

Document 5

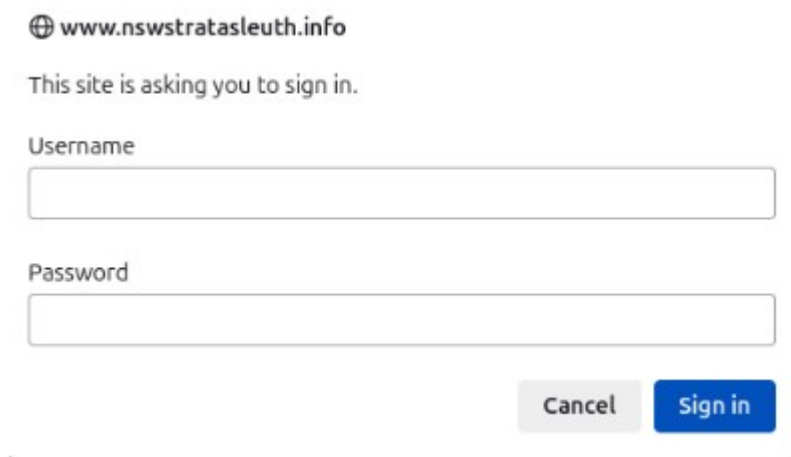
NCAT-2024-00454780-001-remove-committee-member-Stan-Pogorelsky-SSMA-2015-Sec238-part-3

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:

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

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Order removing member of the executive committee Mr. Stan Pogorelsky, as per SSMA 2015 Section 238 (a)

Part 3 - Brief Evidence of Continuous Fraud for Unpaid Gas Heating Levies by Mr. Stan Pogorelsky since 1999

59) Minutes of committee meeting on 21 July 1999 and 17 November 1999 set gas heating levies to \$200.00 per year, paid in advance on 1 December each year (meeting attended by only eight owners and one proxy, where two of committee members (Mr. Pogorelsky and Mr. Aranwela (name was misspelled in the minutes)) already had gas heating connections as per approval at committee meeting on 26 May 1999:

<https://www.nswstratasleuth.info/SP52948-minutes-EC-meeting-26May1999.pdf>

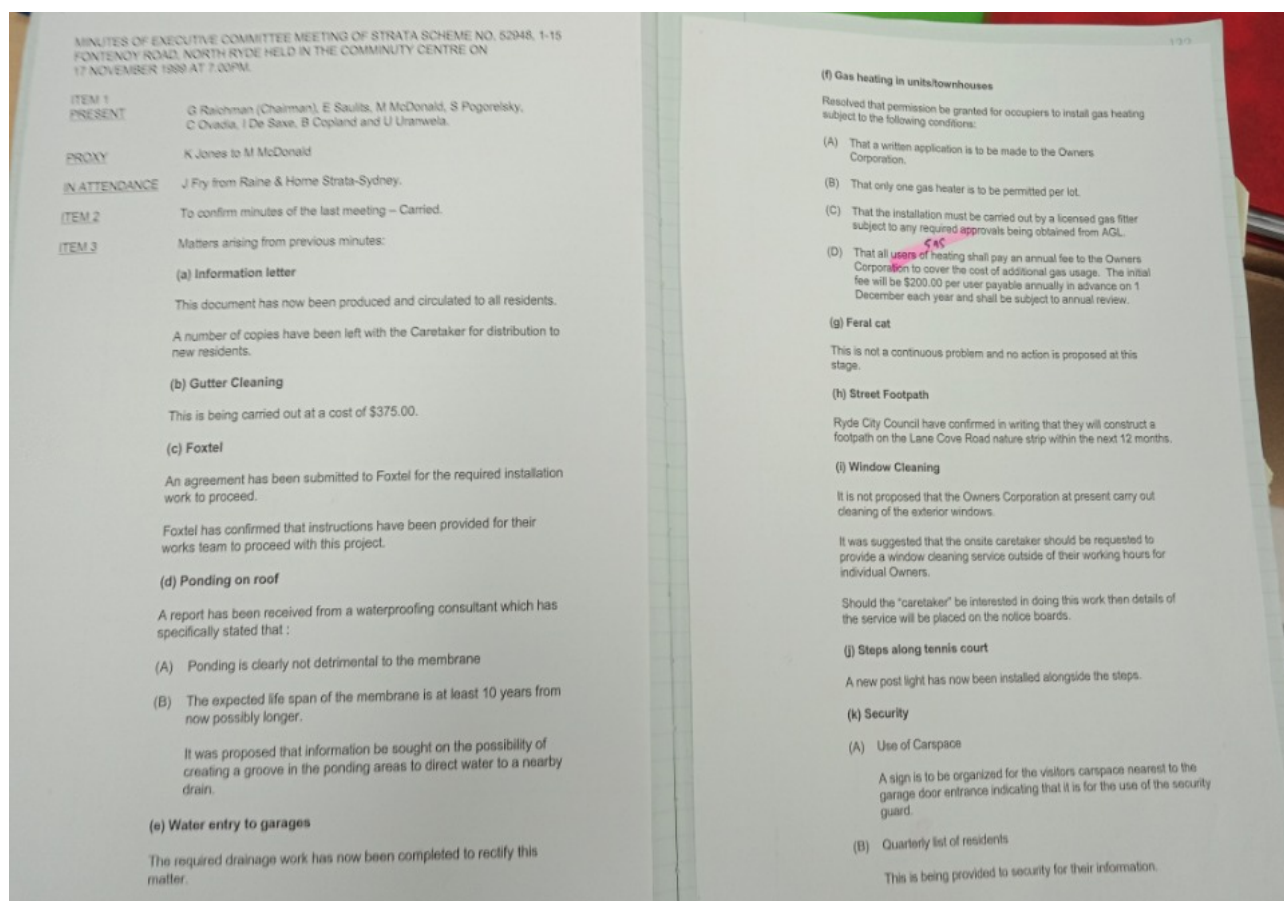
<https://www.nswstratasleuth.info/SP52948-EC-meeting-21Jul1999-first-time-gas-heating-charges-introduced.pdf>

Motion 13. Gas heating in units

Resolved that written advice be obtained from the contractor that did the original gas installation at the complex regarding the implications of residents installing gas heating.

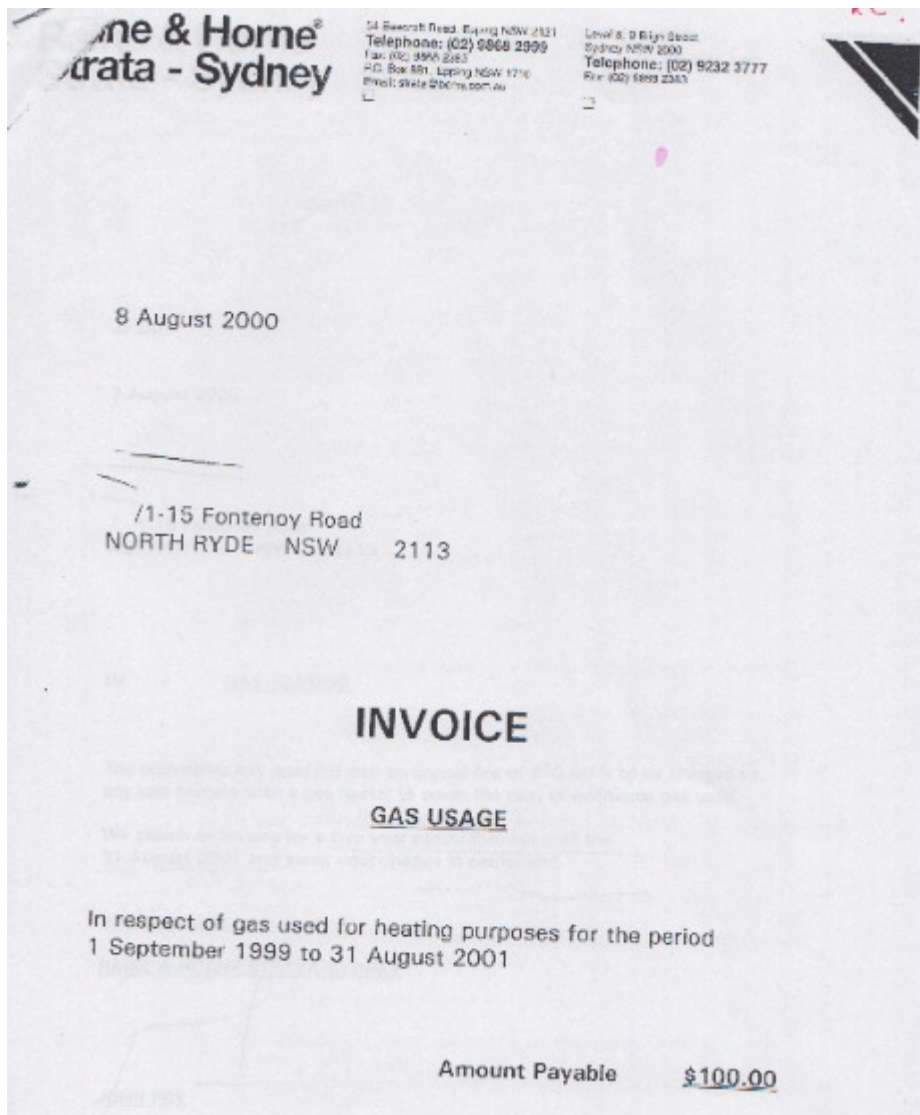
Resolved that subject to the general system not being adversely effected by such additions that residents be permitted to use gas for heating subject to an annual fee of \$200.00 being paid to the Strata Plan with such charge also applying to any resident that has already installed such gas heating.

<https://www.nswstratasleuth.info/SP52948-EC-meeting-decision-about-gas-heating-charges-without-general-meeting-17Nov1999.pdf>



That all users of heating shall pay an annual fee to the Owners Corporation to cover the cost of additional gas usage. The initial fee will be \$200.00 per user payable annually in advance on 1 December each year and shall be subject to annual review.

60) This invoice with gas heating charges for FY 2000 and FY 2001 dated 8 August 2000, which applied incorrect amount of \$50.00 for both years, did not have owner's name, and did not include GST from 1 July 2000, was found during document search in Waratah Strata office on 20 September 2019 (19 years after the event):



60.1) The minutes of alleged committee meeting on 2 August 2000 were found during document search in BCS Strata Management office on 17 October 2013 and in Waratah Strata office on 20 September 2019 and are a forgery.

<https://www.nswstratasleuth.info/SP52948-in-2019-Waratah-Strata-Management-forged-committee-meeting-dated-2Aug2000-to-justify-unfinancial-owners-due-to-unpaid-gas-heating-levies-since-1999.jpg>

<https://www.nswstratasleuth.info/SP52948-minutes-EC-meeting-2Aug2000.pdf>

- Strata manager and committee members were fully aware of GST introduction, as per their failed Extraordinary General Meeting (EGM) due to lack of quorum on 24 May 2000. Almost two and half months passed since the failed EGM, when the alleged invoice for gas heating in amount of \$50.00 per year (GST excl) was introduced retrospectively (\$200.00 was payable on 1 December 1999).
- The agenda and minutes of this meeting were never provided to any owner.
- The meeting was only attended by eight committee members, of which two had direct interest in gas heating levies: Mr. Stan Pogorelsky (Lot 181), and Mr. Upali Aranwela (Lot 62).
- The meeting allegedly set gas heating levies in amount of \$50.00 per year (GST excl) without general meeting.

- At document search on 12 November 2012, in BCS Strata Management office, scans were taken of all pages of Meeting Book, and the meeting on 24 May 2000, which clearly showed that they were on pages 157 to 164:

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-meeting-24May2000.pdf>

This meeting made decision of the next committee meeting to be held on 26 July 2000 (which never happened), followed by the meeting on 12 September 2000 to finalise the budget and other items for Annual General Meeting scheduled for 5 October 2000.

- At document search on 12 November 2012, in BCS Strata Management office, scans were taken of all pages of Meeting Book, which clearly showed Extraordinary General Meeting on 21 May 2000 (failed due to lack of quorum) and its reschedule on 23 August 2000 on pages 165, 166, and 167. This meeting introduced GST for period since 1 July 2000:

<https://www.nswstratasleuth.info/SP52948-minutes-EGM-21Aug2000.pdf>

Next item in the separate Meeting Book were minutes of AGM on 5 October 2000 and committee meeting on 12 September 2000 (exactly as planned at committee meeting on 24 May 2000):

<https://www.nswstratasleuth.info/SP52948-minutes-AGM-5Oct2000.pdf>

<https://www.nswstratasleuth.info/SP52948-minutes-EC-meeting-12Sep2000.pdf>

61) Whilst unfinancial to vote and be a committee member, Mr. Pogorelsky was one of ringleaders to prevent owners who had very low outstanding debt or allowed unfinancial owners to submit proxies (best illustrations were Lot 3, Lot 62, and Lot 147 due to unpaid gas heating levies), as examples for AGM 2012 and 2013 show.

62) Mr. Pogorelsky, whilst unfinancial, due to Lot 158 efforts to recover unpaid gas heating levies, together with other committee members urged BCS Strata Management to send letter to owners to self-report gas heating connections on 14 April 2014 (strata manager lied that gas heating levies were set to \$220.00 (GST incl) at AGM on 17 October 2012).

<https://www.nswstratasleuth.info/SP52948-Peter-Bone-BCS-Strata-Management-first-desperate-attempt-to-get-owners-to-self-report-second-gas-connections-for-unpaid-levies-14-years-after-its-secret-introduction-14Apr2014.pdf>

62.1) When only few owners replied, they sent second reminder on 30 June 2014:

<https://www.nswstratasleuth.info/SP52948-BCS-Strata-Management-sent-second-notice-about-second-gas-connections-and-warning-about-caught-owners-who-did-not-report-it-14Apr2014-and-30Jun2014.pdf>

62.2) Special By-Law for gas heating did not have any figure for levies:

No.11 That the Owners Corporation, by **SPECIAL RESOLUTION**, pursuant to Section 47 of the *Strata Schemes Management Act 1996*, make an additional By-Law in the following terms:

SPECIAL BY-LAW: Control of Common Gas Supply

In addition to the powers, authorities, duties and functions conferred upon the Owners Corporation by the Act and By Laws it shall have the following additional powers, authorities duties and functions:

- 1 Enter a lot to inspect the common gas supply to cooking appliances;
- 2 Determine whether the common gas supply has been tapped for the supply to appliances other than the internal bench top cooking appliances ("additional appliances")
- 3 Impose on the owner of those lots in which the common gas supply has been diverted to additional appliances, an annual charge equal to the reasonable estimate usage of gas having regard to the rated gas consumption of the additional appliances; all such estimates to be at the absolute discretion of the Owners Corporation acting reasonably;
- 4 Determine that such annual charge be a levy for the purposes of enforcing the payment thereof;
- 5 Vary the annual charge having regard to the cost of gas imposed on the Owner Corporation;
- 6 Impose a retrospective levy on lots found to have tapped the common gas supply without permission from the Owners' Corporation, any such charge to be at the absolute discretion of the Owners Corporation acting reasonably;
- 7 Continue to bill such levy until confirmation from a licensed gas fitter is received advising that no diversion of gas supply exists within a lot.
- 8 An owner and/or occupier of a lot must NOT connect an additional appliance to the common gas supply without:
 - a. First notifying the Owners Corporation in writing of the intention to do so;
 - b. Using only the services of a licensed gas fitter as approved by The Owners Corporation to carry out the installation;
 - c. Paying any charge when levied for the consumption of gas determined by the Owners' Corporation ;
 - d. Be responsible for the maintenance and repair of all fittings, pipe work and appliances attached to the common gas supply other than the gas supply piping to the boundary of the lot.
- 9 In the event that individual gas meters are installed to each and every lot such that consumption can be billed to each lot on a strictly metered basis the above requirements

shall cease to have effect from the date of commencement of such direct billing of gas consumption.

The Chairman noted that this was a slight change in previous policy applied where voluntary reporting of gas appliances had been accepted and the annual fee had remained fixed for many years. This fee was now too low and some measures were necessary to deal with undisclosed use of the common gas supply. The conversion of this policy to a by law is to deal with enforcement.

63) Mr. Pogorelsky, whilst unfinancial, allowed himself and Lot 147 (Mr. Moses Levitt) to attend committee meeting on 28 August 2013, and without disclosure of their unpaid gas heating levies, illegally voted to decrease gas heating levies from \$200.00 (GST excl) per year to just \$50.00 (GST excl) per year in Motion 5. This directly benefited Mr. Pogorelsky, whilst defrauding owners corporation of their rightful income.

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-meeting-28Aug2013.pdf>

64) Mr. Pogorelsky, whilst unfinancial, was fully aware that only three owners admitted having gas heating connections on 13 May 2014 and stayed silent about other owners, especially Lot 3 (Mrs. Lorna Zelenzuk) who continued to hide her connection and usage at expense of all other owners:

<https://www.nswstratasleuth.info/SP52948-gas-outlets-incomplete-audit-by-BCS-Strata-Mansgement-without-disclosure-to-owners-and-failed-collection-of-correct-levies-13May2014.pdf>

**SP 52948 - 1-15 Fontenoy Road, Macquarie Park
as of 13/ 5/ 14**

Lot No	Owner's Name	Gas Outlet			Info Provided By
		No	Yes	Installation Date	
15	Marlene Baskin	✓			Mr Swartzberg, owner's father
21		✓			Corinne from NNW Property
49	John G Ward	✓			owner
57	John G Ward	✓			owner
58		✓			Corinne from NNW Property
62	Upali Aranwela		✓	with approval & already paying strata for this	owner
63	Yujun Dong	✓			owner
85		✓			Corinne from NNW Property
89		✓			Corinne from NNW Property
91	Jack Tao	✓			owner
95	Wie, Bing Qing	✓			owner
99	M Fiore	✓			owner
111		✓			Corinne from NNW Property
112	Carlos Fornieles Montoya	✓			owner
118	S N Majlessi	✓			owner
120		✓			Corinne from NNW Property
132	T Carlton	✓			owner
136	Timothy & Susan Kemsley	✓			owner
137	Timothy Kemsley	✓			owner
146	Robin Lupton	✓			owner

Lot No	Owner's Name	Gas Outlet			Info Provided By
		No	Yes	Installation Date	
147	Mo Levitt		✓	May 2001 & paying annual levy since this date	owner
150	Diedre J Niar	✓			owner
151	Maureen McDonald	✓			owner
160	Prof Harry G Poulos	✓			owner
181	Stan & Tessa Pogorelsky		✓	1999	owner
188		✓			Corinne from NNW Property
190	Keiron Poulos	✓			owner
191		✓			Corinne from NNW Property
201	Ziba Zohrehvandi	✓			owner
205	Sun Min Hwang	✓			owner
216		✓			Annie Barrow from Shead Property

64.1) In November 2018, Lot 158 personally provided evidence of unpaid gas heating levies and sent confidential emails to 10 owners, including four who were committee members at various periods in time (Mrs. Lorna Zelenzuk Lot 3, Mr. Upali Aranwela Lot 62, Mr. Moses Levitt Lot 147, Mr. Stan Pogorelsky Lot 181). None of them ever replied:

PRIVATE AND CONFIDENTIAL: Lot 62 unpaid levies for second gas connection and evidence of defamation	25/11/18, 12:33
PRIVATE AND CONFIDENTIAL: Lot 147 unpaid levies for second gas connection and evidence of defamation	25/11/18, 17:43
PRIVATE AND CONFIDENTIAL: Lot 147 unpaid levies for second gas connection and evidence of defamation	25/11/18, 18:06
PRIVATE AND CONFIDENTIAL: Lot 3 unpaid levies for second gas connection and evidence of defamation	25/11/18, 22:20
PRIVATE AND CONFIDENTIAL: Lot 181 unpaid levies for second gas connection and evidence of defamation	26/11/18, 20:12
PRIVATE AND CONFIDENTIAL: Lot 181 unpaid levies for second gas connection and evidence of defamation	26/11/18, 20:16
PRIVATE AND CONFIDENTIAL: Lot 102 unpaid levies for second gas connection and evidence of defamation	26/11/18, 20:40
PRIVATE AND CONFIDENTIAL: Lot 148 unpaid levies for second gas connection and evidence of defamation	27/11/18, 19:56
PRIVATE AND CONFIDENTIAL: Lot 182 unpaid levies for second gas connection and evidence of defamation	27/11/18, 20:37
PRIVATE AND CONFIDENTIAL: Lot 175 unpaid levies for second gas connection and evidence of defamation	27/11/18, 21:21
PRIVATE AND CONFIDENTIAL: Lot 175 unpaid levies for second gas connection and evidence of defamation	27/11/18, 21:28
PRIVATE AND CONFIDENTIAL: Lot 192 unpaid levies for second gas connection and evidence of defamation	28/11/18, 09:32
PRIVATE AND CONFIDENTIAL: Lot 167 unpaid levies for second gas connection and evidence of defamation	28/11/18, 20:00

65) Secret email from Mr. Pogorelsky to BCS Strata Management and ex-Chairperson Mr. Bruce Copland on 10 June 2015. In it, Mr. Pogorelsky admitted unpaid gas heating levies. Mr. Pogorelsky had duty to respond to Lot 158, which he never did.

<https://www.nswstratasleuth.info/Stan-Pogorelsky-secret-email-10Jun2015.png>

Extract from the email:

Welcome to BCS. Just to let you know I am on the executive committee of Strata Plan 52948.

You may have seen an email from Lot 158 accusing me of not paying my gas charges.

Please can you have a look at the xl that I have attached. It is self-explanatory and in a fair amount of detail.

There is a list of people in our strata who have had gas heaters installed in their units. Russell did work on this and the results should be in your office.

If you can locate this list which lets you know which units have these installed I am sure that most of the units would be missing the same charges as I am .

BCS has neglected to raise these charges on invoices marked on my xl. We need to raise invoices for these arrear charges as a matter of urgency.

I did pass on to Russell a note from Yigal Zelenzuk – Apartment 3 where he has not paid anything since he moved in.

66) In spreadsheet sent on 10 June 2015, Mr. Pogorelsky self-calculated and miscalculated that he only "owed" \$311.66 for unpaid gas heating levies (without 10% simple interest per year, which only owners corporation can waive at general meeting and not using figure of \$200.00 (GST excl) per year).

Mr. Pogorelsky also admitted that he did not pay gas heating levies in 2012, 2013, and 2015 without disclosure to any owner.

67) This spreadsheet was found in document search on 13 June 2017, with someone redacting year 2012 and 2013 payments and clearly "wiping" them out.

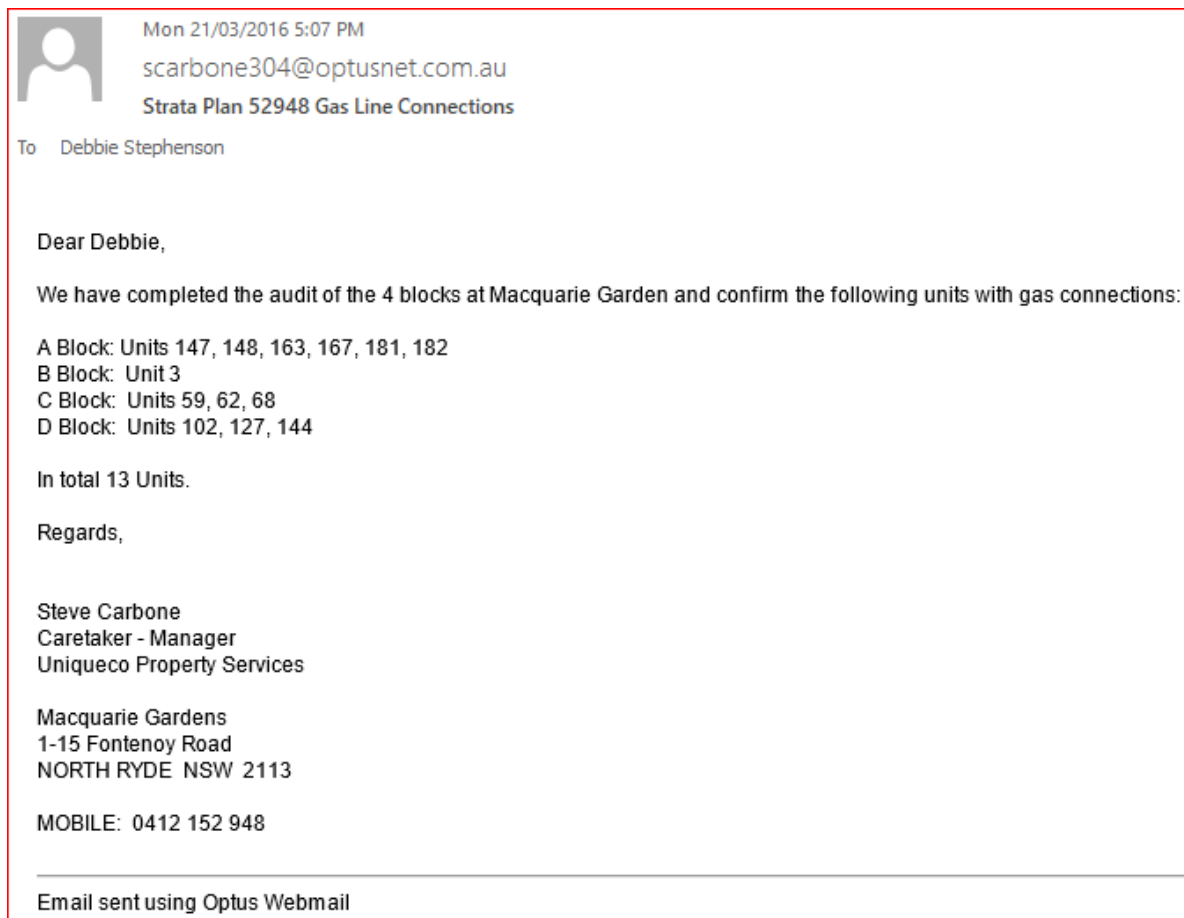
<https://www.nswstratasleuth.info/SP52948-Lot-181-gas-levy-payments-self-assessment-miscalculated-10Jun2015.webp>

Stan Pogorelsky			
Gas Charges paid by S & T Pogorelsky on unit 181 - SP52948			
From 1999 to 2018			
Date Paid	Period applicable	\$	
1999	1/9/99 to 31/8/2000		Moved in 1/11/98
2000	23/08/2000	1/9/2000 to 31/8/01	100.00
2001	1/08/2001	1/9/01 to 31/8/02	50.00
2002	21/07/2002	1/9/02 to 31/8/03	55.00 \$50+\$5GST
2003	31/07/2003	1/9/03 to 31/8/04	55.00
2004	1/11/2004	1/9/04 to 31/8/05	55.00
2005	1/11/2005	1/9/05 to 31/8/06	55.00
2006	1/11/2006	1/9/06 to 31/8/07	55.00
2007	1/11/2007	1/9/07 to 31/8/08	55.00
2008	1/11/2008	1/9/08 to 31/8/09	55.00
2009	26/10/2009	1/9/09 to 31/8/10	55.00
2010	24/10/2010	1/9/10 to 31/8/11	55.00 \$55 Credit on 1/2/11 and Debit \$55 on 2/5/11
2011	7/11/2011	1/9/11 to 31/8/12	55.00
2012		1/9/12 to 31/8/13	Not billed by BCS
2013		1/9/13 to 31/8/14	Not billed by BCS
2014	1/08/2014	1/9/14 to 31/8/15	55.00
2015	1/09/2015	1/9/15 to 31/10/15	311.66 See below
2016	3/11/2015	1/11/15 to 31/1/16	55.00
	1/02/2016	1/2/16 to 30/04/16	55.00
	2/05/2016	1/5/16 to 31/7/16	55.00
	1/08/2016	1/8/16 to 31/8/16	18.34
	20/09/2016	1/9/16 to 31/10/16	36.66 Overpaid
2017	1/05/2017	1/9/16 to 31/8/17	220.00 Billed by Waratah
From our AGM in November 2014 new rate is \$50+\$5 per quarter and should be billed quarterly on BCS statement to unit holders			
In summary I owe you \$110.00 for 2012 and 2013. And \$18.33 x 2 = \$36.66 for Sept & Oct 2014			
As well you should have billed me for gas usage in			
	Quarter 1/11/14 to 31/01/15	55.00	
	Quarter 1/02/15 to 30/04/15	55.00	
	Quarter 1/05/15 to 31/07/15	55.00	
	Quarter 1/08/15 to 31/10/15	55.00	
		220.00	
	Less what you charged for 2014	55.00	Paid by me
		165.00	
So I owe you \$110 + \$36.66 + \$165 = \$311.66 which will take me up to Quarter ended 31/10/15. Paid on 29/6/15			
Please invoice (email to me) me for these charges so that this matter can be put to rest.			

68) Secret invoice by BCS Strata Management to Mr. Pogorelsky on 17 July 2015, charging him \$311.66 for unpaid gas heating levies. BCS blindly accepted Mr. Pogorelsky's version of debt.

<https://www.nswstratasleuth.info/SP52948-Lot-181-gas-charges-undisclosed-years-issued-17Jul2015.pdf>

69) Mr. Pogorelsky, whilst unfinancial, helped BCS Strata Management hide incomplete audit of gas heating connections that Uniqueco Property Services conducted on 21 March 2016.



70) Mr. Pogorelsky, whilst unfinancial, attended committee meeting on 16 March 2017, allowed three other unfinancial owners due to unpaid full gas heating levies to vote without disclosure (Lot 3 Mrs. Lorna Zelunzuk, Lot 88 Mrs. Marianna Paltikian, and Lot 147 Mr. Moses Levitt).

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-meeting-16Mar2017.pdf>

Resolved that the form to be used to allow owners to claim water and gas usage reimbursements was reviewed and the strata managers are authorised to use the amended prescribed form, in accordance with Special By-Law 13. Resolved a copy of this new claim form is to be issued to all townhouse owners for future use. Further resolved that due to the recent change of strata managers, townhouse owners will be able to claim for the last 2 quarters of previously unclaimed expenses, but only until 31 March 2017 when the normal "claim within 60 days of payment" rule will apply.

Further resolved that the Lot 213 has replaced the gas cooktop with electric, so are no longer entitled to gas usage reimbursements and are not to be charged for additional gas points.

Further resolved that the levy accounts of the following units are to be charged \$220 incl. GST on their May levy notice, being the annual charge for the additional gas point within those units:

Lots 3, 8, 59, 62, 68, 102, 127, 144, 147, 148, 163, 167, 181, 182, 194, 199, 206, 209.

70.1) Secretary of the committee, Mrs. Lorna Zelenzuk, and with delegated privileges of Secretary Mr. Robert Crosbie from Waratah Strata Management, failed to enforce SSMA 2015 Clause 18 for:

Mr. Stan Pogorelsky

Mr. Moses Levitt

Mrs. Lorna Zelenzuk

Mrs. Marianna Paltikian

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 (SSMA 2015 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 (SSMA 2015 Clause 18(4) of Schedule 2).

70.2) This was the first time that Mr. Pogorelsky (and any other owner) revealed his own gas heating connection (17 years after installation).

70.3) For the first time, gas heating levies also applied to four townhouses who had undisclosed gas heating connections whilst also claiming reimbursements for their private gas usage: Lot 194, Lot 199, Lot 206, and Lot 209.

70.4) Email correspondence between Lot 209 and strata manager on 10 and 12 April 2017 confirmed that Lot 209 would not receive gas heating charges any longer as this rented out property forced tenants to pay for their gas usage since 25 September 2014. The fact still applied that Lot 209 secretly claimed gas usage reimbursements whilst having undisclosed gas heating connection in period before September 2014.

When approached by Lot 158 about it, Lot 209 became aggressive and defensive, without offering any reasonable explanations:

Privileged-documents (need authentication):

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-209-second-gas-connection-12Apr2017.png>

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-209-secret-claims-for-gas-usage-whilst-having-undeclared-gas-connection-16Oct2018.pdf>

71) At committee meeting on 20 April 2017, the following was summarised about gas heating levies for owners:

<https://www.nswstratasleuth.info/SP52948-non-compliant-committee-meeting-20Apr2017.pdf>

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-meeting-20Apr2017.pdf>

Gas Connection Charges - The committee have attempted to implement a fair & just system for all owners for the charging of gas supply. They are entitled to adjust these arrangements from time to time as required.

72) Secret email from Mr. Robert Crosbie to Mr. Pogorelsky and Mr. Levitt (Lot 147) about unpaid gas heating levies on 24 May 2017, confirming that he found only \$33.66 payment by Mr. Pogorelsky on 20 September 2016.

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-email-to-unfinancial-committee-members-Stan-Pogorelsky-and-Moses-Levitt-showing-frustration-for-long-term-problems-with-gas-heating-levies-24May2017.jpg>

73) Secret email from Mr. Pogorelsky to Mr. Robert Crosbie and Mr. Levitt on 27 April 2017, confirming that no owner paid prescribed gas heating levy in amount of \$220.00 (GST incl) until 2016.

<https://www.nswstratasleuth.info/SP52948-unfinancial-committee-member-Lot-181-Stan-Pogorelsky-response-to-Waratah-Strata-Management-confirming-that-unpaid-gas-heating-levies-should-be-recovered-27Apr2017.jpg>

Mr. Pogorelsky wrote:

That status report was from last year's charges. The first time we charged the \$220.00 per annum.

I suppose it should be followed up.....

I have a feeling that we may have difficulty from some of them.

74) Previous owner of Lot 88 already had a gas heating connection when she complained to strata manager on 27 March 2013:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-confirmation-to-Lot-88-about-missing-gas-heating-levy-calculation-27Mar2013.pdf>

In it, strata manager asked SP52948 Chairperson Bruce Copland and committee member Mr. John Ward the following:

The owner of unit 88 was recently granted approval to install a gas connection within her Lot for heating purposes (see attached letter).

This owner has today contacted our office demanding to know how much she will be charged for gas each quarter.

She is not satisfied with the content of the Special By-Law relating to how she will be charged.

Is there anything further I can advise her as to how much gas supply may cost her each quarter?

Strata manager was directly involved in fraud because, formally, Lot 88 was approved to have gas heating connection only on 19 September 2013, although his email on 27 March 2013 confirmed Lot 88 connection before or around early March 2013.

<https://www.nswstratasleuth.info/SP52948-Lot-88-approved-gas-connection-BCS6136722.pdf>

On 28 March 2013, strata manager delayed response to Lot 88 until 19 September 2013 (six-month delay), where they listed charges as \$55.00 per year. This also meant that Lot 88 did not pay any gas heating levies in FY 2013 (financial year from 1 September 2012 to 31 August 2013):

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-delaying-response-to-Lot-88-about-gas-heating-levies-28Mar2013.pdf>

Extract from strata manager's concerns to SP52948 Chairperson Bruce Copland on 28 Mar 2013:

Marina Gaits of unit 88 has just phoned me demanding that a member of the Executive Committee phone her on 0418 654 706.

She is very upset over the gas invoicing matter, and she is very upset with me because I am refusing to give her any answers.

Extract from response by SP52948 Chairperson Bruce Copland to strata manager and committee member Mr. John Ward on 28 Mar 2013, confirming that AGM 2012 (which did not satisfy the quorum and was conducted in non-compliance with SSMA 1996) did not set gas heating levies:

You have to manage this the EC meets on policy and will happily determine pricing as soon as it has some information. The EC did not even know about her heater till you contacted me. She is welcome to attend the next EC meeting but she is in the same boat as every other owner who installs a heater. The charge will be set reasonably but in the absence of a separate meter it is an arbitrary figure that needs some work to determine. She would be a lot more upset if there was no By-law allowing the connection in the first place.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Minutes-AGM-2012.pdf>

<https://www.nswstratasleuth.info/SP52948-AGM2012-quorum-calculation-1Jul2017.pdf>

In 2014, Mrs. Paltikian hid her gas heating connection in two self-audits which strata manager asked owners to conduct:

<https://www.nswstratasleuth.info/SP52948-Summary-of-additional-gas-connections-BCS-report-14May2014.pdf>

On 16 July 2017, Mrs. Paltikian sent an email to Lot 158:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-88-promise-to-investigate-gas-heating-levies-16Jun2017.pdf>

In it, she said:

I need to follow this up which units have gas connection and are not paying?

As of late January 2025, there is no public document that lists Lot 88 gas heating connection (even if it were disconnected, which nobody can confirm as such information is undisclosed, it should be in the register).

75) Extract from minutes of the committee meeting on 20 July 2017 (Motion 5), which Mr. Pogorelsky attended as illegal committee member. In it, Mr. Robert Crosbie published figure of \$91.66 being owed by Mr. Pogorelsky.

75.1) There was also an alleged intention not to investigate gas heating debts further and simply allow owners to vote on it at Annual General Meeting. This was NOT DONE until AGM 2019 (delay of two years and three months!!!).

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-meeting-20Jul2017.pdf>

The historical charges to lot owners for additional gas points was discussed. The strata manager advised that a thorough review of the BCS records has been carried out, including a request for further information from BCS, and it is still not possible to accurately confirm the amounts that have been charged to and paid by the respective lot owners. It is the view of the strata committee that the cost of carrying out a forensic audit of the strata accounts over many years would far exceed the amount of any unpaid additional gas charges and therefore the cost of this exercise could not be justified. Resolved that a motion is to be included on the Annual General Meeting agenda to allow owners to vote on whether a forensic audit of the gas charges is to be carried out or whether it will be deemed that all gas charges are paid up to date. (Note: In the accounts provided by BCS at the change of strata manager they indicate General Debtors in relation to gas charges totalling \$1,411.66, of which only \$91.66 relates to strata committee members. The committee do not believe this information is accurate but have deferred this decision to be made at the AGM so there is no question of a conflict of interest by the committee.)

The issue of gas supply and gas usage charges was also discussed. Waratah Strata Management were previously instructed to only reimburse gas usage and not gas supply charges. It has been raised by various owners that this is inconsistent with what previously occurred and amended Special By-Law 13. It was discussed that the unit owners only pay a supply charge for the gas used for hot water and not cooking, and that the townhouse owners should therefore also not pay the supply charges for their gas used for cooking. Resolved that the townhouse owners are to be reimbursed the gas supply and gas usage charges. Waratah Strata are to reimburse owners the gas supply charges on any previously claimed expenses as part of the next reimbursement paid.

76) Secret letter by Mrs. Lorna Zelenzuk (Lot 3), Mr. Moses Levitt (Lot 147), and Mr. Stan Pogorelsky (Lot 181) to owners (not sent to Lot 158) day after committee meeting on 20 July 2017, lying about their unpaid gas heating levies, which these three official statements of account (created by BCS Strata Management and given to Waratah Strata Management when they took office on 1 February 2017) clearly prove:

- In period from 1 February 2015 to 30 January 2017, Lot 3 did not pay any gas heating levies:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-3-statement-of-account-1Feb2015-to-30Jan2017.pdf>

- In period from 29 January 2015 to 30 January 2017, Lot 147 did not pay any gas heating levies:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-147-statement-of-account-29Jan2015-to-30Jan2017.pdf>

- In period from 29 June 2015 to 30 January 2017, Lot 181 did not pay any gas heating levies:

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-181-statement-of-account-1Feb2015-to-30Jan2017.pdf>

In it, all of them denied any gas heating debt and wrote some horrific misinformation and lies about Lot 158 (searching through rubbish bins, taking photos inside private units, and Police allegedly telling strata manager and committee members that all Lot 158 allegations were dismissed as baseless). An example:

Invasion of privacy

A letter has been received by the SC from a resident objection to DB taking photographs of her residence. He has also been seen searching through Recycle Bins on the property. Residents are advised to shred all personal documents disposed of in the recycle bins.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-EC-letter-to-owners-while-three-members-unfinancial-and-not-legal-to-be-on-the-committee-21Jul2017.pdf>

Lot 158 has evidence to refute those ghastly claims that were designed to deliberately destroy his credibility and good standing, whilst criminals wanted to enjoy unchallenged actions that deprived owners of their rightful income and caused lot of damages to common property.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Lot-158-warning-to-strata-and-building-manager-about-lying-11Jun2017.pdf>

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/Police-response-to-Lot-158-7Feb2018.pdf>

- Extract from statements by Mrs. Lorna Zelenzuck, Lot 3:

Gas levies – All invoices issued to me in relation to gas levies have been paid.

I take exception to the circulation of personal financial information to the wider Macquarie Gardens community about what I allegedly owe or do not owe to the Strata.

Legal fees paid to defend Lot 3 (our apartment) – This is totally false. There were no fees incurred or any legal action required to 'defend' me on any matter.

<https://www.nswstratasleuth.info/SP52948-Lot-3-Insurance-Claim-1-31Aug2012.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-3-Insurance-Claim-2-7Dec2012.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-3-Insurance-Claim-3-2May2013.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-3-Insurance-Claim-4-4Jun2013.pdf>

This exemplifies the story of unpaid gas heating levies: on 17 July 2015, Mrs. Zelenzuck was asked to pay \$1,085.00 for unpaid gas heating levies, without 10% simple interest per year for period 1 September 2000 to 31 October 2015 and without paying \$200.00 (plus GST) since 2000 (these dates were proposed by Mr. Pogorelsky personally knowing that Mrs. Zelenzuck did not pay them from 1996 when they moved into the complex). She paid only \$1,085.00 for gas heating levies for period of 15 years without disclosure to any owner, CTTT, and NSW Fair Trading.

- Extract from statements by Mr. Moses Levitt, Lot 147:

Lot 158 [DB] has accused me previously in numerous emails of not having paid gas levies by extracting private invoices from Strata Records out of context. He has not bothered to show correspondence proving payments – why? He has also extracted data including voting papers pertaining to me from the Strata Records as attachments to his emails. Whilst this data is accessible to owners such data is not for publication and is a breach of privacy.

...

For the record I applied to the EC prior to installing a second gas connection, which was approved. From that date I was invoiced and have paid all accounts, including the period 2012-2013 – which BCS invoiced late.

...

This is indicative of the absolutely absurd numbers DB has over the years been dreaming up, that monies amounting to millions of dollars being owed or overspent. He continuously accuses Strata Committee members of fraud and secret machinations, belittling their efforts to maintain the high standard for the complex at minimal cost to owners which is evidence in the current work being done.

<https://www.nswstratasleuth.info/SP52948-Lot-147-Moses-Levitt-invoice-for-incomplete-gas-heating-levies-for-FY-2012-and-2013-sent-four-years-later-on-15Jul2016.pdf>

- Extract from statements by Mr. Pogorelsky, Lot 181:

Mr. Levitt has put across very well the facts which I am in agreement.

As far as Gas Refunds are concerned, I personally am completely up to date with all my payments. I have supplied Mr Robert Crosbie of Waratah Strata an XL schedule of all my payments and any owner is at liberty to contact him for his confirmation.

76.1) The three of them were a group of worst offenders of unpaid or only partially paid gas heating levies (it was set in 1999 at \$200,00 per year).

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-sent-owners-Lot-181-statement-that-he-did-not-owe-any-overdue-levies-for-second-gas-connection-21Jul2017.png>

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-sent-owners-Lot-3-statement-that-she-did-not-owe-any-overdue-levies-for-second-gas-connection-and-ors-21Jul2017.png>

76.2) Their letter, full of false statements, also contradicted minutes of committee meeting one day earlier (20 July 2017):

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-meeting-20Jul2017.pdf>

- Waratah Strata Management claimed that \$1,411.66 was owed for gas heating levies, of which only \$91.66 related to strata committee members.
- In joint letter by Mrs. Lorna Zelenzuk, Mr. Moses Levitt, and Mr. Stan Pogorelsky they claimed that \$1,109.23 was owed for gas heating and none of it belonged to committee members.

Gas heating connections

The historical charges to lot owners for additional gas points was discussed at the recent SC meeting. The strata manager advised that a thorough review of the BCS Strata Management records has been carried out, including a request for further information from BCS, and it is still not possible to accurately confirm the amounts that have been charged to and paid by the respective lot owners. It is the view of the strata committee that the cost of carrying out a forensic audit of the strata accounts over many years would far exceed the amount of any unpaid additional gas charges and therefore the cost of this exercise could not be justified. It was decided that a motion is to be included on the Annual General Meeting agenda to allow owners to vote on whether a forensic audit of the gas charges is to be carried out or whether it will be deemed that all gas charges are paid up to date. In the accounts provided by BCS at the change of strata manager they indicate General Debtors in relation to gas charges totaling \$1,109.23, of which none relates to strata committee members. The committee do not believe the BCS information is accurate but have deferred this decision to be made at the AGM so there is no question of a conflict of interest by the committee members.

- This exemplifies the size of the fraud for unpaid gas heating levies: on 17 July 2015, Mrs. Zelenzuk was asked to pay \$1,085.00 for unpaid gas heating levies, without 10% simple interest per year for period 1 September 2000 to 31 October 2015 and without paying \$200.00 (plus GST) since 2000 (these dates were proposed by Mr. Pogorelsky personally knowing that Mrs. Zelenzuk did not pay them from 1996 when they moved into the complex). She paid only \$1,085.00 for gas heating levies for period of 15 years without disclosure to any owner, CTTT, and NSW Fair Trading:

<https://www.nswstratasleuth.info/SP52948-Lot-3-Lorna-Zelenzuk-invoice-for-incomplete-gas-heating-levies-on-17Jul2015.pdf>

She continued to avoid regular payments in 2015 and 2016:

<https://www.nswstratasleuth.info/SP52948-Lot-3-Lorna-Zelenzuk-invoice-for-incomplete-gas-heating-levies-on-30Dec2015.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-3-Lorna-Zelenzuk-invoice-for-incomplete-gas-heating-levies-on-24Mar2016.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-3-Lorna-Zelenzuk-invoice-for-incomplete-gas-heating-levies-on-24Jun2016.pdf>

77) Secret handwritten notes of Mr. Robert Crosbie in February 2019. In it, Mr. Crosbie wrote that gas heating levies for 2016 did not exist, and claimed that \$220.00 (GST incl) gas heating levy was set on 27 November 2013. Gas heating levies in amount of \$200.00 were actually introduced at committee meeting on 17 November 1999 and GST was added in June 2000.

<https://www.nswstratasleuth.info/SP52948-handwritten-note-by-Waratah-Strata-Manager-confirming-no-gas-levies-charged-for-FY2016-and-levies-set-to-220-dollars-on-27Nov2013-for-EC-meeting-Feb2019.pdf>

Gas Charges charged

1/9/13 -	31/8/14	\$55 pa	SC
1/9/14 -	31/8/15	\$55 pa	Feb
1/9/15 -	31/8/16	\$ Nil	2019

Decision made at 27/11/13
for charge to be \$220 pa.

SC to resolve due to
loss of forensic audit,
owners may have sold, not
to back charge ^{2014/15} to deem
all owners paid up to date
lowered charges from WSM
from 1/9/15. Need to back
charge 2016 as not charged
by EC.

78) Lot 158 sent email to Waratah Strata Management with subject line "Lot 158 accepts membership on SP52948 committee" on 19 March 2019. In it, Lot 158 also documented significant losses to owners corporation due to unpaid gas heating levies:

<https://www.nswstratasleuth.info/SP52948-Lot-158-accepts-membership-on-SP52948-committee-on-19Mar2019.html>

Based on evidence of unpaid full levies (including 10% simple interest per year) for second gas connection, two current member of the committee could not have been and cannot be valid.

- Quorum at AGM 2016, 2017, and 2018 was not satisfied.
- Lot 158 Motions that were excluded without any reasonable explanation or merits were determined by legal advice to be solely decision by the EC on 1 March 2019 (as per attachment).
- The alleged loss of files and their manual recovery as per Waratah's email on 1 March 2019 and the fact that access to Waratah web site is not operational for days is a worrying sign.
- Today (19 March 2019), notice board displayed agenda for the Executive Committee meeting scheduled for 21 March 2019 (that is just one day notice because the day of the meeting must be excluded). It fails to satisfy SSMA 2915 in these regards:

Lack of detailed agenda.

Each member of the strata committee, and every lot owner, need to be notified of an intended strata committee meeting at least 3 days before the meeting is due to be held.

In a large strata scheme (more than 100 lots), the Secretary or meeting organiser needs to put the notice of the meeting on the noticeboard and deliver it to each owner.

In describing any notice period for meetings, the legislation does not describe the nature of the 'days' notice – whether they be business days, calendar days etc. In the absence of such specification, the Interpretations Act 1987 (Section 36) requires that the period of time shall be reckoned so as to be exclusive of the day of the 'event' - the meeting. Section 76 of this same Act also declares that a letter sent through the post is deemed to have been delivered on the fourth working day after it was posted.

Yet again, Lot 158 did not receive a letter with the notice of the meeting, and if it arrives later today, it is too late.

Lot 158 would be happy to be corrected if these statements need an update (with FULL proofs from the SP52948 accounting).

In absence of other competing interests for the membership, Lot 158 accepts to be a member of the committee.

I remind owners about unpaid levies for gas heating, which include a group of Executive Committee members.

As an example, a group of 11 owners (they are not the only ones owing money to SP52948) is proven to own around \$40,000.00 in unpaid levies for gas connection (including compulsory 10% simple interest per year). There are a few more owners who I do not provide details herewith because their debt is smaller. Figures for 2017 and 2018 not included but it has been confirmed back-payments were not done so these figures are even larger in 2019:

Lot 3 undeclared unpaid levies \$6,991.50 for second gas connections – 1999 to 2016

Lot 62 undeclared unpaid levies \$5,572.50 for second gas connections – 1999 to 2016 (ex Treasurer)

Lot 68 undeclared unpaid levies \$973.50 for second gas connections – 2012 to 2016

Lot 102 undeclared unpaid levies \$4,015.00 for second gas connections – 2003 to 2016

Lot 147 undeclared unpaid levies \$4,746.50 for second gas connections – 2001 to 2016 (long-term EC member)

Lot 167 undeclared unpaid levies \$973.50 for second gas connections – 2012 to 2016

Lot 175 undeclared unpaid levies \$4,317.50 for second gas connections – 2003 to 2016

Lot 181 undeclared unpaid levies \$5,644.00 for second gas connections – 1999 to 2016 (long-term EC Member and occasional Chairperson)

Lot 182 undeclared unpaid levies \$2,156.00 for second gas connections – 2009 to 2016

Lot 192 undeclared unpaid levies \$2,475.00 for second gas connections – 2007 to 2016 (part of debt belongs to

previous EC member)

Lot 148 undeclared unpaid levies \$2,475.00 for second gas connections – 2007 to 2016

No response was ever received.

79) Mr. Pogorelsky, whilst unfinancial, allowed false information about owners with gas heating to be published on 21 March 2019.

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-Meeting-21Mar2019.pdf>

79.1) Extract from minutes of committee meeting on 21 March 2019, Motion 3, with special emphasis that Waratah Strata Management admitted for the first time loss of USB key with strata files which happened in April 2018 (almost a year earlier!) and without disclosing to owners that Lot 158 had four copies of the same USB key and offered free forensic auditor to analyse the files. It is also important to note that Waratah Strata Management did not provide details of alleged ransomware attack in agenda or minutes of this committee meeting:

Resolved that the financial reports for the current financial year were tabled and discussed.

Further resolved that following Waratah Strata's computer hacking loss of data, the additional gas point fee is to be re-charged to the levy account of Lots 3, 8, 59, 62, 68, 102, 127, 147, 148, 163, 181 & 182 for the period 1 September 2017 to 31 August 2018. Further resolved the same lots are to be charged the same fee for the period 1 September 2018 to 31 August 2019, with this fee due and payable on 1 May 2019.

(Stan Pogorelsky & Mo Levitt left the meeting for the duration of the following item due to their vested interest in the outcome of the discussion.) Further resolved the strata manager is to review the available Owners Corporations records to determine whether there is sufficient information available to decide whether any lot owner owes to the Owners Corporation any amount for the additional gas point fee for prior years. (Note: The strata manager advises that due to a complaint lodged with the police by the owners of Lot 158, the USB containing the BCS Strata Management records was taken by the NSW Police for examination. The USB was subsequently lost by the Police. Both the Police and Waratah Strata have attempted to obtain a replacement USB from BCS, but that has not been provided. As a result of the missing USB, it will be impossible to determine the history of the gas point fee charges during BCS' management period.)

80) Mr. Pogorelsky was quite happy to enforce gas heating levies against Lot 8 in secret email to Waratah Strata Management of 12 April 2019, he was fully aware of risks with unpaid levies.

<https://www.nswstratasleuth.info/SP52948-Lot-181-fully-aware-of-risks-of-unpaid-levies-12Apr2019.png>

Mr. Pogorelsky said:

I am happy to let the charge stand.

If the property chances hands we will get our money.

Also the agent will be pleasantly surprised when she gets all your charges for the arrears

She would be much better off in just paying the \$220.00

81) Extract from minutes of the committee meeting on 2 May 2019 (Motion 3), which Mr. Pogorelsky attended as illegal committee member. In it, Mr. Robert Crosbie continued to regurgitate same old figure of \$91.66 being owed by Mr. Pogorelsky.

<https://www.nswstratasleuth.info/SP52948-Minutes-EC-Meeting-2May2019.pdf>

Gas Charges - The strata manager confirms that the charges for the additional gas points for the 2018 year (which had been inadvertently deleted from owners levy accounts due to Waratah's IT Incident) and the charge for the 2019 year have been charged to all relevant levy accounts. It was also noted that the following decision was made at the strata committee meeting held on 20 July 2017: "The historical charges to lot owners for additional gas points was discussed. The strata manager advised that a thorough review of the BCS records has been carried out, including a request for further information from BCS, and it is still not possible to accurately confirm the amounts that have been charged to and paid by the respective lot owners. It is the view of the strata committee that the cost of carrying out a forensic audit of the strata accounts over many years would far exceed the amount of any unpaid additional gas charges and therefore the cost of this exercise could not be justified. Resolved that a motion is to be placed on the Annual General Meeting agenda to allow owners to vote on whether a forensic audit of the gas charges is to be carried out or whether it will be deemed that all gas charges are paid up to date. (Note: In the accounts provided by BCS at the change of strata manager they indicate General Debtors in relation to gas charges totalling \$1,411.66, of which only \$91.66 relates to strata committee members. The committee do not believe this information is accurate but have deferred this decision to be made at the AGM so there is no question of a conflict of interest by the committee.)" It is noted that the above motion was not included on the agenda of the following AGM, therefore the strata committee will include this motion on the agenda of the 2019 AGM.

Waratah Strata Management provided THREE different versions of alleged ransomware attack to different audiences: NSW Fair Trading, owners, and Lot 158 and all of them are false and fabricated:

81.1) Waratah Strata Management and committee members provided conflicting information in the Minutes of EC meetings on 21 March 2019 and 2 May 2019.

In Minutes of EC meeting on 21 March 2019 it was claimed that financials for period prior to 1 February 2017 were missing (BCS' management period):

As the result of the missing USB, it will be impossible to determine the history of the gas point fee charge during BCS' management period.

In email to Lot 158 on 9 May 2019 and NSW Fair Trading on 17 May 2019:

All of our financial record are intact

As well, Minutes of EC meeting on 2 May 2019 said for Waratah IT Incident that allegedly happened on 1 February 2019.:

2018 year, which had been inadvertently deleted from owners levy account due to Waratah IT incident

81.2) 12 March 2019, alleged letter to all owners:

<https://www.nswstratasleuth.info/SP52948-letter-sent-to-owners-by-Waratah-Strata-Management-about-ransomware-page-1-12Mar2019.png>

<https://www.nswstratasleuth.info/SP52948-letter-sent-to-owners-by-Waratah-Strata-Management-about-ransomware-page-2-12Mar2019.png>

On 1 February, Waratah Strata Management computers were impacted by ransomware, a type of malicious software. This resulted in access being denied to both our servers and external cloud-based backup. For the first 3 weeks in February we had data recovery experts attempt to decrypt our files, which they were unsuccessful in doing, however they found that the files have been corrupted and are unreadable. We also appointed a legal firm that specialises in dealing with cyber security issues, so received the best advice and assistance that is available.

It is important to note that there is no evidence that any of the information contained in our systems, including the financial and statutory Owners Corporation information such as owners details, has been accessed or taken by any

third party. All indications are that the third party who deployed the ransomware only accessed the IT system to install the malicious software, but this is something that will be reviewed closely as we continue to investigate the incident. This incident has also been reported to the police via the Australian Cybercrime Online Reporting Network (ACORN).

Please be assured the owners corporation funds are completely secure – it is only our records that have been impacted.

On Friday 22 February we have our server returned to us and have since been restoring our lost data from a backup from mid-2018. We have employed additional staff and been working very long hours 7 days a week to re-enter all of the financial transactions and update the owners corporations records.

This process is now mostly complete, however as much of this data has been manually re-entered we acknowledge that there may have been mistakes made during this process. We are therefore providing the attached Owner Details Form and ask that you complete and return this form to us as soon as possible to ensure your current details are correctly recorded.

Enclosed is your notice for the levy due on 1 May. We have chosen to post this levy to you, even if you usually receive levy notices by email, until we are confident all owners details are correct.

Again, we ask you to carefully check the levy amount owing and if you have any concerns, we ask you to provide a copy of the original levy notices that were sent to you along with a covering letter/email to indicate the amounts of concern and proof of payment of those amounts, so we are able to investigate this for you. We will ensure that no owner incurs any additional changes as a result of error that have occurred during the re-entering of the financial records.

We also advise that all of the data that was stored on our online portal has been lost. We will be able to restore a lot of this information, but not all of the historical records. For those owners that have been attempting to access the portal, this should not be accessible using your previously advised access details, or if the new access details have been entered for your lot, a new web access letter is enclosed.

We request some understanding if we are unable to immediately take your phone calls or return emails at this time. We have over 5 weeks of work to catch up on that we have not been able to attend to until this week. We will be doing everything we can to respond to your requests for assistance as soon as possible.

We sincerely apologise for any inconvenience that has been caused by this issue.

81.3) 17 May 2019, email to NSW Fair Trading, where committee members and Mr. Pogorelsky were recipients as well:

<https://www.nswstratasleuth.info/SP52948-extract-from-email-by-Waratah-Strata-Management-to-Fair-Trading-NSW-case-9761719-part-1-17May2019.png>

<https://www.nswstratasleuth.info/SP52948-extract-from-email-by-Waratah-Strata-Management-to-Fair-Trading-NSW-case-9761719-part-2-17May2019.png>

In February 2019 Waratah Strata's computers were attacked by ransomware. A copy of the incident report obtained by the solicitors acting for our cybercrime insurance company is attached. As a result of that attack we have lost considerable amount of our electronic archive records. All of our financial records are intact and we have substantial amount of paper records, including hard copies of all strata meeting agendas and minutes. We also have email records for the last 1-2 years. We have however lost documents such as copies of invoices, copies of levy notices issued and other electronic-only records.

81.4) Email to Lot 158 on 9 May 2019:

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-statement-about-lost-files-due-to-alleged-ransomware-attack-warning-owner-before-strata-document-search-9May2019.html>

We write with regard to your various recent correspondence and respond as follows:

We are happy to book a strata inspection for you on either 24 or 31 May at 9.30am. Please confirm which date you wish to book.

As noted in the committee meeting minutes of 21/3/19 the USB provided by BCS at change of strata managers was provided to Eastwood Police to allow them to investigate the complaint you lodged with them. We have a copy of all correspondence with Detective Sergeant Steve Benson in relation to that lost USB. We also have a copy of all correspondence to BCS requesting they provide another copy. Thank you for advising that you have a copy of that USB. As a concerned owner at the property we are sure you will be willing to provide a copy of that USB for the Owners Corporations records. If yes, we ask you to bring a copy with you on 24 or 31 May. We are happy to reimburse you the cost of the USB if you wish.

As advised in the letter that was sent to all owners in March, Waratah Strata Management's server was involved in a ransomware attack. This resulted in our server being encrypted. The hacker was also able to gain access to our cloud based backup service which was also encrypted. As a result a large portion of the owners corporations archive records are no longer available. All financial records are intact, along with all agendas & minutes, insurance records, strata plan files, etc. Much of our email correspondence is still available via Microsoft Exchange, but emails and other electronic correspondence that had previously been saved to our electronic archives are no longer available. We advise that all available records will be provided to you during your inspection, but make you aware some records are no longer available.

The remainder of your recent correspondence has been dealt with at the committee meeting held on 2/5/19. (Copy attached).

81.5) There is also a statement by Mr. Anthony Wood (Treasurer in another complex of 18 units) who claimed the following in regards to alleged ransomware attack in ProductReview chat:

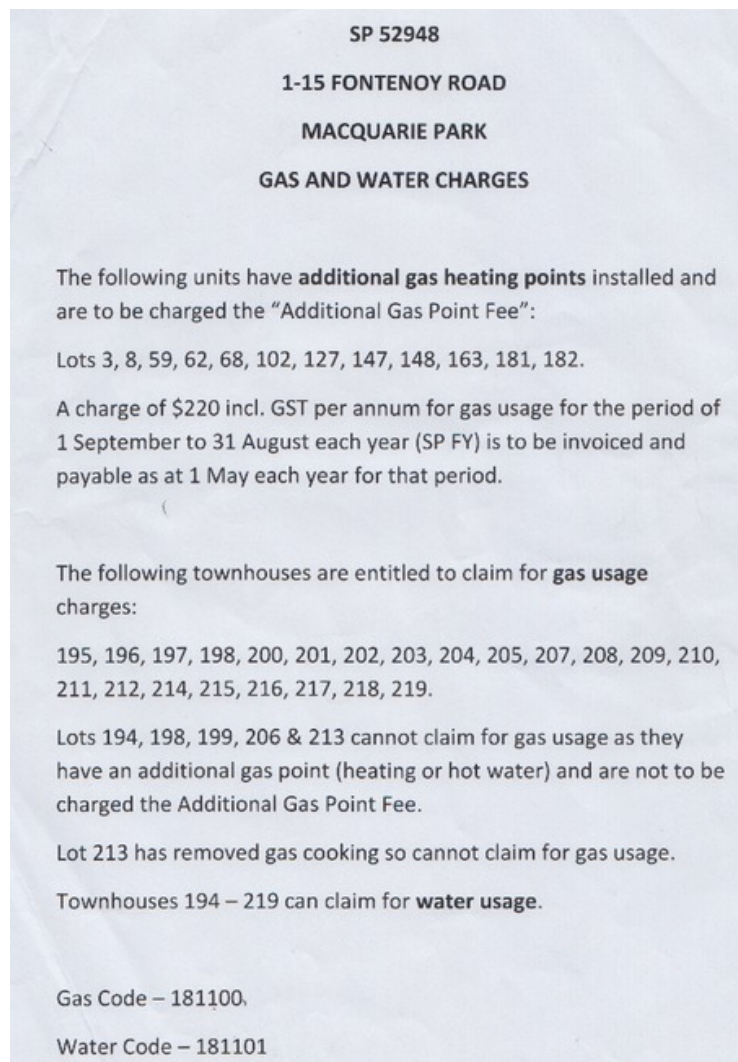
All files seem to have been recovered. We were notified of the attack but not told that they paid to get the details back. We are not concerned about that. On the contrary it shows they were determined to everything possible to recover the files. In the meantime, all services with Waratah continued without interruption.

81.6) Ms. Sam Kernot, from O'Connors Property Reports, wrote the following in regards to property report for SP61424(17) – 17/118 Wallis Street on 2 March 2020:

A complete set of Committee Meeting minutes was unavailable at the time of our inspection. Minutes between 2016 & 2018 Annual General Meetings were on disk; this disk is corrupt and could not be accessed. In February 2019 the managing agent was victim to a cyber attack. Files were compromised/lost and a complete set of records could not be recovered.

82) Mr. Pogorelsky, whilst unfinancial, hid from owners this secret audit of gas heating connections in May 2019, which also documented long-term abuse by several townhouse owners who had gas heating and changed owners corporation for their private usage (further loss of common funds):

<https://www.nswstratasleuth.info/SP529489-gas-and-water-reimbursements-and-gas-levies-Waratah-Strata-Management-31May2019.png>



83) Mr. Pogorelsky, whilst unfinancial, actively supported false events related to ransomware attack.

<https://www.nswstratasleuth.info/Sententia-brief-analysis-with-limited-evidence-ransomware-attack-against-Waratah-Strata-Management-undisclosed-to-owners-of-strata-plan-SP52948.pdf>

83.1) An alleged ransomware attack against Waratah Strata Management occurred on 1 February 2019, just a week after Lot 158 submission to Office of Legal Services Commissioner for Solicitor Adrian Mueller's misconduct. Sententia report, dated 26 March 2019 stated (undisclosed by Waratah Strata Management to 218 owners).

83.2) Their investigation had limited access to event logs.

83.3) Deeper understanding of the exact actions by the threat actor was not possible due to lack of evidence and an incomplete audit trail.

83.4) Based on incomplete logs, the encryption attack most likely occurred on 2 February 2019 at 12:08:56 hours.

83.5) Threat actor achieved brute-force success with the Administrator account on server WSMHS1, a malicious toolkit was then used to create www account on 1 February 2019 at 11:58:53 hours.

83.6) Incomplete audit logs from terminal services show the first login occurred at 23:59 hours on 1 February 2019 and session ended at 03:33 hours on 2 February 2019.

83.7) There was no conclusive evidence to suggest any data exfiltration occurred (simply based on available usage data logs that did not take into account possibility of using data compression for file transfers, or selective file transfers of targeted files).

83.8) In timeframe from 1 February 2019 up to around 15 and 17 February 2019, Waratah Strata Management was still at high risk, due to unpatched servers and continuous attacks with brute-force access. Lack of remediation actions to close all non-essential inbound ports continued to create risks.

83.9) Bitcoin ransom was subsequently paid by a third-party known to Waratah Strata Management to the threat actor in the equivalent amount of \$5,052.03.

83.10) After this payment, there was no response from the threat actor.

83.11) The attack allegedly occurred due to misconfigured routers that allowed RDP protocol.

83.12) Sententia did not take into account possibility of data being transferred through screenshots, which is one of the valid attacks.

83.13) Waratah Strata Management recovered their data via a re-image procedure (mostly untrue, as per separate admission by Waratah Strata Management to NSW Fair Trading and owners in emails with different explanations).

83.14) It was recommended to use more secure method of connectivity, such as MFA VPN.

83.15) Sententia report in March 2019 does not report any data losses in Office 365 or Azure cloud, therefore no record of files being destroyed by ransomware attack on Microsoft public systems that Waratah Strata Management uses for SP52948.

83.16) On 13 January 2020 Lot 158 obtained official statement by Rockend (they provide the lookatmystrata.com.au domain as a service) where they confirmed they did not have any knowledge of the alleged ransomware attack. Rockend does not store, hold, access, or release any information related to that domain. All such information is held, exclusively managed, and complete responsibility of Waratah Strata Management.

83.17) On 27 February 202 Lot 158 obtained official statements by Microsoft (cases SRX1489833939ID, 18405027, and 120021523000177) that they had never been notified about data loss and/or ransomware attack in Office 365 that keeps emails for waratahstrata.com.au.

83.18) In other correspondence and phone calls with Microsoft, the following was confirmed:

- Microsoft also stated that had anybody reported loss of emails in Office 365, Microsoft would have had ability to restore them within 90 days after the incident. That obviously did not happen as Microsoft seemingly has no record of such actions.
- Microsoft found no trace of any complaint, ticket, or report for data losses for waratahstrata.com.au in Office 365 during 2019 or 2020. The only event related to waratahstrata.com.au was ticket in June 2019 (case number 14941752) - problem with sending emails.
- Microsoft has not been involved in any investigation of alleged ransomware attack or data losses that Waratah Strata Management reported for emails in Office 365.

83.19) Mr. Robert Crosbie continued to receive email from Lot 158 throughout February and March 2019, without any bounce backs:

FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C took three times to open and close door auto...	9/2/19, 17:40	Robert Crosbie
FOR CONSIDERATION AND OFFICIAL RESPONSE: Half-meter hole in the building wall in Block C not repaired for m...	9/2/19, 20:25	Robert Crosbie
FOR CONSIDERATION AND OFFICIAL RESPONSE: New schedule for tennis court bookings in Feb2019	10/2/19, 09:54	Robert Crosbie
FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C and Block A additional issues on 10 and 17 Fe...	17/2/19, 22:54	Robert Crosbie
FOR CONSIDERATION AND OFFICIAL RESPONSE: Finally resolved issue - missing fire compliance door tag for Lot 1...	18/2/19, 05:56	Robert Crosbie
FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A additional issues on 21 February and 1 March...	1/3/19, 21:03	Robert Crosbie
FOR OFFICIAL RESPONSE AND ACTION: SP52948 Replacement of obsolete smoke detectors in Lot 158	1/3/19, 23:17	Robert Crosbie
POTENTIAL SECURITY INCIDENT: SP52948 pathway to bus stop on 2Mar2019	2/3/19, 07:46	Robert Crosbie
Re: REQUEST FOR INFORMATION: SP52948 Illegal use of Ryde Council land for public parking on 20Dec2018	19/3/19, 08:51	Robert Crosbie
Re: REQUEST FOR IMMEDIATE ACTION: SP52948 providing illegal smoking facility behind fire door 2 in Block A	19/3/19, 08:59	Robert Crosbie
Lot 158 accepts membership on SP52948 committee on 19Mar2019	19/3/19, 11:58	Robert Crosbie
Re: FOR OFFICIAL RESPONSE AND ACTION: SP52948 Replacement of obsolete smoke detectors in Lot 158	19/3/19, 12:06	Robert Crosbie
Re: REQUEST FOR PROPER AND OVERDUE MAINTENANCE: Roof membrane and water leaks in Block A in Jan2019	19/3/19, 16:01	Robert Crosbie

83.20) Mr. Crosbie read some emails during alleged attack, as evidence showed two times on 11 February 2019:

Subject: Read: FOR CONSIDERATION AND OFFICIAL RESPONSE: Half-meter hole in the building wall in Block C not repaired for more than half a year on 9Feb2019
 From: Robert Crosbie <Robert@waratahstrata.com.au>
 Date: 11/2/19, 07:12
 To: Lot 158

Your message

To: Robert Crosbie
 Subject: FOR CONSIDERATION AND OFFICIAL RESPONSE: Half-meter hole in the building wall in Block C not repaired for more than half a year on 9Feb2019
 Sent: Saturday, 9 February 2019 8:25:55 PM (UTC+10:00) Canberra, Melbourne, Sydney

was read on Monday, 11 February 2019 7:12:56 AM (UTC+10:00) Canberra, Melbourne, Sydney.

Final-recipient: RFC822; Robert@waratahstrata.com.au
 Disposition: automatic-action/MDN-sent-automatically; displayed
 X-MSExch-Correlation-Key: W5e6FInJ00GPsK9HMXwMVA==
 Original-Message-ID: <f99e24fd-77a2-f0d1-9c97-0b6aac6fa40b@circlingcycle.com.au>
 X-Display-Name: Robert Crosbie

Subject: Read: FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C took three times to open and close door automatically before travelling on 9Feb2019
From: Robert Crosbie <Robert@waratahstrata.com.au>
Date: 11/2/19, 07:12
To: Lot 158

Your message

To: Robert Crosbie
Subject: FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block C took three times to open and close door automatically before travelling on 9Feb2019
Sent: Saturday, 9 February 2019 5:40:17 PM (UTC+10:00) Canberra, Melbourne, Sydney
was read on Monday, 11 February 2019 7:12:54 AM (UTC+10:00) Canberra, Melbourne, Sydney.

Final-recipient: RFC822; Robert@waratahstrata.com.au
Disposition: automatic-action/MDN-sent-automatically; displayed
X-MSExch-Correlation-Key: fv3/fHZvake7HUzf5PtMPw==
Original-Message-ID: <4f5fd166-2c9f-594f-97d7-b83578a5c1bf@circlingcycle.com.au>
X-Display-Name: Robert Crosbie

83.21) On 1 March 2019, Mr. Crosbie automated response sent this message in regards to Lot 158 email with subject “FOR CONSIDERATION AND OFFICIAL RESPONSE: Elevator in Block A additional issues on 21 February and 1 March 2019”, proving that email services worked.

It said:

Due to a recent computer issue we are currently having to re-enter a large volume of financial records into our database. This process is going to take approximately 2 weeks. During this period I am having to manage and assist additional staff we have brought in to speed up this process.

I may therefore be slow to respond to many emails, but will be regularly checking emails and attending to urgent matters as soon as possible. I apologise for any inconvenience that may be caused during this period.

83.22) Sententia was approached multiple times but they refused to answer inquiries about their very questionable report.

Subject	Recipient	Date
CONFIDENTIAL INQUIRY: Data Loss for large strata plan SP52948 reported by Waratah Strata Management	isva@sententia.com.au	14/1/20, 18:47
Re: CONFIDENTIAL INQUIRY: Data Loss for large strata plan SP52948 reported by Waratah Strata Management	isva@sententia.com.au	23/1/20, 20:00

83.23) Waratah Strata Management and Mr. Pogorelsky never provided details of Australian Cybercrime Online Reporting Network (ACORN) case.

83.24) Waratah Strata Management and Mr. Pogorelsky never provided details of alleged payment by third-party known to Waratah Strata Management to the threat actor in the equivalent amount of \$5,052.03 in bitcoin.

83.25) Waratah Strata Management and Mr. Pogorelsky never answered any questions about obvious lies in alleged ransomware attack.

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-refusal-to-notify-owners-about-critical-issues-including-Fair-Trading-Mediation-and-expired-contract-for-strata-management-25Mar2020.html>

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-failed-to-respond-to-inquiry-about-alleged-data-breach-and-loss-of-strata-files-17Feb2020.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-8Jun2023.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-part-2-19Jun2023.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-part-3-19Jul2023.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-part-4-18Aug2023.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-part-5-12Sep2023.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-part-6-13Sep2023.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-warned-about-SP52948-insurance-risks-safety-financial-health-and-non-compliance-with-laws-part-7-26Sep2023.html>

83.26) Even as late as 29 May 2019, in spite of what Waratah Strata Management said in their statements, their website contained no files in Documents Folder almost four months after the event.

<https://www.nswstratasleuth.info/SP52948-waratahstrata.com.au-website-empty-Documents-folder-29May2019.png>

83.27) Solicitor Adrian Mueller prevented Lot 158 access to SP52948 strata documents on 14 November 2019 (letter sent to O'Brien Criminal & Civil Solicitors), including admission that Auditor Report for FY 2017 "was likely not available" and asking "what was the purpose pressing for the records to be produced". Incomplete Auditor Report for FY 2017 was finally published two and half years after due date without any financial details in late April 2020 but backdated on Waratah Strata Management website to 31 August 2017.

<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>

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.

84) Mr. Robert Crosbie and Mr. Pogorelsky deliberately mislead owners corporation about unpaid gas heating levies for FY 2018 because alleged ransomware incident at beginning of February 2019 could not, and had not, have any effect on accounting figures for previous financial year that ended on 31 August 2018.

<https://www.nswstratasleuth.info/SP52948-Economos-Audit-report-FY-ending-31Aug2018.pdf>

84.1) Audited figures for FY 2018 were signed by Economos (Mr. George Venardos) on 18 October 2018, four months before alleged ransomware attack in February 2019. In SIGNED AUDIT, there was a figure of \$2,537.54 for collected revenue for gas heating levies.

<https://www.nswstratasleuth.info/SP52948-Economos-Audit-report-FY-ending-31Aug2019.pdf>

84.2) Audited figures for FY 2019 were signed by Economos (Mr. George Venardos) on 19 September 2019. In SIGNED AUDIT, there was a figure of \$0.00 for collected revenue for gas heating levies for FY 2018, directly contradicting his own audit for the previous year. The audited accounts for FY 2019 contain number of errors in audited accounts for FY 2018, which Waratah Strata Management and Mr. Stan Pogorelsky ignored:

<https://www.nswstratasleuth.info/SP52948-differences-for-income-and-expenditure-FY2018-audited-figures-provided-by-Waratah-Strata-Management-for-AGM-2018-and-FY2019.pdf>

SP52948 - Many differences between audited Income & Expenditure Report presented for FY 2018 at AGM 2018 and AGM 2019 (found in 10 minutes of going through spreadsheets)

Item	FY 2018 as per agenda for AGM 2018	FY 2018 as per agenda for AGM 2019	Difference
Gas - Additional Services	\$2,537.54	\$0.00	-\$2,537.54
Interest on Arrears	\$1,828.41	\$1,834.25	\$5.84
Key Deposits	\$1,127.00	\$1,005.00	-\$122.00
Status Certificate Fees	\$1,090.00	\$1,100.90	\$10.90
Strata Roll Inspection Fees	\$254.23	\$257.33	\$3.10
Admin - Auditors - Taxation Services	\$550.00	\$450.00	-\$100.00
Admin - Legal & Debt Collection Fees	\$8,060.78	\$8,360.78	\$300.00
Maint Bldg - Building Management	\$304,629.95	\$306,837.99	\$2,208.04
Maint Bldg - Building Management Expenses	\$10,142.98	\$7,934.96	-\$2,208.02
Maint Bldg - Ceiling	\$4,307.18	\$3,977.18	-\$330.00
Maint Bldg - Doors & Windows	\$9,452.35	\$10,457.35	\$1,005.00
Maint Bldg - Electrical	\$6,854.00	\$8,257.91	\$1,403.91
Maint Bldg - Electrical Lamps & Tubes	\$3,410.00	\$2,588.19	-\$821.81
Maint Bldg - Exhaust/Ventilation Systems	\$2,425.00	\$930.00	-\$1,495.00
Maint Bldg - Fire Protection	\$23,857.45	\$22,868.35	-\$989.10
Maint Bldg - Garage Doors	\$2,428.72	\$2,942.72	\$514.00
Maint Bldg - General Repairs	\$6,861.91	\$10,633.55	\$3,771.64
Maint Bldg - Glass	\$580.00	\$320.00	-\$260.00
Maint Bldg - Hot Water Services	\$0.00	\$900.97	\$900.97
Maint Bldg - Insurance Repairs &/or Excess	\$13,319.00	\$11,671.00	-\$1,648.00
Maint Bldg - Intercom	\$4,690.00	\$4,950.00	\$260.00
Maint Bldg - Locks, Keys & Card Keys	\$1,565.54	\$2,073.54	\$508.00
Maint Bldg - Plumbing & Drainage	\$9,998.91	\$14,966.46	\$4,967.55
Maint Bldg - Drains & Sewers	\$1,319.09	\$799.09	-\$520.00
Maint Bldg - Recreation Facilities	\$300.00	\$0.00	-\$300.00
Maint Bldg - Roof & Gutters	\$3,985.00	\$2,975.46	-\$1,009.54
Maint Bldg - Security Surveillance Equipment	\$2,040.00	\$1,120.00	-\$920.00
Maint Bldg - Signs & Notice Boards	\$200.00	\$0.00	-\$200.00
Maint Bldg - TV Antenna & Cables	\$1,722.00	\$1,462.00	-\$260.00
Maint Bldg - Walls	\$0.00	\$1,045.00	\$1,045.00
Maint Bldg - Walls & Ceilings	\$4,075.91	\$3,130.91	-\$945.00
Maint Bldg - Gardening Materials	\$0.00	\$754.14	\$754.14
Maint Grounds - Irrigation Systems	\$3,292.45	\$7,072.28	\$3,779.83
Maint Grounds- Pool	\$0.00	\$1,869.26	\$1,869.26
Maint Grounds - Pool Cleaning	\$1,393.20	\$5,029.83	\$3,636.63
Maint Grounds - Pool Repairs	\$6,569.98	\$1,064.09	-\$5,505.89
Reimbursements - Gas Usage	\$3,436.16	\$3,731.03	\$294.87
Reimbursements - Water Usage	\$5,466.13	\$5,141.81	-\$324.32
Utility - Electricity	\$61,842.30	\$72,023.21	\$10,180.91
Utility - Gas	\$30,883.00	\$20,702.09	-\$10,180.91

85) Secret handwritten notes of Mr. Robert Crosbie at committee meeting on 5 September 2019, confirming plan not to pursue unpaid gas heating levies, and plan to engage Solicitor Adrian Mueller at cost of \$150,000.00 at AGM 2019.

<https://www.nswstratasleuth.info/SP52948-handwritten-notes-by-Waratah-Strata-Management-documenting-no-action-for-gas-heating-levy-collections-Sep2019.png>

o budget
 Gas Charges - All Gas Charges that have been
 invoiced have been paid. Or not willing to
 take action - to audit past amounts issued &
 paid.
 ... by end Sept

86) Extract from minutes of the committee meeting on 5 September 2019 (Motion 3), which Mr. Pogorelsky attended as illegal committee member. In it, Mr. Robert Crosbie presented figure of \$110.00 being owed by Mr. Pogorelsky.

<https://www.nswstratasleuth.info/SP52948-minutes-EC-meeting-5Sep2019.pdf>

Additional Gas Point Charges - The strata manager advised that a detailed analysis had been carried out of Lot 181 additional gas point charges and payments made. The strata manager is satisfied that all gas charges that have been invoiced by the respective strata management companies have been paid, apart from \$18.34. A further \$110.00 of gas charges have not been invoiced by BCS Strata Management and therefore not paid by Lot 181. Resolved that a motion is to be included on the 2019 AGM agenda to allow this issue to be considered by the Owners Corporation. The motion is to recommend that as lot owners cannot be expected to pay charges that have not be invoiced to them, that many lot owners may have changed, that the number of lots that have the additional gas point may have changed and that as most other owners will not be willing or able to provide the detailed financial history of the gas charges to their lot, it is not feasible to estimate the amount owing for any unpaid gas charges and that no further action is to be taken on this issue.

86.1) Strata Manager deliberately mislead the owners about the missing invoices for gas heating levies, which he (and Mr. Pogorelsky) used against Lot 90 at AGM on 18 October 2018 (an owner was forced to pay overdue levies and interest even though he did not receive the invoices).

- Strata levies must be paid even when receipt of levy notice is missing - Section 83(4) of SSMA 2015 provides, in similar terms to Section 78(6) of the SSMA 1996, that regular periodic contributions are taken to have been duly levied on an owner of a lot even though notice levying the contributions was not given to the owner. As regulated by Fair Trading:
 - Each owner and/or property manager needs to be aware of their owners corporation levy cycle.
 - If money is not received to the trust account at the end of one month after it is due and payable, it bears interest at the rate of 10% (as prescribed by the regulations) from the due date until it is paid.
 - Owners corporation may, by special resolution at general meeting, determine (either generally or in particular case) that a contribution is to bear no interest.
 - Strata manager does not have authority to waive the interest as it is not money owing to the strata manager.
 - The Courts have determined that non-receipt of a levy notice is not a sufficient reason for non-payment. If a lot is sold and there are unpaid levies, then both the owner at the time the contributions were levied and the new owner are jointly and severally liable for the payment of the contribution and the interest payable.
 - If a lot is sold and there are unpaid levies, then both the owner at the time the contributions were levied and the new owner are jointly and severally liable for the payment of the contribution and the interest payable.

86.2) Strata Schemes Management Act 2015 – unfinancial owners and conflict of interest – known to, but ignored by, Lot 181:

- An unfinancial owner will not be eligible for appointment or election to the strata committee (section 32).
- An unfinancial owner will not be allowed to vote at general meetings (Schedule 1, clause 23).
- A member of the strata committee will not be entitled to vote on any motion put or proposed to be put to the strata committee if the member was, or was nominated as a member by a member who was, an unfinancial owner at the date.
- notice of the meeting was given and the amounts owed by the unfinancial owner were not paid before the meeting (Schedule 2, clause 9).
- A committee member will not be entitled to move a motion at a committee meeting unless the person is entitled to vote on the motion (Schedule 2, clause 14).
- Members of a strata committee will need to disclose any pecuniary interest in a matter that is being or is about to be considered at a meeting of the committee and, unless the committee otherwise determines, must not be present for any deliberations on the matter or vote on the matter (Schedule 2, clause 18).

87) In agenda for AGM 2019, sent on 30 September 2019, Mr. Robert Crosbie claimed in Motion 14 that Mr. Pogorelsky owed \$128.34 for unpaid gas heating levies.

<https://www.nswstratasleuth.info/SP52948-Waratah-Strata-Management-admitting-incorrect-charges-applied-for-second-gas-levies-for-many-years-and-providing-wrong-summary-of-owners-with-such-connections-in-agenda-for-AGM-2019-sent-to-owners-on-3Oct2019.png>

ADDITIONAL GAS POINT CHARGES

That the Owners Corporation will take no further action to investigate or audit the history of additional gas point charges and all lots are deemed to be paid in full.

Explanatory Note: Due to repeated public allegations that have been made by the owners of Lot 158 in relation to the charges that have been made to those owners with additional gas outlets, the strata manager and strata committee have conducted a thorough investigation of the available records going back to 1999. Stan Pogorelsky, owner of Lot 181, provided a detailed history of all relevant invoices he had received from Raine & Horne Strata, BCS Strata and Waratah Strata and of all payments made. As a result of that review it has been found that Lot 181 has not been issued with gas point charge invoices of \$55 for the quarter 1/12/15 - 28/2/16 and \$55 for the quarter 1/6/16 - 31/8/16. A further \$18.34 was short paid during 2015. In summary Lot 181 has short paid \$128.34 of which \$110 has never been invoiced. There are a further 12-15 lots with additional gas points whose detailed records are not available to review. Many owners will be unwilling or unable to provide the detailed financial records required to review their gas charge payments. Some of the owners of these lots will have changed so it will not be possible to audit records or recover funds from those owners. It is considered that the cost of conducting a forensic audit of the strata records would far exceed the amount of any funds that may be recovered. It is therefore proposed by the strata committee to approve the above motion.

87.1) This was a lie at multiple levels:

- How could have all records been checked from 1999 when alleged ransomware attack destroyed all files prior to around 2018?

On 26 and 28 November 2018, Mr. Pogorelsky received two emails from Lot 158 with evidence of several financial years before 2017 where he did not pay prescribed gas heating levies. The subject line of the emails was "PRIVATE AND CONFIDENTIAL: Lot 181 unpaid levies for second gas connection and evidence of defamation".

https://www.nswstratasleuth.info/NCAT-2024-00454780-001/20181128-Re_PRIVATE%20AND%20CONFIDENTIAL_%20Lot%20181%20unpaid%20levies-212.pdf

Mr Pogorelsky never replied.

- In Statement of Accounts for Mr. Pogorelsky dated 30 January 2017, which Waratah Strata Management received from BCS Strata Management, it clearly showed that in period from 1 February 2015 to 30 January 2017 (two-year period), Mr. Pogorelsky paid ONLY \$311.66 (it was in June/July 2015) for gas heating:

<https://www.nswstratasleuth.info/SP52948-Lot-181-statement-of-account-receipts-1Feb2015-to-30Jan2017-part-1.png>

<https://www.nswstratasleuth.info/SP52948-Lot-181-statement-of-account-receipts-1Feb2015-to-30Jan2017-part-2.png>

- In general debtor status at end of FY 2016 on 31 August 2016, Kelly Auditors signed off on status documenting group of owners with debt, including Mr. Pogorelsky (Lot 181) and his friends Mrs. Lorna Zelenzuk (Lot 3) and Mr. Peter Friede (Lot 167):

GENERAL DEBTOR FINANCIAL STATUS REPORT
FOR 1-15 FONTENROY ROAD
STRATA PLAN 52948

RECEIPTS TO 08/2016

Manager: SIMON BRIKHA
Last Receipt: 31/08/2016

OWNER NAME	DEBTOR ID.	ACCOUNT DETAILS	AMOUNT	TOTAL
F CHOW	463346	GAS CHARGES	110.00	110.00
P WONG	463406	GAS CHARGES	220.00	220.00
Y PARK & H KIM	463408	GAS CHARGES	330.00	330.00
CAROL GEDDES	463409	Additional Lot Charges +GST	330.00	330.00
H BOUNNI	463411	GAS CHARGES	110.00	110.00
P & M FRIEDE	463412	GAS CHARGES	110.00	110.00
A PARK & J LEE	463413	GAS CHARGES	110.00	110.00
MR & MRS S POGORELSKY	476854	Additional Lot Charges +GST	36.66	36.66
Y & L ZELUNZUK	476855	Additional Lot Charges +GST	55.00	55.00
TOTAL NOT YET DUE(*) :				0.00
TOTAL IN ARREARS :				1,411.66
TOTAL IN ADVANCE :				0.00
TOTAL NET :				1,411.66

KELLY + PARTNERS
AUDIT

- Mr. Crosbie also lied about Mr. Pogorelsky not receiving invoices for gas heating in FY 2016:

<https://www.nswstratasleuth.info/SP52948-Lot-181-gas-charges-issued-25Sep2015.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-181-gas-charges-issued-30Dec2015.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-181-gas-charges-issued-24Mar2016.pdf>

<https://www.nswstratasleuth.info/SP52948-Lot-181-gas-charges-2016-issued-24Jun2016.pdf>

- AGM 2019 then became very interesting.

Despicable Mr. Moses Levitt (there is very little good that any ethical or reasonable person can say for that now-deceased person), then proposed that Motion 14 be approved BEFORE Motion 4 (Motion 4 was for election of the new committee), which Mr. Robert Crosbie and Mr. Stan Pogorelsky approved with delight, allowing them to again be elected.

This decision and change of voting was not recorded in the minutes of the meeting.

<https://www.nswstratasleuth.info/NCAT-2024-00454780-001/SP52948-Minutes-AGM-2019-17Oct2019.pdf>

<https://www.nswstratasleuth.info/SP52948-request-sent-to-Solicitor-to-provide-response-for-OLSC-case-CAS005901-8Feb2022.html>

<https://www.nswstratasleuth.info/Waratah-Strata-Management-prevented-owners-from-receiving-amendments-for-SP52948-Motions-at-AGM-2019-with-consequence-of-not-ratifying-all-contracts-and-major-expenses.pdf>

88) The final evidence (all unredacted strata files are in possession of Lot 158).

88.1) In Detailed Revenue for the financial year from 01/09/2017 to 31/08/2018 (FY 2018), Mr. Pogorelsky did not pay any gas heating levies:

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2017-to-31Aug2018.pdf>

01/11/2017	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$981.14
01/02/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$981.14
01/05/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$981.14
01/08/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$981.14
01/11/2017	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/02/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/05/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/08/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50

88.2) In Detailed Revenue for the financial year from 01/09/2018 to 31/08/2019 (FY 2019), Mr. Pogorelsky paid the following (including \$400.00 (GST excl) for gas heating levies for period of two years, where 10% simple interest was not included for the previous year 2018):

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2018-to-31Aug2019.pdf>

29/03/2019	Lot 181: The additional gas point fee charged in 2018	\$200.00
29/03/2019	Lot 181: This is the additional gas point fee for	\$200.00
01/11/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$981.14
01/02/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,040.00
01/05/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,040.00
01/08/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,040.00
01/11/2018	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/02/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/05/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/08/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50

Sensing that unpaid gas heating levies were too dangerous for him, Mr. Pogorelsky secretly paid \$23.82 (GST excl) on 8 October 2019, just a week before AGM 2019, effectively confirming that he was unfinancial on the day when agenda for the AGM was sent. Of special importance is the fact that he did not pay \$110.00 (and 10% simple interest per year) for unpaid gas heating levies in 2016.

This also showed extreme behaviour of Mr. Pogorelsky, who attempted to “cover his tracks” by secretly paying part of his old debt, whilst not giving the same advice and opportunity to other owners who also enjoyed same illegal benefits with unpaid gas heating. Some of them listed herewith:

- Lot 3, Mrs. Lorna Zelenzuk (ex-Chairperson, and ex-committee member in various years)
- Lot 62, Mr. Upali Aranwela (ex-Secretary, and ex-committee member in various years)
- Lot 88, Mrs. Marianna Paltikian (ex-Secretary, and committee member in various years). Mrs. Paltikian personally promised to investigate unpaid gas heating levies on 16 June 2017:

<https://www.nswstratasleuth.info/SP52948-EC-member-Marianna-Paltikian-Lot-88-who-has-undisclosed-second-gas-connection-promised-to-investigate-unpaid-levies-for-second-gas-connection-16Jun2017.html>

- Lot 102, Mr. Hoo Jeong Kim and Mrs. Young Sik Park
- Lot 147, Mr. Moses and Mrs. Zelda Levitt (ex-committee member in various years)
- Lot 148, Mr. Peter Yeend and Mrs. Barbara Yeend
- Lot 167, Mr. Peter Friede
- Lot 175, Mr. Robert Lev and Mrs. Sophia Lev
- Lot 192, Mr. Herim Kwon and previous owner Mr. Costa Akanis (ex-committee member in various years)

88.3) In Detailed Revenue for the financial year from 01/09/2019 to 31/08/2020 (FY 2020), Mr. Pogorelsky paid the following (including \$400.00 (GST excl) for gas heating levies for period of two years, where 10% simple interest was not included for the previous year):

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2019-to-31Aug2020.pdf>

08/10/2019	Lot 181: Shortpaid gas additional service 2015	\$23.82
01/05/2020	Lot 181: Additional Gas Point Fee - 1/9/19 - 31/8/	\$200.00
01/11/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,040.00
01/02/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/05/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/08/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/11/2019	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$383.50
01/02/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50
01/05/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50
01/08/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50

88.4) Detailed Revenue for the financial year from 01/09/2020 to 31/08/2021 (FY 2021):

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2020-to-31Aug2021.pdf>

19/03/2021	Lot 181: Additional Gas Point Fee 1/9/20 - 31/8/21	\$45.45
01/05/2021	Lot 181: Additional Gas Point Fee 1/9/20 - 31/8/21	\$200.00
01/11/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/02/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/05/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/08/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/11/2020	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50
01/02/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50
01/05/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50
01/08/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50

88.5) Detailed Revenue for the financial year from 01/09/2021 to 31/08/2022 (FY 2022):

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2021-to-31Aug2022.pdf>

01/05/2022	Lot 181: Gas Additional Service Charge	\$245.45
01/11/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$910.00
01/02/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$975.00
01/05/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$975.00
01/08/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$975.00
01/11/2021	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$513.50
01/02/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$448.50
01/05/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$448.50
01/08/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$448.50

88.6) Detailed Revenue for the financial year from 01/09/2022 to 31/08/2023 (FY 2023):

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2022-to-31Aug2023.pdf>

01/05/2023	Lot 181: Additional Gas Point Fee for period 1/9/2	\$245.45
01/05/2023	Lot 181: Additional Gas Point Fee for period 1/9/2	\$245.45
01/05/2023	Owner invoice cancellation for lot: 181/52948	(\$245.45)
01/11/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$975.00
01/02/2023	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,079.00
01/05/2023	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,079.00
01/08/2023	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$1,079.00
01/11/2022	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$448.50
01/02/2023	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$422.50
01/05/2023	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$422.50
01/08/2023	Lot 181: Quarterly Admin/Capital Works Levy (Stand	\$422.50

88.7) Detailed Revenue for the financial year from 01/09/2023 to 31/08/2024 (FY 2024):

<https://www.nswstratasleuth.info/SP52948-year-2024/SP52948-detailed-revenue-1Sep2023-to-13Feb2024.pdf>

Lot 181: Additional Gas Point Fee for period 1/9/2	\$245.45
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88.8) Audited accounts for FY 2023 and 2024 show that almost identical amount was collected for gas heating levies (\$2,945.45 in FY 2024 versus \$2,945.40 in FY 2023), guaranteeing that Mr. Pogorelsky did not and could not have paid all outstanding levies in 2012, 2013, 2016, and 2018, not to even go back to 1999.

<https://www.nswstratasleuth.info/SP52948-Economos-Audit-report-FY-ending-31Aug2023.pdf>

<https://www.nswstratasleuth.info/SP52948-Economos-Audit-report-FY-ending-31Aug2024.pdf>

89) More evidence which Mr. Pogorelsky and Waratah Strata Management ignored since 26 November 2018 (email to Mr. Pogorelsky "PRIVATE AND CONFIDENTIAL: Lot 181 unpaid levies for second gas connection and evidence of defamation" which Mr. Pogorelsky shared with strata manager immediately) and then lied to owners in agenda for AGM on 30 September 2019. All strata files are in possession of Lot 158:

89.1) Financial year 1 September 2002 to 31 August 2003

<https://www.nswstratasleuth.info/SP52948-accounts-1Sep2002-to-31Aug2003.pdf>

These owners were listed for gas levies in Cash Receipts Journal Account 170: Lot 62, Lot 102, Lot 147, Lot 175, Lot 181.

Five owners, Lots 62, 102, 147, 175, and 181, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.2) Financial year 1 September 2003 to 31 August 2004

<https://www.nswstratasleuth.info/SP52948-accounts-1Sep2003-to-31Aug2004.pdf>

These owners were listed for gas levies in Cash Receipts Journal Account 170: Lot 175.

One owner, Lot 175, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.3) Financial year 1 September 2006 to 31 August 2007

<https://www.nswstratasleuth.info/SP52948-accounts-1Sep2006-to-31Aug2007.pdf>

These owners were listed for gas levies in Cash Receipts Journal Account 170: Lot 62, Lot 102, Lot 147, Lot 154, Lot 148, Lot 181, Lot 192.

Seven owners, Lots 62, 102, 147, 148, 154, 181, and 192, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.4) Financial year 1 September 2007 to 31 August 2008

<https://www.nswstratasleuth.info/SP52948-detailed-revenue-1Sep2007-to-31Aug2008.pdf>

No owners were listed for gas levies in Cash Receipts Journal Account 170.

89.5) Financial year 1 September 2008 to 31 August 2009

<https://www.nswstratasleuth.info/SP52948-detailed-revenue-1Sep2008-to-31Aug2009.pdf>

These owners were listed for gas levies in Cash Receipts Journal Account 170: Lot 62, Lot 102, Lot 147, Lot 148, Lot 175, Lot 181, Lot 192.

Seven owners, Lots 62, 102, 147, 148, 175, 181, and 192, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.6) Financial year 1 September 2009 to 31 August 2010

These owners were listed for gas levies in Cash Receipts Journal Account 170: Lot 62, Lot 102, Lot 147, Lot 148, Lot 175, Lot 181, Lot 192.

<https://www.nswstratasleuth.info/SP52948-accounts-for-two-years-1Sep2009-to-31Aug2011.pdf>

Seven owners, Lots 62, 102, 147, 148, 175, 181, and 192, paid partial levies for second gas connection whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.7) Financial year 1 September 2010 to 31 August 2011

<https://www.nswstratasleuth.info/SP52948-accounts-for-two-years-1Sep2009-to-31Aug2011.pdf>

These owners were listed for gas levies in Cash Receipts Journal Account 170: Lot 62, Lot 102, Lot 147, Lot 148, Lot 181, Lot 192.

Six owners, Lots 62, 102, 147, 148, 181, and 192, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.8) Financial year 1 September 2011 to 31 August 2012

<https://www.nswstratasleuth.info/SP52948-accounts-1Sep2011-to-31Aug2012.pdf>

These owners were listed for gas levies in Cash Receipts Journal Account: Lot 79, Lot 147.

Two owners, Lots 79, 147, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

89.9) Financial year 1 September 2012 to 31 August 2013

<https://www.nswstratasleuth.info/SP52948-detailed-revenue-1Sep2012-to-31Aug2013.pdf>

This owner was listed for gas levies in Cash Receipts Journal Account: Lot 62.

One owners, Lots 62, paid partial levies for second gas connection in amount of \$55.00 (GST inclusive) whilst prescribed levies for second gas connection were \$220.00 (GST inclusive).

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; zelleve@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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