

27th April, 2016.

The Director,
Regulation & Policy,
Dept of Justice & Regulation,
Consumer Affairs Victoria,
17/121 Exhibition Street,
Melbourne, Vic., 3000.
consumerpropertylawreview@justice.vic.gov.au

Dear Director,

***Consumer Property Act Review
Owners Corporations
Sale of Apartment Buildings
Part 5 of the Subdivision Act
Question 60***

In October 2015, the NSW Government introduced legislation that would authorise the collective sale or re-development of freehold strata schemes, without the need for the unanimous resolution of the lot owners. It was proposed that such sale or re-development can occur with the approval of 75% of the lot owners.

If necessary minority lot owners who feel aggrieved or disadvantaged can take the matter to Court.

I propose the *Subdivision Act* be similarly amended (or other appropriate legislation is introduced) so as to permit an arrangement for the sale of all (commercial and office and residential) units in all cases such where the support is **75% or more**

This is not a radical idea. Similar schemes are at work in the United Kingdom. A scheme similar to the NSW one is being proposed in Western Australia.

My concern relates to the provisions which enable reasonable proposals for the sale of a building to be defeated by a small minority of unit holders.

Presently the *Subdivision Act* requires all resolutions in regard to adding or releasing land that is or is to be common property to be passed unanimously; but this can lead to considerable injustice in cases where a very small percentage of unit holders are against the resolution and holding out without just cause and adversely effecting their fellow lot owners.

Similarly if a small minority of lot owners refuse to sell in circumstances that works substantial injustice on a significant number of the owners.

I am a Director of a company that owns a lot in a strata subdivision in the Melbourne central business district. The lot is an office in a commercial building. In this case, the subdivision land covers an area of some 2000 square metres and all but one lot owner had agreed to accept a significant offer from a developer, which represents a price substantially above market value – the total land area being substantially more valuable than the individual lots. The recalcitrant lot owner had initially agreed to sell

but later recanted for no reasonable nor logical reason. The sale therefore did not proceed much to the detriment of the almost unanimous number of lot owners.

The building is very old, and run down. There is an old lift that is no doubt in need of repair and upgrading. The general condition of the building is in need of significant upgrading if it is to maintain a level of good general maintenance. The lot owners consider that the cost of such upgrading is too expensive to be undertaken and the building will continue to deteriorate.

Some of the surrounding buildings have been developed for the 21st Century and some of the surrounding areas are significant development sites which are in the process of being developed.

An amendment to the *Subdivision Act* would be appropriate and go a long way towards reversing the substantial injustice to a significant majority of lot owners and also allow old buildings to be upgraded or developed. Degrading areas would be rejuvenated and give some ongoing quality of life.

Yours faithfully,
HARRY KLONIS
2H JAG NOMINEES PTY LTD
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A handwritten signature in black ink, appearing to read 'HARRY KLONIS', with a long horizontal stroke extending to the right.