

## Developers call for Queensland BCCM law changes to force unit owners to sell

### UOAQ objectives.

1. To raise the level of quality in the building of strata developments.
2. To ensure that the properties are properly and fully maintained through the life of the building.
3. To ensure that the rights of all owners are respected and equitable for 100% of owners in a scheme.

Currently to amalgamate and extinguish existing strata title lots the Queensland *Body Corporate and Community Management Act 1997 (BCCM Act)* requires:

1. All owners (100%) in a strata titled scheme to unanimously consent to a collective sale of their lots, or
2. A court order to terminate the community title scheme.

### Campaign for change.

The Property Council of Australia (**PCA**) is campaigning to change the requirement for unanimous consent. The PCA members (property developers) will be the greatest beneficiaries of their redevelopment approval reduction recommendations from 100% to 75% of owners' agreement. Even the high population density, land scarce cities, such as Singapore, have an over 80% minimum approval threshold. Applying the PCA recommendation, three owners in a 4-unit block could overrule one owner automatically. This could be the case with developers who hold existing unit holdings, as they do in many sites up and down the prime coastal sea-front such as the Gold Coast.

The PCA argument for lower than 100% owner agreement in strata title is that existing unit blocks are "*heavily dilapidated*" and "*rapidly deteriorating assets*".

### Construction Quality.

What does it say about the quality of building construction of unit developments if they must be demolished after 30 to 40 years? Could it be the outcome of a lack of consumer protection laws, which may require increased builder warranty periods to raise building standards? Alternately, has a lack of any construction quality assessment scheme and control regulation created the major *numbers of defects* the PCA claim or has *industry self-regulation* in property construction failed strata title consumers and their communities?

How do 100-year-old heritage listed buildings remain standing in excellent condition while new buildings with the latest building materials, methods and technology become "*dilapidated, beyond restoration, often becoming safety hazards*" (PCA quote) within just a few decades?

Introduction of new comprehensive regulation of construction standards and stronger enforceable consumer laws are required to protect strata title consumers. UOAQ, as a member of the Consumer Reference Group of the Queensland Building and Construction Commission, is recommending increased warranty periods on new buildings with the objective of improving building quality.

### **Unit owners' rights unequal to single dwelling owners' rights.**

Single dwelling owners of four adjoining development lots in a street would never be exposed to a campaign where 3 owners (75%) could force 1 owner (25%) to sell their home. The PCA considers that strata owners have fewer rights than single dwelling owners.

Individual Australians do have a constitutional right to own strata titled and freehold property. However, some of the countries the PCA often cites as the Collective Sale and Urban Regeneration model for us to follow (and achieve some times) purposely do not recognize or have citizens' rights to own property enshrined in their constitutions.

### **Consumer protection for strata living.**

Realising that strata living is expanding to a situation where it will eventually become the largest form of home choice in Australia, it is bewildering that these homeowners, representing such a substantial proportion of the Australian community should be denied protections afforded by Australian Consumer Law (**ACL**). When unfair contract terms legislation under ACL was introduced in 2011, Bodies Corporate were specifically excluded from its coverage (for reasons unknown but suspected to be to protect Queensland government interests in the insidious regime of Management Rights). Single dwelling owners by contrast are protected by ACL.

Many owners in Australia, in both individual houses and strata schemes have achieved 100% agreement to sell for redevelopment. In fact, most redevelopments on the Gold Coast have, as legislated, been 100% agreed to en-bloc sale. Interstate stand-alone home owners in Canberra and in Sydney have sought and achieved 100% agreement to sell collectively for redevelopment. This is also the case for some strata titled property owners – and was achieved prior to NSW Government changes to legislation.

### **Sample current strata development in Queensland.**

*"In the March 2016 quarter alone, Brisbane inner city had 64 new high-rise strata-title buildings in progress and there are currently 71 high-rise strata-title projects being sold off the plan. Over the past three (3) months inner Brisbane development applications and approvals valued at over \$10 million or which contain greater than 30 apartments have the potential for approximately 20,456 residential apartments over 100 projects."*

(source Place Advisory Pty Ltd Market Report, March 2016)

It is evident that all the above inner Brisbane high-rise strata-title redevelopment sites achieved 100% owner agreement to sell for redevelopment, contrary to any PCA claims or media scaremongering. Termination issues are rarely mentioned in dispute resolution applications to the Queensland BCCM Commissioner's Office or in the Queensland District Court, so why is an arbitrary 75% or more collective sale ruling being raised by the PCA?

In a nutshell - the Property Council of Australia's objective is to make it easier, quicker and cheaper for their members (developers) to purchase prime location redevelopment sites and maximise their financial profits.

Having extensively discussed this matter recently, UOAQ finds that it is philosophically opposed to the principle of any proportion of owners overruling a minority leading to the forced sale of their property. These processes are best left with the courts where equitable outcomes may be better achieved.

Unit Owners Association of Queensland Inc.

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