

Strata Plan 52948 Water and Gas Reimbursements Short Summary – 17 September 2013

In case anyone doubts that the Special By-Law 13 has any value and fairness, the following summary can disprove them.

In spite of all advanced warnings (Lot 158 accidentally found out about it in late 2011), with partial data from the previous years which clearly showed the water and gas reimbursements being applied secretly and without fair share policy, the Chairperson Mr. Bruce Copland proceeded with the Special By-Law 13 at the General Meeting (AGM) on 17th of October 2012, in non-compliance with the Strata Scheme Management Act (SSMA) 1996, Section 14:

14 Motions out of order

The chairperson at a general meeting of an owners corporation may rule a motion out of order if:

- (a) the chairperson considers that the motion, if carried, would conflict with this Act or the by-laws or would otherwise be unlawful or unenforceable, or**
- (b) except in relation to a motion to amend a motion, clause 35 (3) has not been complied with in relation to the motion.**

1. In the agenda for the AGM sent on 2nd of October 2012, Mr. Bruce Copland, with support of ALL members of the EC and the Strata Manager stated:

WATER & GAS CHARGES AND REBATE SCHEMES

There are two practical policies in place that affect charges and rebates to owners. Both these schemes have operated almost from the beginning of the OC and have resulted in equity in sharing common utility costs caused by the lack of individual meters for gas and water to all lots. Neither of the by-laws proposed is designed to change the long term practise and policy of fairness in gas and water cost sharing applied by the OC for the past 12 years but they will prevent some of the wild allegations regarding improper application of these schemes by the MA.

Refunding consumption charges (not connection charges) for water and gas to townhouse owners (provided these claims are submitted on the appropriate form accompanied by copies of paid invoices, and submitted for the current financial year or immediate past quarter of the prior year) was approved at an EC meeting in 1998 and ratified at an AGM in 1999 and it is believed this should be converted to a by-law.

The policy of levying a single annual charge to owners in any lot who connect gas heating to the common cooking gas supply was applied by the EC from shortly after residents moved in. The annual charge has not varied in many years, some owners do not voluntarily disclose the use of gas for heating and it remains impractical and too costly to install gas meters to all units. (Latest estimate is over \$2,000 each). It is considered desirable to have a by-law similar to that used to inspect for leaking water to make this gas heating supply charge more manageable, equitable and enforceable in future.

2. Similar comments were issued on the amendment for the agenda, sent on 9th of October 2012, in spite of Lot 158 (Lot 158) warning that such by-law was inequitable and was applied without a special resolution or a registered by-law since 1999 (water reimbursements even earlier). Lot 158 even raised a CTTT case to prevent the AGM from proceeding due to serious non-compliance issues with the SSMA 1996 but the CTTT decided to let the meeting proceed and deal with it later on (currently the appeal is in the process of activation).

3. Although the AGM “approved” Special By-Law 13, the Strata Manager failed to register it with the NSW Land and Property until 6th of May 2013 – seven months after the meeting! The Strata Manager even refused to provide details of the registration until silently publishing it on Raine & Horne Strata Sydney website on 11th of September 2013.

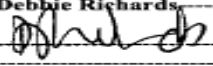
SPECIAL BY-LAW 13 - Sharing of Water and Gas Costs

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. Determine a fair and equitable method of sharing gas and water charges amongst all lot owners;
2. Refund to lot owners the amounts paid by owners other than to the Owners Corporation for the consumption of water and gas but not for fixed service or connection charges; provided that the Owners Corporation shall have no obligation to pay any amount to an owner unless:
 - a. The owner first pays the gas or water supply company;
 - b. Submits a copy of the bill(s) for consumption within 60 days of payment;
 - c. Claims for reimbursement are made using the form prescribed by the Owners Corporation;
 - d. The claims are for periods that fall within the current financial year of the Owners Corporation or no later than the last quarter of the immediate preceding financial year;
 - e. In the event of a dispute over reimbursement the Owners Corporation shall determine the amount to be paid in its absolute discretion acting reasonably;
 - f. An owner may not claim for gas consumption where the common gas supply has been diverted to additional appliances, unless a reasonable estimate for usage of gas having regard to the rated gas consumption of any additional appliances has been deducted from such claim, all such estimates to be at the absolute discretion of the Owners Corporation acting reasonably.
3. In the event that individual gas or water meters are installed to each and every lot such that consumption of either service can be billed on a strictly metered basis to each and every lot owner, the above requirements with respect to the relevant service shall cease to have effect from the date of commencement of direct billing of the relevant service.

THE COMMON SEAL of THE OWNERS – STRATA PLAN
NO 52948 was affixed on the 6th day of May 2013 in the
presence of

Names:-----Debbie Richards-----

Signatures:----------

being the persons authorised by Section 238 of the Strata Schemes
Management Act 1996 to attest the affixing of the seal.



4. The brief summary (evidence for all invoices for all years that Lot 158 could obtain access to can be provided) which includes current information as of 17th of September 2013:

SP52948: Cash Accounting Method - 26 Lots in townhouses, 192 in high-rise units (total of 218 Lots with entitlements) Financial Year (FY): 1 September in any year to 31 August the following year (all figures are GST exclusive)

Financial Year	Shared Water Expenses for Whole Complex	Shared Gas Expenses for Whole Complex	Total Water and Gas Expenses for the Whole Complex Including Townhouse Reimbursements	Total Water and Gas Expenses for the Whole Complex Without Townhouse Reimbursements	Average Water and Gas Usage Costs per Lot Owner excluding Townhouses who received benefits (common expenses calculated only)	Townhouse Water and Gas Reimbursements	Average Water and Gas expenses per Townhouse Owners who claimed Reimbursements	Total Utility Reimbursements Townhouses Received versus Total Shared Water and Gas Expenses for the Complex	Number of Townhouses with Benefits	Ratio of Townhouses Receiving Reimbursements and Total Owners (x / 218)
1997	\$21,282.00	\$12,229.00	\$33,511.00							
1998	\$37,977.00	\$12,828.00	\$50,805.00							
1999	\$33,933.00	\$8,783.00	\$42,716.00							
2000	\$41,168.00	\$22,348.00	\$63,516.00							
2001	\$39,587.00	\$17,652.00	\$57,239.00							
2002	\$34,128.00	\$17,997.00	\$52,125.00							
2003	\$43,201.00	\$21,898.00	\$65,099.00	\$60,384.02	\$300.42	\$4,714.98	\$277.35	7.81%	17	7.80%
2004	\$40,996.00	\$20,849.00	\$61,845.00	\$55,885.05	\$280.83	\$5,959.95	\$313.68	10.66%	19	8.72%
2005	\$39,524.00	\$19,338.00	\$58,862.00							
2006	\$45,706.00	\$20,830.00	\$66,536.00							
2007	\$17,060.00	\$19,511.00	\$36,571.00	\$29,597.53	\$146.52	\$6,973.47	\$435.84	23.56%	16	7.34%
2008	\$49,164.00	\$22,914.00	\$72,078.00	\$64,567.03	\$321.23	\$7,510.97	\$441.82	11.63%	17	7.80%
2009	\$78,560.00	\$21,786.00	\$100,346.00	\$93,659.36	\$465.97	\$6,686.64	\$393.33	7.14%	17	7.80%
2010	\$93,056.00	\$23,400.00	\$116,456.00	\$105,819.01	\$526.46	\$10,636.99	\$625.71	10.05%	17	7.80%
2011	\$80,265.00	\$22,861.00	\$103,126.00	\$96,690.75	\$473.97	\$6,435.25	\$459.66	6.66%	14	6.42%
2012	\$81,729.00	\$24,398.00	\$106,127.00	\$95,295.34	\$478.87	\$10,831.66	\$570.09	11.37%	19	8.72%
2013	\$77,709.00	\$21,822.31	\$113,187.58	\$99,531.31	\$497.66	\$13,656.27	\$758.68	13.72%	18	8.26%
2014						\$451.86				
Total reimbursements given to selective townhouse owners						\$73,858.04				

Details for some years are missing due to persistent refusal by the members of the Executive Committee (Chairperson Mr. Bruce Copland in the first instance) and the Strata Manager to provide full details

The figures show clear discrepancy in water and gas benefits that small group of townhouse owners enjoy versus majority of other owners.

5. Lot 158 repeatedly requested proofs which townhouse owners declined to receive these benefits from 1999. Depending on the year, between 14 and 19 townhouse owners received the water and gas reimbursements.

We have proof that some townhouse owners did not know about them until Lot 158 raised this issue (and there is an owner who complained about it after not being aware of it for seven years!).

Even during document viewing on 16th of October 2013, no such evidence was provided.

6. The following summary for this financial year (just ended) shows that even the townhouse owners who enjoyed the benefits did not have “equal” shares. This report is based on available data and it is possible that there are some hidden expenses that were not published, which is common for the current EC and the Strata Manager. After all, these water and gas reimbursements were hidden in all financial statements for more that 13 years from all owners.

Lot (Townhouse) Owner	Summary of Water and Gas Reimbursements for FY 2012/2013
Total	\$13,656.27
M Xia	\$2,123.69
A Lee	\$1,297.71
Y Chen	\$1,098.05
K Ha & H Jin	\$964.89
F Degros & R Pan	\$910.13
R Brown	\$821.43
P Ji & Q Zhang	\$770.73
H Rong & J Lee	\$760.41
S M Hwang	\$658.87
S & A Leung	\$644.07
A Ng	\$641.22
A Chow	\$639.23
Z Zohrehvandi	\$484.74
H H Yun	\$442.74
A Perera	\$413.19
Y Gee & S Woo	\$389.54
J Young	\$352.72
B & F Copland	\$242.91

At least one of these expenses was even paid for rental property (Lot number known to Lot 158).

7. This summary shows that Special By-Law 13 (d) was breached on many occasions and that it was not complied with, even in FY 2013.

SP52948 Partial summary of unapproved and inequitable water and gas reimbursements for townhouse owners for multiple quarters (access to some files/years is denied by the Strata Manager and the Executive Committee)

Lot Number	Date Claimed	Water	Gas
204	2013 August	Four quarters	Four quarters
197	2013 August	Two quarters	One quarter before current
201	2013 July	Four quarters	Four quarters
211	2013 May	Nine quarters	Nine quarters
199	2013 March		One quarter before current
199	2013 March	Two quarters for Mar2012-Aug2012	Two quarters for Mar2012-Aug2012
194	2013 March	One quarter before current	One quarter before current
207	2013 February	One quarter before current	One quarter before current
216	2013 February	One quarter before current	One quarter before current
217	2013 January	Two quarters	Two quarters
210	2012 December	Two quarters	Two quarters
194	2012 November	One quarter before current	One quarter before current
217	2012 September	Two quarters before current	Two quarters before current
203	2012 September	Three quarters before current	Three quarters before current
215	2012 April	Two quarters	Three quarters
202	2012 March	Two quarters	Three quarters
199	2011 January	Two quarters	Two quarters
202	2011 January	Two quarters	Two quarters
217	2011 March	Two quarters before current	Two quarters before current
207	2011 March	Two quarters before current	Two quarters before current
219	2011 March	Two quarters	Two quarters
206	2011 March	Two quarters	Two quarters
205	2011 May	Two quarters before current	Two quarters before current
215	2011 August	Three quarters	Three quarters
196	2011 August	Two quarters	Three quarters
217	2008 April	24 quarters (2000 to 2006)	Eight quarters (2004-2006)
211	2007 November	Six quarters	Seven quarters
202	2007 March	One quarter before current	One quarter before current
204	2007 August	Three quarters	Three quarters

8. Here is a full statistics for gas usage for shared meters this financial year:

Total for four buildings (each building has its own gas meter)	\$7,871.21
Swimming Pool (a separate gas meter)	\$13,951.10
Total FY2013:	\$21,822.31

The pool area COMMON property and must be a SHARED cost!

Divide \$7,871.21 by 192 lot owners in buildings = \$40.99 expense for gas usage per building owner for the whole FY 2013 year. At the same time, each of 18 townhouse owners, on average, claimed \$312.56 for the whole FY 2013, which is 684% higher in comparison to what owners in the buildings “spent”.

To make things worse, 8 townhouse owners who claimed no water and gas reimbursements were completely abused by the Special By-Law 13 because their levies paid for common water and gas usage for 192 owners in the buildings and 18 townhouse owners!

9. Here is the full statistics for water usage for shared meters this financial year (the whole complex has only two shared water meters):

Total for the complex	\$77,709.00
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These water meters also include water usage for the gardens, cleaning of common property, swimming pool, spa, sauna, garbage bins, and it is very difficult to calculate a fair “shared usage”.

Divide \$77,709.0 by 192 lot owners in buildings = \$404.73 expense for gas usage per building owner for the whole FY 2013 year.

At the same time, each of 18 townhouse owners, on average, claimed \$446.118 for the whole FY 2013 and that does not include their “fair share” for water usage on common property.

To make things worse, 8 townhouse owners who claimed no water and gas reimbursements were completely abused by the Special By-Law 13 because their levies paid for common water and gas usage for 192 owners in the buildings and 18 townhouse owners!

10. What did the FY 2013 show:

18 townhouse owners (out of 26 townhouses in total) were paid for water and gas reimbursements in amount of \$13,656.27

18 townhouses owners represent 8.26% of the total number of owners in the complex.

18 townhouse owners were paid water and gas reimbursements that represent 13.72% of what other 200 owners spent in these utility costs for shared accounts (including spa, sauna, swimming pool, paving areas, foyers, lifts, gardens, tennis courts, garbage bins washing three times a week, and similar).

200 other others spent on shared water and gas costs, on average, \$497.66 this year.

18 townhouse owners received reimbursements for their water and gas usage, on average, \$758.68.

To be tabled for the AGM 2013. One thing is to share the costs fairly and equitably, and another to abuse the unsuspecting owners for more than 13 years as it happened in our complex.

If this was just a single error in the management of the complex, it would not be so bad, but this is just one of too many serious financial mistakes and even fraudulent activities.

This would not have happened if the complex had a prudent, ethical, and competent Executive Committee who based their actions on compliance with the law, best practices, transparency and duty of care.

Every owner, the EC and the Strata Manager will have an opportunity to disprove these figures at the AGM 2013.

Lot 158, 17th of September 2013