

### **Executive Summary:**

**According to available documents (files for many years are still undisclosed by BCS Strata Management and Waratah Strata Management) \$10,599.55 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>

**Vicious bullying without evidence before AGM 2014 (standard procedure by BCS Strata Management and SP52948 EC members shown in agenda for the meeting. Time showed why they did it:**

Due to the difficulty in obtaining a venue suitable for a second large AGM so close to Christmas (if the first meeting has insufficient attendees in person or by proxy and almost 60 attendees will be required) it is requested that if owners are unable to attend personally that a proxy form be completed to allow the scheduled AGM to proceed on Wednesday 26th November at 7.30pm at the Epping Club.

Any owner, other than Mr \_\_\_\_\_, can contact me or any member of the EC, prior to the AGM, if they have any further questions regarding the past year of activities or the AGM process itself. The EC have requested I chair the AGM and I will do so. The EC have reviewed this letter and authorised me to sign on their behalf.

Key among the issues that \_\_\_\_\_ continues to raise are claims of self-enrichment by EC members. This is simply not possible as no EC member has ever had a conflict of interest with any contractor or received any benefit not available to other owners, or controls any cash or bank accounts. Just because Mr \_\_\_\_\_ uses pejorative words like "theft", "rigged tenders" and "forged documents" or "illegal activities" owners should not be concerned that any member of the EC would be involved in such activity. All the controls are in place to prevent this. The EC can only surmise this is simply a bitter man who overstepped the mark on past wild allegations in court and is sore about being made to pay out of his pocket for the grief and expense he caused all other Owners. Frankly if the EC are doing such a bad job its surprising that he has not sold his apartment but remains to enjoy the complex facilities and services provided.

We can confirm that the EC has been advised by the MA that all procedures for properly calling an AGM for 26th November 2014 have been followed. The AGM has to proceed to allow ordinary quarterly levies to be issued to fund the operations of the Owners Corporation or services will be reduced until levies are approved.

The EC can confirm that the accounts were independently audited, and that wide ranging representations regarding all required accounting records having been maintained by the MA were provided. Members of the EC have seen these records during regular reviews. The auditor provided an unmodified ("unqualified" is the colloquial term) of the special purpose financial statements. Any allegations regarding errors by Mr \_\_\_\_\_ would not alter the accounts as they appear to be largely issues of lack of comprehension by him. Over-runs on budgets are not "theft" of funds but simply actual costs exceeding budget.

One small action by the MA in maintaining rebates of gas connection charges does require rectification of a by-law as it reflects practice for 18 years incompletely transferred to a by-law at previous AGMs. Affected owners would have a case to make at NCAT if this correcting change was rejected as it simply maintains the same impact on townhouse owners as tower unit owners. This is neither material nor "illegal" but a simple mistake that needs correction.

Two major contracts affecting day to day operations, and your levies for at least the next two years, will be voted on at the AGM and we can confirm that proper tendering for both the strata managing agent and caretaker contracts were conducted exclusively by members of the Executive Committee in a commercially sensitive manner that did not disclose pricing to any tenderer (including the MA or any related company) to allow total fairness to all competitors. No rebidding after initial tenders were received took place and all alternative pricing was contained in initial tenders. No communication other than offers to tender or that necessary to communicate with potential tenderers for required tender information took place and at all stages at least two EC members were copied on all correspondence requesting or receiving tenders. At no stage did any tenderer receive any information on any other tenderer's pricing. Negotiations with BCS on a limited number of contract terms, underway prior to the tender were concluded as independently as possible before tenders were assessed.

The proxy form attached to the AGM notice is the appropriate form for the number of and importance of motions allowing lot owners to make certain choices individually (a copy is attached for your convenience). Last day to receive these is Tuesday 25th November 2014 at the MA office.

Determining who can or cannot vote cannot be completed until next Tuesday and any owner who owes small amounts that have been invoiced are urged to pay off these amounts immediately to be allowed to cast a vote or appoint a proxy for the AGM.

Many lot owners appear to have been sent numerous emails regarding the Annual General Meeting ("AGM") from . who is a co-owner of one lot in SP52948.

His emails make many incorrect and defamatory statements about the OC, current strata managing agent ("MA"), some of their past employees, the current EC chairman, Executive Committee members ("EC"), current caretaking contractors and other tenderers. The opinions expressed by are his alone, are generally incorrect, make incredible assumptions and are probably fictions of his imagination. Many of his facts are wrong, many of his allegations are false and his self-importance in presuming he has influenced the timing or actions of the EC are mind boggling.

The EC are concerned these emails should not be allowed to influence or interfere with the AGM on 26th Nov 2014. This AGM is very important to proceed as normal as it provides authority for levies for the next twelve months. Attending the meeting or providing a proxy is your democratic right as a lot owner and any assertions by Mr that this is "illegal" are completely wrong. Please ensure your vote is recorded one way or another.

It is extremely important for all owners to understand that Mr voluntarily entered into a settlement agreement (at his own request) with the OC that legally bars him from making any claims relating to any previous matters raised by him at CTTT (now NCAT) and the Supreme Court. The court ordered he pay costs (around \$26,000) to the OC as compensation for the expenses incurred by the EC in defending these matters, which amount he has paid. These matters are now closed. Many of these issues are the same issues he attempts to raise again.

While the EC is of the opinion that the appeal in the Supreme Court by Mr would have failed (he had been ruled against in all previous applications over three years), the EC concluded that it was in the best interest of the OC to minimise legal fees by agreeing to a settlement. For this reason Mr appears to be making claims that he cannot now substantiate in any court simply because he had to make restitution. A bad "case of sour grapes" would be a favourable description of his emails but "vitriolic personal attacks" might be more suited. All owners can form their own opinion that an order to pay the OC and having all previous claims and appeals denied confirms there was no case to answer and the OC and EC had done nothing even vaguely illegal.

**AGM 2014: 27 owners present in person and 39 via proxy on 26 November 2014.**

**Of 39 proxies, 36 were given to EC member, who, along with a selective group of 18 (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.**

**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

Caretaker's contract increased costs to ownwrs corporation by around 16% without tender.

BCS Strata Management contract "won" without tender for the 15th year in a row.

BCS Strata Management and EC members ensured further illegal and inequitable benefits to selective townhouse owners by changing a By-Law:

Amended by-law No. Special By-law 13

as fully set out below:

Special By-law 13 "Sharing of Water and Gas Costs" is amended by inserting after the words "or connection charges" in section 2 of the by-law the words:

"except for gas connections charges until all lots in the towers are also subject to a separate connection charge for gas".

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

by virtue of their status as financial or otherwise. The Chairperson advised that all Lots were financial with the exception of Lots; 38, 43, 54, 86, 99, 110, 144, 145, 163, 169, 173, 183, 192, 197, 199, 203, and 206. The Chairperson declared a quorum had been formed.

Evidence that Moses Levitt signed contract with Uniqueco Pty Ltd whilst unfinancial in SP52948 on 7 December 2014.

The contract value increased by around 16% without tender or competitive quotes, in non-compliance with NSW strata laws.

Date 7<sup>th</sup> December 2014

THE OWNERS CORPORATION STRATA PLAN 59248  
ABN 79 491 891 602  
("Proprietor")

AND

UNIQUECO PTY LTD  
ABN 44 169 421 194  
("Contractor")

AND

STEVEN CARBONE AND SANDRA CARBONE  
("Guarantors")

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**CARETAKING SERVICES AGREEMENT**

Page 25 of 27  
Macquarie Gardens Caretaking Services Agreement

Executed as an agreement.  
By the Proprietor  
The common Seal of the Owners  
Corporation was affixed in the presence of



Signature M. Levitt Signature \_\_\_\_\_  
Name of Authorised Person (print) MOSES LEVITT Name of Authorised Person (print) \_\_\_\_\_

being the persons authorised to attest the affixing of the seal.

By the Contractor:

Executed by UniqueCo Pty Ltd: )  
)

Signature of Company [Signature] Signature of Director [Signature]  
Secretary/Director  
Name of Company SANDRA CARBONE Name of Director (print) Steven Carbone  
Secretary/Director (print)

Evidence that Moses Levitt signed contract renewal with BCS Strata Management whilst unfinancial in SP52948 on 27 November 2014. The contract was approved without tender or competitive quotes, in non-compliance with NSW strata laws.

|   |                          |   |                         |
|---|--------------------------|---|-------------------------|
|   |                          |    |                         |
| Strata Management Agency Agreement  |                          | Dated: 27/11/2014   |                         |
| <b>THE OWNERS – STRATA PLAN NO. 52948</b><br>ABN 79491891602  |                          | <b>"Owners Corporation"</b><br>Address of strata scheme: 1-15 FONTENDY ROAD, MACQUARIE PARK NSW 2113  |                         |
| Attention:<br>Telephone: _____ Email: _____ Fax: _____  |                          |   |                         |
| <b>NAME OF AGENT: BCS Strata Management Pty Limited</b><br>ABN 86 010 633 351   |                          | <b>"Agent"</b><br>Licence No: 662 864   |                         |
| SCA NSW Membership No: 5764<br>Address: Level 2, 51 Rawson Street, Epping NSW 2121 Attention: Corporate Licensee<br>Telephone: (02) 9435 1400 Email strata@bcms.com.au Fax: (02) 8216 0331                                  |                          |   |                         |
| <b>Particulars</b>  |                          |   |                         |
| Item 1  | Professional indemnity   | Amount insured A\$20 million  |                         |
| Item 2  | commencement date        | 1 December, 2014  |                         |
| Item 3  | minimum term             | 2 Years   |                         |
| Item 4  | review date              | in relation to agreed services – annually on each anniversary of the commencement date<br>in relation to additional services rates – 1 <sup>st</sup> July each year commencing 2015<br>in relation to charges – 1 <sup>st</sup> July each year commencing 2015  |                         |
| Item 5  | percentage increase p.a. | 3% (and if no figure provided, the increase in CPI since the last review date)  |                         |
| Item 6  | agreed services fee p.a. | \$37,960.00 (incl GST) plus commissions in schedule C1 YES <input type="checkbox"/> NO <input checked="" type="checkbox"/><br>Insurers are to be directed to apply the financial benefit of any commission otherwise payable to the Managing Agent, for the benefit of the Insured party in the premium quoted and charged<br>If commissions are selected "YES", the agreed services fee is calculated on this basis. |                         |
| Item 7  | fee payment method       | Monthly in arrears  |                         |
| *All fees under this agreement are GST INCLUSIVE (Clause 9)   |                          |   |                         |
| Item 8  | manner of accounting     | Report to Treasurer   | frequency of accounting |
|   |                          | Six monthly financial statements & monthly reconciliation statement   |                         |
| <b>Signatures</b><br>Owners Corporation<br>The common seal of the owners corporation was affixed on<br>In the presence of:  |                          |   |                         |
| Signature * _____<br>Print Name _____<br>Designation _____  |                          |  Signature * <u>Moses Levitt</u><br>Print Name <u>MOSES LEVITT</u><br>Designation <u>Member Exec Committee</u>   |                         |
| being the person(s) authorised by section 235 of the Act to attest the affixing of the seal   |                          |   |                         |
| <b>Agent</b><br>Signed by BCS Strata Management Pty Ltd in the presence of:   |                          |   |                         |
| Signature of witness _____<br>Name of Witness – <u>Russell Young</u>  |                          | Signature _____<br>Name of authorised signatory – <u>Billy Chan</u>   |                         |
| Service: The owners corporation acknowledges receipt of a copy of this agreement within 48 hours of execution by the owners corporation (refer to page 5 for IMPORTANT NOTES to the parties when executing this agreement). |                          |   |                         |

BCS Strata Management justifying AGM delays due to alleged contract renewals.  
None of the supposed competitive quotes have ever been uncovered, in spite of paid document search as per SSMA 1996 S108.

**bcs**  
Body Corporate Services

24<sup>th</sup> October 2014

All Owners  
1 – 15 Fontenoy Road  
Macquarie Park NSW 2113

Dear Sir/Madam,

**RE: STRATA PLAN NO. 52948 – 1-15 FONTENOY RD, MACQUARIE PARK**

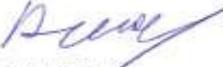
We are the strata managing agents for the above mentioned strata scheme.

Please be advised that the Scheduling of the Annual General Meeting of the Scheme has been deferred. The deferral has been to allow proper time for the sourcing and evaluating competitive quotes for 1) Building Management / Caretaking, and 2) Strata Managing Agency, as well as dealing with another un-related matter.

The date for the Annual General Meeting has not been set at the time of writing, but is expected to be set very soon. The Notice and Agenda will be issued to all Owners when the date for the AGM has been set.

The levies for the forthcoming year have not been resolved, as they normally would have been by this time. Both the value and timing of the Levies which would have been due in November 2014 will be determined during the Annual General Meeting, with allowance of time for Owners to make the payment of the first levy..

Yours faithfully  
**BCS STRATA MANAGEMENT - EPPING**

  
Russell Young  
**Portfolio Manager**

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:

GENERAL DEBTOR REQUEST /  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, 144  
 Contact (ph/email):

|                            |        |                           |
|----------------------------|--------|---------------------------|
| Amount (Excl. GST)*        | \$ 100 | Date for payment: 1/18/16 |
| GST*                       | \$ 10  |                           |
| Total Payable (Incl. GST)* | \$ 110 |                           |

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           |
| <b>TOTAL DUE BY 12/08/2016 (INCLUDES GST)</b> |                         | <b>\$55.00</b> |

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

SP52948 AGM  
2014

| Lot Number | Owner                | Aggregate Entitlements<br>10000<br>Entitlement | Evidence   |
|------------|----------------------|--|--|
| 1          | D, J & A Leo         | 40   | Proxy Paper AGM 2014<br>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.   |
| 2          | R & N Gonsalves      | 41   | 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 illegal - present at meeting in person. 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 illegal - present at meeting in person.   |
| 6          | D, J & A Leo         | 41   | 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 illegal - present at meeting in person.   |
| 12         | I Dewar              | 39   | 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.   |
| 22         | A Chan               | 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.   |
| 28         | W Kelly & Co Pty Ltd | 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.   |
| 42         | A Shrestha           | 50   | Present at AGM in person.  |

|     |                |    |   |
|-----|----------------|----|---|
| 33  | J & Q Wang     | 52 | Proxy vote given to C Montoya.  |
| 34  | J & Q Wang     | 48 | Proxy vote given to C Montoya.  |
| 218 | J & Q Wang     | 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.  |
| 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 illegal, present at meeting in person. Long-serving EC member. Suddenly sold both properties and left in 2015.   |
| 55  | J Wan          | 43 | Present at meeting in person.   |
| 57  | J Ward         | 43 | Proxy vote illegal, present at meeting in person. Long-serving EC member. Suddenly sold both properties and left in 2015.   |
| 46  | W Baboshyn     |    | 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 paper did not have datestamp - hence invalid.  |
| 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 AGM 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. |
| 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.  |
| 57  | A Richardson   | 31 | Present at AGM in person.   |
| 70  | A Pawlak       | 41 | Present at AGM in person.   |
| 75  | G & N Cohen    | 43 | Present at AGM in person.   |

|     |                   |    |  |
|-----|-------------------|----|--|
| 79  | L Cheng           | 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. |
| 82  | L Gong & Y Shi    | 44 | Present at AGM in person.  |
| 83  | S & J Craven      | 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. |
| 89  | R & L Kerr        | 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. |
| 92  | A & Z Vartazarian | 57 | Present at AGM in person.  |
| 102 | H Kim             | 37 | Present at AGM in person.  |
| 103 | D & B Hong Leo    | 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. |
| 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. |
| 112 | C Montoya         | 38 | Present at AGM in person.  |
| 114 | D Macmaster       | 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. |
| 122 | R Cohen Hallelah  | 50 | 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. |
| 128 | H He              | 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. |
| 130 | S Quick           | 42 | Proxy vote illegal - present at meeting in person. EC member who suddenly sold her property and left in 2016.  |
| 133 | R Rirschhorn      | 52 | Proxy vote illegal - present at meeting in person. EC member who suddenly sold his property and left in 2016.  |
| 135 | J Bonello         | 47 | Proxy vote illegal - present at meeting 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 | 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.  |
| 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 | P & B Yeend   | 32 | Proxy vote illegal - present at meeting in person.  |
| 150 | D Niar        | 37 | Proxy vote illegal - present at meeting in person.  |
| 151 | M McDonald    | 47 | 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. Long-serving EC member.                                      |
| 152 | W & J Lee     | 46 | Proxy vote given to Lot 158.  |
| 153 | F & R Kim     | 36 | 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 15 July 2016. Gas levies in amount of \$200.00 per year (plus GST since 2000) still unpaid.           |
| 156 | B Slon        | 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.  |
| 158 | DB            | 47 | Present at meeting in person. Ridiculed for asking questions and bullied by uncontrollable audience.  |
| 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.  |
| 160 | H Poulos                | 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.  |
| 168 | Elray Australia Pty Ltd | 41 | 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.   |
| 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.  |
| 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.  |
| 180 | M Garg                  | 44 | Present at AGM in person.   |
| 181 | S & T Pogorelsky        | 52 | 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. Long-serving EC member. Chairperson since 2016.  |
| 183 | Hendra Gunawan          | 46 | Present at AGM in person. According to Minutes of AGM, he was unfinancial and not allowed to vote.  |
| 185 | S Au & J Lee            | 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. Collected \$115.76 from Admin Fund for private water and gas usage between 1 September 2013 and the AGM. EC member in 2017. |

|     |                |    |   |
|-----|----------------|----|---|
| 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.  |
| 209 | R Brown        | 55 | <p>Recipient of undisclosed reimbursements for private gas and water usage without Special By-Law and Special Resolution before the AGM. In undisclosed email to Mr. Robert Crosbie at Waratah Strata Management on 10 April 2017 at 17:27 hours, he wrote:</p> <p>QUOTE</p> <p>My records show the last gas rebate for townhouse 209 ended 2.5 years ago on 25 September 2014. Since then the new tenancy agreement have been in place where the incumbent tenant pays for full gas charges.</p> <p>END QUOTE</p> <p>Unfinancial due to undisclosed outstanding levies for second gas connection as confirmed in Waratah Strata Management's email on 10 April 2017 at 17:08 hours. Collected \$658.18 from Admin Fund in FY 2013 due to inequitable reimbursements for private water and gas usage.</p> |
| 210 | J Lee & H Rong | 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 \$752.74 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.  |
| 213 | D & R Yeung    | 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.  |

|     |           |    |  |
|-----|-----------|----|--|
| 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 AGM in person. Recipient of undisclosed reimbursements for private gas and water usage without 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 2014

**AGM 2014: 27 owners present in person and 39 via proxy on 26 November 2014.**

**Of 39 proxies, 36 were given to EC member, who, along with a selective group of 18 (out of 26) townhouse owners (including one other Ex-member of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered Special 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.**

**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 2014 alone that have never been disclosed to owners, Department of Fair Trading and CTTT (now NCAT):

|                        |            |
|------------------------|------------|
| PING JI & QING ZHANG   | \$1,415.26 |
| SUN WOO & YU GEE       | \$1,262.45 |
| ANDREW CHOW            | \$1,114.97 |
| A LEE                  | \$1,021.84 |
| KISUNG HA & HYE OK JIN | \$957.02   |
| SUN MIN HWANG          | \$895.28   |
| XIAOJUAN LI            | \$839.67   |
| ANGELINA LEUNG         | \$784.70   |
| EC MEMBER              | \$736.30   |
| J LEE & H RONG         | \$733.42   |
| ROBERT BROWN           | \$588.61   |
| Y CHEN                 | \$490.23   |
| ZIBA ZOHREHVANDI       | \$466.32   |
| J & E GORE             | \$327.88   |
| MINYI XIA              | \$196.69   |
| H H YUN                | \$109.00   |
| ANNE C PERERA          | \$82.38    |
| J YOUNG                | \$77.03    |

**Agenda for AGM sent on 11 November 2014:**

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).

**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   |

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

**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, 6<sup>th</sup> 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 8<sup>th</sup> 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 25<sup>th</sup> 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 25<sup>th</sup> 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 25<sup>th</sup> 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 25<sup>th</sup> 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 19<sup>th</sup> 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 22<sup>nd</sup> 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 9<sup>th</sup> 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, 6<sup>th</sup> of July 2012 at 12:48 (early afternoon), and the alleged meeting was held on the following Monday, 9<sup>th</sup> 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 6<sup>th</sup> 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 16<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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

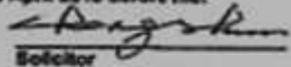
Paul/Gary

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 6<sup>th</sup> 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,

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

*Pay \$8,800  
to CHU*

**From:** Duncan Stuart [mailto:\_\_\_\_\_@mcb.com.au]  
**Sent:** Wednesday, 11 January 2017 10:47 AM  
**To:** [simonbrikha@bcssm.com.au](mailto: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        |
| <b>Total Paid</b>  |            |                       | <b>\$ 28,511.24</b> | <b>\$ 1,000.00</b> | <b>\$ 2,591.93</b> | <b>\$ 24,919.31</b> |