

RIVERSIDE GARDENS ESTATE — GOSNELLS — LEASE AGREEMENT

Grievance

MR C.J. TALLENTIRE (Gosnells) [9.34 am]: My grievance is to the Parliamentary Secretary to the Minister for Commerce. It concerns the Riverside Gardens Estate lifestyle village in Gosnells. Specifically, it is about the lease agreement between the residents and the owners, past and present, of the village. Riverside Gardens is regulated by the Residential Parks (Long-stay Tenants) Act 2006. I must acknowledge the presence in the public gallery of residents of Riverside Gardens, a selection of the some 390-odd voters who live there. They have been here before—in fact in 2011. They are here now asking, “Why won’t the government help us? What has the Barnett Liberal–National government done since the grievance speech made by Chris Tallentire on 18 August 2011 to fix problems with the residential parks act?” From 2011 to now, 2016, there has been no action.

In 2009, despite Riverside Gardens being a generally happy community, residents alerted me to dodgy financial dealings and management, and an autocratic administrative style of then owner Billy Walker. In June 2011, I held a forum at the Gosnells Bowling Club to elicit information. My August 2011 grievance was to then Minister Buswell, who asked the Commissioner for Consumer Protection to investigate the charging of fees, \$20 000 to \$30 000 fees, demanded by Billy Walker and his company, Fourmi Pty Ltd, when some people entered the village or sold a property at Riverside Gardens—an exit fee that they were forced to pay. There was no advice to people buying into Riverside Gardens that they would ever have to pay additional fees, and they had no say over dramatic hikes in the amount of the fee being charged. The matter was investigated and then listed in the Supreme Court, but Billy Walker and Fourmi managed to stall and avoid the matter ever going to court. Fourmi then sold Riverside Gardens. Effectively, Riverside Gardens was sold under the nose of the Department of Commerce, whose officers had carriage of the Supreme Court case. This is an example of the outrageous incapacity of the Department of Commerce, which is hopelessly under-resourced and incapable of bringing dodgy practices to court.

Residents at Riverside Gardens warned me that a sale of the estate was in the offing. I warned Commerce about the possible sale, so why could Commerce not take action to protect the interests of the many people who are owed the reimbursement of fees of \$20 000 or \$30 000 that were improperly charged?

To whom has Riverside Gardens been sold? It is a sale that has gone through, even with a court case pending and the likelihood that Fourmi will disappear. It has been sold to Hampshire Villages, an eastern states operator. What has occurred since Hampshire took ownership? It immediately began the process of increasing rents and charges and pressuring residents to sign waivers and renegotiate leases, with a 30-year lease being proposed, instead of the current eight-year rolling lease—a 30-year lease when many people at Riverside Gardens are in their 70s.

If nothing else, the Fourmi case would have demonstrated to government serious deficiencies in the Residential Parks (Long-stay Tenants) Act 2006. However, the Fourmi case was not the only exposure of the act’s failings. A statutory review was conducted in 2012, and that revealed failings and the need for reforms and amendments to the act. However, no legislative change has yet been brought to Parliament. Then, in foot-dragging style, in late 2015 a regulatory review was conducted. Many people and organisations made submissions, but the government has not published the review’s findings. The government never went near publishing a government response, let alone drafting legislation. The Barnett Liberal–National government has allowed the Department of Commerce to be so under-resourced that it cannot run reviews of important legislation, cannot draft amendments to that legislation, and it cannot even look after vulnerable people who are being done over by powerful landlords such as Fourmi. This is an outrageous situation!

We have had five years of inaction and a failure to do the job of government, which after all must be about stamping out sharp and dodgy practices. Exit fees of \$20 000 have been charged and we do not know how many people have been charged this fee. A very conservative estimate might be that it has affected 10 cases, but it is probably more likely to be closer to 100 cases. One could say that someone has unfairly profited somewhere between \$2 million and possibly as high as \$20 million through sharp practices. Individuals cannot take these sorts of matters to the Supreme Court knowing that they have to pay about \$20 000 to get in there and recover \$20 000. That is beyond the scope of most individuals, let alone people who are perhaps elderly and, after all, hoping for a quiet and pleasant retirement. They do not want to be involved in a Supreme Court case. Government should have stepped in but it has not. We have this failure of process, this failure of government to tackle sharp and dodgy practices, this failure of government to act on its own 2012 statutory review, and this failure to act on the regulatory review that it imposed about this time last year. There has been complete inaction. If ever there was an example of this government failing to respect the priorities of normal, everyday people in the community, this is it. It is an outrageous example and situation in which people’s personal interests have been neglected. The government does not care about the wellbeing of individuals or about their financial situation. It is happy to let somebody get away with some practices that really should have been called out at the very earliest stage. I will await word from the parliamentary secretary. This case has gone on for far too long and

the government has simply failed to act. This is a very poor reflection on the way that the Barnett Liberal–National government has conducted its business.

MR A. KRSTICEVIC (Carine — Parliamentary Secretary) [9.42 am]: I thank the member for Gosnells for bringing this grievance to this Parliament and to me. Fourmi Pty Ltd developed and operated Riverside Gardens Estate, as the member mentioned. On 25 July 2016 it sold Riverside Gardens to Gosnells Holdings Pty Ltd, which is a subsidiary of Hampshire Villages. Fourmi built the purpose-built relocatable homes for prospective tenants, which, as the member indicated, were regulated under the Residential Parks (Long-Stay Tenants) Act 2006. Once they were occupied, the new park tenants were able to buy the existing homes from the owners and Fourmi formally reassigned the leases and entered into new leases with the new park home owner. Rents were set at a modest level. Obviously, many residents in the park are Centrelink recipients as well. The member for Southern River has also spoken to me and the Minister for Commerce about this same issue and is concerned, like the member for Gosnells, to make sure that the residents are looked after and appropriate action is taken. As the member mentioned, both entry and exit fees were charged. My understanding is that only three people were charged entry fees. Obviously, there is no scope for the owners to do that under the act. They should not be charging entry fees. It is pretty clear-cut; it seems like a real issue. About 30 people were charged exit fees and obviously legal action is afoot. Initially when the member raised the grievance, the Department of Commerce was working with the owners and residents to mediate a solution and talk through an amicable outcome. It was then determined that the current owner was not interested in negotiating and coming up with an agreement. After a period, the department decided that the matter needed to go to the Supreme Court. It went to the Supreme Court on 10 March 2014 seeking orders for restitution for former members who had paid the surrender or exit fees. It was anticipated that an order for restitution in the vicinity of \$1 million would be sought. Although the Commissioner for Consumer Protection sought a practical solution to prevent the charging of exit fees, it was also a concern that the legal action would impact on the solvency of Fourmi. Legal action is focused on unconscionable conduct. The commissioner held an information session with about 150 residents on 19 March 2014 and advised them of the nature of the legal action taking place. Up to that point, all attempts to bring on a settlement were exhausted, so that was the next step. Residents should be aware that the next step in the writ process is listed for 22 November 2016. This is a procedural hearing to progress the application to a hearing in the Supreme Court. Work is being done through the court system. As we all know, it takes time for a matter to go through the courts. Nothing ever moves quickly and the lawyers have their ways of dragging these things out. The legal process allows that to happen so we have to keep struggling along with that. The legal action cannot directly assist the existing residents who came to the village at the time Fourmi was promising no exit fees. The Consumer Protection Division tends to pursue these issues with the new owners once the matter is settled. I know that the department is working with the new owners. The chief executive officer of Hampshire Villages called a meeting of residents in August 2016 and confirmed that they intend to keep the same income-funding model previously operated by Fourmi. Consumer Protection is currently examining a draft 30-year lease that has been provided by Hampshire. The new owners have offered existing residents six options that offer a range of alternative surrender-fee structures in return for a higher rate of rent. Hampshire is working with the department to make sure that it meets its obligations and gives a fair option to the current residents.

Consumer Protection received a complaint on 7 October 2016 that alleged that residents were being forced into signing new contracts that stipulated that they must pay a \$20 000 exit fee when vacating the park. These claims were not founded but Hampshire was offering new leases with alternative exit-fee structures. No residents were being forced to sign new contracts. They should not be forced and if they feel that they are, then they need to contact their local member and go straight to the Minister for Commerce. If Hampshire intends to charge residents a surrender fee in instances that Fourmi represented no fees would be charged, Consumer Protection would expect these fees to be fully justifiable. Consumer Protection is currently awaiting information from Hampshire about the contractual lease status of each resident. Once the information is available, Consumer Protection will meet with the park owners to gain a clearer understanding of how each category of lease will be managed and to ensure that residents' rights are protected. Following the clarification of these issues, Consumer Protection intends to meet with the residents to discuss any issues that they might have about their existing contracts or the proposed new leases offered by Hampshire.

Ms M.M. Quirk: Is there a time frame, member?

Mr A. KRSTICEVIC: The current owners are working with Consumer Protection. They have provided leases and are getting feedback, which is happening very quickly. In terms of the legal action the next phase starts on 22 November 2016 to set a date —

Ms M.M. Quirk: To set a date?

Mr A. KRSTICEVIC: Yes, to set a date for the hearing. Being a former lawyer I am sure you would know how lawyers operate in that space when negotiating between each other and the judiciary —

Ms M.M. Quirk interjected.

The DEPUTY SPEAKER: Order, member!