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AIRBNB AND SHORT-TERM STAYS BANNED BY QUEENSLAND BODY CORPORATE

GOLD COAST STRATA TITLE SCHEME SUCCESSFUL IN APPEALING DECISION ON SHORT-TERM LETTING BY-LAW

PEAK STRATA BODY APPLAUDS APPEAL TRIBUNAL FOR OVERTURNING RULING IN FAVOUR OF BODY CORPORATE

There's been a ground-breaking legal decision on the battle by some unit and apartment owners in Queensland to ban Airbnb from their strata complexes.

For the first time in Queensland, a by-law banning short-term letting or Airbnb within a Gold Coast strata community has been successful, and strata leaders are cautiously optimistic in the message this sends to the Queensland Government to grant more powers to bodies corporate.

The reported decision is: *Fairway Island GTP v Redman and Murray* [2019] QMC 13.

Unlike many strata title schemes in Queensland, which are governed by the *Body Corporate and Community Management Act 1997* (BCCMA), Fairway Island within Hope Island Resort remains under the *Building Units and Group Titles Act 1980* (Qld) (BUGTA).

Both legislations enable bodies corporate to make by-laws, but the BCCMA imposes more restrictions on by-laws. For example, under the BCCMA, a by-law cannot restrict the "type" of residential use or discriminate between different types of occupiers.

Strata Community Association (QLD), which represents more than 1.2 million Queenslanders who live in apartments, units, townhouses and other strata title property, applauds the appeal tribunal for allowing the body corporate to make a by-law that protects community interests.

SCA (QLD) President James Nickless says, "We're pleased to see common sense prevail in this case and a body corporate empowered to enact and enforce by-laws which are true to their community values.

"This case not only stands out because of the outcome in favour of the body corporate, but also in part because of the Magistrate's consideration as to why Parliament has given bodies corporate the power to make by-laws.

"Under conservative legislation, we see many bodies corporate throughout Queensland unable to regulate their community with meaningful by-laws, due to the restrictions in place on what by-laws can and cannot do.

"The consensus of a significant majority of lot owners on any proposed by-law can be and has been regularly overruled by an outside decision maker who believes it to be unreasonable. The Magistrate's decision helpfully explains why any outside decision-maker should be reluctant to overrule the majority.

"While we don't wish to criticise the BCCMA or the processes in place, we believe the outcome of this case is encouraging for bodies corporate in Queensland, and we hope the State Government is watching closely."

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About Strata Community Association

Strata Community Association Limited (SCA) is the peak industry body for Body Corporate and Community Title Management in Australia & New Zealand. Membership includes body corporate managers, support staff, committee members and suppliers of products and services to the industry. SCA proudly fulfils the dual roles of a professional institute and consumer advocate.

SCA has in excess of 3,300 members who help oversee, advise or manage a combined property portfolio with an estimated replacement value of over \$1.2 trillion. Website: <http://stratacommunity.org.au/>