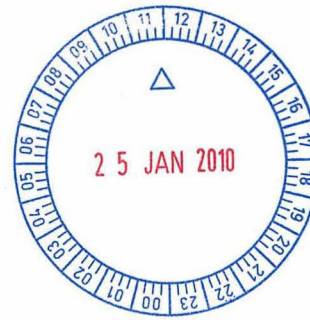


PUBLIC



Sub 011

J.A Dunsmore

Standing Committee on Public Administration Inquiry into Western Australia Strata Managers.

Reference Strata Plan 37402

The Pines Estate 21 Ponte Vecchio Blvd, Ellenbrook is a strata scheme operating as a retirement village. The village consists of 139 strata titled units and common property. The village was originally a Fini Retirement Village, then it became a Babcock Brown Communities Group Village, and now it is a Lend Lease Primelife Village. The first residents moved into the village in January 2000. The village was built in stages and the last stage was completed in 2006.

The developer of the village was Fini Villages Pty Ltd. (ACN 072 – 668 -225) who was also the strata managers. The operating costs of the village were originally collected by singles and doubles. Meaning a double would pay 30% more per month than a single resident (Lot Holder). The developer picked up any shortfall until all units were sold.

There are two parts of residents contributions one being the strata component and the common care component. As the strata manager who was also general manager of Fini Villages Pty Ltd failed to put in a management statement. By failing to do that the strata component of contributions should have been by unit entitlement and not singles and doubles.

On the 30th of September 2004, a Schedule 2 By Law was passed by residents to pay the combined contributions (strata component and common care component) by singles and doubles. This was as per the By Law to carry through until the development of the village has been completed. This By Law was made absolute some time after the 28 days required by Strata Titles Act.

Then another Schedule 2 By Law was passed on the 29th of May 2006, this By Law became absolute on the 26th of June 2006 the By Law stated that the combined component being strata and common care component be collected by singles and doubles.

This By Law was challenged in the Tribunal by Roger Charles Hooper and June Hooper. Matter no. CC 1936 2006 application heard on the 9th of March 2007. The results being that the 2006 Schedule 2 By Law be invalidated.

As from the 1st of July 2007, the strata component of the combined charge has been collected by Lot Holders Unit Entitlement.

The 2004 By Law remains on the strata plan. The Senior Member at the Tribunal stated it had no use so it would be futile and cost money to remove.

The above is an example of what problems can be caused by strata managers. It has upset a lot of people in the village who had no idea of what this meant and is still causing problems even now.

Strata Managers come and go, Strata Schemes remain amid the turmoil caused by incompetent Strata Managers.

We are still having problems in regard to strata management advice.

On the 28th of July 2009, a Schedule 1 By Law regarding Photo Voltaic Solar Panels to be fitted to Lot Holders roofs for the purpose of generating power, the Lot Holder to have exclusive use of the roof for that purpose. This By Law being a Schedule 1 By Law was voted against by 8 Lot Holders therefore the motion was lost.

Then on 19th of January 2010 a schedule 2 By Law was put to residents regarding Photo Voltaic Solar Panels to be fitted to the roof for the purpose of generating power, motion passed with 8 people opposed to the motion. This being a schedule 2 By Law passed easily.

It was explained to the residents that on the Strata Plan 37402 that the boundaries of the Lots are the external surfaces of the Lots as per 3AB of the Strata Act. Meaning the roofs were the Lot Holders property which is correct as per 3AB of the Act. Any competent Strata Manager should have known that.

I am not putting my view on which By Law is correct as that is not the purpose of this standing committee. My concern is the Strata Managers should know which By Law is valid. Therefore only one By Law should have been voted on. Having two By Laws voted on, this leaves the Strata Company open to a challenge in the Tribunal.

Strata Titled Managers should be registered, fully trained and tested and held fully responsible for their actions. As their advice can have damaging consequences to Lot Holders. As stated previously Strata Managers come and go, yet Strata Titled Schemes remain.

For example: The Pines Estate Strata Plan 37402 has had three management companies since the village started in January 2000.

If you require any more information regarding the above, I can be contacted on the address or by telephone as above.

Yours sincerely.



John. A. Dunsmore

I am willing to APPEAR if Required

