

Media Release

Monday 17 January 2022

SCA (Qld) says Adjudication Proves Reform is Well Overdue

A recent adjudication order by the Office of the Commissioner for Body Corporate and Community Management involving the Artique Hotel on the Gold Coast has quietly brought about massive change to the community titles and apartment living sector over the Christmas break according to Queensland's peak strata body.

After years of complaint and controversy, an adjudicator within the relatively small Office has empowered communities across Queensland to restrict smoking on balconies with the stroke of their pen.

According to SCA (Qld) President Kristi Kinast, it had previously been incredibly difficult to restrict smoking in apartments due to a high legal threshold for it to be considered a nuisance.

"Previously communities had tried and failed time and time again to see smoking on balconies ruled a nuisance, the Commissioner's Office had always ruled that smoking was not conducted with sufficient frequency to constitute "nuisance" according to the legislation. Obviously, people do not smoke for hours on end on their balcony," said Ms Kinast.

SCA (Qld) says the recent adjudication order means that no longer will a lot owner have to prove smoking is a "nuisance" to them but rather simply that it represents a "hazard" to their health. With the scientific consensus on the dangers of secondhand smoke clear, it is easy to see how big a shift has occurred.

"This adjudication is the biggest change to body corporate law in Queensland this decade and will make it much easier for communities to ban smoking on balconies. All they will have to do is prove that smoke drifts from one balcony to another," said Ms Kinast.

"Whilst this change is welcome, the way it occurred shows Queensland's body corporate law is in desperate need of reform."

With 1.2 million Queenslanders living, working or playing in strata title properties, Ms Kinast wants the State Government to take immediate action to ensure that they are not left behind.

"We are currently working with the Government on reform of the legislation, however this adjudication demonstrates just how far behind community expectations the current legislation is. It should not be up to public servants to make what amount to fairly drastic changes in the law," said Ms Kinast.

"Strata will dominate the housing landscape in Queensland fairly quickly and the law needs to catch up. We are urging the government to take this adjudication as an indicator of how desperately reform is needed and to ensure they do not leave over a million Queenslanders behind."

SCA (Qld) believes this can be a shot in the arm to ensure urgent reform is addressed.

"The Body Corporate and Community Management Act turns 25 this year. It is hard to imagine another piece of legislation that affects so many that has gone so long without a substantial change or review," said Ms Kinast.

“Government and stakeholders should be the ones driving positive reform and hopefully this adjudication is a wake-up call as to how much community attitudes have shifted over the past 25 years. Changes around smoking are only the tip of the iceberg when it comes to reforms needed to our sector.”

“We look forward to working with government to hopefully bring about a suite of reforms this year, Queenslanders who live, work and play in strata are growing in number and will not tolerate their voices falling on deaf ears.”

Ends.

Media inquiries:

Contact SCA Queensland Policy Officer, Kristian Marlow on 0437 176 366 or advocacy.qld@strata.community

About Strata Community Association (Qld)

SCA (Qld) is the peak association supporting the state's strata sector, with more than 1,200 individual and corporate members who help oversee, advise, and manage hundreds of thousands of lots across Queensland. The association brings together people who manage strata schemes, own units or live in

strata communities, and those who provide products and services for schemes. We also provide education, advice, and advocacy to enable better understanding of the regulations, obligations and owner's rights.