

# The Problem of Maladministration in the Cathedral Place Community Body Corporate

Your Cathedral Place Community Body Corporate has spent over \$3 million pursuing one of its members – Cathedral Village - for what its executive committee claimed it owed, an amount of \$168,000.

It failed completely!

This claim arose from its own error in billing the Village owners, all 27 of them, too little for levies in 2005 through 2007. The Village committee investigated the claim and discovered that it had, in fact, been overcharged over \$440,000 in levy errors up to 2010. Village refused to pay the claim and requested the Cathedral Place executive committee reimburse it over a net \$220,000. The Executive committee asked Village to engage its auditor and then an independent accountant to verify the Village's counterclaim. Both accountants supported the Village counterclaim of about \$220,000 net.

This all began in 2007. The Cathedral Place executive committee sued the Village for the recovery of the \$168k, the Village counterclaimed its \$440k. This argument eventually went to the Qld District Court in 2010. The argument was finally resolved in November 2020 with five Supreme Court Appeal Judges accepting the Village's argument that it is beyond power for Cathedral Place to charge the Village to subsidise expenditures that did not benefit it or its owners: ordering Cathedral Place to pay the Village's legal costs and for the parties to return to Court in 2021 to finally resolve the Village's counterclaim.

Legal proceedings have been ruthlessly pursued against the Village's 27 owners; most of whom are small food businesses, for over 13 years using ridiculous amounts of owner's money expended by all bodies corporate. The Village will in all probability succeed in its counterclaim and recovery of a fair proportion of the \$1 million its owners spent defending the Cathedral Place's executive committee's indefensible claims.

Additionally, the Appeal Court ordered that the Village is not required to contribute its 22% share of the Cathedral Place's legal fees. An amount exceeding \$700,000. Residential owners must foot this bill and fund the recovery of the Village's counterclaim and legal fees in addition - probably exceeding \$800k. During the legal proceedings, the Cathedral Place executive committee raided its Sinking Funds that are set aside for major asset replacements in the future such as the pool and painting of the complex so as not to have to argue its case for contributions from its Residential members to fund its legal fees.

**Were you aware that you, a residential owner, was exposed to your share of this enormous cash claim through levies raised on your body corporate?**

**Have you ever received an explanation as to why this legal battle ought to be waged for so long against another group of 27 owners from your body corporate committee or representative to the Cathedral Place?**

**Were you aware of the hideous legal costs that have mounted in your name that you will shortly be requested to fund?**

In 2018, the trial Judge decided, on the Village's evidence, that the Cathedral Place executive committee had allowed serious maladministration to flourish in the administration of its affairs since it was established in 1998. In subsequent decisions in 2019, the Judge observed that the executive continued

not to observe his orders: indeed, no action appears to have been taken to address the maladministration to the present day.

The Cathedral Place executive of two persons is silent.

**This maladministration continues today.**

## **Why Maladministration can hurt more than corruption.**

**Maladministration is about the conduct of body corporate officers and the practices, policies, and procedures of the executive committee upon which they serve in your interests, that result in irregular and unauthorised use of owner's money, the substantial mismanagement of owners' resources, or the mismanagement of official functions such as the letting of tenders. It includes conduct that might be described as incompetent or negligent, it may not be criminal conduct.**

Dealing with maladministration is possibly more important than corruption because maladministration is more prevalent than corruption, it can cause more damage than corruption and it is a breeding ground where corruption opportunities can be found and exploited.

In many cases, corruption can only exist in the presence of maladministration. In a way the two are inextricably linked, with maladministration acting as an enabler. Although it is not impossible, it is difficult to steal large sums of money from an entity unless there is something wrong with the governance of those empowered with the responsibility of accounting for the expenditure of your money.

Maladministration does not always give rise to corruption, but it does make it possible.

The impact of widespread maladministration can be far more damaging and financially costly than the opportunistic wrongdoing of corrupt individuals. Millions of dollars have disappeared from the body corporate's bank without a crime being committed. Likewise poor, inappropriate, and even incompetent decisions can and possibly have been made, that have long term negative implications for the body corporate's administration as has happened with the persecution of 27 owners in its smallest member body corporate and the wasting of over \$2 million in a fruitless legal battle correcting what was originally its own invoicing incompetence. As early as 2008, the executive committee received legal advice from its own Solicitor confirming that its procedures in allocating expenditure among its members were inconsistent with the Mixed Use Development Act that governed it. It chose to ignore this advice.

Maladministration can cost more and cause more damage than corruption; hence, the fight against corruption begins with the fight against maladministration.

## **Getting Cathedral Place's house in order MUST be a priority for all owners on site.**

In the light of this unanimous judicial determination of the extent and ongoing maladministration by the executive committee, it is fair to say the executive's conduct has fallen well short of the expectations for proper and transparent management of a \$2 million enterprise expected of them.

The original Court orders were handed down from December 2018 to November 2019. The Appeals which substantially and unequivocally supported these original orders were received in early November 2020: the executive committee has not called open meetings with its six members since April 2020, nor has it

sought the counsel of its members including, particularly, the Village. It has not sought to resolve budgets for the body corporate's expenditures since January 2019, howbeit it continues to raise 'interim' but unlawful levies on its members. Minutes of any decisions these two individuals who currently reside on the executive committee take are not published. You and your body corporate committees are ill-informed of how your money is being spent, indeed who receives valuable contracts from these two individuals one of whom benefits from a lucrative informal caretaking arrangement with Cathedral Place and four residential bodies corporate and what your legal exposures might be.

## **Do you think this is the way to run your principal body corporate???**

### **What's the solution?**

To resolve this ignorant and damaging administration, the Village has applied to the Commissioner for Body Corporate and Community Management for an order replacing the Cathedral Place Community Body Corporate's committee with an experienced independent Administrator that will stand in place of this secretive executive and representative members for as long as it takes to set the Cathedral Place CBC back on the proper path as defined by the six eminent Judges who have so forcefully refuted the executive committee's management of its affairs since 1998.

***Village's 27 owners earnestly request your support to instruct your body corporate committee to recommend this appointment by writing to the Commissioner expressing its support to sort this ongoing damaging maladministration out once and for all.***

***Please write to your Chairman and Representative as soon as possible indicating your support.***

### **Where can you find further information on the decisions of the Courts?**

Copy and paste the following into your browser to read the various judgements of the Courts.

*(Note that judgements QDC 275, 238 and 210 were amended to various extents by the two Appeal Court judgements QCA 239 and 240. All ought to be read to gain a complete understanding of the fundamental principles and identified issues).*

- <https://www.queenslandjudgments.com.au/caselaw/qca/2020/239/pdf-view>
- <https://www.queenslandjudgments.com.au/caselaw/qca/2020/240/pdf-view>
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