

SUBMISSION – REVIEW
OWNERS CORPORATION REGULATIONS 2018 – VERSION 001
(Eclectic Consumers Collective, Elwood Victoria)

Anne Cronin
Commissioner for Better Regulations
Owners Corporation Regulations 2018 RIS Submissions
Policy and Corporate Services
Consumer Affairs Victoria
GPO Box 123
MELBOURNE VIC 3001
Email: consultations@justice.vic.gov.au

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**SUBMISSION - REVIEW OF OWNERS CORPORATION REGULATIONS 2018 -
VERSION NO 001.**

The issues at stake relate to the following:-

- Insurance-based Owners Corporation Management model
- Model Rules – affect 95 percent of the 81,500 owner’s corporations. 80 percent of owners corporations consists of 9 lots or less – thus most owners corporations are in the small range, though significant high rise developments means 50-150 lots (which fall into a different category – prescribed lots - to the smaller owners corporations) are becoming more frequent and relevant.
- Owners Corporation Managers – in this state alone manage upwards of \$300 billion worth of property so it’s a significant number. Owners Corporations Managers manage owners corporations for approximately 1.5 million Victorian owners – so it’s a significant platform which needs adequate addressing
- Legal Entities
All 81,500 owners’ corporations have the right to take legal action or to be sued under the Owners Corporation Act (Victoria) 2006 and the 2007 Owners Corporation Regulations (Victoria) but only in extreme circumstances

Range of Stakeholders consulted

- Law Institute of Victoria
- Residents of Retirement Villages Victoria
- Real Estate Institute of Victoria
- Strata Community Australia (Victoria)

Query: These bodies are strictly professional bodies and hardly represent the interests of the bulk of Owners Corporation members. Thus their suggestion for increased levels of professional indemnity insurance premiums – are in their favour since most of the Owners Corporation Managers are

attached either directly or indirectly to major Insurance Corporations operating within this country which include but are not exclusive to:

Major Insurance Corporations Providing Premises and Back-up Support for Most Owners Corporation Managers

- Allianz Insurances Australia
- Chubb Insurance Company of Australia
- CGU Insurance Limited
- AIG Australia Insurance Limited
- QBE Insurance (Australia) Limited
- Liberty Mutual Insurance Company
- Lloyds of London

These are the companies that predominantly provide an office platform and company management systems for all Owners Corporation Managers in the state of Victoria. Most are large overseas backed and based corporations which send significant funds offshore and are subject to parent company rulings offshore in addition to local Victorian legal conditions and Owners Corporation Regulations set by our Victorian government. As such they have a vested interest in protecting their own profit margins and not in the interests of the 81,500 Owners Corporations and their approximately 700,000 plus owner members based here in this state - a significant proportion of whom are on restricted financial levels as a result of exiting the labour market i.e. retirees and senior aged Victorians specifically. Younger families tend to buy into the housing stock rather than strata units.

PROFESSIONAL BODIES DO NOT CONSTITUTE A VIABLE PLATFORM FOR FEEDBACK CONCERNING THE REQUIREMENTS OF ORDINARY VICTORIAN STRATA UNIT OWNERS – OR THEIR TENANTS....WITHIN LEGALLY DEvised OWNERS CORPORATION SET UPS – BUT THEY MAY ADVANTAGE THE BENEFITS TO PEOPLE FROM THEIR OWN FIELDS INCLUDING OWNERS CORPORATION MANAGERS

Seeking feedback and advice from industry professionals does not do justice to any of this and has further entrenched disadvantage for all members of Owners Corporation bodies across the state of Victoria whom are mostly not empowered to direct the quality of changes that need to be implemented – on their behalf, and to enhance the liveability of all Victorians in this state – and not just the profit margins of these highly remunerated professionals – who have limited insight into the way the rest of Victorians live and conduct their daily routines.

INFRINGEMENTS PENALISED BY CRIMINAL JUSTICE SYSTEM – THIS IS HARDLY APPLICABLE TO UNINTENTIONAL WHITE COLLAR DEBTS – OF A LIMITED NATURE OR SCOPE

Owners Corporation Managers tend to reflect the business and profit related strategies of their master owners the bigger insurance corporations under which they broadly fall - disenfranchising

the needs of less equitably remunerated owners corporations members thus the heavy orientation towards financial penalties regarding infringement offences and the restricted capability of any Owners Corporations Manager to deal with in-house neighbourly disputes despite their fairly hefty commissions and fees and charges. Most would take an inflexible approach to matters of this kind which are extremely frequent and rarely dealt with at all by the Owners Corporations Management paid to do so. Thus it is up to member owners to deal with almost all events of dispute or conflict in their strata unit block without necessarily having the legal or professional know-how to tackle such issues e.g. noise issues. The emphasis on criminal justice in regard of minor fee defaults is abysmal and a reflection on the Insurance Corporation basis that dominates almost all Owners Corporation Management in this state i.e. A business thrust that puts money issues ahead of those of individual residents' needs and/or abilities to pay given any form of ameliorating circumstances – such as loss of job or other financial difficulties.

ACCOUNTING PROCEDURAL ACTIVITIES LINKED TO OVERSEAS BASED INSURANCE CORPORATION GIANTS – SCOPE FOR MISADVENTURE HEIGHTENED – LIMITED ATTENTION TO SEEKING BEST AVAILABLE CONTRACTORS

Owners Corporation Management with their major Insurance Corporation backers are inclined to skip the minutia of detailed accounting procedures providing their members with a brevity of budgeting summaries that begs the question – and all too frequently – particularly when levies go up and up without any quantifiable advantages obtainable but merely to maintain costs of (usually unspecified) maintenance and repair work – are they being genuine or is the average owners corporation member being ripped off by OCM accounting measures (strictly accorded within business practices of course)? A further problem connected with this is the fact that there is no inducement for OCMs to reduce costs or ascertain if value for money is being obtained from all contractual arrangements. The new imposition of Fire and Essential Services costs to protect each building (roughly \$800 per annum in most cases) is a point in question given that said Fire Services may enter property to check and evaluate same once yearly – its apparent it's an exorbitant cost that has to be met by all owners whatever their financial circumstances regardless.

PROFESSIONAL INDEMNITY INSURANCE COMMISSIONS PAID TO MANAGERS COME DIRECTLY FROM THE PARENT BODIES BACKING THEM - IE MAJOR INSURANCE CORPORATIONS WITH HQS OFFSHORE

However the overall framework of having a major capital works plan while being productive in the future may be sabotaged by such extremes of mismanagement – as delineated above - that may be more frequent than the Department of Consumer Affairs recognises and specifically connected to the major insurance firms basis of nearly all owners corporations managers operating in the state of Victoria. Given that the Model Rules are adopted by 95 percent of owners corporations it is envisaged that ongoing problems with this are not going to be addressed nor alleviated by any of this proposed RIS without formally recognising the disadvantageous apparatus of being directly tied to major overseas corporations involved in financial manipulations and market fraud such as many of these Insurance giants are renowned for. A rip off of customers would be expected not the opposite. And in this case strata title owners in this state are the bunnies – especially given that

each OCM is offered and takes commissions directly from the entity to whom they are responsible and this applies to all Owners Corporations indemnity insurance across the state. This is a very vexed question and a loophole in the laws that needs redressing – and urgently.

It ought to be compulsory for ALL Owners Corporation Managers to obtain quotes for insurance policies entered into and to submit a written statement to ALL Owners Corporations detailing the amount of commission - or any other form of reward received,

Apparently the Managers presence at a meeting and typing up of any set of minutes to be emailed to all members annually can be in the vicinity of \$600. This is an exorbitant cost for attending one annual meeting and one or two phone conversations per year with the occasional contractor engagement thrown in and in addition to the Management fee.

ISSUES RELATING TO ABSENTEE INVESTMENT UNIT OWNERS AND THEIR COST

A further issue connected with this is the cost of OCMs management of the rules regarding devising a more complex set of rules than is possible via the Model Rules. OCMs pay lip service only - limited attention to any form of owner's disputes that may arise – connected to noise disturbances for instance – which can exist as an ongoing form of unnecessary harassment because OCMs are reluctant to enforce the rules, particularly when they apply to tenants whose owners live at great distance to these 'investment' units.

Standard guidelines are required that deal with owners of investment units when issues with their tenants arise as they all too frequently do, such as the harm caused to other residents by uncarpeted living areas and the intense noise pollution caused by this. Installing carpet would be such an easy thing to deal with this issue but it was left up to the owners affected to negotiate any changes, and of course, the tenant refused all polite requests. No further redress was possible without enormous energy and initiative needed to contact the owner of this investment unit and have them address the issue. No further assistance was provided by the OCM up until time of writing. The issue of absentee owners of investment units is an enormous issue.

Another example was damage to communal property which was not detected until after the tenant had vacated, with no redress except via expensive and time consuming and highly stress provoking avenues (which has happened here three times in recent years and all owners have had to bear the subsequent replacement/repair costs). On one occasion which involved patching a newly sealed walkway it came to thousands of dollars because nobody 'witnessed' the damage being done despite suspicions relating to the same Unit as above. We are a small block of 12 units. The shared cost burden was enormous as a one-off cost with the potential to be ongoing when repeated by newer incoming tenants. A revised set of Model Rules had the possibility of addressing this particular issue, but was too costly to implement given the legal fees required to do so.

EXORBITANT COSTS ATTACHED TO REVISION OF MODEL RULES – TO IMPROVE QUALITY OF LIFE ISSUES – FOR ALL RESIDENTS WITHIN A GIVEN OWNERS CORPORATION

Additionally why are the legal fees attached to devising a more complex model set of rules – so hefty – when doing so would markedly enhance the qualities of life of all owner residents? Fees of \$5000 to \$10,000 are beyond the scope of most Owners Corporations bodies unless that is they fall within the luxury category – which most of Victorians do not.

The current RIS rules are simply not good enough and require further extensive re-evaluation in order to be effective or provide an effectively regulated and safe owners corporation environment for all 700,000 plus owners in Victoria who must comply with them regardless of their circumstances or effective resolutions of same.

THE ISSUE OF LOCATING A SUITABLE OWNERS CORPORATION MANAGER WHO IS NOT HAMSTRUNG BY THEIR TIES TO FINANCIAL/INSURANCE INDUSTRY PLATFORMS

Less than 2 years ago we had to change our OCM due to ill health issues affecting our perfectly good privately owned manager. The OCM she recommended offered greatly reduced fee structure and looked “the perfect deal”. Unbeknownst to us, this new OCM was hide bound to a former Real Estate Firm which some of us had had dealings with in the past, and they in turn were tightly controlled by the Insurance Corporation which is well known in this state but has its Australian head office based in Sydney and its main offices located overseas. In the last 12 months our Owners Corporation fees have risen approximately \$100 a quarter with no apparent gains to be had for this increase, apart from past expenses that inexplicably were not met by our fairly reasonable and standard budgeting methods. The ongoing stress of several committed owners who are responsible for the smooth running of this Owners Corporation in addition to their ‘outside’ work-related stresses and family stresses is amounting to the ridiculous. Although some form of fraud may be the possible basis how can this be proved by the small number of residents ill-equipped to do so and without the time commitments and know how required to take such steps? Looking for a suitable OCM is like looking for a needle in a haystack.

Summarised Arguments Submitted as highlighted above includes but is not exclusive to – the following:-

1. PROFESSIONAL BODIES DO NOT CONSTITUTE A VIABLE PLATFORM FOR FEEDBACK CONCERNING THE REQUIREMENTS OF ORDINARY VICTORIAN STRATA UNIT OWNERS – OR THEIR TENANTS...WITHIN LEGALLY DEVISED OWNERS CORPORATION SET UPS – BUT THEY MAY ADVANTAGE THE BENEFITS TO PEOPLE FROM THEIR OWN FIELDS INCLUDING OWNERS CORPORATION MANAGERS

2. INFRINGEMENTS PENALISED BY CRIMINAL JUSTICE SYSTEM – THIS IS HARDLY APPLICABLE TO UNINTENTIONAL WHITE COLLAR DEBTS – OF A LIMITED NATURE OR SCOPE

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3. ACCOUNTING PROCEDURAL ACTIVITIES LINKED TO OVERSEAS BASED INSURANCE CORPORATION GIANTS – SCOPE FOR MISADVENTURE HEIGHTENED – LIMITED ATTENTION TO SEEKING BEST AVAILABLE CONTRACTORS
4. PROFESSIONAL INDEMNITY INSURANCE COMMISSIONS PAID TO MANAGERS COME DIRECTLY FROM THE PARENT BODIES BACKING THEM - IE MAJOR INSURANCE CORPORATIONS WITH HQS OFFSHORE – AND CONSTITUTE A VESTED INTEREST – AGAINST THE NEEDS OF UNIT OWNERS
5. ISSUES RELATING TO ABSENTEE INVESTMENT UNIT OWNERS AND THEIR COST
6. EXORBITANT COST ATTACHED TO ANY FORM OF REVISION OF MODEL RULES – TO IMPROVE QUALITY OF LIFE ISSUES – FOR ALL CONCERNED
7. THE DIFFICULTY OF LOCATING A SUITABLE OWNERS CORPORATION MANAGER WHO IS NOT HAMSTRUNG BY THEIR TIES TO FINANCIAL/INSURANCE INDUSTRY PLATFORMS - AND ALL THAT ENTAILS

CONCLUSION

The newly devised Owners Corporations Regulations 2018, Version No 001 need significant revision and work being done on them in order to provide a professional framework on which to base the legal rules pertaining to the effective running and management of Owners Corporations in the state of Victoria.

Further Owners Corporation members need protection from scams enacted by Insurance Corporations via Owners Corporation Managers. Also ALL Owners Corporation Managers should be required to compulsorily obtain quotes for insurance policies entered into and to submit a written statement to ALL Owners Corporations detailing the amounts of commissions received and any other forms of reimbursement. And - why are the legal fees attached to devising a more complex model set of rules – so hefty – when doing so would markedly enhance the qualities of life of all or most owner and tenancy residents?

Thanks for looking into this with a view to ameliorating these important sets of anomalies which disenfranchise Owners Corporations members to date.

Regards

L H Roberts
Eclectic Consumers Collective
12/11 Bluff Avenue
Elwood Victoria Australia 3184
E: loishr666@iprimus.com.au