

SOUTH LAKE SHARED PATHWAYS — DEPARTMENT OF HOUSING — CITY OF COCKBURN

Grievance

MR J.M. FRANCIS (Jandakot) [9.26 am]: My grievance is to the Minister for Housing in that capacity and also as the minister representing the Minister for Commerce. My grievance is on behalf of two of my constituents, Mr and Mrs Irwin, who live in the suburb of South Lake. They are absolutely salt of the earth decent people. Without going into their financial situation, they sustain themselves just. They are not overly wealthy people. They take care of their fairly severely disabled son. They are the type of people who would prefer to battle on for themselves rather than rely on the handouts of others too much. When the minister meets these people, he will see that they are just such decent, good people. It is an absolute pleasure to represent them.

I grieve on their behalf because of their unique situation in which they live in a property that is surrounded by three Department of Housing houses. On the northern side of their property, between their property and the Homeswest house is an adjoining pathway—I think they are called principal shared pathways—administered by the City of Cockburn. They have a Homeswest house on one side and a Homeswest house behind them. On the other side is a communal pathway and another Homeswest house is on the other side of that. Recently, the boundary fence between the Irwin's side of their block and the pathway was severely damaged by relatives who were visiting the Homeswest tenant. The police were called. It happened at one o'clock in the morning. The incident was reported and the tenants subsequently received disciplinary action from the Department of Housing. As I said, the damage was caused by visitors to the Homeswest property, but Homeswest is not liable for paying to fix the fence as the property in question adjoins the public laneway.

Homeswest acknowledges it would have been liable and would have repaired the fence had the Irwin's fence directly adjoined the Homeswest property. Previously, this same fence has been broken on four separate occasions by people using the public laneway. Each time the fence has been repaired at personal expense to Mr and Mrs Irwin. These are not people who can easily put their hands in their pockets and find the money to do this kind of stuff. In 2003, Mr and Mrs Irwin, along with other residents, petitioned the City of Cockburn and the state member for Cockburn to have this laneway closed. The member for Cockburn previously represented these people. The suburb has shifted in and out of electorates over the years. However, as this laneway is also used for a nearby bus stop and for local school kids, the city was definitive about the laneway remaining open. I understand the merits of that argument.

The question was again recently raised with the City of Cockburn and the same answer has come back. Mr and Mrs Irwin also inquired about whether the City of Cockburn would assist in the cost of the repair of the fence, since the council requires the laneway to remain open. The City of Cockburn will not pay for the fence to be repaired. They have flatly ruled that out. As the minister knows, situations regarding property fences are covered by the Dividing Fences Regulations 1971. However, the regulations do not apply to the Crown, which means that they cannot be enforced on Homeswest or local government. The legal status of the fencing along public access ways is that they are classified as boundary fences, not dividing fences. A boundary fence is owned by the adjacent property owner with all responsibility for upkeep placed on the owner of the property, whereas dividing fences are jointly owned, normally by two neighbouring property owners. On 12 June, I visited Mr and Mrs Irwin at their place in Rebecca Place, South Lake, and I looked at the damage to their fence and viewed the laneway's state of disrepair. Previous fencing repairers had left rubble and remnants and parts of the old fence in the laneway. I contacted the minister's office, and the Department of Housing was very quick to send someone out to clean up the debris from the laneway. It may have been the City of Cockburn that did it, but either way it was done fairly promptly.

Obviously these old fences have a component of asbestos in them. My own personal situation is that my dad, Charlie, was just recently diagnosed with asbestosis, no doubt as a result of spending his life in the engine rooms of Navy ships. It has highlighted to me the importance of safety and the way we as a community address the issue of asbestos and the damage it can do to individuals and their families.

I believe this is a case of what is fair for the Irwins. It is not fair to expect people to constantly pay for the full cost of repairing a fence that is bordering a council-endorsed pathway when it is damaged through absolutely no fault of their own and is consistently damaged. If residents have repeatedly requested the laneway be closed for both safety and antisocial behavioural reasons but the council insists on keeping the laneway open, the council should pay the full cost or, at the very least, half the cost of repairing these fences.

I know this is a tricky situation. I know that there is a law that is fairly black and white, but I am asking if the minister can look at this. As I said, the Irwins are a brilliant family. It is an absolute pleasure to represent such decent people. Once again, they have been impacted, like so many other people, by Homeswest tenants who do not do the right thing by the taxpayers who support them. There are so many people on that Homeswest waiting list. We are never going to be able to satisfy all of them, but I think if someone is given a Homeswest house by

their fellow taxpayer, they have a duty to at least maintain some level of behaviour and not inflict personal financial hardship on people like the Irwins who are absolutely decent people. My request to the minister is for him to please look at this situation and let me know where the Irwins stand.

MR T.R. BUSWELL (Vasse — Minister for Housing) [9.32 am]: It is a difficult issue, as the member rightly points out. The Dividing Fences Act 1961 deals particularly with dividing fences. Unfortunately this is, by definition, not strictly a dividing fence; as the member points out, it is a boundary fence. Certainly all the advice that the member has provided to the house is consistent with the advice that I have received—that is, the Dividing Fences Act does not apply in circumstances in which that fence is defined as a boundary fence. I think the member raises a very important argument—that is, somebody other than the owners, Mrs and Mrs Irwin, needs to accept some responsibility for what happens to this fence.

My understanding of and advice about Homeswest practice is that, even though the Department of Housing may not be compelled under the Dividing Fences Act to adhere to the act because it is part of the Crown, it does. Homeswest always tries to have a good neighbour policy, but as the member has indicated, not all the tenants do, unfortunately. As the member has indicated, this is a house that adjoins a laneway. The damage has been caused by people either using the laneway or visiting other houses in the area. In this particular case, it was the Homeswest property next door that was the cause of the damage.

We may like to think that if commonsense were to prevail and a sense of trying to be decent to the people the member represents applied, the City of Cockburn would share the responsibility for the cost of repairing this fence. Either I will ask the City of Cockburn or I will get the Minister for Commerce to correspond and understand —

Mr J.M. Francis: I have done that as a first step before I got here. They did not want to know about it.

Mr T.R. BUSWELL: I imagine what they would have said. The City of Cockburn is an interesting group. It is very keen for us to go down and spend a lot of money in the city. Perhaps it needs to be a little more mindful of its responsibilities, as I think most reasonable people would see it, to the residents who live there. It decided to keep the pathway open, and there may well be good reason for that. My view is that there would be an expectation that if action causes damage to a property, it would participate in having that property repaired. The mayor is Linton Reynolds, is it not?

Mr J.M. Francis: The mayor is Logan Howlett.

Mr T.R. BUSWELL: Linton was the mayor in Armadale—he is a good chap, and so is Logan. I will correspond with Mayor Howlett and just get some clarification about what the city's view is. I might just point out that it is interesting that the city seeks a lot from us as the state. I would be interested to know how it reflects on its citizens.

Mr J.M. Francis: Without going on a City of Cockburn-bashing exercise, it amazes me that it can find \$60 000-odd a year for a sister city relationship, but it cannot find the money to fix the Irwins' fence.

Mr T.R. BUSWELL: It may be a broader issue that affects a lot of local governments; I do not know. I know from my time in the Shire of Busselton, for example, that when a tree fell on a person's fence, we would go and get rid of the tree and help them with the repairs—that is just what we did. It is called community-driven local government. I am not trying to blame the City of Cockburn. I think we need to understand what its view is and see whether there is a willingness on its behalf to perhaps be a bit more generous in how they deal with Mr and Mrs Irwin.

I think the member indicated that this was the fourth time this has happened. On the balance of probabilities, I can understand their frustration, because it will happen again and again. That is not to say that if the path was not there, the fence still would not be damaged, but I would like to think that if their property abutted the Homeswest property, we would be able to assist in covering the cost of repairs.

Clearly it is just one of those things that falls through the gaps, for want of a better term. It is not an acceptable outcome. I am not entirely sure it is a Homeswest issue, even though, as the member says, it may well have been the tenant or the tenant's visitors who caused the damage. I am happy to ask Homeswest about what capacity we have to try to recover some of those costs from the tenant, but again, because of the separation by the path, I am not entirely sure that is possible. Homeswest does recover costs from people who damage the properties—not 100 per cent, but we get a fair bit of it back. I am happy to ask them, but I suspect that the advice from them will be that they would look straight at the City of Cockburn as well. I will try to get that done as quickly as we can. All we can do following that is let the member know and let Mr and Mrs Irwin know.

In conclusion, I thank the member for raising what is a difficult issue. I share with him in reflecting on their concerns and frustrations. It would drive someone nuts to have people using the shared path constantly damaging

their property. I assume it is not just not damage to the property; I assume there is the odd projectile and stuff that finds itself over the fence as well.

Mr J.M. Francis: In fact, recently someone jumped over their fence and did an aggravated burglary. They broke into their house while they were home and threatened them and their family and their disabled son. It is just not a pleasant little —

Mr T.R. BUSWELL: I have not met any of the member for Jandakot's canine cohabitants at his property, but I have seen photos of his dogs and they are quite large. It seems to me that it may be an opportune time for the member to lend them to somebody and keep them on a mean diet. That may help provide what we would call rough natural justice for the Irwins. It certainly sounds as though a set of paw and teeth prints as a memento on someone's buttocks may help deliver better behaviour in that instance. In seriousness, back to the fence, all I can think of, unless I get advice otherwise, is that we will correspond with the City of Cockburn and see what it has to say.