



Correction of Misleading Information

Owners will have received various communications from Grant Yang. Those communications contain so many inaccuracies and nonsense it is somewhat difficult to address in a short response from the committee however it is very important that owners have the facts, not Grant Yang's distortion of the truth.

- the **only** litigation currently on foot is litigation commenced **by** CSR against the OC. There is nothing that the OC is able to 'stop' as it has involuntarily been dragged into defending the current litigation (NCAT appeal and Supreme Court claim) commenced by CSR. If the litigation and spending on legal costs is to stop, then CSR would have to discontinue its claims against the OC. The OC has made that offer to CSR to settle the dispute, but CSR has so far refused to accept the offer.
- the OC has applied to NCAT for a costs order against CSR in respect of the recent NCAT case that the OC was successful and in which NCAT ordered that the Caretaker Agreement to be terminated forthwith due to CSR's gross misconduct and unsatisfactory performance of that agreement. The OC believes that it has a strong argument in favour of CSR being ordered to pay the OC's legal costs. If NCAT agrees and makes an order that CSR pays those costs then (unless the order is overturned as a result of CSR's current appeal), CSR will be required to reimburse the majority of the OC's legal costs incurred in the NCAT proceedings.
- Grant Yang's claim that there is no one '*going to clean our corridors & garages*' is nonsense. Alternative arrangements using Kristal, the same building manager already in place in Stage 2, to now manage and clean Stage 1 were made the following day after NCAT terminated CSR's contract with immediate effect on 17 January 2022.
- Contrary to Grant Yang's claim that '*When garage door, hot water tank & lifts have problems it is again now the unpaid CSR taking care of them*', CSR has been directed to perform no further building management services while CSR's appeal against NCAT's termination decision is determined. During this time, any building maintenance issues will be addressed by Kristal (or another building manager to be appointed at the AGM later this week).
- Grant Yang falsely claims '*When the caretaker contract was signed in early 2001 the annual CPI increase (inflation rate) was around 5%*'. CSR has admitted in both the NCAT proceedings and in the Supreme Court proceedings that the CPI on the first anniversary of the contract when the first annual fee increase was applied was in fact 3.39% (not 5%). CSR has also **admitted** in both the NCAT proceedings and in the Supreme Court proceedings that the cumulative arithmetic difference between CPI increases and 5% increases up to October 2019 when this dispute arose is **\$442,963.88** and that interest at court rates on that amount calculated up to 8 March 2022 is **\$194,631.41**, a total of **\$637,595.29**. Grant Yang's claim that the difference is only \$70K is simply

false and is contradicted by the arithmetic calculations already admitted by CSR in the legal proceedings. If the Supreme Court determines that CSR was entitled to charge only CPI increases each year, then it is very likely to order CSR to repay that improperly charged amount of **\$637,595.29** in respect of that issue back to the OC as well as ordering CSR to pay the OC's costs of defending the Supreme Court action commenced by CSR.

- Grant Yang's claim that Meriton '*didn't raise questions on CSR's contract fairness or competency*' is hardly surprising. Meriton sold the building management rights for the building for 25 years to CSR for \$310,000 back in 2000, before the building even opened or there were any actual owners to question the decision. That \$310,000 went straight into Meriton's pocket and CSR has then charged owners more than they would otherwise have needed to pay for building management services so that CSR could recoup its initial outlay of \$310,000. That money doesn't come out of nowhere – the recoupment of \$310,000 comes out of owner's pockets.
- Grant Yang's claim that '*CSR has been an excellent caretaker/building-manager for this building for over 20 years*' is directly contradicted by the findings made by NCAT in its decision published on 17 January 2022. Contrary to Grant Yang's assertion, NCAT found after listening to all the evidence and hearing from Susan Sun and Ken Xue that CSR had engaged in '**gross misconduct**' (see paragraph 261 of NCAT's decision "...it seems clear that the conduct outlined in the previous paragraph constituted gross misconduct ...", available here: [NCAT Orders](#) and that CSR's caretaker agreement should be terminated forthwith as a result.
- Grant Yang's claim that the strata committee is '*deliberately trying to drive our building manager CSR into bankruptcy*' is simply false. The strata committee is now defending legal actions brought **by** CSR and is trying to get back from CSR more than **\$1 million** in overcharging plus interest that CSR has improperly taken from owners over the last 20 years. It is the strata committee's job to look after owner's interests and if that means calling CSR to account for its gross misconduct and overcharging, so be it.
- Grant Yang's claims about expenditure on legal costs is also false and wildly inaccurate.
- The OC's costs incurred in the NCAT proceedings were:
 - J S Mueller and Co – \$38,360.03,
 - DEA Lawyers – professional costs \$62,085.03 plus disbursements \$4,369.28 (copying, printing searches etc) and
 - barristers fees of \$88,180.
 - These cost includes significant amounts because Susan Sun and Ken Xue wasted time by refusing to admit facts that they later, under oath, tried to again avoid but had to admit in the end. This cost is increasing because CSR are continuing to fight against the clear orders by NCAT.
- The costs incurred in the Supreme Court proceedings that CSR brought against the OC so far are:
 - J S Mueller and Co -\$19,299.36,
 - DEA Lawyers – professional costs \$22,935 plus disbursements \$1,106.46 (copying, printing searches etc) and
 - barristers fees of \$45,919.20
 - this cost is directly due to the action taken by CSR NOT the OC
- Grant Yang has tried to misrepresent the costs by:
 - including costs from 2019 and 2020 that are in no way related to the NCAT proceedings or the Supreme Court proceedings.

- including costs that can be directly attributable to the 2020 AGM that Susan Sun and Ken Xue tried to stop with security guards and 2 court cases (they lost them both). In fact, some owners funded, out of their own pocket, the costs of the NCAT case to defend the right of the AGM to proceed.
- including BCS costs that are not related to either the NCAT or Supreme Court proceedings
- including costs that have been incurred because of the successful outcome of the NCAT case (i.e., to engage a new building manager)
- including costs that were incurred by the previous committee (of which Ken Xue was a member) that are in no way related to the recent NCAT proceedings or the Supreme Court proceedings.
- Don't forget what NCAT said about Susan Sun:
 - Paragraph 185 of the NCAT Decision: *There was also a telling answer given my Ms Sun during her cross-examination when questioned about a paragraph in her affidavit on this topic (A744 at [33]) and she said words to the effect: "I did not [ask] any anyone. I just told myself to increase the fee."*
 - Ask yourself, do you want to support someone who just decided to increase the fees they charge?
 - Yes, the OC has spent money in the courts, but that is what has to be done to protect ourselves against this type of action by Susan Sun.

Do not be misled by distortion of the truth by Grant Yang.

If you have questions and want the facts, ask your Strata Committee or your Strata Manager.

You may also have been approached by people telling you that the committee is getting kickbacks, that we are doing this work for some sort of financial benefit, or for our own benefit, that we are bad people. This is all lies.

We are all volunteers who spend hours every week working to save money, make the building efficient, follow the law, and do the best we can to make our home better. We get personal attacks levelled at us, we are subject to lies, we receive threats – all anonymous of course. But we continue to work hard for you.

It is unfortunate that we all have to waste time dealing with misinformation and outright lies but we need you, the owners, to know the truth.

Come to the AGM, make your vote count.

If you cannot attend the AGM, assign your proxy to someone you trust, someone with integrity, someone who works hard to make our home better. Contact the strata committee if you need

Don't give your vote to people who mislead owners and distort the truth.

Don't support people who NCAT have noted have engaged in gross misconduct.

Where to from here?

We have so much more good work to do and so much more to offer to our home. Support your committee at the coming AGM.

If you have questions, please contact us and we would be very happy to talk to you about any concerns you have, or anything that you think needs to be done in the coming years.

WHERE TO FIND HELP:

BUILDING MANAGEMENT FOR ACACIA GARDENS is located at the office in the reception area of 71 JONES STREET

08:00 and 16:00 – Monday to Friday

10:00 and 13:00 – Saturday

Contact details **John: 0431 084 001** and bm@acaciagardens.com.au



SECURITY FOR BOTH ACACIA GARDENS is located at the office in the reception area of 71 JONES STREET

16:00 and 08:00 – Monday to Friday

13:00 Saturday until 08:00 Monday (weekend)

Contact details **Security: 0410 408 873**

ADDITIONAL CONTACT INFORMATION

The following are the best ways to contact the people you need:

BCS – Samantha Edwards (Strata Manager) Phone: 02 8216 0398 Email: stratamanager@acaciagardens.com.au

Strata Committee (all members) Email: stratacommittee@acaciagardens.com.au

Strata Committee Chairperson (Luming) Email: chair@acaciagardens.com.au

Strata Committee Secretary (Nick) Email: secretary@acaciagardens.com.au

Strata Committee Treasurer (Matthew) Email: treasurer@acaciagardens.com.au

Any other enquiries, Email: newsletter@acaciagardens.com.au

If you want to join the Acacia Gardens Owners groups on either WhatsApp or WeChat, or both, please email us with your phone number to be added. Email: newsletter@acaciagardens.com.au

You can find the Facebook page at: [Facebook](#)

The Acacia Gardens website is now up and running and has a lot of useful resources including new forms for renovations and pet applications. Check it out at: www.acaciagardens.com.au

Thanks for reading!
Acacia Gardens Strata Committee