



Property manager battles body corporates

The National Business Review - 07 Nov 2003 : 02-01

Christine Nikiel

Property writer

Auckland property manager Strata Title Administration is embroiled in further legal wrangles over its conduct as a body corporate secretary.

The firm, run by Michael Chapman Smith, was this week defending itself in the High Court at Auckland against a group of 51 body corporate members from West Auckland apartment development, Tuscany Towers.

The complex case revolves around an argument over whether Strata was legally voted out as body corporate secretary.

According to Strata, owners knew the body corporate rules when they signed their contract to buy their property. But in his opening submission Hesketh Henry lawyer Rob Ferguson said Strata had set itself up so it was "entrenched" and "ran roughshod over the clear wishes of many of the registered proprietors."

Body corporate 183930 claims it was unhappy with Strata's performance as body corporate secretary and asked it to stand down.

Strata refused and continued to act as secretary, voting in a 2002/03 budget for the body corporate and issuing levies to owners, later threatening legal action if they were not paid.

The body corporate claims when Strata refused to stand down it cited a change in the body corporate rules it registered on June 4, 1998.

Strata's rule change required a unanimous vote by body corporate owners but the body corporate claims that did not happen.

It did however unanimously vote that Strata be removed as secretary, and the rule change be revoked.

In its statement of defence Strata said the rule change was legal, and the vote to remove it as secretary was not because it was not a unanimous vote.

Justice Paterson reserved his decision but commented if the owners bought already knowing of Strata's "entrenchment" they could be bound to the contract. This is the second time this case has been heard. The first trial was aborted in August because the judge lived in an apartment where Strata as body corporate secretary and had a conflict of interest.

©Fourth Estate Holdings Ltd(355 words)