

Agenda of the EC meeting contained deliberately very brief and carefully crafted message so that owners did not know the nature of the insurance claim. I personally warned Mr. Robert Crosbie before two weeks before the meeting to provide thorough information to owners, who had vested interest to know how their complex was managed and how their money was spent. Waratah Strata Management declined:

13 MCCULLOCH & BUGGY EMAIL

That the correspondence from McCulloch & Buggy Lawyers regarding an insurance claim be tabled and a decision made on what further is to be taken.

EC Meeting on 16th of March 2017 recorded the following decision:

The correspondence from McCulloch & Buggy Lawyers regarding an insurance claim was tabled and discussed. The strata manager advised that he has reviewed all of the relevant correspondence and that a Legal Defence insurance claim relating to legal action commenced by Mr _____, owner of Lot 158, totalling \$28,511.24 was lodged in 2012/2013. Following deductions of \$1,000 Excess and \$2,591.93 GST, the strata plan received \$24,919.31 from CHU Insurance. Following an NCAT order against Mr _____, the strata plan received \$8,800 from Mr _____ on 22 July 2014 being a refund of the strata plans legal expenses in relation to this matter. CHU Insurance have requested and are entitled to receive these funds. Resolved the strata manager is to pay \$8,800 to CHU Insurance.

After the EC meeting, I tried SIX TIMES to reason with each EC member and BCS Strata Management, who not only declined to inform owners, but also failed to correct statements in the Minutes of the meeting. The insurance claim is for CTTT case that never had Lot 3 as a "main target". Instead, it was one of MANY issues of mismanagement of the complex, and CTTT did not even deal with Lot 3 (due to misleading and misconstrued statement by Solicitor Mr. Adrian Mueller that Lot 3 was overseas and could not attend the Hearing that had been scheduled one month earlier; that evening Lot 3 was present in person at the AGM, so information given to CTTT was incorrect).

BCS Strata Management and EC members, without knowledge or disclosure of owners corporation made four insurance claims for alleged "legal defence of Lot 3" and now CHU Insurance is requesting some (possibly all) money to be reimbursed because I paid from my own pocket for dismissed CTTT case \$26,500.00. The details of the CTT case and conduct how it happened are partially disclosed herewith and at this website (it is known to all EC members and strata agencies for six years):

<http://www.nswstratasleuth.id.au/>

Owners should ask the following questions:

1. Why is Lot 3 not mentioned to owners in regards to reasons for the CHU Insurance claim?
2. Who did Lot 3 defend themselves against at CTTT and why?
3. What is the CTTT case number and where are the details of Lot 3 "defence" at CTTT hearings?
4. What was the reason for whole owners corporation to "defend" one owner (Lot 3) by claiming close to \$25,000.00 on insurance for legal fees?
5. Why have not the legal costs ever been disclosed to owners corporation?
6. Why did BCS Strata Management and EC members destroy details of accounting figures for legal fees in 2013?
7. After Lot 158 paid hefty penalty for dismissed CTTT case (in spite of 3,000 pages of hard and undeniable evidence, versus no documents from BCS Strata Management and EC members), why did BCS Strata management and EC members kept it secret from CHU Insurance that they had double-dipped for legal payments?
8. Why should owners corporation pay for the recovery of funds to CHU Insurance instead of BCS Strata Management and EC members who incurred these costs?
9. Personally, I have requested that not a single cent from my levies can go to repayments of insurance claim for as I already paid, so I am asking for credit in amount of my share that owners corporation would pay to CHU Insurance.

SSMA 2015 Section 43 – Functions of Secretary of Owners Corporation

STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 43

Functions of secretary of owners corporation

43 Functions of secretary of 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 the strata committee of the owners corporation notices required to be given under this Act,
- (c) to maintain the strata roll,
- (d) to enable the inspection of documents on behalf of the owners corporation in accordance with this Act,
- (e) to answer communications addressed to the owners corporation,
- (f) to convene meetings of the strata 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 of functions by the owners corporation or the strata committee of the owners corporation,
- (h) any other functions conferred on the secretary under any other Act or law.

Some of the applicable grounds for legal actions against EC members and Strata Agency as per SSMA 2015

STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 37

Duty of members of strata committee

37 Duty of members of [strata committee](#)

It is the duty of each member of a [strata committee](#) of an [owners corporation](#) to carry out his or her [functions](#) for the benefit, so far as practicable, of the [owners corporation](#) and with due care and diligence.

Note : Section 260 provides protection from personal liability for members of [strata committees](#) who act in good faith.

STRATA SCHEMES MANAGEMENT ACT 2015 - SECT 260

Personal liability

260 Personal liability

(1) A matter or thing done or omitted to be done by any of the following persons, or a person acting under the direction of any of those persons, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing [functions](#) as such a person under this or any other Act, subject any of the following persons or person so acting personally to any action, liability, claim or demand:

- (a) an [officer](#) of an [owners corporation](#),
- (b) a member of a [strata committee](#).

(2) Any such liability of an [officer](#) of an [owners corporation](#) or a member of a [strata committee](#) attaches instead to the [owners corporation](#).

Personal liability

- Office bearers' liability typically excludes:
 - Dishonest, fraudulent or criminal acts
 - Acts in conflict of interest
 - Acts outside the scope of the EC's authority
 - Acts causing death, personal injury or damage or loss to property



- A member of the strata committee must disclose any direct or indirect financial interest the member has in a matter to be considered by the strata committee where that interest appears to raise a conflict with the member's duties (clause 18(1) of Schedule 2). The member must not be present during the deliberation of the matter or take part in a decision, unless the strata committee otherwise determines (clause 18(4) of Schedule 2).
- The strata managing agent must make a record of the functions exercised by them and the manner in which they were exercised and must give a copy of the records kept for the last 12 months to the owners corporation at least once each year (section 55).
- If a strata managing agent has been delegated a function by an owners corporation and a breach of the duty by the owners corporation would be an offence under the legislation, then the agent is guilty of an offence under that provision instead of the owners corporation (section 57(1)). This provision is similar to section 30 of the Strata Scheme Management Act 1996.
- Strata managing agents must disclose any connection with the original owner and any financial interest in the strata scheme (section 71).

Minutes of EC meeting held straight after the AGM on 19th of October 2016

DATE, PLACE & TIME OF MEETING:	The Executive Committee of The Owners - Strata Plan No. 52948 held a meeting on Wednesday, 19 October 2016 at The Auditorium Room, North Ryde Golf Club, Twin Road, NORTH RYDE NSW 2113 . The meeting commenced immediately after the Annual General Meeting at 10.10pm.
PRESENT:	Lorna Zelunzuk (Lot 3), Marianna Paltikian (Lot 88), Sandra Quick (Lot 130), Genelle Godbee (Lot 142), Moses Levitt (Lot 147) Maureen McDonald (Lot 151), Stan Pogorelsky (Lot 181)
IN ATTENDANCE:	Hendra Gee (Lot 183) and Simon Brikha representing BCS Strata Management – Epping
APOLOGIES:	Jeffery Wang (Lot 218) Carlos Fornieles Montoya (Lot 112)
CHAIRPERSON:	Stan Pogorelsky
SECRETARY:	Stan Pogorelsky

1. MINUTES:
1.1 Resolved that the minutes of the last Executive Committee meeting, held on Wednesday, 20 April 2016 , be confirmed as a true record and account of the proceedings at that meeting.

2. OFFICE BEARERS:
2.1 Resolved that the chairperson, secretary and treasurer of the Executive Committee be appointed.
Chairperson: Stan Pogorelsky
Secretary: Lorna Zelunzuk
Treasurer: Carlos Fornieles Montoya

Whilst office bearers can delegate their functions to strata managing agent or other representatives of Waratah Strata Management, they are still ultimately responsible for all actions on behalf of owners corporation.

EC meeting with Waratah Strata Management on 16th of March 2017 and their Contract with SP52948

Before delving into attempts to discredit Lot 158 through misleading and misconstrued statements and attempts of defamation by EC members and Waratah Strata Management, the following facts are important to show how Waratah Strata Management became strata agency for the complex:

- Waratah Strata Management won the contract with SP52948 at AGM held on 19th of October 2016, without disclosing that their Director Mr. Robert Crosbie and Strata Manager Mr. Simon Wicks were previous staff members of BCS Strata Management, which managed the complex between 1999 and late 2016 without any tender.
- Extract of an email from Mr. Robert Crosbie confirming that EC members knew about his relationship with BCS Strata management and intent of Mr. Simon Wicks becoming strata managing agent for SP52948 again (he was removed from this position for our strata complex in 2011 due to unsatisfactory performance). Mr. Simon Wicks was also involved in undisclosed electricity contract renewal for SP52948 in 2015:

<http://www.nswstratasleuth.id.au/SP52948-BCS-Strata-Management-Electricity-Contract-Renewal-without-Proof-of-Tender-and-Hiding-from-Owners-2015.pdf>

From: Robert Crosbie

Subject: RE: [Waratah Strata Management] Re: SP 52948, 1-15 Fontenoy Road, Marsfield

Date: Wed, 11 Jan 2017 06:33:34 +0000

I am friends with the son-in-law of one of the owners. I was advised they were not happy with BCS and was asked to give his mother-in-law a call. I am not aware of any other strata managers that the SC considered.

...

I was interviewed by members of the Executive Committee prior to Waratah Strata Management being nominated as the new strata managers at the AGM. During that interview it was discussed that Simon Wicks was one of our employees and that he had managed your building for a short period some years prior.

My history with BCS was also discussed. I had been a part owner of NSW Strata Management at Parramatta, which was the strata manager for 1150 buildings. That business was sold to the PICA Group (which also owns BCS) in 2010. After the sale I worked as a Business Development Manager for the PICA Group for 18 months. I left PICA after becoming very disillusioned with the way PICA operated and started Waratah Strata in 2012.

...

BCS is a very large, bureaucratic company that undertrains and overworks its staff. If Simon Wicks had only worked for BCS I would not have employed him. Simon was originally employed and trained by Raine & Horne Strata Epping (which was also sold to PICA). R & H Strata used very similar management systems to those used by NSW Strata, therefore I was very confident that he would be capable of providing the level of service that I expect from my business. That has proven to be the case. Simon is a very diligent and efficient strata manager. He is currently managing a very small portfolio of buildings compared to what he was managing at BCS so has the time and capacity to effectively manage your building. I will also be assisting him as required and attending your strata meetings.

- Extract of an email from Mr. Robert Crosbie on 16th of February 2017 with direct comments about poor services by BCS Strata Management that are acknowledged within the industry:

From: Robert Crosbie

CC: Simon Wicks

Subject: RE: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

Date: Thu, 16 Feb 2017 23:59:52 +0000

I understand your comments, but of course we can only respond to those owners who approach us or request assistance. I understand the concerns that owners have had with BCS. This is a common complaint we hear from other strata plans that are with BCS as we have taken over the management of many buildings from them over the last few years.

...

Agree. Our role is to assist the committee and OC with its decisions and provide guidance and advice, but we do not make decisions except for those items dealt with under our delegated authority, such as attending to routine or minor repairs.

- BCS Strata Management and EC members prevented the third quote from a young strata agency (Ryan Strata) which had the best offer, effectively preventing owners corporation from even reviewing that option. This was sent by Ryan Strata as early as 27th of June 2016 (four months before the AGM):

RE: STRATA MANGEMENT PROPOSAL – SP 52948

Some owners have contacted Ryan Strata Management in relation to the management of your scheme seeking a proposal. Complaints have been in relation to a lack of customer service, building maintenance and costs. A motion has been submitted to the committee for the next general meeting to vote on a change of management. We are writing so that you have the opportunity to review our proposal and make an informed decision as to whether you wish to change management.

We are offering your building two different fee options.

An all-inclusive fixed price \$32,500.00 which includes all disbursements (i.e. printing, postage, correspondence, meetings, administration, site visits, monthly financials and archive storage). This all-inclusive price provides a clear estimate of what you will be paying for the year, eliminating surprise charges; **Or**

A lower base rate of \$25,000.00 with a schedule of reasonably priced disbursements.

This is significantly cheaper than your current strata management agreement which is a **base fee** of \$37,500.00 **plus** disbursements (\$12,500 more expensive). Their additional fees are also much higher. For example; Our hourly rates for a strata manager are \$100.00 whereas BCS charge \$165.00-\$275.00 depending on whether it is inside work hours; Additionally, they charge this hourly rate for all meetings, whereas in our fee your AGM and 3 ECMs are included and any additional meetings are a flat fee of \$100.00; Not to mention the many items which they charge for, which are included in our fees.

Not only are you getting a **significantly lower management fee**, which will reflect in **lower levies**, but you will have **two contactable, fully qualified strata managers** taking care of your building. We are contactable 7 days a week, and will always respond to your emails and calls **within 24 hours**. We travel to you for meetings and site visits **at no additional cost**.

We will walk you through the changeover process and assist you, so **changing over will not be a hassle** and there will be no disruption to the scheme. If you are interested in changing management, please **contact me on 0402488864 or at elise@ryanstrata.com.au**.

- This is what owners corporation approved at the AGM:

**MINUTES OF ANNUAL GENERAL MEETING
THE OWNERS - STRATA PLAN NO. 52948**

ADDRESS OF THE STRATA SCHEME:

1-15 FONTENOY ROAD MACQUARIE PARK NSW 2113



28. APPOINTMENT OF WARATAH STRATA:

28.1 The Owners Corporation consider the appointment of Waratah Strata Management at \$21,800.00 + Disbursements \$13,300.00 = \$35,100.00 inclusive of GST.

Comments: Please note the third proposal (lowest quote of the lot) has just recently commenced business and does not have the infrastructure to manage a complex of our size and therefore has not been considered.

APPROVED

49 voted Yes, 11 voted No

CLOSURE: There being no further business, the chairperson declared the meeting closed at 10:10pm.

- This is actually what EC members signed on the contract (Waratah Strata Management and EC members prevent owners from having this information at the EC meeting in March 2017): different value for base contract, automated 5% increase unless decided differently (three times the official CPI in Australia), and different value for fixed disbursement:

The Agent – WARATAH STRATA MANAGEMENT PTY LTD		
Attention: The Licensee		
Address: P.O. Box 125, Eastwood NSW 2122		
Phone: 02 9114 9599	ABN: 75 161 033 745	
Facsimile: 02 9114 9598	SCA (NSW) Membership No: 11539	
Email: enquiry@waratahstrata.com.au	Licence No: 10008316	
Particulars		
Item 1	Professional indemnity	Amount Insured \$2,000,000
Item 2	Commencement date	1 February 2017
Item 3	Term	14 Months
Item 4	Review date	In relation to agreed services – At each AGM following Commencement date in relation to additional services rates - At each AGM following Commencement date in relation to charges - At each AGM following Commencement date
Item 5	Percentage increase p.a	5% or as agreed at each AGM
Item 6	Agreed services fee p.a	(complete one of the below options) Option 1 – \$23,110.00 plus rebates, discounts and commissions in Disclosure Schedule C1 and C2 – Agent retains all commissions (refer to clause 3.3(a)) or Option 2 – \$_____ plus rebates, discounts and commissions in Disclosure Schedule C2 – Agent retains some commissions (refer to clause 3.3(b)) or Option 3 – \$_____ Agent not entitled to commissions or the fee as described in clause 3.3(c) All fees under this agreement are GST INCLUSIVE (clause 9)
Item 7	Fee payment method	Monthly In Advance
Item 8	Manner of accounting	Financial Statements – Trust Account Statements as required by Act Frequency of Accounting – Monthly Provided Online or Upon Request

Fixed Disbursements		
(a) Fixed Disbursements include; routine postage, routine photocopying, electronic communication, printed matter, routine stationery and files, routine word processing, insurance claims taking less than 15 minutes, issuing of levy notices, bank fees, computer system and software expenses, electronic archive storage, maintain key register.	\$11,990.00	Per annum

Signatures

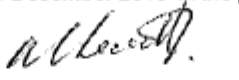
Owners Corporation

The common seal of the owners corporation was affixed on 14 December 2016 in the presence of:


Signature

STANLEY POGORELSKY
Name

CHAIRMAN
Designation


Signature

M. LEVITT
Name

Committee Member
Designation



Being the person(s) authorised by section 272 of the Act to attest the affixing of the seal.

Agent

Executed by the agent in accordance with Section 126 or 127 of the Corporations Act 2001 (Cth) in the presence of:


Signature of Authorised Person

Robert Crosbie
Name of Authorised Person

Signature of Authorised Person

Name of Authorised Person

Service

The owners corporation acknowledges receipt of a copy of this agreement within 48 hours of execution by the owners corporation (refer to page 8 for IMPORTANT NOTES to the parties when executing this agreement).

STANLEY POGORELSKY
Name of Signatory


Signature

Two EC members, without disclosure to owners corporation, and without approval, signed the contract that did not match what OC approved at the AGM:

Base Value of the contract increased from \$21,800.00 to \$23,110.00,

Fixed disbursements decreased from \$13,300.00 to \$11,990.00.

Waratah Strata Management and EC members prevented this information to be tabled at EC meeting on 16th of March 2017.

Duties and functions	Limitations on Authority e.g. on expenditure (if nothing stated, then no limitations apply)	Fee Method
Undertaking the financial management of funds and books of account.	Full authority or by direction from Owners Corporation or Strata Committee	Included in annual agreed services fee
Holding documents and maintaining records relating to the scheme (for example, the strata roll, notices, and minutes of meetings).	Full authority or by direction from Owners Corporation or Strata Committee	Included in annual agreed services fee
Arranging building inspections and reports.	Following instructions from Owners Corporation or Strata Committee	In accordance with Schedules B and D
Effecting repairs to and maintaining common property or engaging appropriately qualified tradespersons to do <i>Standard Work</i> , with limitations on expenditure that may be incurred by the agent without obtaining the approval of the person on behalf of whom the agent is acting.	Responsibility of Building Manager	In accordance with Schedules B and D
Engaging appropriately qualified tradespersons to do <i>Non-Standard Work</i> , and the appointment on behalf of the owners corporation of a principal contractor within the meaning of regulation 293 of the WHS Regulation 2011 for such <i>Non-Standard Work</i> , with limitations on expenditure that may be incurred by the agent without obtaining the principal's approval.	Following instructions from Owners Corporation or Strata Committee	In accordance with Schedules B and D
Paying disbursements and expenses incurred in connection with the agent's management of the scheme.	Full authority or by direction from Owners Corporation or Executive Committee	In accordance with Schedules B and D
Arranging insurance cover for the scheme. NOTE: Where the owners corporation arranges for placement of the insurance cover or engages a third party i.e. an insurance broker, the agent is indemnified by the owners corporation to the extent of liability contributed by an act, omission or negligence on behalf of the owners corporation or third party in placing the insurance cover.	Full authority or by direction from Owners Corporation or Strata Committee	Included in annual agreed services fee
Serving notices to comply with a by-law.	Following instructions from Owners Corporation or Strata Committee	In accordance with Schedules B and D
Managing the sinking fund/capital works fund and the administrative fund.	Full authority or by direction from Owners Corporation or Strata Committee	Included in annual agreed services fee
Undertaking steps necessary to recover any money owing in relation to levies.	Full authority or by direction from Owners Corporation or Strata Committee	In accordance with Schedules B and D
Representing the owners corporation or association in tribunal or court proceedings.	Following instructions from Owners Corporation or Strata Committee	In accordance with Schedules B and D
Paying accounts in relation to the scheme (for example, accounts for water charges, council rates and maintenance).	Full authority or by direction from Owners Corporation or Strata Committee	Included in annual agreed services fee
Arranging and undertaking administrative duties in relation to annual general meetings and other general meetings. Includes AGM plus 4 additional meetings each year.	Full authority or by direction from Owners Corporation or Strata Committee	Included in annual agreed services fee

Schedule B – Fees

Item	Charge (inclusive of GST)	Unit
Hourly Rates*		
Professional Services		
Hourly Rates *		
Principal / Director (Excluding work carried out as a Strata Manager)	\$175.00	Per hour
Strata Manager	\$132.00	Per hour
Senior Accounting Staff	\$110.00	Per hour
Administrative & junior accounting staff	\$88.00	Per hour
Adjourned & additional meeting charges	\$33.00	Per quarter hour
Attend scheme during office hours (excluding to attend meetings)	\$132.00	Per hour
Attend scheme at weekends or public holidays	\$264.00	Per hour
Attend meetings in excess of 2 hours duration	\$33.00	Per quarter hour
Attend meetings scheduled to commence after 6.30pm	\$33.00	Per quarter hour
Attend meeting to appoint Tenant Representative	\$33.00	Per quarter hour
Fixed Disbursements		
(a) Fixed Disbursements include; routine postage, routine photocopying, electronic communication, printed matter, routine stationery and files, routine word processing, insurance claims taking less than 15 minutes, issuing of levy notices, bank fees, computer system and software expenses, electronic archive storage, maintain key register.	\$11,990.00	Per annum
Non-routine disbursement charges	As agreed or as outlined elsewhere in Schedules B & D	
Purchase Minute Book & Common Seal	At Cost plus 20%	Each
Courier charges	At Cost plus 20%	Each

Schedule C - Disclosure schedule

Schedule C1 - The following providers pay a rebate, discount or commission to the *agent*:

Name of company / person	Amount / percentage of rebate, discount or commission	Other information relating to the disclosure
CHU Underwriting Agencies Pty Ltd	20%	Of base premium
Strata Unit Underwriters Pty Ltd (as agent for CGU Insurance)	20% 15%	Of base premium (Residential) Of base premium (Commercial)
Strata Community Insurance	20%	Of base premium
Finn Foster & Associates (Insurance Brokers)	15%	Of base premium or as agreed
Whitbread Insurance Brokers	20% 50%	Of base premium – Residential Of the commission paid by the insurer - Commercial
Driessen Insurance Brokers	15%	Of base premium
Austbrokers Sydney	20%	Of base premium
CRM Insurance Brokers	50%	Of all commission
Honan Insurance Brokers	20%	Of base premium
BCB Insurance Brokers	75% 50% first placement & 75% renewals	Of policy commission – Residential Of policy commission – Commercial

Schedule C2 - The following providers pay a rebate, discount or commission to the *agent*:

Name of company / person	Amount / percentage of rebate, discount or commission	Other information relating to the disclosure
Nil	Nil	Nil

- The following section is an extreme danger lurking for owners corporation because it allows that Waratah Strata Management, in very vague terms, almost dictate to SP52948 who the next strata agency would be:

7. Transfer of the agreement

- 7.1 The *agent* cannot transfer the *agreement* without the written consent of the *owners corporation*, which consent shall not be unreasonably withheld if the *agent* satisfies the *owners corporation* that the proposed transferee and *related persons* are fit and proper persons and have the qualifications, competence and experience to perform the *agreed services* and *additional services* at an *agreed services fee* and an *additional services fee* not greater than the current *agreed services fee* and *additional services fee*.
- 7.2 The *owners corporation* must advise the *agent* of its decision whether to approve a proposed transfer within 28 days after receiving from the *agent* the information reasonably necessary to make the decision.
- 7.3 If the *owners corporation* approves the transfer, the *owners corporation*, the *agent* and the transferee must enter into a transfer *agreement*, or alternatively if the *agent* elects to enter into a new agency *agreement* then clause 7.4 will apply.

- 7.4 After the transfer *agreement* has been entered into or, if an election has been made by the *agent* under clause 7.3, the new *agent* must request that the *owners corporation* enter into a new agency *agreement* and the *owners corporation* must advise the new *agent* of its decision to enter into a new agency *agreement* within 28 days after such request, such approval not to be unreasonably withheld if the new agency *agreement* is on the same terms as this *agreement*, or on terms not less favourable to the *owners corporation* as this *agreement*. The new *agent* must pay the reasonable cost of preparing the new agency *agreement*, preparing and holding the meetings of the *strata committee* and the general meeting of the *owners corporation*, however if the meeting relates to more than approval of the minutes of the last meeting and the resolution relating to the new agency *agreement*, then the new *agent* must pay the proportionate share of the total cost relating to approval of the new agency *agreement*.

Misleading and misconstrued statements in regards to CTTT case and repayments to CHU Insurance, and defamation of Lot 158

- The first EC meeting with Waratah Strata management was cancelled due to my efforts to prevent it due to non-compliance with Strata Schemes management Act. Here is how Mr. Robert Crosbie responded when I asked him who was responsible for such serious omission (I did not accept his excuse because the rule of minimum three-day advance notice for EC meeting exists since 1996):

From: Robert Crosbie

Subject: RE: SP 52948, 1-15 Fontenoy Road, Macquarie Park.

Date: Wed, 1 Mar 2017 05:20:46 +0000

The Strata Act only requires the notice of meeting to be sent to all owners, not the attachments.

The error in not sending the agenda to all owners was mine. Blocks under 100 lots do not require committee notices to be sent to all owners. When I was preparing and issuing the agenda I overlooked that it was a requirement for large schemes.

All owners have access to the portal. Owners received their access details with the initial letter that we sent to all owners.

Where should I meet you this evening? Do you want me to come to your unit?

- The Minutes of the EC meeting held on 16th of March 2017, presented the following information for owners, along with confirmation that SP52948 had to repay for excessive insurance claim:

The correspondence from McCulloch & Buggy Lawyers regarding an insurance claim was tabled and discussed. The strata manager advised that he has reviewed all of the relevant correspondence and that a Legal Defence insurance claim relating to legal action commenced by Mr _____, owner of Lot 158, totalling \$28,511.24 was lodged in 2012/2013. Following deductions of \$1,000 Excess and \$2,591.93 GST, the strata plan received \$24,919.31 from CHU Insurance. Following an NCAT order against Mr _____, the strata plan received \$8,800 from Mr _____ on 22 July 2014 being a refund of the strata plans legal expenses in relation to this matter. CHU Insurance have requested and are entitled to receive these funds. Resolved the strata manager is to pay \$8,800 to CHU Insurance.

I tried to reason with Waratah Strata Management and EC members, to no avail. They refuse to correct statements and publish correct information. Here is one part of the email exchange between the Executive Committee and me:

Subject: Re: FW: CHU Insurance claim and defamation of Lot 158 - status on 1Apr2017

To: Stan Pogorelsky

Cc: Carlos Fornieles Montoya, Genelle Godbee, Jeffery Wang, John Gore, Mo Levitt, Lorna Zelunzuk, Marianna Paltikian, Maureen McDonald

Date: Mon, 3 Apr 2017 20:50:24 +1000

To EC members,

The response by EC members is unsatisfactory, incomplete, unprofessional, does not address direct questions and indisputable evidence, and delays actions of crucial importance to owners corporation.

Since I already "paid" for legal case, I forbid that even one cent from my levies be spent on repaying CHU Insurance now. I cannot be charged twice! I request that credit into my account be given for my "share" of whatever might be paid to CHU Insurance.

Before I respond to EC, I emphasize that, thanks to me, Special By-Law 4 is now partially published after 13 and a half years since its "approval" (at least in small font on Notice Boards). However, Waratah Strata Management failed to complete two other tasks:

- 1. Send a copy, with apology about missing Special By-Law, to ALL owners immediately,**
- 2. Update their website with new version of the By-Laws. As of this evening, Waratah Strata still keeps old data, making it impossible for any owner and potential investor to view correct file. That is certainly not accidental and I refute any defence against it.**

In all earnest, Waratah Strata Management has already proven to be failing in significant actions (against strata laws and other applicable laws).

What are you, EC members, doing about it?

I cannot allow further lack of actions and immediate resolution is required.

In addition, EC and Waratah Strata Management failed to address many issues I reported to be discussed at the EC meeting, including the approval for flooring in my unit.

In case of Lot 3 and Lots 136/137, EC and BCS Strata Management went overboard by rushing into Extraordinary General Meeting (at owners corporation expense) for purely private benefits. If EC can do it for them, they can do it for me.

Your request not to speak to CHU Insurance (and other undisclosed organisations) is rejected because your actions are designed to blame me for YOUR actions and I have every right to correct misleading and misconstrued statements. You have absolutely no power or rights to prevent me from speaking to CHU Insurance. I do not need authority to contact them. I speak in my name and with my evidence. Please refrain from such threats and never again repeat such comments in public statement.

I have duty of care to report any suspected activity. I gave you opportunity to speak up with evidence.

Secretary of the EC is solely responsible for all communications to owners, minutes, agendas, and other similar tasks. Refer to SSMA 2015 in detail. I cannot rely on ambiguous message that "strata manager will forward correspondence on to the committee when appropriate". I already showed you evidence that Mr. Crosbie failed to do it last week and address questions I sent.

What is the definition of "appropriate" and who makes such decision (Mr. Simon Wicks, or Mr. Robert Crosbie, or somebody else?). Do owners and me have to rely on "mercy" of a Manager of a small strata agency?

I need formal proof that duties of the Secretary of the EC are delegated to Waratah Strata Management, which still does not release Lot 3 from ultimate personal responsibility of being compliant with SSMA 2015.

Since EC is not willing to co-operate, I expect email from you to be sent to all owners with new By-Laws and corrections of EC meeting (including what the CHU Insurance claim is all about) by tomorrow afternoon (the By-Laws are enclosed herewith).

PS. Lift in Block A has been off-line since around 4:00pm today. This is the second failure (there was one last week). Provide course of actions and detailed information to all owners.

On 03/04/17 19:28, Stan Pogorelsky wrote:

- > The Executive Committee will discuss and alter or confirm the minutes of the previous committee meeting at the**
- > next available committee meeting. Your request for alteration of the minutes will be discussed at that meeting.**
- > You are not permitted to speak directly with CHU Insurance. You have no authority to speak to them and must**
- > direct your concerns to the strata manager who will pass your concerns on to CHU if appropriate.**
- > In future, please do not write directly to the Strata Committee. We ask you to direct your correspondence to the**
- > strata manager who will forward correspondence on to the committee when appropriate.**
- > Yours Sincerely,**

> Stan Pogorelsky.

This is the final response from Waratah Strata Management which documents more threats instead of submitting evidence to owners and me:

From: Robert Crosbie

CC: Simon Wicks

Subject: RE: CHU Insurance claim and defamation of Lot 158

Date: Wed, 29 Mar 2017 04:03:39 +0000

As previously advised, I have no interest in reviewing the previous activities/decisions made by BCS or the Executive Committee prior to the commencement of our management. Any matters you raise with regard to past issues will not be responded to.

*What you do with my advice to you not to disseminate information to other owners that may be considered false, misleading or defamatory is up to you. I cannot stop you if you continue to issue such emails. **Whether or not you consider the information to be false, misleading or defamatory is not really the point.** If other owners or committee members consider it to be such you may find yourself having to defend a legal action brought against you. I am simply trying to prevent disharmony within the strata plan, which has a negative impact on the value of everyone's properties, and save you the cost and aggravation of defending a court case brought against you.*

I am not able to comply with your various "instructions". Any suggestions you have raised will be discussed at the next available SC meeting and I will act as instructed by the SC.

The attempted threats by EC members and strata agency (as a defence mechanism to avoid scrutiny) and phrases are well-known and recognisable. Example from agenda for AGM 2012:

The value of our investment at Macquarie Gardens is also being detrimentally affected by DB's claims about the actions of our managing agent ("MA") over a number of past years. The EC believe these claims are equally ill-founded and without basis and the OC is cooperating in the defence of these claims by the MA. As is abundantly clear from both the financial performance measured against budgets, audited accounts, minutes of meetings and the physical state of the complex, all such claims are false and there is and never has been any mismanagement, let alone fraud.

Waratah Strata Management and EC members fail to acknowledge that defamation is when someone spreads false rumours and as a result hurt the reputation. They continue to say and write notices that are untrue and are surely making ordinary people think less of me - lowering my reputation in the eyes of an ordinary, reasonable person:

<http://www.nswstratasleuth.id.au/SP52948-BCS-Strata-Management-persistent-bullying-of-owner-in-order-to-prevent-investigations-against-their-mismanagement.pdf>

My defence is very simple and comfortable against EC and strata agencies: publishing something which they might view as defamatory for them is not against the law because:

- the information is substantially true,
- the information is published with the consent of the person being defamed (they know about various issues on my and other websites for six years now),
- it is unlikely that the EC's reputation is actually damaged (mine is, but not their).

- The agenda for the postponed EC meeting with the new strata agency (the first one was cancelled due to my persistence and complaints that owners had not received three-day advance notice of the meeting), sent on 6th of March 2017 contained the following item:

13	MCCULLOCH & BUGGY EMAIL That the correspondence from McCulloch & Buggy Lawyers regarding an insurance claim be tabled and a decision made on what further is to be taken.
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Owners were not given any details of what this related to. In spite of my request to Waratah Strata Management and EC members, they refused to comply.

- Unreported to owners, the following details were known to BCS Strata Management, Waratah Strata Management, and EC members well before the EC meeting.

On the day of the AGM, 19th of October 2016, legal representative of CHU Insurance sent the following email to BCS Strata Management, suggesting that the request to reimburse CHU Insurance for overpaid insurance claim in 2012/2013 for should be tabled the same evening at the general meeting:

On 19/10/2016 12:34 PM,

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 –	\$ 1,504.40	\$ 1,000.00	\$ 136.76	\$ 367.64
		SP 52948				
CHU 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

The OC made an application that the Mr . pay its costs of part of those proceedings. That application was successful and the CTTT made an order on 6 November 2013 that Mr . pay it \$8,800. I am told by the broker that this amount was paid by Mr .

As CHU has paid all the legal expenses it would like the OC to refund the \$8,800 that it recovered from Mr .

I appreciate that all of this probably happened before you were the strata manager but it would be appreciated if you could chase it up.

I understand the AGM is this evening so I thought it best to get the information to you as quickly as possible.

Attached for your reference are copies of our letter to the broker dated 18 October 2016 and the CTTT order and reasons both dated 6 November 2013.

BCS Strata Management did not present it to owners at AGM, nor did they reply to CHU Insurance in a timely manner. That evening, BCS Strata Management lost contract with SP52948.

- CHU Insurance, through its legal representative again approached SP52948, this time on 11th of January 2017, by contacting both BCS Strata Management and Waratah Strata Management:

From:
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.

Could you please advise me as to the status of the matter.

- Straight after receiving the Minutes of the EC meeting, I raised a strong objection and requested that the notes be redacted as I was portrayed as a source of trouble – directly defamed and exposed to ridicule and blamed for something I did not do. This was a deliberate, orchestrated, and highly co-ordinated effort to avoid scrutiny and cause financial and other harm to my family and me. Waratah Strata Management and EC members declined to do it.

Issue 1

Director of Waratah Strata Management, agency who started managing SP52948 on 1st of February 2017, refused to correct Minutes of EC meeting held on 16th of March 2017:

"... the strata plan received \$8,800 from Mr. XXX on 22 July 2014..."

That is incorrect, misleading, and misconstrued statement. The date mentioned in the Minutes is completely arbitrary and made

up by Waratah Strata Management and EC members. I did not pay \$8,800.00 on 22 July 2014.

My cheques speak for themselves:

\$10,000.00 on 13th of February 2014

\$16,500.00 on 3rd of March 2014

Extract from SP52948 accounting data and invoices paid to Mr. Mueller are undeniable evidence.

265	Legal&Debt Fees	21/10/2013	00990790	GRACE LAWYERS	347.00	LEGAL FEES RE BIGAIR
	Legal&Debt Fees	25/10/2013	00990801	MANAGING AGENT	250.00	Levy Recovery Stage 3
	Legal&Debt Fees	19/11/2013	00990820	J S MUELLER & CO SOLICITORS	440.00	LEGAL FEES
	Legal&Debt Fees	16/12/2013	00990863	GRACE LAWYERS	880.00	LEGAL FEES RE WHOME
	Legal&Debt Fees	6/01/2014	00990882	GRACE LAWYERS	1,011.00	LEGAL FEES
	Legal&Debt Fees	29/01/2014	00990916	GRACE LAWYERS	287.50	LEGAL FEES
	Legal&Debt Fees	20/02/2014	00001047	JOURNAL ENTRY	-10,000.00	Refund chq received from L158
	Legal&Debt Fees	21/02/2014	00990938	MANAGING AGENT	50.00	Levy Recovery Stage 3
	Legal&Debt Fees	4/03/2014	00990946	J S MUELLER & CO SOLICITORS	6,345.71	PROFESSIONAL COSTS
					6,345.71	

NSW
Printed 2/12/2014 2:24:55PM

BODY CORPORATE SERVICES

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**CASH BOOK PAYMENTS BY ACCOUNT CODE
FOR 1-15 FONTENOY ROAD**

REPORTING PERIOD 1/09/2013 TO 31/08/2014

**Manager: RUSSELL YOUNG
Plan No: 52948**

Account	A/C Description	Date	CHK/JNL	Payee	Amount	Total	Expense Description
Legal&Debt Fees		5/03/2014	00990951	J S MUELLER & CO SOLICITORS	18,749.77		PROFESSIONAL COSTS
Legal&Debt Fees		7/03/2014	00001052	JOURNAL ENTRY	-15,500.00	18,749.77	Refund legal costs from 1158
Legal&Debt Fees		25/03/2014	00990981	J S MUELLER & CO SOLICITORS	220.00	-15,500.00	LEGAL FEES
Legal&Debt Fees		28/03/2014	00990985	MANAGING AGENT	50.00	220.00	Levy Recovery Stage 3
Legal&Debt Fees		1/04/2014	00990992	GRACE LAWYERS	1,090.00	50.00	LEGAL FEES
Legal&Debt Fees		23/04/2014	00991014	GRACE LAWYERS	177.50	1,090.00	REVIEW/FINALISE DRAFT LETTER
Legal&Debt Fees		24/04/2014	00991017	MANAGING AGENT	250.00	177.50	Levy Recovery Stage 3
Legal&Debt Fees		27/06/2014	00991062	MANAGING AGENT	50.00	250.00	Levy Recovery Stage 3
Legal&Debt Fees		16/07/2014	00991079	KEMPS PETERSONS (NSW) PTY LTD	150.00	50.00	LEGAL FEES - LOT 169
Legal&Debt Fees		25/07/2014	00991089	MANAGING AGENT	150.00	150.00	Levy Recovery Stage 3
					50.00		Briefing Management
Legal&Debt Fees		31/07/2014	00991100	J S MUELLER & CO SOLICITORS	440.00	200.00	ADVICE ON SCTN 108 INSPECT RPT
Legal&Debt Fees		4/08/2014	00991104	KEMPS PETERSONS (NSW) PTY LTD	150.00	440.00	LEGAL FEES LOT 169
						150.00	
Account 265 Total:						4,638.48	

I paid \$26,500.00 for the non-existent CTTT case "legal defence of Lot 3" in February and March 2014.

The fact that insurance company was chasing owners corporation speaks for itself. BCS Strata Management and OC double-dipped.

I said to Waratah Strata:

It is difficult to comprehend that BCS Strata Management and EC members "forgot" to notify insurance company about it.

Issue 2

There is no CTTT case for "defence of Lot 3". I asked that the crucial information be published for owners. Then, let the owners decide what they want to think about it.

In addition, Special By-Law 4, that applies to Lot 3 for exclusive rights to common property, was undisclosed for 13 and ½ years until I forced it to be updated on 28th of March 2017. Waratah Strata Director refused to send it to all owners, and instead published it on Notice Boards only:

<http://www.nswstratasleuth.id.au/SP52948-By-Laws/SP52958-Waratah-Strata-By-Laws-still-missing-Special-By-Law-for-EC-member-exclusive-rights-to-common-property-6Mar2017.pdf>

<http://www.nswstratasleuth.id.au/SP52948-By-Laws/SP52948-By-Laws-Waratah-Strata-added-Special-By-Law-4-for-Lot-3-after-13-and-half-years-since-its-registration-as-per-warnings-by-Lot-158-28Mar2017.pdf>

However, snapshot taken on Waratah Strata website on 30th of March 2017 shows that the By-Laws were not updated for owners and investors:

<http://www.nswstratasleuth.id.au/SP52948-By-Laws/SP52948-Waratah-Strata-Management-Website-screenshot-still-not-included-Special-By-Law-4-for-Lot-3-on-30Mar2017.png>

Here is Mr. Crosbie's admission with weak excuses because he was personally notified about missing by-law four times by me:

In relation to By-Law 4, we have reviewed all of the registered by-laws and can confirm that this by-law has been missed from our 'noticeboard' copy of the by-laws. This has been caused because there is a registered Special By-Law 4 and an Added by-law 4.

We have amended our copy of the by-laws (as attached) and provided a new copy to be placed on the noticeboard.

At the time of CTTT Hearing on 17th of October 2012 when many issues were attempted to be resolved, BCS Strata Management, the EC, and their Solicitor provided no proof of the public liability insurance and even falsified the statement that owners of the Lot 3 could not attend because they had been overseas.

Two problems: Owners did not receive a copy of By-Laws (it was only published on Notice Boards in very small font that is almost unreadable), and on Waratah Strata website it was not updated.

Issue 3

Solicitor Mr. Adrian Mueller was not engaged at any legally-convened EC or general meeting that owners corporation approved. This was confirmed in CTTT's decision on 6th of November 2013:

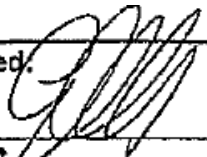

<http://www.nswstratasleuth.id.au/CTTT-NCAT-Protecting-BCS-Strata-Management-at-All-Costs-in-2013.pdf>

In the final outcome, CTTT made a decision that Solicitor Mr. Mueller was properly appointed only because of a signed Statutory Declaration by Mr. Peter Bone, dated 19th of April 2013, in which he produced allegedly signed copy of the Solicitor's contract with SP52948. The same Solicitor did not produce signed copy of his contract to CTTT on 29th of January 2013 (three months earlier) and in spite of numerous attempts to provide such evidence before 19th of April 2013.

The Solicitor should have had the copy of the Standard Cost Agreement that the representative of the strata plan signed but it was not what he provided in the evidence to CTTT on 29th of January 2013. If he had had it in his possession, he would have certainly submitted it to the CTTT and me, instead of the unsigned copy. No prudent Solicitor would make such a massive error in law.

Signed:	
Client	Date
	16 July 2012
Solicitor	Date

This is what the Strata Manager Mr. Peter Bone provided to CTTT in his falsified Statutory Declaration on 19th of April 2013:

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

Since Solicitor did not get any written approval to be engaged in 2012, the only possible way for him to know that they got the assignment would have been a phone call or a meeting in person. Solicitor Mr. Adrian Mueller and BCS Strata Management could not, and did not, offer any evidence that such activity happened!

Extracts from CTTT's decision, including the dismissal of the EC's and BCS Strata Management's attempted ratification of meetings:

77. Initially, when the issue was raised with the Tribunal, the Owners Corporation contend that there was a resolution of the Executive Committee passed on 9 July 2012 authorising the engagement of the lawyers to act on behalf of the Owners Corporation in circumstances where the then estimated legal cost was less than \$12,500.00. However, at the hearing on 10 May 2013, and despite submissions made up until that time, the Owners Corporation did not press the proposition that a resolution of the Executive Committee had been passed on that day. It would seem the reason for that concession is that the email exchange constituting the calling of the meeting and the conduct of the meeting of the Executive Committee occurred in circumstances where either no notice was given as required by the Act or less than 72 hours notice was given of the proposed meeting.

CTTT believed that strata managing agent had authority to sign the cost agreement on behalf of SP52948:

78. Despite this concession, the Owners Corporation said that the strata managing agent had exercised delegate powers and had engaged the lawyers by signing the costs agreement provided by the lawyer on 16 July 2012. The signed costs agreement is Annexure B to the statutory declaration of Mr Peter Bone dated 9 April 2013. The Owners Corporation says that the strata managing agent was authorised to sign the cost agreement pursuant to a delegation contained in clause 2 of the agreement appointing the strata managing agent dated 26 May 2, 1999 (Annexure A to Mr Bone's statutory declaration.) The Owners Corporation contention is that a resolution of the Executive Committee was not necessary at this time and, in the circumstances that occurred, there was a valid engagement of the lawyers which did not contravene the provisions of section 80D of the Act.

CTTT used invalid EC meeting (26th of April 2013) that never happened as it was "brought forward to 19th of April 2013 (time-warped meeting):

82. A second argument was raised by the Owners Corporation in support of the contention that the lawyer was validly appointed. For completeness, I will address this matter. The Owners Corporation says that the resolution passed on 26 April 2013 by the Executive Committee ratifies the resolution purportedly passed by the Executive Committee on 9 July 2012. The resolution ratifying the 9 July 2012 resolution and the basis upon which the ratification resolution was passed is set out in the notice of meeting and minutes of meeting of 40 6 April 2013 (Annexure I of Mr Bone's statutory declaration). This resolution did not purport to validate the actions of the strata managing agent, but rather sought to validate the actions of the Executive Committee in its meeting of 9 July 2013 correction 2012 which, as indicated in my reasons above, was not ultimately contended to be a valid meeting of the Executive Committee.

CTTT clearly dismissed decisions of EC meeting held on 9th of July 2012 (which took me one year and four months to prove on my own and I succeeded against Solicitor Mr. Adrian Mueller):

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.

The Minutes of the EC meeting allegedly held on 9th of July 2012 have never not been recorded in the official Minutes Book.

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

And this was the only reason why CTTT accepted that Solicitor Mr Adrian Mueller was appointed legally:

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.

Of critical importance is secret email exchange between Solicitor Mr. Adrian Mueller and EC members on 16th of April 2013, straight after the CTTT Hearing, in which he used suggestive language of the date of the alleged signature by strata manager for his contract (25th of July 2012):

From:
Sent: Tuesday, 16 April 2013 2:50 PM
To: WARD, John
Subject: FW: SP52948 - CTTT Appeal (22012)
Importance: High

This explains why we need the additional paper meeting

From: Adrian Mueller (mailto:AdrianMueller@
Sent: Monday, April 15, 2013 6:12 PM
To: peterb@; paul.banoobi@
Subject: Re: SP52948 - CTTT Appeal (22012)
Importance: High

Dear All,

I attach letter reporting on today's CTTT hearing.

I need you to immediately do the following:

1. Confirm when Raine & Horne Strata Sydney received my letter dated 2 July 2012 advising that Mr had lodged an appeal against the adjudicator's decision.
2. Provide me with complete copies of the notice and minutes of the executive committee meetings held on 9 July 2012 and the next meeting held in August 2012.
3. Confirm that Gary Webb signed my costs agreement on 25 July 2012 on behalf of the owners corporation.
4. Convene another executive committee meeting to be held by this Friday, 19 April 2013 and to place on the agenda for and, if thought fit, pass the motions which appear towards the end of my attached letter (those motions may require amendment - you should consult with me before sending the meeting notice).

Regards
Adrian Mueller
Solicitor

Frantic exchange of emails between EC members show the importance of moving forward the paper EC meeting from 26th of April 2013 to 19th of April 2013:

From:
Sent: Tuesday, 16 April 2013 3:39 PM
To: 'WARD, John'; 'zellev'; 'esaulit'; 'jeffrey'; 'mcdonald151'; 'hirsch25'; 'pogo';
Cc: Peter Bone
Subject: Paper Committee Meeting to be held on 26th April 2013
Attachments: SP52948 Voting 20130416.pdf

Dear All,

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

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

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

From: WARD, John [mailto:jward@]
Sent: Tuesday, 16 April 2013 4:43 PM
To: WARD, John; 'zellev'; 'esaulit'; 'jeffrey'; 'mcdonald151'; 'hirsch25'; 'pogo@';
Subject:

Hi all,

has requested that I send this out to all to assist you with the voting papers sent out today by the strata manager.

Please assist by returning your voting papers ASAP to the Strata Manager to help the Solicitor progress this matter appropriately.

Any questions please contact me.

This is the evidence when the proper EC meeting should have been conducted:

Raine & Horne Strata - Sydney
Level 2, 51 Rawson Street Epping
Locked Bag 22, Haymarket NSW 1238

Telephone 02 9868 2999
Fax 02 8216 0331
Email strata@bhms.com.au
Web www.bhms.com.au

NOTICE OF PAPER EXECUTIVE COMMITTEE MEETING

To: The Executive Committee Members
Strata Scheme No. 52948
1-15 Fontenoy Road
MACQUARIE PARK NSW 2114

COPY FOR YOUR INFORMATION

NOTICE is hereby given of BUSINESS TO BE DEALT WITH AT A PAPER EXECUTIVE COMMITTEE MEETING OF STRATA SCHEME NO. 52948 to be held in The Offices of Raine & Horne Strata-Sydney, Level 2, 51 Rawson Street Epping on 26th April 2013 at 10.00am

Here is a copy of voting paper of one of the EC member (who never attends meeting):

Raine & Horne Strata - Sydney
Level 2, 51 Rawson Street Epping
Locked Bag 22, Haymarket NSW 1238
Telephone 02 9868 2999
Fax 02 8216 0331
Email strata@bcms.com.au
Web www.bcms.com.au

VOTING PAPER

STRATA SCHEME NO. 52948

Executive Committee Meeting for Strata Scheme No. 52948 to be held on the 26th April 2013 at 10.00am.

MOTION 1 I am in favour / ~~against~~ the motion being carried.

MOTION 2 I am in favour / ~~against~~ the motion being carried.

MOTION 3 I am in favour / ~~against~~ the motion being carried.

NAME: JEFFERY WANG

LOT NUMBER: 39

SIGNATURE: [Signature]

DATE: 16/4/13

And here are the Minutes of the non-existent EC meeting (owners did not received 72-hour notice before it happened):

Raine & Horne Strata - Sydney
Level 2, 51 Rawson Street Epping
Locked Bag 22, Haymarket NSW 1238
Telephone 02 9868 2999
Fax 02 8216 0331
Email strata@bcms.com.au
Web www.bcms.com.au

MINUTES OF RESOLUTIONS OF THE EXECUTIVE COMMITTEE OF STRATA SCHEME NO. 52948 PASSED BY WRITTEN VOTE OF EXECUTIVE COMMITTEE MEMBERS ON 19TH APRIL 2013.

VOTING PAPERS WERE RECEIVED FROM:

E Saulits
J Ward
S Quick
M Levitt
M McDonald
S Pogorelsky

J Wang

More details are in:

<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>

During the whole CTTT ordeal, I even challenged EC members and BCS Strata Management to submit the allegedly signed Solicitor's contract to forensic analysis. They silently ignored it:




Mon 20/05/2013 9:14 PM

VOLUNTARY FORENSIC ANALYSIS: Solicitor Standard Cost Agreement signed on 25 July 2012

To [redacted]

Cc [redacted]

 You forwarded this message on 21/05/2013 9:25 PM.
We removed extra line breaks from this message.

Hello,

Are you willing, voluntarily, to submit the Standard Cost Agreement of Mr. [redacted] that your agency signed on behalf of SP [redacted] on 25 July 2012 to be forensically analyzed if I provide the official resources?

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

Issue 4

Waratah Strata Management and EC members failed to provide evidence that Mr. Adrian Mueller initiated legal case at CTTT on 10th of December 2012 upon an official EC request and approval at any meeting.

Issue 5

In regards to "legal cases" - phrase is well-known and repetitive excuse used by BCS Strata Management and EC members in the past (adopted by Waratah Strata Management too). I showed evidence to Waratah Strata and EC and they stayed silent:

It is not true that I commenced legal action. I never wanted legal case and evidence shows it. It was initiated, without owners corporation knowledge or approval at any legally-convened meeting, by Solicitor Mr. Adrian Mueller, on 10th of December 2012.

By that time, Solicitor Mr. Adrian Mueller, EC members, and BCS Strata Management already made two premeditated insurance claims for alleged "defence of Lot 3" (there was no such CTTT case):

\$367.64 on 31st of August 2012

\$12,714.65 on 7th of December 2012

Two more claims were paid by CHU insurance for "defence of Lot 3":

\$1,320.00 on 26th of April 2013

\$10,517.02 on 4th of June 2013

CHU		info_nsw@chu.com.au		info_vic@chu.com.au		info_qld@chu.com.au		info_wa@chu.com.au		info_sa@chu.com.au		INSURANCE	
CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243281 www.chu.com.au													
						Advice to payee							
						683467							
GALLAGHER BROKING SERVICES PO BOX 6007 NORTH SYDNEY, NSW 2060						03 SEP 2012							
Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.													
Description of Claim:		CTTT DEFENCE/LOT 3 ; Pol No.NNR836665 THE OWNERS -SP 52948								31/08/12			
Claim Number	Incident Date	Excess	Total Amount of Cheque										
NH201212589 - 1	12/06/2012	\$ 1,000.00	\$ 367.64										

CHU

info_nsw@chu.com.au

info_vic@chu.com.au

info_qld@chu.com.au

info_wa@chu.com.au

Fax: 08 8394 0445

INSURANCE

CHU Underwriting Agencies Pty Ltd ABN 18 001 580 010 AFS Licence No: 243261

www.chu.com.au

Advice to payee

701965

GALLAGHER BROKING SERVICES
PO BOX 6007
NORTH SYDNEY, NSW 2060

11 DEC 2012

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim:

CIII DEFENCE LOT 3 ; Pol No.NNR836665
THE OWNERS -SP 52948

07/12/12

Claim
Number
NH201212589 - 2

Incident Date	Excess	Total Amount of Cheque
12/06/2012	\$ 0.00	\$ 12,714.65

CHU

info_nsw@chu.com.au

info_vic@chu.com.au

info_qld@chu.com.au

info_wa@chu.com.au

Fax: 08 8394 0445

INSURANCE

CHU Underwriting Agencies Pty Ltd ABN 18 001 580 010 AFS Licence No: 243261 www.chu.com.au

Advice to payee

725330

GALLAGHER BROKING SERVICES
PO BOX 6007
NORTH SYDNEY, NSW 2060

29 APR 2013

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim:

CTTT DEFENCE LOT 3 60252 ; Pol No.NNR836665
THE OWNERS -SP 52948

26/04/13

Claim
Number
NH201212589 - 3

Incident Date	Excess	Total Amount of Cheque
12/05/2012	\$ 0.00	\$ 1,320.00

CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243261 www.chu.com.au

Advice to payee

732417

GALLAGHER BROKING SERVICES
PO BOX 6007
NORTH SYDNEY, NSW 2060

06 JUN 2013

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim: DEFENCE LOT 3 61223 ; Pol No.NNR836665
THE OWNERS -SP 52948

04/06/13

Claim Number	Incident Date	Excess	Total Amount of Cheque
NH201212589 - 4	12/06/2012	\$ 0.00	\$ 10,517.02

This is how BCS Strata Management and EC members manipulated insurance claim figures in financial years (FY in my complex runs between 1st of September in one year and 31st of August the following year). Full accounting data has never been given to any owner at general meeting since 1999:

Income and Expenditure History and Budget for 2017

Years ending 31st August

*Latest year 2017

d:\dropbox\my documents\stan - personal\sp 52948 macquarie gardens\sp 52948 - accounts and budgets\strata plan 52948 - accounts and budgets (2017

	Actual income and expenditure per audited accounts*				
Administration fund	2012	2013	2014	2015	2016
INCOME					
Levies	658,905	751,717	749,208	757,498	768,333
Interest	978	810	785	988	733
Key deposit	2,206	4,744	3,402	2,656	438
Insurance claims & reimbursements	2,449	14,031	445	6,234	4,955

Fact: I offered free Mediations at Department of Fair Trading. They were refused each time by BCS Strata management and EC members.

Fact: CTTT hearings are designed so that parties can generally run their case without legal representation.

Fact: I show evidence that owners expressed strong wish to not engage Solicitors. EC members and BCS Strata Management ignored it:

<http://www.nswstratasleuth.id.au/SP52948-BCS-Strata-Management-Ignored-Owners-Request-to-Not-Engage-Solicitor-Adrian-Mueller-who-charged-more-than-60000-dollars-from-complex-May2013.pdf>

Fact: BCS Strata Management and EC members carefully prevented details of expenses paid to the Solicitor to be published for owners in any accounting report since 2012.

Fact: I offered (and owners wanted it), to have private mediation within the complex. BCS Strata Management and EC members ignored it.

In short, legal cases were self-inflicted by BCS Strata Management and EC members for own benefits and reasons that have nothing to do proper management of the complex.

Issue 6

BCS Strata Management changed Insurance Policy ONE WEEK before the first claim for "defence of Lot 3". The policy was changed on 1st of August 2012 through Gallagher Broking Services (CHU Underwriting Agencies who extended the owners corporation QBE insurance). This was done without EC decision or approval by owners corporation at any legally convened meeting.

It also shows that some insurance agencies did not want to get involved in this case:

From: Cathy Page [mailto: [REDACTED]]
Sent: Thursday, 20 September 2012 11:10 AM
To: Ron Sinclair
Subject: RE: SP52948 due 21/09
Importance: High

Hi Ron,

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

The same day, CHU Underwriting Agencies Insurance Broker send another email to BCS Strata Management, warning of the high-risk with the claims:

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

Hi Mark

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

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

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

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

There is evidence of Insurance Policy being changed on 1st of August 2012:

From: Brian Turpin [mailto: [REDACTED]@chu.com.au]
Sent: Wednesday, 1 August 2012 3:33 PM
To: Mark Thirgood
Subject: Strata Plan 52948 - Policy 9 legal defence costs

Our Ref NH201212589

Good afternoon Mark.

We will extend indemnity to the Insured under Policy 9. C) in this instance for Legal expenses Incurred in the legal advice sort in defence of the appeal.

We are not in a position to appoint legal representation on behalf the Insured in these circumstances.

Upon further approach under the claim, could we please have a copy of the Legal advice and costs summary.

The first insurance claim was prepared by BCS Strata Management on 8th of August 2012 (only one week after the policy change):

Claim Form

To ensure prompt attention to your claim, please supply information as requested below. When completed, please return this form to BCS together with any supporting documentation relevant to the claim, ie: Quotations / Invoices etc.

1 **Type of Policy**
☒ Body Corporate

2 **The Insured**
Name: The Body Corporate for Name not on file
CTS Number: 52948
Situation of The Insured Property: Common Property
1-15 FONTENOY ROAD MACQUARIE PARK NSW
Post Code: 2113

3 **GST Declaration**
Is the insured registered for GST? ☒ Yes
If yes, what percentage is the insured entitled to claim Input tax Credits? 100 %
Australian Business Number (ABN) 79491891602

4 **The Insurer**
Policy Number: 836665
Company: QBE INSURANCE GROUP LTD
Excess:
Is there any other insurance on the property? ☐ Yes ☐ No
If yes, please provide details of the Insurer/s and policy number/s:

5 **What Happened** *This claim will not be processed unless this section is completed*
Please explain how the damage occurred:

Legal expenses for defence of a claim against the Owners Corporation

Date of Loss: 8.08.12

Address:

Contact Number/s: h/h _____ a/h _____ mob _____

If damage caused by impact please provide:

Description of vehicle (year, make and model)

Registration Number of Vehicle

Vehicle Owner's Name & Contact Details

- 7 **Police Report:** *Police must be notified when property is lost, stolen or maliciously damaged. Please ensure that notification is made prior to the claim being lodged.*

Police Station:

Officer's Name:

Date Reported: _____ Crime Report Number: _____

- 8 **Contact Details Should an Assessment be Necessary:** *Should an assessment be necessary please provide the following for a person or persons who may be contacted to access this dwelling.*

Name:

Title:

Address:

Contact Number/s: h/h _____ a/h _____ mob _____

- 9 **What is being claimed:** *Please list the articles lost, stolen or damaged and the amount being claimed.*

Description of Property Being Claimed	Date of Purchase (if known)	Original Purchase Price (if known)	Replacement Purchase Price	Amount being Claimed
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

- 10 **Declaration**

I hereby declare the answers to all the questions on this claim form and the description of the property lost or damaged are true and correct and that I have not concealed anything of which the Underwriters should be aware. A Claim will not be processed unless the declaration is completed and signed by a person authorised by the insured.

Signature: _____

Signed By: _____

Please print full name

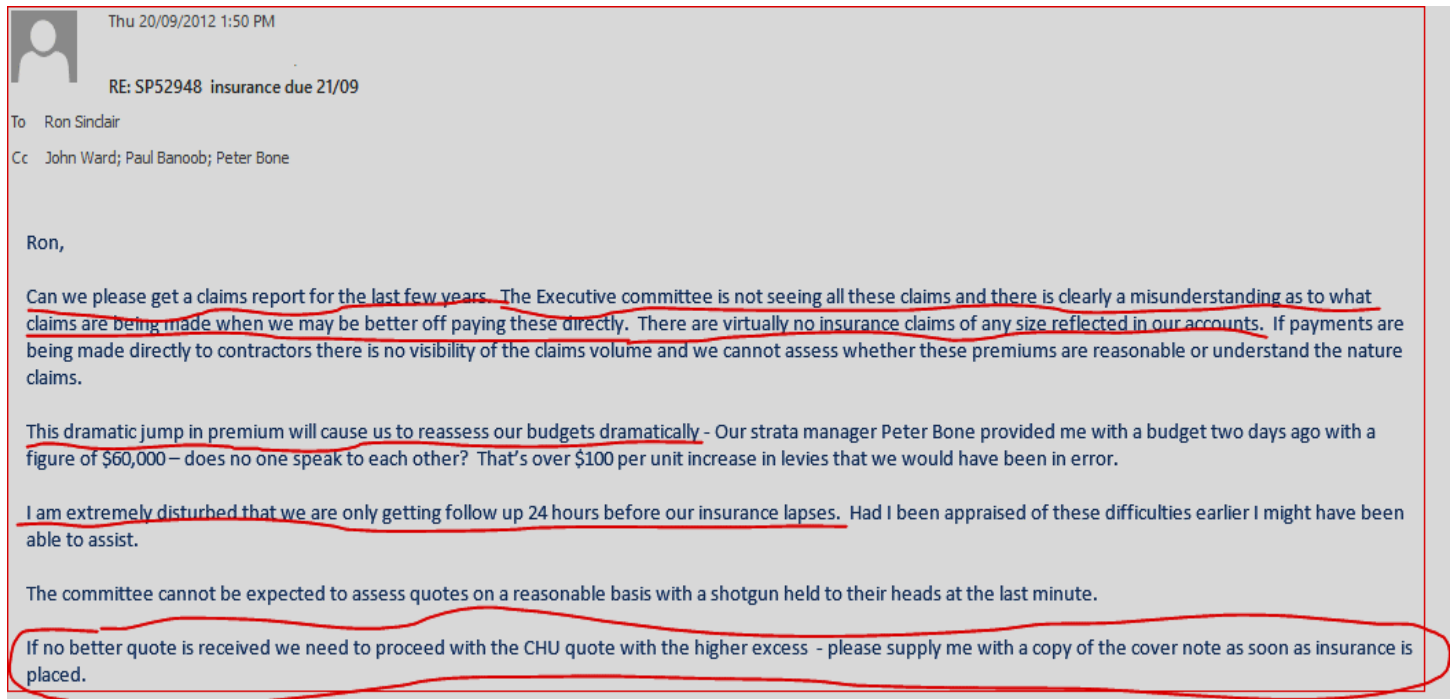
Title: _____

ie: Member of Body Corporate, Unit Owner, Body Corporate Manager, Building Manager, etc

Dated: _____

Issue 7

Only one insurer (CHU Insurance) offered quote to SP5298 due to high-risk CTTT case. This is extract from an email by a very angry EC member on 20th of September 2012 who blamed BCS Strata Management for not preparing insurance quotes on time for the renewal and confirming that strata agency did not disclose insurance claims in financial documents to owners and even EC members:



Publicly, the EC and BCS Strata Management looked for a scapegoat: the agenda for AGM sent on 4th of October 2012 tried to blame Lot 158 for insurance increases:

The Executive Committee ("EC") had planned to keep AF levy increases to a much lower percentage. In the last few days the EC was placed in the invidious situation of having only one insurer prepared to quote on reinsuring our almost \$100m asset due to the pending CTTT action and the allegations of fraud contained therein. This resulted in being forced to accept a cost with a 53% increase without any of the normal alternatives available to us.

The owners were also led to believe that their property value would be "damaged":

The value of our investment at Macquarie Gardens is also being detrimentally affected by DB's claims about the actions of our managing agent ("MA") over a number of past years. The EC believe these claims are equally ill-founded and without basis and the OC is cooperating in the defence of these claims by the MA. As is abundantly clear from both the financial performance measured against budgets, audited accounts, minutes of meetings and the physical state of the complex, all such claims are false and there is and never has been any mismanagement, let alone fraud.

Issue 8

When Mr. Adrian Mueller issued request for re-hearing on 10th of December 2012, BCS Strata Management already made two insurance claims but failed to notify CTTT in any form and at any time!

Issue 9

Lot 3 is the current Secretary of the EC (previous Chairperson prior to 1999), and EC member since 2014, to which this alleged "defence" allegedly applied.

Issue 10

I asked Waratah Strata Management to show evidence that Lot 3 is compliant with Special By-Law 4 in regards to having public liability insurance in amount of no less than \$5,000.000.00 at any time. He refused to act:

<http://www.nswstratasleuth.id.au/SP52948-By-Laws/BCS-Strata-Management-Registered-Special-By-Law-for-Ex-Chairperson-Illegally-and-Hiding-it-from-Owners-and-Investors-for-12-Years.pdf>

It is duty of Secretary of the EC (Lot 3 – Mrs. Zelenzuk) to issue Notice of non-compliance to Lot 3 (Mr. and Mrs. Zelenzuk) if they do not keep public liability insurance as per Special By-Law 4 at all times.

Issue 11

Owners are deliberately not told that the insurance repayments are related to "defence of Lot 3", in CTTT case that did not and does not exist in relation to the owner of that property.

In short, there is too much evidence that shows a clear and unbeatable fact: CHU Insurance paid close to \$25,000.00 for something that did not exist in regards to "defence of Lot 3".

Issue 12

BCS Strata Management and EC worked on a plan to fabricate proof of engagement of the Solicitor in this CTTT case:

<http://www.nswstratasleuth.id.au/CTTT-NCAT-Protecting-BCS-Strata-Management-at-All-Costs-in-2013.pdf>

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

Issue 13

High risk insurance claims for “defence of lot 3” increased insurance renewal so much that EC members complained to BCS in a secret email:

Thu 20/09/2012 1:50 PM

RE: SP52948 insurance due 21/09

To: Ron Sindair

Cc: John Ward; Paul Banoob; Peter Bone

Ron,

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

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

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

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

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

Strata Plan No 52948					
Income and Expenditure History and Budget for 2017					
Years ending 31st August					
*Latest year 2016					
d:\dropbox\my documents\strata - personal\sp 52948 macquarie gardens\sp 52948 - accounts and budgets\strata plan 52948 - accounts and budgets (2017					
Actual income and expenditure per audited accounts*					
Administration fund	2012	2013	2014	2015	2016
Insurance	48,410	78,409	69,649	70,925	64,395
Insurance valuation		2,000			
Subtotal Insurance	48,410	80,409	69,649	70,925	64,395

Issue 14

There is a Police Event against one member of the EC and BCS Strata Management since November 2015. One of the reported issues is Special By-Law 4 and insurance claims.

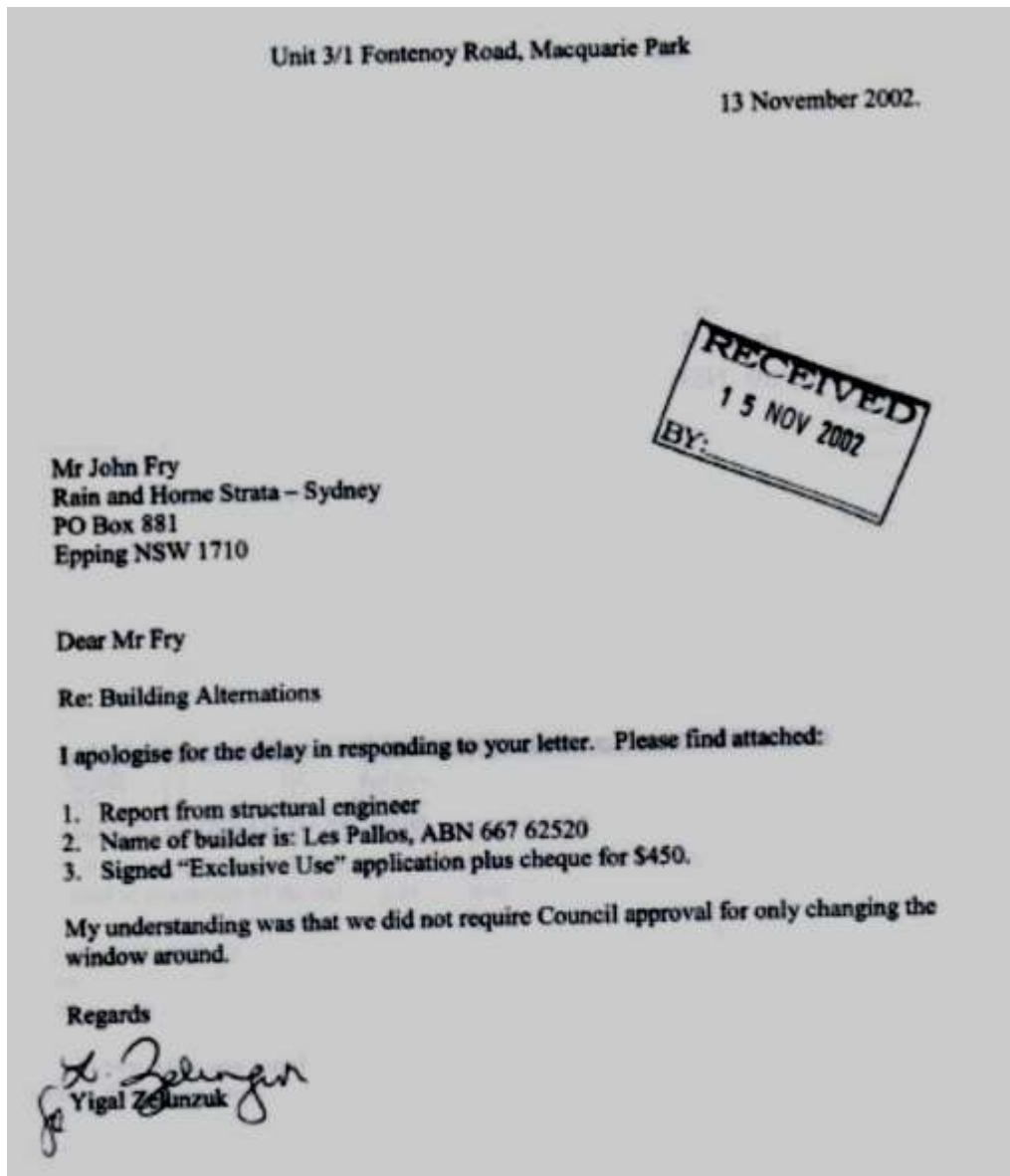
Issue 15

Undisclosed payments to Solicitor Mr. Adrian Mueller, including ones for alleged “defence of lot 3”:

Cred. Code	Creditor Name	Doc. Ref. No.	Doc. Date	Doc. Total	Chq. Date	Mtd.	Cnl. Chq.	Date Presented
84446	J S MUELLER & CO SOLICITORS	78428	5/09/2016	\$1,100.00	19/09/2016	EFT	N	19/09/2016
84446	J S MUELLER & CO SOLICITORS	69179	28/10/2014	\$742.50	30/10/2014	EFT	N	30/10/2014
84446	J S MUELLER & CO SOLICITORS	67976	29/07/2014	\$484.00	31/07/2014	EFT	N	31/07/2014
84446	J S MUELLER & CO SOLICITORS	65777	6/03/2014	\$242.00	25/03/2014	EFT	N	25/03/2014
84446	J S MUELLER & CO SOLICITORS	65461	14/02/2014	\$20,624.75	05/03/2014	EFT	N	05/03/2014
84446	J S MUELLER & CO SOLICITORS	65483	18/02/2014	\$6,980.28	04/03/2014	EFT	N	04/03/2014
84446	J S MUELLER & CO SOLICITORS	64289	8/11/2013	\$484.00	19/11/2013	EFT	N	19/11/2013
84446	J S MUELLER & CO SOLICITORS	61904	24/06/2013	\$1,452.00	04/07/2013	EFT	N	04/07/2013
84446	J S MUELLER & CO SOLICITORS	61223	10/05/2013	\$11,568.72	20/05/2013	EFT	N	20/05/2013
84446	J S MUELLER & CO SOLICITORS	60252	6/03/2013	\$1,452.00	22/03/2013	EFT	N	22/03/2013
84446	J S MUELLER & CO SOLICITORS	58762	15/11/2012	\$13,986.12	27/11/2012	EFT	N	27/11/2012
84446	J S MUELLER & CO SOLICITORS	57380	10/08/2012	\$1,504.40	22/08/2012	EFT	N	22/08/2012
84446	J S MUELLER & CO SOLICITORS	56130	28/05/2012	\$198.00	31/05/2012	EFT	N	31/05/2012
84446	J S MUELLER & CO SOLICITORS	55003	13/03/2012	\$2,500.00	27/03/2012	EFT	N	27/03/2012
Total				\$63,318.77				

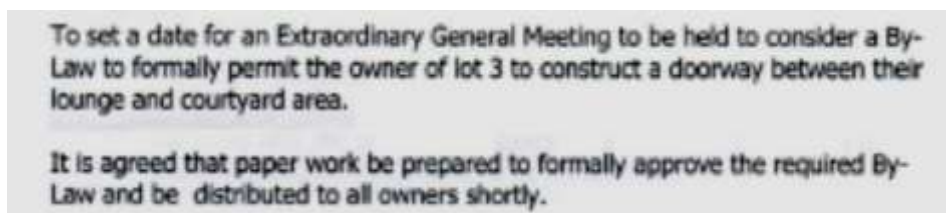
Issue 16

Owners of Lot 3 sent an official request for exclusive rights to common property on 13th of November 2002, which was received by the Managing Agent John Fry two days later (on the 15th of November).



The Executive Committee of SP52948 held a meeting on 28th of November 2002 and in Item 8 agreed to set a date for an Extraordinary General Meeting to be held to consider a By-Law to formally permit the owners of Lot 3 to construct a doorway between their lounge and courtyard area.

The members of the Executive Committee agreed with the proposal IN PRINCIPLE, providing that appropriate documentation would be submitted by the owners of Lot 3 in the near future.



The date for the EGM was, however, not decided at the EC meeting.

All of a sudden, without the involvement of the majority of the Executive Committee, on 12th of December 2002 (very close to Christmas) the Managing Agent John Fry circulated the agenda for the Extraordinary General Meeting to be held on 2nd January 2003 at 10.00am. Note the date of the meeting: straight in the middle of the school holidays and on the first day after Christmas and New Year celebrations. It was Thursday and in prime business hours, when most of non-retired owners (still in active work) could not attend.

Strata Schemes Management Act 1996.

EXTRAORDINARY GENERAL MEETING

TO: The Owners
Strata Scheme No. 52948
1-15 Fontenoy Road
North Ryde NSW 2113

NOTICE OF BUSINESS to be dealt with at an Extraordinary General Meeting of THE OWNERS STRATA SCHEME NO. 52948 to be held in The Offices of Raine & Horne Strata-Sydney, 53 Beecroft Road Epping on 2 January 2003 at 10.00am.

ITEMS

1. Record attendance, receive proxies, determine voting rights and quorum.
2. Consider listed Motions.
3. Consider any items of General Business.

MOTIONS

1. That the minutes of the last general meeting be confirmed.
2. That the following additional By-Law be approved:

That the Owners Corporation specially resolve pursuant to Section (52) of the Strata Schemes Management Act 1996 to add the following Special By-Law:

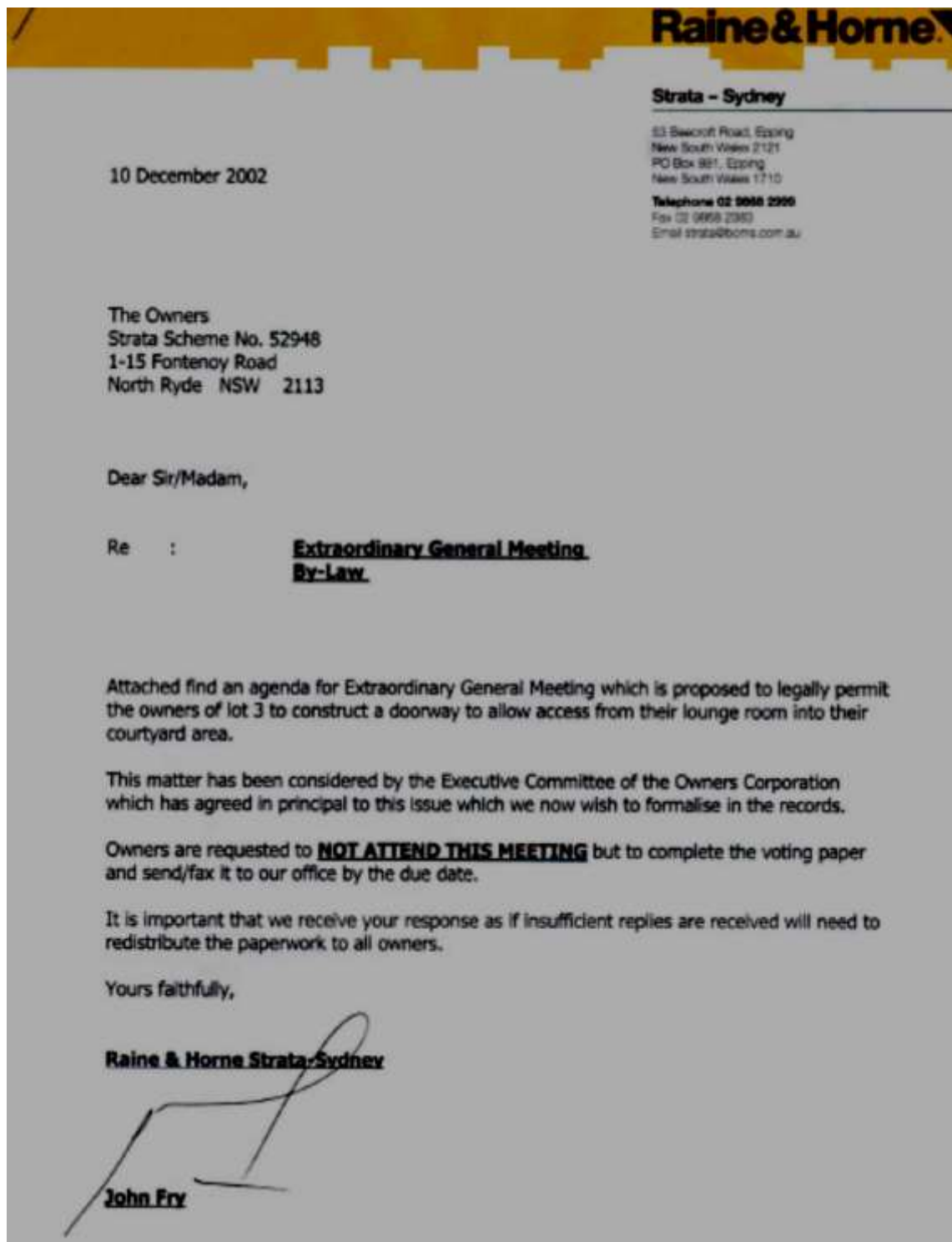
The owner for the time being of lot 3 shall be entitled to a special privilege in respect of a common property window dividing the lounge room and the courtyard of the lot for the purpose of removing that section to permit the installation of a sliding door on the following terms and conditions:

(a) The owner of lot 3 shall at its sole expense carry out such works and shall be responsible for all future maintenance costs.
(b) The work must be undertaken in a proper and workmanlike manner by a suitably qualified tradesperson.
(c) The owner of lot 3 must obtain any required approvals from Ryde City Council.
(d) The owner of lot 3 shall indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs and expenses whether for injury to persons, or damage to property, arising in any way out of the carrying out of the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in a sum of not less than \$5,000,000 to cover the owners obligations hereunder.
(e) If the owner defaults in the performance of any term or condition on this By-Law and such default continues for a period of fourteen (14) days after notice thereof is given to him by the Secretary of the Owners Corporation in writing, then the rights and privileges conferred by this By-Law may thereafter be terminated by an ordinary resolution of the Executive Committee of the Owners Corporation.
(f) The rights and privileges conferred by this By-Law shall be terminated automatically in the event of the Strata Scheme being varied or terminated pursuant to Sections 50, 51 or 51A of the Strata Schemes (freehold Development Act) 1973 as amended.
(g) The owner shall reimburse the Owners Corporation on demand for all legal and other costs reasonably incurred in the preparation and registration of this By-Law and in respect of any steps taken by the Owners Corporation to terminate this By-Law under paragraph (g) above.

(Special Resolution)

DATE 12. 12. 2002 SIGNATURE John Fry
Members of the Institute of Strata Title Management
Corporation Lic No. 11715L

The EGM on 2nd of January 2002 did not plan for any discussions (later on, this method proved to be a “normal” way in SP52948 to get no responses from owners and ensure success of the proposals without dissent or consultations at large):



Due to lack of quorum the EGM failed.

(Now deceased) Dr. John Edye, wrote a very honest and disturbing message to the Managing Agent on 12th of January 2003, which I managed to get a copy of during document search at BCS Strata Management in November 2011. Dr. Edye voiced his concerns about the EGM process because the work in Lot 3 was completed even before the By-Law was approved and registered!

The Chairman and Members of the Executive Committee,
Strata Scheme 52948,
1-15 Fontenoy Rd,
North Ryde 2113.

12.1.2003.

Dear Fellow Owners,

At the last meeting of the committee, held on 28th November, a letter from Mr Gerald Cohen was read. He complained about the overgrown garden on the roof of the swimming pool, which he described as a "jungle". Members agreed with him, and resolved that Universal Strata Care be instructed to "tidy up" the roof garden before Christmas.

The minutes of this meeting, published on the notice boards by Mr Fry, made no reference to this resolution, or to the instruction to be given. Mr Cohen advised me that when he asked the Caretaker, a few days later, when the work would be done, Ruth replied "after Christmas". This, I conclude, indicates that no instruction was given by Mr Fry, or that the committee's instruction was ignored.

At the same meeting, an application to the Owners Corporation from the owners of Lot 3 was presented, for consent to the alteration of a window to a sliding door. This application was received in the first half of 2002, but was never resolved by the committee. At this meeting Mr Fry advised with a smile, that the alteration had been completed. How is it that alterations to the structure of a lot can be made without a resolution of the committee recorded in the minutes? The notice of the Extraordinary General Meeting of the Owners Corporation on 2nd January 2003 (a paper meeting) assumed that all Owners would give their proxies to the Managing Agent. I did not. To do so would permit the Managing Agent to register a special By-Law, without a resolution of the committee recorded in the minutes!

At the 28th November meeting the request from an Owner to install an electric automatic door opener was discussed. The managing Agent's letter, dated 10th December, detailing this matter, with estimated costs, enclosed a questionnaire seeking the number of Owners interested in installing such a door opener. I submit that a change to our property of this nature should be placed on the agenda for an Annual General Meeting. With a (starting) cost to the Sinking Fund of an estimated \$ 19,000, and an unknown increased power bill to the Administration Fund, many Owners would not be prepared to accept the increase in their levies, especially the Owners of townhouses who pay their own power bills for all their power usage.

The contractor's report, given at this meeting, stated that only two more townhouse pergolas remained to be painted. Four have yet to be done, including ours. Surprised? At this rate, completion before next autumn seems hopeful.

The adjourned EGM was held on 24th of January 2003, just two days before another public holiday – Australia Day (Sunday, 26th of January 2003).

The total number of votes (ALL PROXIES) was 74. Nobody was present in person. That was SEEMINGLY INVALID VOTING as it breached the NSW Strata Management Act (according to Paul Banoob ruling for EGM 2012, see below). The proxy votes can only be counted at the first general meeting – that is the only valid option as per SSMA 1996. The rest of the votes at the adjourned GMs must be delivered in person, or, if not-expired, counted from the previous GM (the same ruling was used for EGM in May 2012). Paul Banoob (Branch Manager of BCS Strata Management) sent a message on 22nd of May 2012 that stated:

In relation to your query the reason why unit 152 was not counted as per the Act proxies received prior to the first general meeting can only be counted... The only proxies which can be legally used are the ones from last year's AGM. It was an error on our part for using another proxy form for the adjournment of the EGM.

MINUTES OF AN ADJOURNED EXTRAORDINARY GENERAL MEETING OF STRATA SCHEME NO. 52948, 1-15 FONTENOY ROAD NORTH RYDE HELD IN THE OFFICES OF RAINE & HORNE STRATA-SYDNEY, 53 BEECROFT ROAD EPPING ON 24 JANUARY 2003 AT 10.00AM.	
<u>PRESENT</u>	M McManus & J Fry
<u>PROXIES</u>	Lots 3, 4, 5, 10, 11, 12, 13, 15, 17, 21, 25, 35, 36, 40, 42, 44, 48, 49, 50, 55, 61, 62, 64, 66, 74, 82, 83, 84, 89, 90, 92, 93, 95, 98, 99, 106, 108, 118, 123, 125, 130, 132, 134, 135, 137, 138, 139, 140, 143, 147, 148, 150, 151, 153, 156, 158, 160, 162, 166, 173, 179, 181, 182, 185, 186, 188, 190, 197, 200, 203, 217, 218, 219 to the Chairman. Lot 195 to M McManus.
<u>IN ATTENDANCE</u>	J Fry from Raine & Horne Strata-Sydney.
<u>ITEM 1</u>	That the minutes of the last General Meeting be confirmed - Carried.
<u>ITEM 2</u>	<p>That the following additional By-Law be approved:</p> <p>That the Owners Corporation specially resolve pursuant to Section (52) of the Strata Schemes Management Act 1996 to add the following Special By-Law:</p> <p>The owner for the time being of lot 3 shall be entitled to a special privilege in respect of a common property window dividing the lounge room and the courtyard of the lot for the purpose of removing that section to permit the installation of a sliding door on the following terms and conditions:</p> <ul style="list-style-type: none">(a) The owner of lot 3 shall at its sole expense carry out such works and shall be responsible for all future maintenance costs.(b) The work must be undertaken in a proper and workmanlike manner by a suitably qualified tradesperson.(c) The owner of lot 3 must obtain any required approvals from Ryde City Council.(d) The owner of lot 3 shall indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs and expenses whether for injury to persons, or damage to property, arising in any way out of the carrying out of the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in a sum of not less than \$5,000,000 to cover the owners obligations hereunder.(e) If the owner defaults in the performance of any term or condition on this By-Law and such default continues for a period of fourteen (14) days after notice thereof is given to him by the Secretary of the Owners Corporation in writing, then the rights and privileges conferred by this By-Law may thereafter be terminated by an ordinary resolution of the Executive Committee of the Owners Corporation.(f) The rights and privileges conferred by this By-Law shall be terminated automatically in the event of the Strata Scheme being varied or terminated pursuant to Sections 50, 51 or 51A of the Strata Schemes (freehold Development Act) 1973 as amended.(g) The owner shall reimburse the Owners Corporation on demand for all legal and other costs reasonably incurred in the preparation and registration of this By-Law and in respect of any steps taken by the Owners Corporation to terminate this By-Law under paragraph (g) above. <p style="text-align: center;">(Special Resolution)</p> <p>- Carried.</p>
<u>CLOSURE</u>	There being no further business the meeting was closed.

After I had obtained photocopies of the SP52948 Special By-Laws in January 2012, I found out that the special By-Law 4 was registered on 24th of July 2003, pursuant to the resolution passed on 24th of January 2003:

Reg: 8331500 / Doc: DL 9808711 / Rev: 24-Jul-2003 / Str: SC-0X / Ppt: 23-Jan-2012 16:52 / Pgs: ALL / Seq: 1 of 3
Ref: 12/P0020 / Sec: E

Form: 15CB
Release: 1
www.lpi.nsw.gov.au

CHANGE OF BY-LAW

New South Wales
Strata Schemes Management Act 1996
Real Property Act 1900

9808711J

PRIVACY NOTE: this information is legally required and will become part of the public record

(A) TORRENS TITLE For the common property
Certificate of Title PI CP/SP52948

(B) LODGED BY

Delivery Box	Name, Address or DX and Telephone BOX 302G Burkhart Legal Tel: 9231 0122 Fax: 9262 1904	CODE CB
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Reference (optional): BURKHART/MCG MCG/raine 300192

(C) The Owners-Strata Plan No 52948
and in accordance with the provisions of
section 47 Strata Schemes Management Act 1996
the by-laws are changed as follows—

(D) Repealed by-law No NOT APPLICABLE
Added by-law No 4
Amended by-law No NOT APPLICABLE
as fully set out below.
See annexure A

(E) certify that pursuant to a resolution passed on 24 January 2003

(F) The common seal of the Owners-Strata Plan No 52948
was affixed on _____ in the presence of—
Signature(s): See annexure A

Name(s):
being the person(s) authorised by section 238 of the Strata Schemes Management Act 1996 to attest the affixing of the seal.

(G) ~~COUNCIL'S CERTIFICATE UNDER SECTION 36(4) OF THE STRATA SCHEMES MANAGEMENT ACT 1996~~
I certify that _____ has approved the change of by-laws set out
herein.
Signature of authorised officer:
Name and position of authorised officer: _____

All handwriting must be in block capitals.

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Annexure A to Change of By-Laws

Parties:-

THE OWNERS STRATA PLAN NO. 52948
Dated

- "4. The Owner for the time being of lot 3 shall be entitled to a special privilege in respect of a common property window dividing the lounge room and the courtyard of the lot for the purpose of removing that section to permit the installation of a sliding door on the following terms and conditions:-
- (a) The owner of lot 3 shall at its sole expense carry out such works and shall be responsible for all future maintenance costs.
 - (b) The work must be undertaken in a proper and workmanlike manner by a suitably qualified tradesperson.
 - (c) The owner of lot 3 must obtain any required approvals from Ryde City Council.
 - (d) The owner of lot 3 shall indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs and expenses whether for injury to persons, or damage to property, arising in any way out of the carrying out of the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in a sum of not less than \$5,000,000 to cover the owners obligations hereunder.
 - (e) If the owner defaults in the performance of any term or condition on this By-Law and such default continues for a period of fourteen (14) days after notice thereof is given to him by the Secretary of the Owners Corporation in writing, then the rights and privileges conferred by this By-Law may thereafter be terminated by an Ordinary Resolution of the Executive Committee of the Owners Corporation.
 - (f) The rights and privileges conferred by this By-Law shall be terminated automatically in the event of the Strata Scheme being varied or terminated pursuant to Sections 50,51 or 51A of the Strata Schemes (Freehold Development Act) 1973 as amended.
 - (g) The owner shall reimburse the Owners Corporation on demand for all legal and other costs reasonably incurred in the preparation and registration of this By-Law and in respect of any steps taken by the Owners Corporation to terminate this By-Law under paragraph (g) above."

Certified correct for the purposes of the Real Property Act 1900 by the Corporation named below the common seal of which was affixed pursuant to the authority specified and in the presence of the authorised person(s) whose signature(s) appear(s) below:



Corporation: The Owners of Strata Scheme No. 52948
by their Managing Agent, Body Corporate Management Services Pty. Ltd.
Authority: Section 238 of the Strata Schemes Management Act, 1966

Signature of authorised person:

Signature of authorised person:

Name of authorised person: *William John Fry*
Office held: *Managing Agent*

Name of authorised person: *Ian Robinson*
Office held: *Director*

The By-Law 4 was amended and registered on 24th of June 2003 and one of the critical conditions was:

The Owner of lot 3 shall indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs, and expenses whether for injury to persons, or damage to property, arising in any way out of carrying out the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in the sum of not less than \$5,000,000 to cover the owners obligations hereunder.

Since early May 2012 I have been asking the Managing Agent for full details of the insurance cover that owners of Lot 3 have.

The member of staff at BCS Strata Management, Ron Sinclair, sent me the following email message on 15th of May 2012:

With regard to the insurance required for unit 3 exclusive use I have attached a copy of the minutes of the meeting. We do not have any correspondence other than advice to the owner of lot 3 with a copy of the meeting minutes. I have written to the owner of unit 3 requesting a copy of their insurance cover. I will advise upon receipt of same.











I requested that the members of the Executive Committee and the Managing Agent notify all owners about this issue in the minutes of their meeting in late May 2012. This has not happened since 2012!





Issue 17

BCS Strata Management and EC members deleted details of accounting figures for legal fees in 2013.

<http://www.nswstratasleuth.id.au/BCS-Strata-Management-Example-of-Manipulating-Accounting-Figures-and-then-Destroying-Official-Document-2013.pdf>

4th of March 2013, status of financial documents at BCS Strata Community website for SP52948. Note the six-monthly financial statement Document ID 5200006, written by Strata Manager Mr. Peter Bone (he was removed from managing SP52948 later due to unsatisfactory performance):

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
 5200006	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Sx mthly accounts	9/04/2013
 4464244	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
 4464255	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
 4464258	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
 4464301	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
 4464305	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
 4464309	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
 4464318	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012
 4464323	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	2010	2/11/2012
 4464329	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	09/08 to 02/09	2/11/2012

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It hid secret legal expenses, which were paid to Solicitor Mr. Adrian Mueller without owners corporation knowledge or approval:

LESS: EXPENDITURE:

Audit Fees	480.00
Bank Charges	151.83
Cleaning Products	11,042.01
Maintenance - Garden Items	486.60
Maintenance - Carpet Cleaning	80.00
Electricity	42,759.58
Maintenance - Fire Services	5,755.90
Gardening and Lawns	23,878.26
Gas and Oil	10,742.56
Insurance Premiums	77,345.85
Key Deposits Refund	200.00
Legal & Debt Recovery Fees	200.00

Upon complaints from several owners who had more knowledge of the issue, Strata Manager Mr. Peter Bone issued an amended version of the document on 23rd of March 2013:

LESS: EXPENDITURE:

Audit Fees	480.00
Bank Charges	151.83
Cleaning Products	1,454.86
Maintenance - Garden Items	486.00
Maintenance - Carpet Cleaning	80.00
Electricity	42,759.58
Maintenance - Fire Services	5,755.90
Gardening and Lawns	23,878.26
Gas and Oil	10,742.56
Insurance Premiums	77,345.85
Key Deposits Refund	200.00
<u>Legal & Debt Recovery Fees</u>	<u>12,914.65</u> !!

Another staff member at BCS tried to offer weak explanation and even used fraudulent insurance claims for non-existent legal case:

*From: Steven Zouroudis
Sent: Tuesday, 23 April 2013 2:35 PM
To: undisclosed recipient
Cc: Paul Banoob; Peter Bone; Krisna Sopia
Subject: SP 52948 - six monthly accounts*

The income received from the insurance company in regards to legals is now showing in the accounts. The previous six monthly accounts you received had the insurance claim for legal fees taken up as a asset and offset once the money was received.

I have attached the paperwork from the insurance company of the claims received. The amounts are:-

*\$948.55 for burst pipe U190
\$12714.65 for CTTT Defence for Lot 3
\$367.64 for CTTT Defence for Lot 3*

There may be more claims that are pending from the insurance company, you will need to discuss this with your strata manager.

Please advise if you need any more clarification of the six monthly accounts provided.

*Steven Zouroudis
Assistant Accountant
Level 27, 66-68 Goulburn Street, Sydney NSW 2000
Locked Bag 22, Haymarket NSW 1238
T: (02) 8216 0442
F: (02) 9212 6269*

20th of August 2013, status of financial documents at BCS Strata Community website for SP52948. Note the amended six-monthly report Document ID 5304628 was available:

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
5304628	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	SIX MONTHLY AMENDED	30/04/2013
5200006	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Sx mthly accounts	9/04/2013
4464244	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012
4464323	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	2010	2/11/2012

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Just before the Annual General Meeting in October 2013, BCS Strata Management removed the amended financials again to ensure success of the meeting in their favour Document ID 5304628 disappeared forever. I have evidence that I complained to EC members and BCS Strata Management several times. They refused to even respond:

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
6306911	n52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co audit report 2013	10/10/2013
6306912	n52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co audit report 2013	10/10/2013
5200006	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Sx mthly accounts	9/04/2013
4464244	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012

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