

LIFESTYLE VILLAGES AND RETIREMENT VILLAGES — EXIT FEES

Grievance

MR C.J. TALLENTIRE (Gosnells) [9.11 am]: My grievance is to the Minister for Transport representing the Minister for Commerce. Before launching into the grievance, I welcome to the Parliament some residents of Riverside Gardens Estate—I acknowledge their presence in the gallery. They have come from my electorate of Gosnells.

The residents of Riverside Gardens Estate are a very happy bunch—they love living there. However, our legislative framework for looking after lifestyle villages and retirement villages is letting us down, especially in relation to the charging of exit fees. At the moment, if someone wants to sell out of a retirement or a lifestyle village, they might be able to sell the property for some \$200 000. However, they are then told by the owner of the village that the person who has bought the property must pay a fee to enter the village. That fee comes off the purchase price of the property. Of course, the arrangement in these lifestyle villages is that the occupants rent the plot of land on which their home is located. Their home is technically considered to be a mobile home—it could be moved to another place—so they are only selling the actual dwelling, which is the bricks and mortar, if members like, or more likely the weatherboard and roofing. It is of grave concern that there is no control over the amount that can be charged for that exit fee. The problem really lies, though, in the increase that has occurred in the exit fee. In 2006 the exit fee at Riverside Gardens was around \$5 000. It then went up to \$10 000. Last year it was \$20 000. Now the owner wants to charge \$30 000. That is a dramatic increase. It is not governed or controlled at all. The minister could compare that with the control over rental increases, which must strictly adhere to the consumer price index. That is where our legislation is letting us down.

On 20 October last year we debated the situation at Karrinyup Lakes Lifestyle Village. We all agreed that there was an urgent need for legislation to be brought into this place to tighten things up. We have since seen the release of the review document into retirement villages. That review has been out for some time, but we are yet to see any amendments to existing legislation before this place. I draw to the attention of the minister the recommendation in the review document to broaden the definition of “retirement village” to cover properties that are currently covered by the Residential Parks (Long-stay Tenants) Act 2006. That needs to be closely examined. Other parts of the review that need to be examined concern how the resident committees are functioning and how they operate. Are they actually in a position of equal power with park owners? I put to the minister that at the moment there is a gross imbalance, and that too often we find that what the owner of a park decrees is what goes. People are effectively told, “Take it or leave it. If you don’t like the arrangements, leave here.” As I said at the beginning of my speech, people really enjoy living in these places. They are very happy there. There is a good atmosphere in these villages, but residents want to feel that the right legislative mechanisms are in place, that they have security of occupancy, and that the value of their asset cannot be eroded on the whim of a park owner who suddenly decides that he is not making enough profit out of the place. We need some very clear guidance—some transparency—on what fees can be charged.

There are other issues about the manner in which these places are run. One episode concerned a number of residents who wanted to put solar photovoltaic panels on the roof of their properties. For some reason the park owner was not in favour of this, although he did say that it would be permissible for residents to put panels on carport roofs that were south facing, thus defeating the object of having solar PV panels. That issue was contested and taken to the State Administrative Tribunal. That was a sensible thing for the person involved to do, but SAT found that, under existing legislation, the discretion of the park owner ruled, and unfortunately the person lost the case. That is another example of how we need to tighten the legislation surrounding these arrangements.

I know that a review is scheduled for the Residential Parks (Long-stay Tenants) Act 2006, but like with the last review that we have seen, these things tend to take a very long time to come out. There is obviously a lot of concern that people’s rights are not protected by well-defined legislation. There are other concerns about the fees and charges that are imposed on people for the upkeep of properties. We need greater transparency in that as well. At the moment, the mechanism for people to make complaints and to take them up with the park owner is just not strong enough. It needs to be made stronger. For that reason, we need a very robust set of rules to govern how the people who live in the parks can approach the owner of the parks to make their complaints heard and to get a satisfactory response. We should not have a situation in which people feel that they can just be fobbed off. Clearly, we have to resolve the problem of the transaction fees and the process that resident committees are using, so that people can have greater certainty and greater enjoyment of their time in these places, where people are otherwise very happy to live. This is causing a lot of unnecessary anxiety in the community. We all know that an increasing percentage of the population is moving into these properties.

Mr D.A. Templeman: Well done member; that was an excellent issue.

MR T.R. BUSWELL (Vasse — Minister for Transport) [9.18 am]: I thank the member for Mandurah.

Mr D.A. Templeman: It's a very important issue.

Mr T.R. BUSWELL: It is an important issue. It is an issue that is related to but slightly different from issues the member for Mandurah has brought to this house. When I say they are related, they are technically slightly different, but they deal with the same issue; that is, the security of people's most substantive investment in retirement, their home.

I will talk in some detail about what is happening with the review of the retirement villages legislation or the government's response to that. Of course, the member for Gosnells would also be aware that the Economics and Industry Standing Committee is again looking at some particular elements of the issues surrounding the Residential Parks (Long-stay Tenants) Act. That act is scheduled for review I think next year. As the member rightly pointed out, these review processes can take some time.

Firstly, in relation to Riverside Gardens Estate, the member talked about what I find to be a staggering increase in exit fees. I cannot, for the life of me, imagine how the owner of a park could justify an increase in an exit fee from \$5 000 to \$20 000 to \$30 000. One thing I can tell the member for Gosnells is that as a result of his grievance today I will refer that matter to the Commissioner for Consumer Protection and ask her to look into that. I find that an unbelievable ratcheting up of an exit fee, which some people have absolutely no capacity to avoid because there are some reasons that people have to move—for example, health or a change in family circumstance. I would like to think that whatever powers are available to the commissioner under the existing legislation or code will be used to investigate that matter. I do not know what the outcome will be, but that is certainly a matter that needs further investigation, and I give that commitment to the member and to those residents who are here today.

The member is also right that the review of the Retirement Villages Act was tabled in November 2010 by the former Minister for Commerce, the member for Nedlands. That review contained 120 recommendations for change. The current Minister for Commerce has advised me that he intends to deal with those recommendations through the introduction to Parliament of two pieces of legislation. The minister intends to bring the first piece of legislation into Parliament during the spring session, which I am assuming is from now until the end of the year. That legislation will deal with some of the issues that are more easily dealt with out of those 120 recommendations. Subsequent to that will be a second piece of legislation that will deal with broader issues. I will go through the loose breakdown of issues that are intended to be dealt with in each of those bills. The first bill will deal with reforms proposed in those recommendations that will prohibit certain people from operating or managing a retirement village, and will give the Commissioner for Consumer Protection the power to appoint an administrator to manage a village where the wellbeing or financial security of residents is at risk. That was a big issue at Karrinyup Lakes, where we had an awful situation; that would help in that situation. The legislation will allow more time for residents to consider pre-contractual disclosure information and a longer cooling-off period; it will give residents a right to appeal collectively to the State Administrative Tribunal against excessive or unwarranted increased in recurrent charges. I am not sure that an exit fee is a recurrent charge, but there are some other things that we can do with that. The legislation will limit the time that recurrent charges are required to be paid by non-owner residents after they leave the premises and the lease can be on-sold. It will enable SAT to make specific orders relating to the completion of works and the fulfilment of contract requirements relating to village amenities; and, again, the Karrinyup Lakes issue springs to mind there. It will allow for payments to village operators to be released from trust once a resident is entitled to occupy the village unit, rather than when a resident actually takes up occupancy. It will allow regulation to require contracts to include or not include certain issues and prohibit certain fees and charges; and it will extend the time frame for bringing proceedings for an offence under the Retirement Villages Act to three years, in line with the Fair Trading Act. That work is happening.

Those 120 recommendations will be dealt with legislatively in two bills. The first bill will deal with the matters to which I referred; and the second bill will deal with other matters that were raised in the review. The argument put to me, which I think is very valid, is that some of those other matters are slightly more complex and will require additional consultation, both with owners of retirement villages and with resident groups. The point to note is that it is Hon Simon O'Brien's intent to progress reform as a result of that review. As I have also said, the Residential Parks (Long-stay Tenants) Act will also be subject to a review. It is worth reflecting on the residential parks act for a second. I was in the chamber when that was passed in the Parliament the first time. There was bipartisan support for that bill. Everyone was of a view that it would create a much better framework for people who are captured within that caravan park circumstance. It would be fair to say that experiences that have been brought to this house by a number of members over time have shown that what the bill promised to deliver has not been delivered.

Mr P.T. Miles: It was the upper house.

Mr T.R. BUSWELL: I do not think it was the upper house, although it did make a couple of changes. A lot of hope was pinned on the outcomes of that bill, which have not necessarily been delivered. As an aside, within government, we are still working on locating and creating alternative caravan parks so that there are options for people. In fact, I was discussing with a major provider of lifestyle villages only last week how that was progressing; so work is happening.

Mr C.J. Tallentire: The deadline given is 2012, so next year is too long for a lot of people to wait.

Mr T.R. BUSWELL: That is when the statutory review is due, but I expect that the Economics and Industry Standing Committee will have an alternative view. In the meantime, government is doing more work around trying to locate alternative sites so that we can offer people alternative accommodation.