

8 May, 2015

Consumer Policy Framework Unit
Small Business Competition and Consumer Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sirs

Re: Extending unfair contract term protections to small businesses – legislation

Residential Strata Owners Corporations / Body Corporates currently have no protection under Commonwealth Consumer Protection legislation. The Owners Corporation Network (OCN) requests Treasury to include Owners Corporations / Body Corporates in the protections to be extended to small business and already available to consumers.

Owners Corporations are very vulnerable to unfair contracts. Executive Committees consist of volunteers from diverse backgrounds who in many cases are not familiar with strata legislation and best practice. We rely on strata managers, and for larger schemes, facility managers / caretakers who may often seek to exploit the vulnerabilities of Owners Corporations for their own benefit. We draw Treasury's attention to the various scenarios below:

- Caretaker / facility manager contracts which under NSW legislation can be up to 10 years and under Qld legislation 25 years, with no KPI's and in many cases inflated annual increase of 5% and sometimes more
- In many cases the caretaker may be appointed by the developer, and may be a related entity. In other cases, as is common in Queensland, the caretaker rights are sold by the developer, and the owners are bound by a 25 year contract which is grossly in favour of the caretaker
- Strata management contracts are often very slanted to the service provider, with auto rollover clauses, poor transparency in charging, and commissions for insurance and little KPI's. In new schemes, the Strata Manager is appointed by the developer, and sometimes is a related entity. An Owners Corporation can find themselves saddled with a poor performing Strata Manager for 3 years with no means of redress.
- Lift contracts with auto rollover clauses and annual price increase of 5%. Whilst there are good reasons for 3 to 5 year contracts due to lift agreements often being all inclusive of labour and parts, onerous auto rollover and annual cost increases are

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unfair conditions

- In NSW in the initial period the developer might commit to a number of contracts which bind the Owners Corporation until the first Annual General Meeting, at which time all contracts require renewal. Whilst the lot owners attending may choose not to proceed with the contracts, the reality of a diverse and uninformed assembly of owners are rarely in the position to challenge these contracts and may find themselves bound in any number of unfavourable contracts which may bind them for 10 years or more.

We enclose some examples of unfair contracts for your reference.

Yours truly,
Owners Corporation Network

Electronic mail, no signature

Gerald Chia
Vice Chair
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