



O'BRIEN CRIMINAL & CIVIL SOLICITORS

30 October 2019

Mr. Robert Crosbie

By email: robert@waratahstrata.com.au

Without Prejudice save as to Costs

Dear Mr. Crosbie,

SP52948 Lot 158 v Waratah Strata Management Pty Ltd & Others

We refer to your conversation with the writer earlier today.

Lot 158 has retained us to explore his options for bringing defamation actions against various parties connected to Waratah Strata Management Pty Ltd & associated entities ("Waratah") and for defending possible defamation actions against him by Waratah.

We have advised him that defamation litigation is extremely costly and often protracted. Further, that a mutually agreed resolution is often the best course of action if it is possible.

Lot 158 has instructed that he is open to agreeing in essence to Items 1 and 2 in the draft Deed that you sent to him, provided that Waratah agrees to certain things.

Firstly, Lot 158 would like to be provided with certain information that he has previously requested and paid for pursuant to Sections 92-99 and 182 of the Strata Schemes Management Act 2015.

A list of the documents that Lot 158 claims to not have received is provided below this letter. Can you please examine this list and indicate what documents can be made available to Lot 158? If a document is not available can you please indicate the reason why?

Secondly, Lot 158 would like a clause in the Deed that states that he is to receive the same rights in relation to the maintenance of his property, from common funds, that other owners enjoy, both now and in the future, and further, that outstanding issues of concern will be addressed promptly.



Lot 158 has noted that the following issues at Lot 158 have been outstanding for some years:

- One FOB key not operational in three buildings: Block B, C, and D.
- Ventilation in one bathroom is significantly weaker than in the other bathroom and has deteriorated over time.
- Ventilation in laundry is very weak.
- Both smoke detectors are expired.
- Toilet in one bathroom is often releasing unpleasant smell and sucking water out of the bowl.
- Smoking in basement continues.

Finally, Lot 158 would like a clause that all members of the Owners Corporation, the Strata Committee, Waratah Strata and Uniqueco agree not to publish, or cause to publish, any material, verbally or in writing, that is defamatory or disparaging of him and/or his wife.

Please do not hesitate to contact the writer on (02) 9261 4281 if you would like to discuss the matter further or require clarification on any point.

Otherwise we look forward to your response.

Yours faithfully,



O'BRIEN CRIMINAL AND CIVIL SOLICITORS
Stewart J O'Connell
Solicitor Advocate

LIST OF DOCUMENTS REQUESTED AND NOT YET PROVIDED

- Unredacted Email from Solicitor Adrian Mueller to Branch Manager Paul Banoob dated 5th of July 2012 at 04:41 pm
- Unredacted Email from Branch Manager Paul Banoob to Strata Manager Garry Webb dated 5th of July 2012 at 04:57 pm
- Unredacted Email to EC members from BCS Strata Management Garry Webb dated 6th of July 2012 at 08:32 am
- Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 6th of July 2012 at 12:48 pm
- Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 9th of July 2012 at 10:18 pm
- Unredacted Email from Solicitor Adrian Mueller to BCS Strata Management Peter Bone dated 16th of July 2012 at 6:52 pm
- Unredacted Email from BCS Strata Management Peter Bone to Solicitor Adrian Mueller dated 25th of July 2012 at 2:13 pm
- Unredacted Email from BCS Strata Management Debbie Downes to EC members dated 16th of April 2013 at 1:52 pm
- Cash Book Receipts By Receipt Date for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and FY 2019 up to 31 May 2019
- Cash Book Payments By Account Code for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and FY 2019 up to 31 May 2019
- Income Tax Returns for FY 2012, 2013, 2014, 2015, 2016, 2017, and 2018
- Copies of all yearly Fire Safety inspection reports for FY 2013, 2014, 2015, 2016, 2017, 2018, and 2019
- Copy of full audit of second gas connections for 218 lots, including who conducted it, the dates of gas disconnections with names of certified plumbers, and the date of the report
- Register of items excluded from common-property (examples: exclusive rights to common property given to Lot 3 and Lots 136/137, windows and frames with double-glaze glass, windows and frames with solar heating panels, air-conditioning units on the balconies, modified light fittings in garages for Lot 147 and 151, five private lattices in front of townhouses Lot 194, Lot 197, Lot 199, Lot 202, and Lot 216, pergola modifications, second gas connections, and others)

- Contact details of financial auditor for FY 2017 and 2018
- Copies of signed audits that must have been completed before AGMs in FY 2017 and 2018
- Copies of multiple quotes for hot water system in Block C costing above \$30,000.00 that Uniqueco Property Services obtained in 2017
- Copies of explicit delegation of duties of Treasurer, Secretary, and Chairperson to strata managers at BCS Strata Management and Waratah Strata Management in any period between October 2012 and 31st of May 2019
- Copies of all the correspondence with the Police in regards to USB key handed over to them by Waratah Strata Management in period March 2018 to 31st May 2019
- Copy of the signed Deed of Release with BigAir ISP and other applicable legal documents after their eviction from the complex
- Evidence of who made decision to undercharge BigAir ISP and at which meeting
- Copies of all invoices and work completed in relation to water leak damages in the complex in period 2012 to 31st of May 2019
- Evidence that Lot 3 and Lots 136/137 comply with Special By-Laws in regards to public liability insurance for FY 2013, 2014, 2015, 2016, 2017, 2018, and 2019
- Copies of detailed AGM agenda including quorum calculations for financial owners for FY 2014, 2015, 2016, 2017 and 2018
- Invoices for all work related to painting and major repairs in 2017/2018, including work done on townhouses allegedly costing \$92,950.00
- Email from Teagan Robards at BCS Strata Management to Gary Mills and Lilia Olson with the spreadsheet of charges for Lot 181 second gas connection dated 17th of July 2015 at 12:51 pm (Subject line: "RE: S & T Pogorelsky - Gas charges paid from 1998 to 2015 - Strata Plan 52948")
- Email from Stan Pogorelsky with the spreadsheet for Lot 181 paid levies for second gas connection to Gary Mills at BCS Strata Management on 10th of June 2015 at 4:28 pm
- All invoices for second gas connection for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and FY 2019 up to 31st of May 2019

- Details of reimbursements to townhouses for private water and gas usage for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and FY 2019 up to 31st of May 2019
- ThyssenKrupp Elevator correspondence and invoices in 2015, 2016, 2017, and 2018
- ThyssenKrupp Elevator service reports for 2015, 2016, 2017, and 2018
- Evidence of tender for elevator contract renewal in 2018
- Copy of current elevator contract with Liftronics
- Details of all elevator faults and risks in period 2014 to 31st of May 2019
- Uniqueco Property Services monthly reports for FY 2016, 2017, 2018, and 2019 up to 31st of May 2019
- Evidence of electricity supply contract renewal in 2018, including details of when and who approved it
- Copy of current electricity supply contract
- Copy of current building manager contract with Uniqueco Property Service
- Copy of all SP52948 correspondence with Solicitor Adrian Mueller and Crittenden in period 2012 to 31st of May 2019
- All insurance claims in period August 2013 to 31st of May 2019
- Correspondence between EC members and strata managers at BCS Strata Management and Waratah Strata Management in period August 2013 to 31st of May 2019
- Correspondence between CHU Insurance and their lawyers and SP52948 in regards to repayments for insurance claims in 2012/2013 for alleged "Defence of Lot 3"
- Correspondence between BCS Strata Management and Waratah Strata Management in period November 2016 to 31st of May 2019 (including requests to BCS Strata Management to provide additional copies of SP52948 strata files due to lost files on USB key)
- All correspondence between Waratah Strata Management with the Police and other applicable enforcement agencies in regards to computer break-in in period 1st of February 2019 to 31st of May 2019
- All correspondence between EC members, strata managers and the Police for any other security or legal matter in period 2014 to 31st of May 2019

- Copies of recovery of funds from parties responsible for frequent damages to car entrance gate
- Copies of correspondence with owners for all By-Laws compliance issues in period October 2012 to 31st of May 2019
- If applicable, copies of all correspondence with Ryde Council and Fire and Rescue NSW in period 2014 to 31st of May 2019.