee note that Betty Saulits may not have received email notice and we should mail her copies of minutes
2. 6 of 9 members being present a quorum was present.
3. Correspondence from CTTT regarding a directions hearing having been received last Friday urgent decisions regarding response and appearance were discussed.
4. It was unanimously resolved to appoint Adrian Mueller to represent the Owners Corporation at the directions hearing and to enter into an appropriate costs agreement noting that this may incur costs up to \$12,000.
5. It was unanimously resolved to instruct Napier & Blakey to conduct both the building condition survey and the asbestos inspection.
6. The chairman is to ask the managing agent to issue the necessary orders to N&B and sign the appropriate costs agreements after review with the chairman.
7. The building condition report (as soon as available) and AGM minutes (1999) approving water & gas rebates are to be provided to solicitor for production at CTTT.
8. Consideration of the correspondence to owners as part of the AGM and special resolutions concerning legal fees was deferred until after the outcome of the directions hearing.

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



Solicitor
SHUN CHENG

- The minutes of the alleged EC meeting held on 9th of July 2012 were sent to the members of the EC (except one elderly person), the Strata Manager, and the Branch Manager by EC member. No other owner ever received its copy.

The resolutions were not listed in the "agenda" on 6th of July 2012 (detailed agenda for the meeting was missing). This is non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 6 Clause (3).

CHU Insurance forced SP52948 to repay \$8,800.00 for alleged "CTTT Defence of Lot 3" four years after the event.

From: Robert Crosbie
Sent: Thursday, 23 March 2017 2:28 PM
To: 'Duncan Stuart'
Subject: RE: to sm Re: OC 52948 re CHU refund re LDX claim ref NH201212589 [29583]

Duncan,

We advise this issue was discussed at a committee meeting held last week and the committee have approved the refund of the \$8,800 to CHU. A cheque will be processed with our creditor payments early next week.

Regards,

*Pay \$8,800
to CHU*

Robert Crosbie
 Waratah Strata Management
 P.O. Box 125, Eastwood NSW 2122
 Ph (02) 9114 9599
 Fx (02) 9114 9598
www.waratahstrata.com.au

From: Duncan Stuart [mailto:____@mcb.com.au]
Sent: Wednesday, 11 January 2017 10:47 AM
To: simonbrikha@bcssm.com.au; _____@bodycorporatebrokers.com.au; Robert Crosbie
Subject: to sm Re: OC 52948 re CHU refund re LDX claim ref NH201212589 [29583]

Dear Simon,

I have called and left a message for you. In the meantime an email.

As you will recall CHU is chasing repayment of \$8,800 refund from an LDX claim. Details are set out in my email below.

I was wondering how things were progressing and in particular whether the obligation to repay the monies had actually been brought to the OC's attention.

I was told last week that the OC had moved to Waratah Strata so I should chase that company up. I did and have now been told that the OC is still with you until the end of January.

On 19/10/2016 12:34 PM, Duncan Stuart wrote:

Hello Simon,

I called yesterday and Linda from your office returned my call this morning.

As I explained to her CHU allowed a legal defences claim in respect of CTTT proceedings bought against it by _____. A total of 4 payments between 31 August 2012 and 4 June 2013 were made to the strata manager on the claim totalling \$24,919.31 not including GST. I do not have the invoices but the amounts of the payments and the dates are as follows:

CTTT Defence/Lot 3	31/08/2012	The Owners – SP 52948	\$ 1,504.40	\$ 1,000.00	\$ 136.76	\$ 367.64
CIII Defence Lot 3	7/12/2012	The Owners – SP 52948	\$ 13,986.12	-	\$ 1,271.47	\$ 12,714.65
CTTT Defence Lot 3	26/04/2013	The Owners – SP 52948	\$ 1,452.00	-	\$ 132.00	\$ 1,320.00
Defence Lot 3	04/06/2013	The Owners – SP 52948	\$ 11,568.72	-	\$ 1,051.70	\$ 10,517.02
Total Paid			\$ 28,511.24	\$ 1,000.00	\$ 2,591.93	\$ 24,919.31