

**INQUIRY INTO REGULATION OF BUILDING  
STANDARDS, BUILDING QUALITY AND BUILDING  
DISPUTES**

**Name:** Name suppressed  
**Date Received:** 24 July 2019

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Partially  
Confidential

## THE CASE OF STRATA COMMITTEE BULLYING A DECADE OF SYSTEMIC STRATA BULLYING

Now that our 8 year battle to enclose our balconies is over and I have reflected back on the trauma that the Strata Committee put us through it feels like a classic case of bullying.

**2010** At an Owners meeting called by the Strata Committee to address the leaking windows issue, the Owners agreed to replace the bedroom and living room windows in the block of 36 units. The Owners also agreed that if an owner wants to enclose their lot owned balcony they can do that.

**2011** North Sydney Council approves the Development Application with 16 owners wanting to enclose their balcony.

Prior to the window work, it was decided that the slab would be remediated, the concrete cancer causing magnasite would be removed and any spalling repaired. It was also decided to minimise disruption to the residents that the work would be done vertical strand by vertical strand, that is 6 units at one time. One by one the owner / resident of the southern facing units (worst affected by the weather) moved out of their homes for approximately 2 months whilst this work was done. The work was radical and left consequential damage - most notably, damaged carpet that required replacing. The new windows would take up less floor space so some owners decided not to replace their carpet until the windows were installed. The spalling work was completed mid-2012 and these units were now ready for their windows.

**2013** The replacement of the common property windows facing south commenced. This work took approximately 8 months and was a massive disruption to the residents. It later transpired that this work was defective and a successful Home Owners Warranty claim was made. The south facing owners will be disrupted again.

The Owners changed to a new Strata Manager who sourced various quotes for the bedroom and living room windows and presented his recommendation to an Owners meeting. This was unanimously approved. A few weeks later 3 of the 36 Owners wrote a legal letter to the Owners Corporation (SP576) objecting to paying approximately 500mm of the fire compliant spandrel that should have been the Owners Corporation's financial obligation. A small financial adjustment was all that was required. The Strata Manager called a Strata Committee meeting and invited all Owners. At this meeting he proposed a Project Manager be hired (effectively parking the tabled and agreed quote and re-starting the project).

**2014** Money was raised for the common property bedroom windows. The Strata Committee sourced 3 quotes for the Project Manager and went back to the Owners where they selected the company to manage the project. The appointed company changed and expanded the brief without consultation with the Strata Committee. For example; they proposed aluminium windows when the Committee were adamant they wanted UPVC. They included new unit front doors, lights (which had been replaced three years prior), signage (which had been replaced two years prior) and windows that the Strata Committee was not intending to replace. This was an expensive exercise that went nowhere and confidence in this project manager was lost.

**2016** At an Owners meeting in June, five owners (two Strata Committee members and the authors of the 2013 legal letter) proposed another plan to address the windows. These SC members did not consult with the other SC members. They spent approximately \$3k of Owners money taking advice from the project manager.

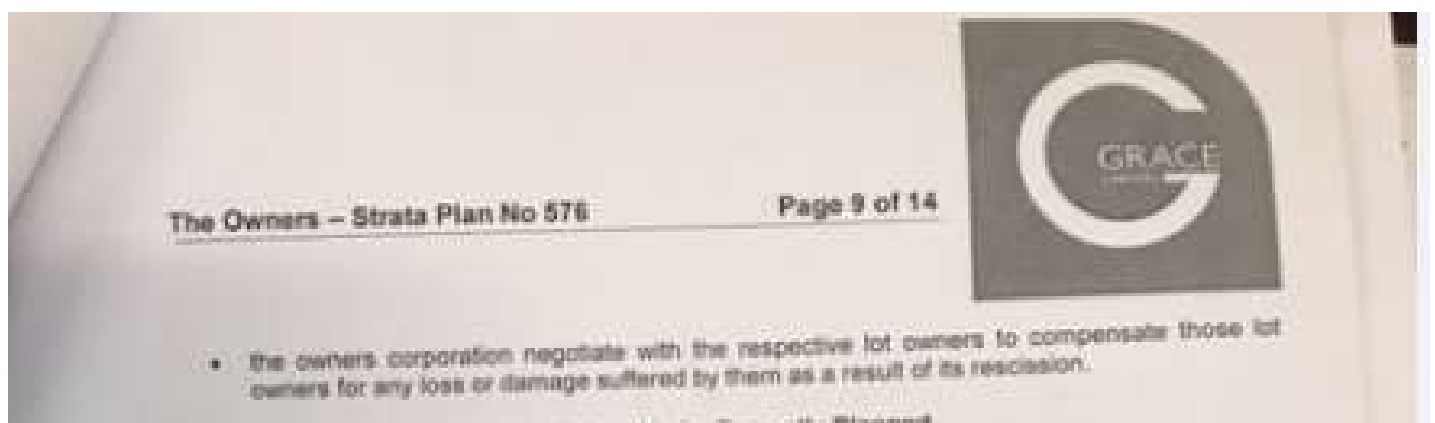
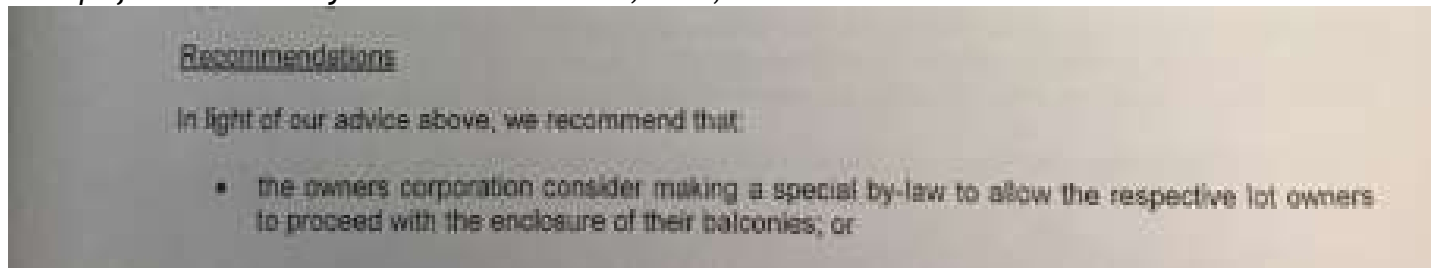
The meeting was heated as the new plan proposed removed the previously agreed enclosures and changed the windows requirement from UPVC to aluminium.

The motion was carried.

I took umbrage to this and consulted my lawyer. We applied to NCAT and they rescinded the motion. It later transpired that the plan was ill conceived as it was not compliant with the BCA (Building Code of Australia) as no fire separation was allowed. That mistake made the budget suggestions incorrect. And, they had no legal right to take away permission previously agreed and noted on the Development Application for any owner to enclose their balcony.

At the next AGM I was voted off the Strata Committee.

After 6 years of waiting in an incomplete and leaky home, I and two other owners decided to independently enclose our lot owned balconies. This required drawing up a by-law and presenting it to the Owners Corporation for approval at an Owners meeting. The Strata Committee sought legal advice and was advised that they would not succeed in stopping us, we had the legal right. It would appear that the lawyer's advice was not shared with the Owners - our by-law motion to enclose was not successful on the two occasions we requested - October 17, 2016 and then December 13, 2016.  
*Excerpt from Grace Lawyers advice October 17, 2016;*



**2017** Having been refused our legal right, we then applied to NCAT for Court Orders. In my opinion this is where the real bullying starts. At this stage two factions are appearing among the Owners - for and against. At an Owners meeting at 7:30 am April 4, 2017 in the car park of our building the Owners agreed to spend money to defend the NCAT application. Note; It appears that the Owners had still not seen the Grace Lawyers October 2016 legal advice.

In the NCAT court room and prior to the hearing the Strata Committee capitulated and granted permission with a 5 month delay condition. The Orders by Consent were written up.

These delay tactics cost all Owners a \$37,000 legal bill and it was suggested the Strata Committee believed that the threat of legal action would make us back down and not proceed to the hearing at NCAT.

**2018** In order to start our works we needed a Construction Certificate provided by our Principal Certifier. We submitted our correct paperwork to the Strata Committee June 5, 2017 and attempted to start construction. There were many push backs from the Strata Committee in regard to the paperwork. Some examples are;

- They demanded to see *“drainage diagrams for the enclosed balconies”*. We don't expect our enclosures to leak therefore no drainage is required.
- They wanted *“engineering certification for the scaffolding”*. This is not a requirement when erecting scaffold
- They wanted to see *“details of insurances which cover the common property”*. We are not required to insure the common property
- On July 2 through their lawyer they asked for a construction program. This further wasted Owners' money as this had already been supplied June 5 and was called a Construction Schedule. On this occasion they should have looked more closely at the documents we sent through and they could have asked us directly and saved owners money by not going through their lawyer.

This back and forth delayed the start of the works. No new documents were ever needed to be supplied as we had complied in every way. They then started to write directly to our lawyers in order to ramp up the costs to us. Our lawyers pushed back.

The next step was to erect the scaffold. This required certain access and we are again delayed. This time by the building manager obstructing access and parking his car where the scaffold needed to go. The car was removed 44 days later. The Strata Committee now appears to be vexatious, blocking us at every turn. Our work finally commenced on August 9, 2018

Throughout the build phase a further \$20,000 of owner's money is spent taking legal advice and making false allegations that we were not complying. They wanted to take us to NCAT to stop the work. The below advice sent to the Strata Committee June 29, 2018 advises they will not win against us.

From:  
Sent:  
To:  
  
Cc:  
Subject:

Friday, 29 June 2018 5:11 PM

(and representatives),

I have considered your email below. Unfortunately, there is nothing that Anthony can (or should) instruct us to do.

We can proceed with an application to NCAT, but we do so against our recommendation. However, I do not like the owners corporation's prospects of success, particularly after the bundle of detailed information provided by yesterday. If the owners corporation does not succeed, we are confident that her solicitors will bring an application for an adverse costs order that the owners corporation pay a portion of legal costs.

Further, the owners corporation will have difficulty persuading the Tribunal that its delay in the commencement of the works is reasonable.

Please let us know if the committee would still like to proceed with an application to NCAT and we shall forward to you our Costs Agreement and Disclosure for the committee's approval.

Kind regards

We complied in every way.

Two members of the Strata Committee visited Council - they lodged a complaint against the Council employee who approved the DA. They hounded our Certifier so much so that he had to charge us extra money and they made a point of saying that any extra costs that they incurred should be borne by us. They continued to complain to Council and each time Council followed up, the complaint came to nothing. They went into another person's unit to take pictures of the inside of our homes. I called the Police about this and they told me it was viewed as 'menacing'.

They wrote to the owners saying "We have stopped the works....". Needless to say when their allegations were proved false they did not write to the owners to say sorry we made a mistake.

They told us to stop the works because the fenestrations (arrangements of windows) were not approved. We re-provided them the email about the fenestrations dated August 2017.

Right up to the 3rd last day of construction they tried to halt the works.

The works are now complete and we are extremely happy with the result. Our section of the building looks fresh and modern and we have a larger living room rather than a tiny balcony that was windswept and unusable. We have received no negative comment, quite the contrary we have received glowing comments from neighbours and residents. However, this work came with a huge amount of harassment provided to us by our Strata Committee. All told the Strata

Committee wasted \$57,000 of Owners money on legal fees when they knew at the outset they would lose.

We are still waiting for our common property south windows to be remediated. The money has been in the Owners Corporations bank since 2017 and I am still waiting for the leaks into my home to be fixed as per NCAT orders in January 2017.

It is worth noting that the people who attempted to block the improvement construction are investors, and unfortunately the latest sale in the building was a \$20,000 loss plus the hidden fees (lower rent etc) for the investor. The legal cost further removes funds from renovation and building improvement. This document is only about the units on the southern side. There are 30 other units waiting for their spalling and upgrade windows work to commence.

Besides the financial cost, there is also a real hard to measure negative impact on time, health, relationships and ultimately quality of life in the past 8 years for all concerned.

We now have a very long way to go to claw back the real value of our homes.

Bullying in Strata needs to change

There is a need for;

- Consequences for Strata Committee withholding information from owners (effectively misleading owners)
- Consequences for Orders to be acknowledged and actioned (not changed at the behest of a few)
- Bullying and intimidation to cease (where 'victim' owners can have some recourse)
- Protection against a few acting against the majority and influencing by incorrect information