JOB REFERENCE: OFFICE – CAV OC ACT COMMENT **DATE:** 10 May 2019

TO: CONSUMER AFFAIRS VICTORIA

EMAIL:

To Whom it may concern,

OWNERS CORPORATIONS AND OTHER ACTS AMENDMENT BILL – EXPOSURE DRAFT CONSULTATION COMMENT ON PROPOSED CHANGES TO THE OWNERS CORPORATION ACT 2006

I would like to comment on proposed changes to the OC Act as both an architect and an owner and occupant of an apartment in an older, circa 1970's apartment block in Kew, VIC 3101.

In the three years that my sister and I purchased my apartment together, I have been quite shocked at the dysfunctional state of maintenance and repairs in my apartment block as well as the process of quoting on work in the OC environment. Having been through a number of the submissions provided to CAV to date, I note that few, if any comment on this increasingly complex and problematic area. I myself have been so shocked that I started the above business in order to offer professional, independent, building advice and assistance to Committees of Management of Owners Corporations. This business was started in December 2018 and already to date we have six clients, including 2 large Strata Managers and to date have already saved apartment owners in excess of $65,000 in fees for building work that was either not required, incorrectly quoted or excessive.

In respect to the proposed changes to the Owners Corporation Act 2006, I make the following observations and recommendations:

1. Definitions:

While not include as a change in this draft, I note that there is **no definition of the term 'body corporate'** in the OC Act and yet this definition is indirectly referred to throughout the OC Act through the use of the term 'owners corporation', including in the proposed revision to definitions relating to the new 'four tiers of owners corporations' (7 p10).

The term owners corporation is defined as "... a body corporate which is incorporated by registration of a plan of subdivision or a plan of strata or cluster subdivision;" This is considered problematic as there is a misconception among owners of apartments and the public in general that the terms

'Owners Corporation' and 'Body Corporate' both relate to Strata Managers, not owners. This in turn has many owners (and also many property managers and service suppliers) believing that it it the Strata Managers and/or property managers that are entirely and solely responsible for repairs and maintenance of common property and all repair and maintenance issues.

My experience of this misconception over the last 3 years has included:

- excess maintenance and management fees and services
- Strata managers employing employees and their families to attend to maintenance matters
- poor/ limited/ little or no consultation with owners
- Strata managers carrying out work to private apartments at the cost of the OC
- service providers communicating exclusively with Strata mangers
- poor and often incorrect quotes resulting from poor definitions of what work is actually required
- fees for services that are not correctly carried out or not carried out at all
- limited follow up and/or limited understanding of quotes and reports carried out.
- Little or no maintenance of major items such as roof repairs

While it is likely that some of this may still occur if the owners were better informed, it is more likely that owners would have queried some of the work sooner as owners have a more vested interest in the work. In addition, it is clear that most Strata managers are swamped with the work that is their responsibility. Most Strata and/or Property are not trained to adequately assess building matters, neither is this their role or their responsibility. They are trained and engaged to look after the property and manage the OC Act and tenants – not attend or be responsible for repairs and maintenance of the building itself.

I think that definitions that more pointedly refer to the role and responsibility of **Owners** in the Act would go a long way to address at least some of the issues relating to this misconception of their role and responsibility in the management of their properties.

2. Definition of tier (one, two, three and four) owners corporations – Part 1 Section 7 (2-5)

It is great to see a tiered system introduced however I do not agree with the proposed size allocations or the proposed obligations with regard to maintenance plans (covered under maintenance plans).

In respect to the proposed tier definitions, I would like to suggest that tier 3 include 3 – 18 occupiable lots and tier two include 19 – 50 occupiable lots.

Our block includes 12 occupiable lots over 2-3 storeys (sloping site). The block is a simple brick building with no lifts or other complex services. In my experience as an architect, I do not think it is fair to include blocks of under 18 occupiable lots in the same category as blocks with 50 occupiable lots.

3. Division 3 – Maintenance plans

It is my experience as an architect and a property owner that there is insufficient provision in the OC Act 2006 with regard to maintenance of common property. In particular, the OC Act fails to take in to consideration aging stock.

Most of the original owners corporations are a result of the building boom following the First and Second World Wars and the Baby Boom of the 1940's – 1960's. Stock from the building boom of the 1950's, 1960's and early 1970s **is now between 50 and 80 years old**. While most of this stock serves its purpose (housing), inadequate provisions in the OC Act have resulted in insufficient allowance for the repair and replacement of most major items such as lifts, roofs, heating and cooling systems and carports. This has resulted in many cases in very poor living standards for tenants and major problems for current owners. Owners who bought investment property in the 1970's/ 1980s sold without completing any maintenance at all and without leaving any maintenance fund for any future repairs.

The ongoing maintenance of property and associated services is fast becoming an area of great concern for all owners of buildings, from government to home owner. This is in part due to increasing demand on building materials and concerns with sustainability in the building sector but is also related to the now recognised high life-cycle costs of buildings, estimated in some sectors to be around 50 times the original cost of construction (https://www.wbdg.org/resources/life-cycle-cost-analysis-lcca advise that over 30 years the cost of construction represented only 2% of the costs associated with a building). This in turn has resulted in the fast growing services of BIM or building information management also known as life-cycle management being adopted for all government buildings in the United Kingdom. While relatively new in Australia, this service is currently being considered by the Victorian Government for implementation in government buildings in Victoria.

It is my experience and my opinion, both professionally and as an owner, that basic maintenance plans **should be compulsory** for **All** but the very smallest owners corporations. These maintenance plans should identify the main common property elements and prepare plans for works to these items to be

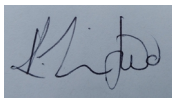
complete over a regular period of time. Maintenance funds should, as is suggested and provided for in the amended OC Act, be properly funded by a compulsory maintenance fund for maintenance plan work.

SUMMARY OF RECOMMENDATIONS:

1. Definition of the term 'body corporate' be included in the Act
2. Tier two and three owners corporations be adjusted to include 19-50 and 3-18 occupiable lots
3. Maintenance plans be compulsory for all but tier 4 owners corporations

Please do not hesitate to contact me should you would like to discuss any of these suggestions in more detail

Kind regards,



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