

Document 5

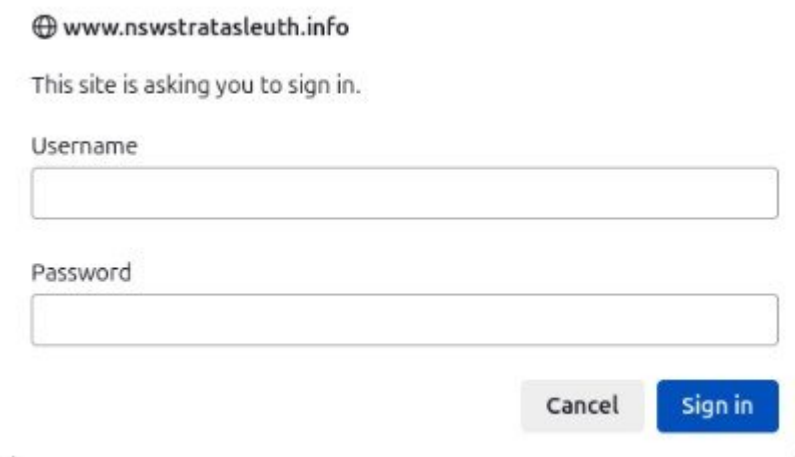
NCAT-2024-00454780-001-remove-committee-member-Stan-Pogorelsky-SSMA-2015-Sec238-part-3

Most of submissions in NCAT case are provided on publicly-available secure website for all owners and investors in SP52948 since 2015, as what one would expect in open-minded democratic process, especially since Waratah Strata management (and their predecessor BCS Strata Management) did not allow owners free, or any access, access to most of strata files:

<https://www.nswstratasleuth.info/>

For selected group of protected documents, where applicable, login prompt will force NCAT and SP52948 to authenticate at this web link:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/>



🌐 www.nswstratasleuth.info

This site is asking you to sign in.

Username

Password

Cancel Sign in

For security reasons, and as per best practices, login details are provided in a separate email.

90) Examples of events to prevent access to strata files and hamper investigations by Office of Legal Services Commissioner, NSW Fair Trading, CTTT/NCAT, District Court, and Supreme Court.

90.1) At CTTT Hearing on 17 October 2012, Solicitor Adrian Mueller, who showed up without approval at any committee or general meeting, and without evidence of Standard Costs Agreement, signed document to provide strata files to Lot 158, as ordered by the Tribunal.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/CTTT-Solicitor-agreement-about-access-to-files-17Oct2012-received-on-22102012.pdf>

Solicitor Adrian Mueller lied to the Tribunal. Most of the requested files were not provided.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-BCS-Strata-Management-false-promise-to-deliver-strata-documents-13Nov2012.pdf>

90.2) Whilst legally valid committee member, strata manager, upon advice from Solicitor Adrian Mueller, prevented Lot 158 access to strata files on 4 February 2013.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Mueller-invoice-6Mar2013-BCS5064461.pdf>

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/20130204-Re_ACCESS%20TO%20INSPECT%20RECORDS%20REQUESTED%20SP52948%20co-1443.pdf

Evidence that Solicitor Mr. Adrian Mueller applied double-standards for own protection – published on his website on 2 April 2013:

Are You Entitled to Inspect Legal Advice

Tuesday, 02nd April 2013



The answer appears to be "yes" according to a recent decision of the NSW Supreme Court. But the jury is still out on whether a lot owner who is directly involved in the litigation with an owners corporation is entitled to inspect legal advice given to the owners corporation concerning the litigation.

Supreme Court Case

In *Eastmark Holding Pty Ltd - v - Kabraji (No 3)* 2012 NSWSC 1463, the Supreme Court held that the developer of a large residential building in Berry Street, North Sydney was entitled to inspect legal advice given to the owners corporation of the building concerning litigation in which the developer is involved.

90.3) On 4 January 2013, Chairperson Mr. Bruce Copland gave clear instructions to strata manager and Solicitor Adrian Mueller to force Lot 158 to provide all folders in NSW Fair Trading mediation case SM12/1537JR, in spite of fact that there was no fee charged by NSW Fair Trading for mediation services and everyone was responsible for their own costs.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Bruce-Copland-trying-to-exhaust-Lot-158-and-confirmation-EC-not-responsible-to-defend-Strata-Manager-4Jan2013.pdf>

90.4) On 24 January 2024, Mr. Copland repeated the same demand.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Fair-Trading-NSW-case-12-1537-Solicitor-Adrian-Mueller-involvement-on-24Jan2013.pdf>

Subject: Re: SP 52948 - Mediation
From: Bruce Copland <bcopland@toga.com.au>
Date: 24/1/13, 12:24 pm
To: "'PeterB@bcms.com.au'" <PeterB@bcms.com.au>
CC: "'AdrianMueller@lowes.com.au'" <AdrianMueller@lowes.com.au>, "'Paul.Banoob@picaust.com.au'" <Paul.Banoob@picaust.com.au>

We must be give the so called 2000 pages to read. This is vital. Looking through half a dozen emails is not our problem. He has to be ordered to provide a copy of the file.

I am not in Sydney and cannot call a meeting or review files remotely.

This is intolerable abuse of the process.

90.5) On 18 February 2013, Chairperson Mr. Bruce Copland used defence of alleged legal privilege that all correspondence so that it was made unavailable to Lot 158, who was legally valid committee member.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Bruce-Copland-using-defence-of-privileged-documents-18Feb2013.pdf>

Subject: SP 52948 committee meeting
From: Bruce Copland <bcopland@toga.com.au>
Date: 18/2/13, 18:12
To: John Ward <JWARD@doh.health.nsw.gov.au>
CC: 'Peter Bone' <PeterB@bcms.com.au>

John,

I have just been told ten minutes ago that the chairman of my major overseas client is coming into Sydney on Wednesday and Thursday only and I am required to meet with him and various bankers well into Wednesday night.

So far I have avoided missing meetings over the last ten years but it looks like I have no choice for Wednesday. The committee can appoint a chair for the night and as I understand it proxies do not apply although anything contentious you can always vote to have a circular paper resolution to get a full committee input. Maureen will of course be absent otherwise you should have a full committee.

Not much I can do in this case but make a very late apology.

I think as far as DB issue is concerned the less minuted the better other than to note that he has been advised that all correspondence concerning matters which have he has taken to the CTT and on which we have received legal advice are privileged and therefore cannot be provided to anyone until the matters are resolved finally (and perhaps not even then). You can note that solicitors have been instructed to ask CTTT to seek a costs order against him for the frivolous and timewasting processes he has caused.

90.6) When Lot 158 declined to provide folders free of charge, and because most files were already given to SP52948 in electronic format, SP52948 declined to attend on 20 February 2013:

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/DFT-File-SM12_1537JR-Refused-Mediation-20Feb2013.pdf

90.7) On 21 February 2013, Chairperson Mr. Bruce Copland, quite angrily, forced strata manager to reopen the mediation case, still insisting to incur costs to Lot 158.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Adrian-Mueller-engaged-in-reopening-mediation-case-12-1537-to-incur-costs-without-legal-reasons-on-22Feb2013.pdf>

From: Bruce Copland [<mailto:bcopland@toga.com.au>]
Sent: Thursday, 21 February 2013 9:46 AM
To: Peter Bone; esaulits@alwaysonline.net.au; jeffrey@adifferentcorner.com; jward@doh.health.nsw.gov.au; mcdonald151@bigpond.com; zellev@iprimus.com.au; hirsch25@gmail.com; pogo@ozemail.com.au
Cc: 'Adrian Mueller'; Paul Banoob
Subject: RE: SP 52948 - Request for Mediation

Peter,

I am afraid you have let the applicant off the hook. He should have been given an order to provide the material. This is a gross abuse of process and an intolerable imposition on the Owners Corporation.

How do you know what is in the material?

While it is unlikely that mediation would serve any purpose it is important that you have understood that you will now require to obtain all 2000 pages from CTTT.

This is not a desirable outcome.

Bruce

90.8) SP52948 refused to attend again, added extra expenses paid to Solicitor Adrian Mueller unnecessarily, and closed the mediation case for the second time on 27 March 2013:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-committee-members-information-about-reopened-Fair-Trading-NSW-case-12-1537-5Mar2013.pdf>

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/20130305-Re_Mediation%20file%20re-opened%20-%20letter%20attached%20Stra-2830.pdf

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/Solicitor-letter-to-NSW-Fair-Trading-mediation-case-SM12_1537JR-6Mar2013.pdf

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/NSW-Fair-Trading-mediation-case-SM12_1537JR-13Mar2013.pdf

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/DFT-File-SM12_1537JR-Refused-Mediation-second-time-27Mar2013.pdf

90.9) In March 2013, Chairperson Mr. Bruce Copland made serious efforts to prevent Lot 158 (who was legally valid committee member at the time) from accessing strata files.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Mediation-and-Bruce-Copland-efforts-to-use-privacy-as-defence-Mar2013.pdf>

Mr. Copland said:

My recommendation is that we do vote clearly against paying for any copies of documentation.

Secondly that we vote against mediation as the chances of reaching an agreement are very slim and it is almost impossible to consider that we would terminate the services of our managing agent or agree to anything Lot 158 wants in the absence of a General meeting in any case.

Please be aware that your vote may not be protected by legal privilege although I will as the strata manager to keep it private on that basis as the dispute with Lot 158 is ongoing and he should not have access to anything other than the bare decision to proceed or not proceed to mediation.

90.10) Chairperson Mr. Bruce Copland ordered strata manager to make Lot 158 document inspection as inconvenient as possible on 5 September 2013, whilst also declaring that his own correspondence with BCS Strata Management was privileged and private (although they are part of SP52948 records).

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Chairperson-Bruce-Copland-instructing-BCS-Strata-Management-to-make-document-search-for-CTTT-difficult-5Sep2013.JPG>

Extracts from Mr. Copland's email:

I consider that correspondence between myself and Raine & Horne Strata is personal and not part of the records of the SP52948.

I am of the firm view that all correspondence and material related to any CTTT claim lodged by Lot 158 automatically becomes privileged and that by taking the action he has locked himself out of access to any material.

...

I trust you can make his inspection as inconvenient as possible!..

90.11) Whilst legally valid committee member, strata manager, upon advice from Solicitor Adrian Mueller, prevented Lot 158 access to strata files on 13 September 2013:

The communications between me and you and me and the executive committee concerning the CTTT litigation with Lot 158 are subject to common law legal professional privilege and should not be made available for Lot 158 inspection.

90.12) Secret email to Police on 13 April 2018, urging them not to investigate. Extract from Waratah Strata Management's email:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Waratah-Strata-Management-urging-Police-not-to-investigate-while-refusing-access-to-files-with-evidence-of-fraud-that-Lot-owner-alleges-13Apr2018.pdf>

It is clear from both of these documents that Lot 158 has been making these allegations for many years and that they have been dealt with many times by the CTTT and the District Court and dismissed. The strata committee are extremely concerned that Lot 158 is continuing to waste Police time on these allegations.

A member of the strata committee has spoken with Mr Bruce Copland, who was the former chairman of the strata committee. Mr Copland has advised that he... he would be willing to speak with you about that matter...

Since 7 October 202, Mr. Copland refused to respond to this letter of demand:

<https://www.nswstratasleuth.info/SP52948-Bruce-Copland-stayed-silent-when-approached-with-letter-of-demand-7Oct2020.html>

90.13) Extract from an email from Waratah Strata Management to NSW Fair Trading on 20 May 2019, asking them not to waste time to investigate the complaints, which was sent just 11 days before Lot 158 had a scheduled document search in Waratah Strata office on 31 May 2019.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-official-notice-Waratah-Strata-Management-intention-to-prevent-Strata-Roll-Access-to-Lot-158-11-days-before-document-search-20May2019.pdf>

Extract from the email:

Some of the SC members have expressed concern about the information provided to you, specifically the Strata Roll, including the owners contact details.

...

The SC understands that Lot 158 is entitled to obtain a copy of the Strata Roll when he conducts a strata inspection, but he is not entitled to a copy of the owners contact details such as phone and email addresses and they would not want that information passed on to him. Please confirm that none of the documents provided will be passed on to Lot 158.

As Owners Corporation is a democracy – everyone has a say and everyone a vote and the majority rules. 218 owners in SP 52948 are very happy with the operation of the Owners Corporation and its strata committee. One owner thinks all of the other owners are idiots or thieves. Why should the OC and SC have to continue to respond to and waste its time and resources on the recalcitrant, obsessive owner? We understand you have to investigate this complaint, but ask you to take into account the above information and do not require ourselves or the CO to waste any more time on Lot 158.

90.14) Extract from an email from Solicitor Adrian Mueller to O'Brien Criminal & Civil Solicitors on 14 November 2019, in response to O'Brien Criminal & Civil Solicitors letter dated 30 October 2019.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Solicitor-Adrian-Mueller-letter-to-Lot-158-Solicitor-rejecting-access-to-strata-files-on-14Nov2019.pdf>

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/O'Brien-Criminal-and-Civil-Solicitors-letter-to-Solicitor-Adrian-Mueller-30Oct2019.pdf>

Lot 158 has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.

Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of Lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?

In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158 request for those records to be provided to him and they are not prepared to agree to the request.

90.15) Extract from secret emails between Waratah Strata Management, committee members, and Solicitor Adrian Mueller on 9 June 2022:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/Solicitor-Adrian-Mueller-trying-to-hide-his-criminal-activities-in-advice-to-Waratah-Strata-Management-and-SP52948-committee-members-9Jun2022.pdf>

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Waratah-Strata-Management-admission-to-committee-members-and-Solicitor-Adrian-Mueller-about-hiding-strata-files-from-Lot-158-9Jun2022.pdf>

Lot 158 accessed the Owners Corporation records yesterday afternoon using TeamViewer access to our electronic archives. This is the same method used by strata inspectors conducting pre-purchase inspections. He did have multiple disruptions to that access due to TeamViewer timeouts. We understand this is caused when the accessing party is deemed to be a commercial user of TeamViewer trying to use the free license.

As discussed, we had removed any documents that may have been covered by legal privilege. Due to the large volume of related documents that included multiple versions of the same information we removed any thing that may have included privileged information. Unfortunately we now realise that we did not remove documents from our Insurance Claims Folder, which includes information that had been provided to the insurers for the Legal Defence Expenses claim. Lot 158 therefore have accessed much of this information.

We only provided 1 hour of access (allowing for the access disruption) as is covered by the Strata Act for the initial fee paid.

90.16) Extract from letter from Solicitor Adrian Mueller to Lot 158 on 27 June 2022, trying to prevent Lot 158 to assist Office of Legal Services Commissioner, NCAT, Supreme Court Costs Assessor, and the Police:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Solicitor-Adrian-Mueller-letter-27Jun2022.pdf>

The Secretary
The Owners – Strata Plan No. 52948

2

27 June 2022

to obtain specific documents, you will need to follow the procedure set forth in section 182 of the *Strata Schemes Management Act 2015* in order to do so.

We are informed that on or about 8 June 2022 you did undertake an inspection of the records of the Owners Corporation. We are told that during that inspection certain privileged documents were made available to you by mistake. We are instructed that privilege is not waived in relation to any of the privileged documents which you were mistakenly given access to.

In relation to the proposal contained in your email to the strata manager of the Owners Corporation sent on 8 June 2022, we are instructed that the proposal is not acceptable to the Owners Corporation.

However, we are informed that one aspect of your proposal was a requirement for the Owners Corporation to reimburse to its insurance company the legal costs which its insurer paid in connection with the Tribunal proceedings in which the costs order was made against you on 6 July 2021.

We are instructed that once the amount determined by the costs assessor has been paid by you to the Owners Corporation, the Owners Corporation will reimburse that amount to its insurer which is the appropriate thing for it to do.

In relation to the other aspects of your proposal, we are instructed that the Owners Corporation is not prepared to forward the email you sent the strata manager of the Owners Corporation on 8 June 2022, or the evidence you filed in Tribunal proceedings (File No. SC 20/33352) or that you lodged with the costs assessor, to anyone or provide you with the authority to represent the Owners Corporation in dealings with the Office of the Legal Services Commissioner, the Tribunal and the Police.

Yours faithfully



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