



# Newsletter

## July 2016

### Finally – some small wins for Bodies Corporate

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Mathews Hunt Legal represents committee members that have recently been sued by a caretaker for defamation.

A person is defamed where something is said that is likely to cause ordinary, reasonable members of society to think less of the person referred to. The usual examples of defamatory comments include accusing someone of fraud or of being a terrorist.

However, the caretaker in our case commenced Court proceedings for comments as factual and non-defamatory as:

1. "Some owners have complained regarding the leasing of their units"; and
2. "Weed spray has been used for edging".

The caretaker sought damages of \$730,000.

Despite being warned that its claim was misconceived, the caretaker persisted with it, possibly because it was part of a tactic to stop the committee trying to make the caretaker perform its duties.

The committee sought to strike out the claim on the basis that the claim had no prospects of success, and the Court agreed. The caretaker is now at risk of paying a significant costs Order.

In a second matter, Mathews Hunt Legal represents a Body Corporate that issued a series of remedial action notices in respect of a maintenance contract held by the caretaker.

In an interim application, the caretaker sought to persuade QCAT that certain remedial action notices should be struck out without a proper hearing on the basis that they had no prospect of ever being found to be valid. In support of its position, the caretaker had a barrister and lawyer in the Tribunal to argue the point.

Despite the caretaker's extensive efforts, and having incurred significant costs, QCAT dismissed the caretaker's application.

We expect that the caretaker's very bullish attitude represents a high water mark for the belief of some caretakers that they will always win in QCAT, regardless of the merits of their arguments.

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## About us

Peter Hunt commenced practice with Mathews Hunt Legal in July 2010 after 20 years in the law, including being a partner in charge of litigation at another firm. He is a regular presenter of seminars to Body Corporate Managers and the Strata community.

MHL practices exclusively in the Strata Industry and we have seen every imaginable issue (and some unimaginable), so don't hesitate to give us a call if you require legal assistance.

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**Disclaimer:** This article is a summary of the subject matter only and is not legal advice, nor should it be relied upon as legal advice. Legal advice, specific to the individual circumstances of each case, should be sought at all times. All reasonable endeavours are made to ensure that this article is accurate at the time we send it to you, but no responsibility is accepted for any errors or for changes to the law.

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