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Consumer Property law Review: Options for reform of the Owners Corporations Act 2006

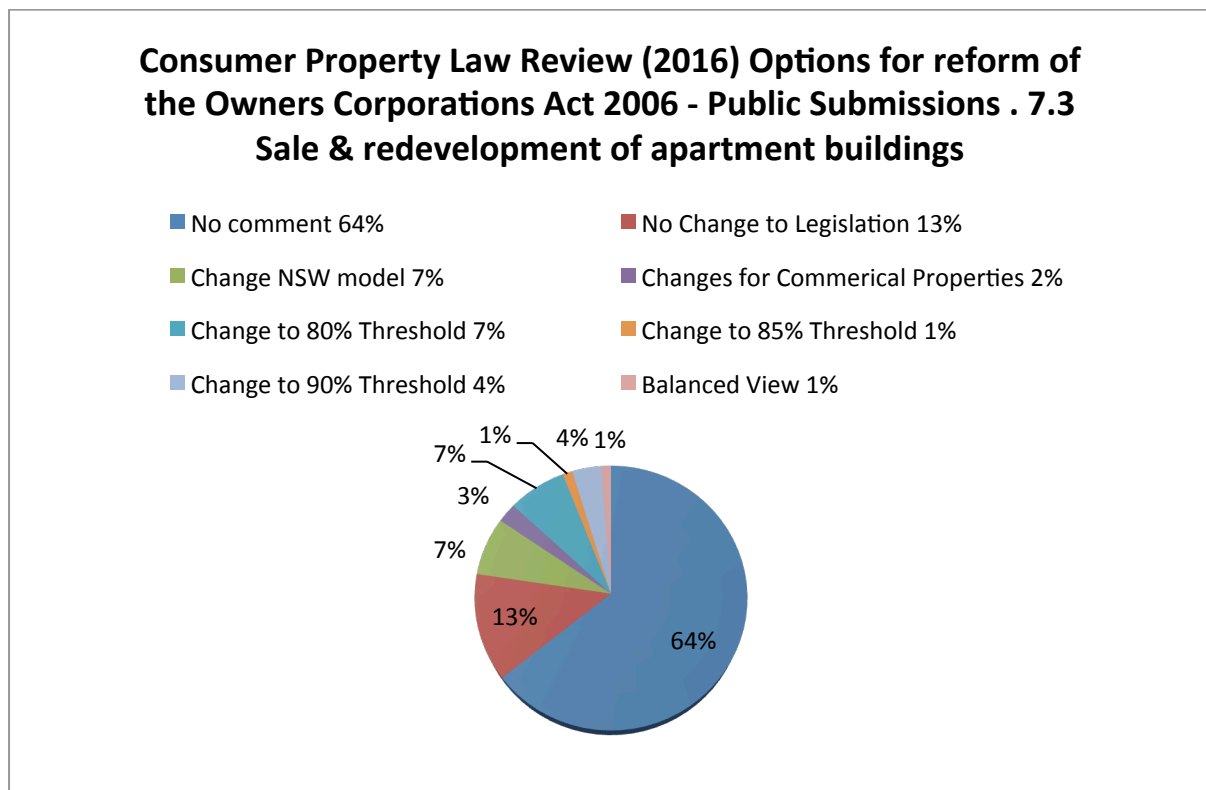
Stakeholder Feedback

7.3 Sale and redevelopment of apartment buildings (p.62)

Consumer Affairs Victoria (CAV) reported to the public on **Issues paper 2: Owners corporations**, that of the 103 submissions received, 82 were public submissions. With reference to stakeholder feedback on question 7.3 referenced above, CAV stated in the “Stakeholder feedback” that the submissions were “not clear cut” and that there was support for and against changes to this part of the legislation.

It is true that responses were not clear cut, however, the “Consumer Property Law Review (CPRL): Option for reform of the Owners Corporations” did NOT include in the “**Alternative options responses – 21A to 21E**” an option to ‘**uphold the current legislation, for it to remain as 100% unanimous**’ or shall I say made it clear enough.

After reading each public submission and recording responses to this significant piece of legislation, I took it upon myself to table responses in the graph below (happy to be corrected if there are any errors). There are concerns that the reports on this topic have not been “**balanced views**” and consideration needs to be made for resubmission to the public with the extra option to include maintaining the status quo with reference to 7.3.



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Considering the **Issues Paper 2: Owners corporations** received the “*most attention*”, (Stakeholder Feedback: Consumer Property law Review: Options for reform of the Owners Corporations Act 2006), responses to 7.3 needs to be considered in a balanced manner.

Considering 64% of submissions made no comment to this piece of legislation and 13% or more who oppose changing the current legislation, with 7% agreeing with the adoption of the NSW threshold, a small number of submissions were happy to consider a higher threshold of 80% votes and above. It would be fair to say that the review as such, has not been balanced.

I made a private submission to the CPLR **Issues paper 2** against changes to this part of the legislation. The “alternative options” listed by CAV Option for reform of the OC Act 2006 does not clearly include “maintaining status quo/unanimous /100% votes, despite 13% wanting **no** change, 2% wanting changes in **Commercial property** and 7% wanting to switch to the NSW model.

I will put forward our response that **Option 21E: Reduce threshold to 75 per cent for commercial building only** is the only option that comes close to retaining the status quo for residential or mixed residential-commercial buildings governed by owners corporations.

With that said, there must considerations into why a building has not or is not maintained at a safe standard conforming with health & safety regulations, duty of care of occupants and obligations of members/managers of an OC within the OC Act 2006.

Questions should be raised regarding the intention/s of OC members/managers who purposely neglect building maintenance of an OC, and that these are serious breaches of the OC Act 2006 yet from personal experience, i.e. VCAT, there appears to be **no repercussions, accountability** for OC members and OC Managers alike who fail their duty of care, where breaches are evident in the neglect of a building. The same can be said of those in commercial owners corporations where there may be intent to have a building deteriorate and/or left in a state of disrepair to then enforce a wind up or redevelopment of an owners corporation.

Reading the alternative options in the options for reform, Reference 7.3, and the definitions in 21A - 21E, tiered approach etc., only makes for a more complex legislative future whereby more litigation, animosity amongst owners/manager, greater confusion and ambiguous interpretations of the changes in legislation will prevail. A suggestion by one respondent which was worthy to reflect upon was a “*wait and see approach of the NSW model ... and “case studies”, the lessons learned from the NSW model. (Watergate OC). The contradiction in this actual piece of “proposed reform under this legislation”, ignores that fact that a building irrefutably must be maintained and/or repaired and not neglected.*

As time is limited, this was all I could respond to CPLR Options for reform, however I am happy to be contacted should there be any questions, clarifications regarding this response.

Kind regards, Mary Simic