

Terrence John EALING

Petition No.047/2018 Implied Easements, conditions, interests, restrictions not disclosed to current owners or prospective purchasers of the said land by Government Departments, Agencies and Corporations .

6<sup>th</sup> April, 2018

The Standing Committee on Environment and Public Affairs.

Legislative Council of Western Australia.

Dear Committee Members,

There are many recorded reviews on the impact of the use of Implied , Statutory Prescriptive Easements, and the placing of conditions and restrictions on private property interests. These matters have been raised before Parliament previously in your brilliant and respected paper titled "The Impact of State Government Actions and Processes on use and enjoyment of freehold and leasehold Land in Western Australia 2013!" Also in the petitions 42/2014 and mine 109/2016. All seemingly lost momentum with the previous government causing a singular laziness of thought in regard to these serious matters pleasuring those who stood to gain the most by depriving the use of private land for free. The Landowner joined the ranks of the forgotten people and suffered in forced silence with these unknown restrictions and limitations looming and threatening the use of their land. There has been no compassion for the impact this has had on the Landowners. There has been no review of their circumstances after the ambush and callous enforcement of legislation they were not aware of. Non-disclosure of all the conditions that pertain to properties prior purchase and after can only be described unfortunately as Misleading and Deceptive Behaviour!

Land Ownership was once the domain of the social and economic elite so eventually a system was developed to take away the flaws. Today we find Government Agencies and Corporations continue to operate outside the Title Registration System namely the Torrens System here in Australia for the last 150 years which obviously undermines it. The question is why? In nearly all disputes in this area, the Prospective Buyer or Landowners were never made aware or nor was it disclosed to them the current conditions or property interests as there is no ideal singular system to record everything easily available to the general public or Landowner. Why?

The waters have been muddied by the enforcement of the use of Fee Simple and Freehold Land using rhetoric that it was in the Public's Interest regardless of the effect and burden upon the Landowner. The real answer to the enforcement of this compulsory acquisition of land is to lower costs and raise profits or not to inconvenience the Agencies requesting the land's free use. Then the problem is exacerbated by the conflict of interest that exists where the previous Government attempted to serve two or more interests which could not be done consistently to satisfy fiduciary duties and compatibility owed to Corporations, Agencies, Consumers, Public Interests against the Landowners. An example of this is the only shareholder of The Electrical Networks Corporation Trading as Western Power is the State Government which consistently changes and amends legislation without landowner consultation to their own advantage causing landowners to lose all property privileges and rights on property with a Power line traversing it with no easement mentioned in my previous petition 109/2017. The advantages of Registration of all encumbrance and interest on freehold and fee simple land would provide certainty on the land especially vision of what is ahead for the landowners with technology or market changes and a recession looming! No one should turn up suddenly and demand your land for free if they discover an endangered species, underground telephone line, new legislation and restrictions limiting stock grazing or a power company changing design and position of their line or refusing to apply biosecurity requirements with the existence of noxious weeds in circumstances that only they consider practical to do so.

The people gaining the most are happy the way things are advising you incorrectly that one central record of all this is not possible for obscure reasons or the hardships that it will cause them is merely too great an inconvenience to implement. But if not accomplished eventually land shall lose value for being too complex ,complicated, expensive with possible financial loss and foreclosure if purchased as there is a real chance that after purchase you shall find the intended purpose not possible or your under constant pressure from these people to satisfy their continual and escalating requirements upon the land and unfairly upon yourselves. That again burdens the Rural Landowners with threats of lost productivity that lowers the land's value and revenue through taxes paid to the States and Federal Governments. Simply because all the



information was not easily available at the time of purchase to make informed decisions. No Agency shall admit to the effects upon Landowners who have worked hard to achieve on their land and suddenly their use is restricted to save an endangered species. How Bizarre! If the saving of these species is so vital then why is the land not purchased or the landowner compensated at a real price that truly reflects the land's value. Instead these Agencies are enforcing penalties that can cause bankruptcy as can still be seen in the Peter Swift's case in Manjimup. To date they do not care about the Landowners plight. Why? We continually see that decisions are made on the advice of person's regarded as "Experts" that is revered by Parliament yet they have no practical experience in these matters or have not endured the effects of their actions yet speak with confidence their views and opinions are correct and final. Yet in reality that has not been our experience and obviously we would have to disagree with these "Expert" views and opinions as being correct. But in my case Westernpower's only Shareholder who is this State Government continues to legislate without considering our proposals, experiences or opinions. Please read "Recommendation of the Council on Guidelines for managing conflict of interest in the Public Service written by the OECD." Simply we live on the land and they discount or refute our first hand factual testimony in any example we give. Again how bizarre! The Landowner cannot contact the Minister or Premier or have the same access as these "Experts", Lobbyists, C.E.O.'s, Government Agencies or Corporations. Is that equality for the Landowner? When in my situation the Corporation compulsorily demands free use of the land and total land rights over any of mine without a mutually agreed written contract for some 37 years prior our ownership or since 1973 when the Contributory Scheme was cancelled again prior our ownership in 2010 on the same land Lot 1759 Gulberti Road, Abba River 6280! How Bizarre! The power line that exists on my property can be placed on other properties to continue customer connection to grid power for the same maintenance costs they are now demanding access to our land to complete when the weather is more suitable. They just illogically and wrongfully refuse. I have no interest in connection, I have done my civic duty since 2010 for free, which is not respected or applauded for our sufferance and loss of amenity and security, worry and annoyance this has caused. Not once has there been any praise or even a thank you. We now have alternatives which are cheaper, more environmentally suitable and sustainable plus there is no intrusion and interruption to our future vision of our land's use and enjoyment of our land yet we are denied choice! Our choices are disregarded by the Corporation and their only Shareholder in preference for their own. Please be advised that legislation was introduced to Parliament by the Honourable MP Mensaros as "not to inconvenience the Energy Operator in 1979!" It's a pity the Landowner is not given the same consideration for having a power line on their property without an easement recorded on the Torrens Title! The Landowner is effectively gagged from exposing the truth even by the allowable length of this submission which is such a complex issue that it requires a far more lengthy explanation, plus examples of what really happens such as outlined in my 85 page document. But absent are there any restrictions to the Corporation's access to the Minister (representing their only shareholder) demanding our land for free with also the threat of compulsory acquisition looming. It would be pleasing if we had the same advantage to access the Minister as Westernpower has along with all the other Agencies in other matters that have taken away our property rights. There has been no individual notification to Landowners when there is a change in Agency's requirements on our land which leaves us unaware or not informed. Mine is only one of many examples.

The present explanation is that all information is available in the Government Gazette. Well that may well be but it is not readily found is it? As it is buried amongst many other things over time with over 50 Government Agencies adding to it continually that the average person wouldn't have a clue where to find it or time if listed under a confusing title or heading only the Agency has knowledge of! The Real Estate Agent is the first port of call for a buyer and it is at this point all the information should be available upon a Torrens Title Search. This would allow legal advice to be sought or suggested prior the contract of sale being agreed to instead of "buyer beware!" The property report by Landgate is not desirable as they have no way of enforcing all agencies and persons having an interest in the property to disclose it fully in the report. Registration of all interests produces the desired outcome and that is "if there is no encumbrance on the Title System then no encumbrance exists!" Present Landowners would have access to the true, up to date and correct conditions by doing a simple title search. We can achieve a mutually agreed outcome if all players participate in an open and equal playing field which should be the norm in any democracy!

Your sincerely,



Terry EALING