STM STRATA TITLE MANAGEMENT
www.stratatitle.com.au

STM Sydney South
ABN: 66 003 109 608
PO Box 2727
Taren Point NSW 2229
Phone 02 9540 4199
Fax 02 9540 3943
sydney@stratatitle.com.au

MINUTES OF INFORMAL MEETING WITH COMMERCIAL LOT OWNERS & LESSEES - STRATA PLAN 50785

TO
All Commercial Lot Owners & Lessees

MINUTES of an INFORMAL MEETING of the Commercial Lot Owners and Lessees within **Strata Plan 50785** held on Monday, 7 March 2011 at 6.30pm in the office of Strata Title Management Sydney, Suite 1, 191-193 Taren Point Road, Taren Point

RECORD OF ATTENDANCE

ATTENDANCE:
Peter Dransfield, EC member and owner of Lot 1 (Hogsbreath Café)
Phillip Richards, lessee of Lot 1 (Hogsbreath Café)
Robert Christou & Katherine Mystriotis, owners of Lot 3 (Drop In)
Anthony Peridis, lessee of Lot 4, Shop 2 (Splash)
Paul & Lyn Walter, owners of Lot 5 (Bella Costa)
Tony Kondevski, lessee of Lot 5 (Bella Costa)
Dunstan DeSouza, owner of lot 18
Sue Schembri, EC member and owner of Lot 32
Guy Arkins, Norman & Elfriede Johnson, owners & operators of Lot 12 (Zink)
Tony Conides on behalf of the Owner of Lot 21 (Opah)
Gary Macris, EC member, owner of Lot 46 and occupant of Lot 21 (Opah)
Ted Korbel, EC member and owner of Lot 104
John Stevens of Premier Contract Cleaning Pty Ltd
Nina Ashfield-Howell of Strata Title Management

Note: ***EC = Executive Committee***

APOLOGIES: Carey Beebe, Executive Committee member and owner of Lot 54

DISCUSSION POINTS

1. Review of By- Laws

By-Law 42.5 was discussed in particular with concerns being raised over the validity of the by-law which provides commercial lot owners with exclusive use (for use of common property areas for the purpose of the provision to install exhaust systems and grease traps to individual commercial lots) which was initially passed at the Annual General Meeting held on 23 March 2005, then subsequently amended at the Annual General

Meeting 26 March 2008 to increase the licence fee payable by each commercial lot from $1000.00 per quarter to $2500.00 per quarter.

Mr Conides, representing the owner of Lot 21 argued that under Section 52 of the Strata Schemes Management Act 1996, consent forms must be signed by each owner to consent to the making of the by-law that confers rights over the common property for the installation of particular works and which also confers the responsibility of repair and maintain of such works on the individual lot owner. Mr Conides claims a consent form was never signed by the owner of Lot 21 when the latest amendment of the by-law was passed and no evidence a consent form was ever signed by the previous owner of Lot 21.

Mr Conides indicated that he would like the owners corporation to review or repeal this by-law as he claims there is no evidence of consent forms having been signed by the individual owners otherwise he indicated he will have no choice but to recommended to his client, to contest the by-law in the Consumer, Trader and Tenancy Tribunal (CTTT) as the Owners Corporation are continuing to pursue the owner of Lot 21 for levy arrears associated with the license fee.

Furthermore, other exclusive use by-laws were also questioned as to their validity for similar reasons mentioned above and in particular, Special By-Law 2 (Exclusive Use for Use of Lift to Lot 21) was discussed whereby a discussion surrounding the clause relating to the footbridge over Gerrale Street which Sutherland Shire Council is apparently now not pursuing any longer however still forms part of the by-law Conditions – See below:

Special By-Law 2 – Use of Common Property By Lot 21
Part C – Conditions
Maintenance of Glazing Works

iii. "The Owner (of Lot 21) must properly maintain and keep the Elevator in a state of good and servable repair and this obligation includes indemnifying the Owners Corporation for the costs and charges under the Elevator maintenance contracts that the Owner Corporation has entered into until Sutherland Shire Council agrees that the terms of the Development Application in relation to the construction of the bridge over Gerrale Street are complied with and the bridge is constructed and commissioned".

iv. "The Owner (of Lot 21) must properly maintain and keep the Elevator Tower in a state of good and servable repair until Sutherland Shire Council agrees that the terms of the Development Application in relation to the construction of the bridge over Gerrale Street are complied with and the bridge is constructed and commissioned".

It was agreed in principle by the majority of persons present that the Owners Corporation should look at reviewing the existing exclusive use by-laws along with the possibility of implementing the following additions and/oramendments to by-laws and in the meantime the commercial lot owners would appreciate the committee considering adopting a common sense approach to enforcing the by-laws in question and refrain from issuing any future by-law breach letters until such time as these proposed by-law changes are considered or determined:

a) Special By-law drafted to provide exclusive use of a common property area within the basement to be 3 loading zone spaces (if space permits) for the use of the commercial lots only in the most suitable area where all the commercial car spaces are located for a period of up-to 30 minutes only; (A number of commercial operators agreed to determine the most appropriate areas for the loading bay spaces and present their findings to the Executive Committee for further consideration);

b) Special By-Law drafted to allow the commercial owners to use their car spaces to store items/rubbish/ equipment (Subject to order being received by Sutherland Shire Council to upgrade sprinkler system in basement);

c) Review and possible repealing of existing by-law relating to use of Common Property so that it does not restrict lawful use of commercial lot owners to use common property facilities or empower the Executive Committee to place such restrictions;

d) Review of existing signage by-law to possibly allow the replacement of existing signage to proceed without the requirement to obtain approval from the Executive Committee provided the replacement sign is of very similar style, quality and material.

e) Review of existing exclusive use for common areas surrounding each commercial lot to possibly increase the area.

f) Review of Special By-Law 34.3 and 34.6 to include a clause that the Owners Corporation or its Executive Committee can not unreasonably refuse a Development Application being approved for submission into Council if the use of the lot is for its intended purpose, being a commercial purpose.

g) Review of Special By-Law 38.3 giving power to the Executive Committee to specify rules associated with moving goods through the common property;

h) Consideration of allowing a by-law to be drafted and passed to permit the owners of Lot 12 and 21 exclusive use of the area adjacent to the stairway under Lot 21 to use as a rubbish area with conditions that the area must be enclosed at their own cost and a tap must be fitting within the area to ensure it can be properly cleaned and maintained.

2. Access of Common Property

Agreed in principle that each commercial lot would go through the building manager before arranging access to common property to carry out maintenance etc so the security within the complex is upheld.

3. Oil Spillage & Rubbish on Common Property

It was noted that there is an ongoing issue of oil spillage on the common driveway in the basement however it was suggested that a fair bit of the oil spillages comes from when the oil is removed by an independent company. It was agreed however, that operators will be mindful and more diligent if carrying oil through common property to avoid spillage and if such a spillage occurs will clean and remove immediately.

4. Change Use of Lot

A number of commercial lot owners/operators felt that Special By-Law 34.3 and 34.6 should be reviewed by the Owners Corporation to include a clause that they or their Executive Committee can not unreasonably refuse a Development Application being approved for lodgement/submission into Council if the use of the lot is for its intended purpose, being a commercial purpose. Once the Development Application has been received, it is then Sutherland Shire Council's responsibility to notify neighbouring properties of the application and determine whether there are objections to the proposed application.

5. Matters of Concern

The following matters of concerns were raised and discussed:

a) **Signage** – Item 1 (d) relates.

b) **Exclusive Use Area Responsibilities** – Majority of Commercial Lot owners or operators indicated their understanding of their responsibilities under the exclusive use by-law to maintain the areas.

c) **Delivery Procedures** – It was noted that the delivery of items through the secured common areas was not permitted under the existing by-law however as the building has no such facilities to store items, a number of commercial lot operators use their existing garage to store items therefore feel this by-law should be reviewed accordingly - Item 1 (b) relates.

d) **Parking on Common Property** – The majority of commercial lot owners advised that would ensure there is no parking on common property if the Owners Corporation passed a by-law to allow them three loading bay car spaces in which to share - Item 1 (a) relates.

e) **Cracked Tiling to Perryman Square** – Noted but no commercial operator was aware of how this occurred.

f) **Alarm to External Door to Access Commercial Area** - It was noted that the alarm to the external security door was a major issue to the commercial lot operators as they need to transport their deliveries to their lots. The Commercial operators requested that the committee look at increasing the time frame before the alarm sounds (say 15-20 minutes) to enable them to get their items into their lots. It was understood that this is a security door and that leaving such a door ajar or open is a breach of the security measures at the building

therefore a number of possible solutions were raised however every option seemed to have a pitfall therefore each commercial operator undertook to agree to conditions to uphold the security should the time be increased before the alarm is able to sound.

THE MEETING CLOSED AT 9.00PM

DATED 23 March 2011



.....

STRATA TITLE MANAGEMENT GROUP