

**MINUTES OF THE COMMITTEE MEETING OF THE COMMUNITY BODY CORPORATE FOR CATHEDRAL PLACE BUP 106902 HELD IN THE OFFICES OF SYZGY CORP, UNIT 23, CATHEDRAL VILLAGE, 115 WICKHAM STREET, FORTITUDE VALLEY, QLD 4006 ON TUESDAY 11TH MAY 2004 AT 6.00PM.**

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**PRESENT** Clayton Denman - Notre Dame  
 Pat Brown - Oxford & Cambridge  
 Peter Lewis - Canterbury & Westminster  
 Trevor Parmenter - Kensington & Sandringham  
 John Gilliland - Cathedral Village

**IN ATTENDANCE** Pat McGlade - Stewart Silver King & Burns (Brisbane) Pty Ltd

**APOLOGIES** Randall Elliott - Duhig

**CHAIRMAN** Clayton Denman chaired the meeting.

**QUORUM** Chairman declared a quorum present and declared the meeting open at 6.00pm.

SUBJECT	DISCUSSION / RESOLUTION	ACTION	DUE DATE
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### Minutes of the Previous Committee Meeting

	<b>Resolved</b> that the minutes of the previous Committee Meeting dated 23rd February 2004, be confirmed as a true and correct record of that meeting.		
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### Matters Arising from Previous Minutes

<b>Security</b>	<b>Noted</b> that no further response received from CPM .		
<b>Vending machines</b>	Dealt with under General Business		
<b>Carpark</b>	<b>Noted</b> that legal advice on recommended action will be provided by Thursday 13 <sup>th</sup> May, and will be distributed to committee.  All other matters arising dealt with under later agenda items.	SSKB 1	

### Financial Statements

	Financial Statements to 10/05/2004 tabled, discussed, and accepted. <b>Noted</b> that invoices for subsidiary body corporate payments to CBC for Riley Shelley contract were now due and will be presented for authorisation this week. <b>Resolved</b> that no further monies be expended on refurbishment, and that the funds be preserved for costs involved in defect rectification .	SSKB 1	
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## Correspondence

<p><b>Inwards :</b></p> <p>From</p>	<p>Correspondence tabled, discussed and accepted. Discussion summarised as follows:</p> <p>Devine Ltd - re defect issues - <b>Noted</b></p> <p>Sarah Finch – Lot C18 tenant - re car towing - no action required</p> <p>Gadens Lawyers - re Defects claim - see General Business</p> <p>Gadens Lawyers - re Carparking dispute - see General Business</p> <p>Francis Chau - Lot A80 - re building alterations - see General Business</p> <p>Paul Taylor - Lot F61 - re defect issue - <b>Noted</b></p>		
<p><b>Outwards :</b></p> <p>To</p>	<p>Brett Robinson - Devine Ltd - re Defect issues</p> <p>Brett Gillan - Devine Ltd - re Defect issues</p>		

## Manager's Report

	No Manager's Report tabled.		
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## General Business

<p><b>Replacement TV converter</b></p>	<p><b>Resolved</b> that CPM be authorised to replace faulty TV Channel Converter at a cost of \$1,061.50 (incl GST), as quoted by Nationwide Antenna Systems.</p>	CPM	
<p><b>Defect Issues</b></p>	<p><b>Noted</b> that a letter of advice from Gadens Lawyers, as attached to these minutes, was tabled and discussed by committee.</p> <p><b>Resolved</b> that Clayton Denman be authorised to liase with Dan Pennicott, and to then engage a suitable engineer to provide a detailed report as specified in Gaden's advice. <b>Further resolved</b> that Clayton Denman obtain scale of both legal and engineer's charges for committee.</p> <p><b>Further resolved</b> that Clayton Denman will chair a Building Defects sub-committee, co-opting members of committee as necessary, and this sub-committee will report back to CBC on all relevant matters relating to the defect issues.</p>	<p>Clayton Denman</p> <p>Clayton Denman</p> <p>Clayton Denman</p>	
<p><b>Carpark resurfacing</b></p>	<p><b>Noted</b> that Gaden's Lawyers have advised that their advice on this matter will be provided by Thursday 13<sup>th</sup> May, and this advice will be distributed to all committee upon receipt.</p>	SSKB ↖	

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Update on ERC	<p><b>Noted</b> that the electricity sub-committee has had several meetings with representative of ERC, and reports have now been provided by ERC which satisfactorily answer most of committee's concerns.</p> <p><b>Resolved</b> that committee ratify the decision of sub-committee to request ERC to conduct an energy audit at Cathedral Place at ERC's cost, and to share a percentage of any savings which can be obtained by energy savings. <b>Noted</b> that ERC are still to respond to this offer.</p>		
Management contract	<p>Committee discussed the lack of progress on settling the matter of contracts with CPM, and all members expressed a desire to finalise this matter as soon as possible.</p> <p><b>Resolved</b> that Peter Lewis be authorised to approach Terry Short, the Zunkers advocate, and begin negotiations on new contracts, subject to any outcome reached having to be put before subsidiary committees and approved, before CBC can finalise any deal reached.</p>	Peter Lewis	
Subsidiary Management agreements with CBC	<p><b>Noted</b> that all subsidiary bodies corporate have Management agreements with the CBC , which empower the CBC to enter Management Agreements with the Resident Managers on behalf of the entire complex. Whilst the agreement between the CBC and the Resident Managers was set up originally for a period of 10 years, the subsidiary agreements were set up for only 5 years and have all now expired. Although the subsidiary agreements have expired , the Resident Manager's contract remains in place, and all subsidiary bodies corporate remain liable for their share of that cost until expiry of the contract, and it is therefore necessary that the subsidiary contracts with the CBC be renewed, and that their expiry date is identical to that of the main contract between CBC and Resident Manager, which is 4<sup>th</sup> November 2008.</p> <p><b>Resolved unanimously</b> that SSKB be instructed to seek all subsidiary committees approval for the renewal of these contracts by way of "Flying Minute" meetings immediately, and that the contracts be dated to commence from the previous expiry date, and to end on 4<sup>th</sup> November 2008.</p>	SSKB ↘	
CBC Chairperson	<p><b>Resolved</b> that as per agreement , chairperson's position will rotate bi-monthly, and that Pat Brown will take over as Chairperson from next CBC meeting.</p>	Pat Brown	
Vending machines	<p><b>Noted</b> that no response from CPM to committee's request re information on vending machines.</p> <p><b>Resolved</b> that SSKB be instructed to write to CPM advising that CBC committee require they comply with the request to provide information as to the number, ownership, location, income received, and approval for placement on common property of the vending machines and also what payment is being made for electricity useage for machines.</p>	SSKB ↘	
Enclosure of balconies	<p><b>Noted</b> that balconies in building are virtually unuseable due to traffic noise, weather , and pollution, and that this is a considerable detraction from the amenity of owners.</p> <p><b>Resolved</b> that SSKB be instructed to write to Brisbane City Council outlining the problem, and requesting their present policy on the enclosing of balconies, so that the Body Corporate can advise owners</p>	SSKB ↘	



**Clayton Denman**

**From:** Dan Pennicott [DPennicott@qld.gadens.com.au]  
**Sent:** Tuesday, 11 May 2004 2:03 PM  
**To:** Clayton Denman  
**Subject:** CATHEDRAL PLACE BODY CORPORATE-- DEFECTS CLAIMS

Clayton,

I have reviewed the correspondence and report of W.J Dalton & Associates Pty Ltd dated 23 March, 2004. Mr Dalton has identified a number of defects all of which appear to relate to common property of the Body Corporate. He also states that his list should not be considered as exhaustive. It is unclear from his report what the extent of rectification works required will be and what potential costs are involved.

It will be necessary if the Body Corporate wishes to pursue the matter for a detailed expert report to be obtained from a suitably qualified and experienced engineer. I am not familiar with Mr Dalton so I am not sure if he has the necessary expertise and experience. Perhaps you should ask him to provide the Body Corporate with his CV with particular emphasis on his structural experience with water ingress, slab and wall cracking problems in high rise buildings. You should also ask him to detail his experience as an expert witness in Court / Arbitration proceedings. This is important because giving expert evidence in a contested forum is a special expertise.

Subject to Mr Dalton's experience and expertise, there are a number of other engineers with whom I am familiar who do possess the necessary qualifications. Duncan Kinder from Sinclair Knight Mertz (3244 7258) or John Baird from GHD Pty Ltd (3316 3000) are two structural engineers with whom I am presently working on other contested matters. I have spoken with John Baird and he has no conflict in accepting instructions against either Devine or Multiplex. I have not been able to speak with Duncan as yet.

My initial reaction to the correspondence provided for my review is that subject to the engineering advice, the Body Corporate may be in a stronger position against Multiplex rather than the developer. The MUD Act which is the relevant legislation for present purposes essentially provides that upon registration of the plan the Body Corporate is taken to have been a party to an enforceable contract for the carrying out of the construction work with the builder. As well, the builder will owe duties in negligence to the Body Corporate in relation to the construction of the common property. The rights against the developer are more difficult and are more likely to be rights held by individual owners in relation to representations made at the time of purchase rather than rights held by the Body Corporate as such. There are of course exceptions to these principles but based upon what I have read to date the clearer rights appear to lie against Multiplex.

A search of the Registrar of Titles records indicate that the plan was lodged for registration on 21 October, 1998 and was registered on 28 October, 1998. The Body Corporate has 6 years from the date of registration to commence proceedings to enforce its rights after which the claims become statute barred and cannot be pursued. Any legal proceedings must therefore be commenced by no later than 27 October this year.

Potentially it is more cost efficient from the Body Corporate's point of view to seek to involve the Building Services Authority. It is necessary to file a dispute notification form with the BSA in order to enliven their jurisdiction. However as a matter of policy the BSA will not become involved where the owner has been aware of the defect for more than 3 months prior to notifying the BSA by lodgment of the dispute notification form. As it would appear that the Body Corporate has been aware of the defects for sometime this avenue may not be available.

Please telephone if you require clarification of any matter set out in this email.

Regards,

11/05/2004