

STRATA TITLES AMENDMENT BILL 2018

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Matthew Swinbourn) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Postponed clause 83: Insertion of sections 4 and 5 and Parts 2 to 14 —

Proposed section 183: Confirmation of termination resolution by Tribunal —

Resumed from an earlier stage of the sitting on the amendment moved by Hon Stephen Dawson.

Hon ROBIN CHAPPLE: I spoke outside the chamber with the minister's advisers. I hope the minister can clarify the points I raised before question time. My question comes back to the evicted tenants being slightly better off because the notice period cannot be less than seven days, which they get under the Residential Tenancies Act. I am assuming that all the State Administrative Tribunal can do is extend that period. If I can get a clarification of that, it would be useful.

Hon STEPHEN DAWSON: The answer to that is yes. Proposed new section 183(17B)(c) provides that SAT may specify the period the lessor must give notice to the tenant of for termination of the lease. This will allow SAT to order that a notice of more than seven days be given, which is the period provided for under section 69 of the Residential Tenancies Act.

Hon ROBIN CHAPPLE: I just need to make sure that the owner would be no worse off, because the proponent must ensure that they are no worse off financially or SAT cannot approve the proposal.

Hon STEPHEN DAWSON: Proposed new sections 183(17B), (17C) and (17D) provide SAT with the power to order that compensation be paid to the tenant when a lease is terminated as a result of the termination of the scheme. The compensation may be paid by the proponent or the owner of the lot when the owner is the lessor. SAT can choose who pays the compensation to the tenant, and will make that decision based on the facts of the case. If the owner of the lot is ordered to pay the compensation to the tenant, members should remember that under proposed section 183(10)(a)(ii), the owner is not to be worse off financially as a result of the termination of the scheme. If the owner has to pay a large amount of compensation to the tenant, the owner can tell SAT that they will be worse off as a result of the termination of the scheme. SAT will be able to modify the termination proposal to ensure that the owner is paid by the proponent the equivalent of the compensation the owner paid to the tenant, which is proposed section 183(14). There may be circumstances under a termination when the owner of a lot maintains ownership in the land where the scheme was located. In such instances, SAT may think it more appropriate that the owner pay compensation to the tenant because the land may be worth more without the tenant in occupation.

Hon SIMON O'BRIEN: I believe this deficiency in the bill was found in the course of the Standing Committee on Legislation's inquiry. I reassure members that the committee went to strenuous efforts to ensure that people residing in a strata property under what the *Subiaco Post* referred to as the "boot a granny" law would not be treated in a way that unfairly disadvantaged them. We have heard from Hon Donna Faragher in her capacity as a member of that committee and as our spokesperson on this bill. It can be seen in the efforts reflected in the several recommendations of the committee report that we have done everything we can to tighten up this bill to make sure that like-for-like accommodation; the access to, provision of and payment for advice for vulnerable people; and all the other issues raised are dealt with by this bill. We are satisfied that the amendments we have proposed contain the necessary machinery to not only enable the State Administrative Tribunal to give the directions it needs to secure all those outcomes, but also make sure that SAT and proponents of termination of schemes and others all do the things that are necessary—no ifs or buts—so that we have those outcomes and do not see grannies booted in the manner that some people have feared. I want to reassure Hon Robin Chapple of that.

This amendment addresses what could potentially be a gaping hole in the whole strata title regime. It came to notice in the course of a submission, from government I might add, which identified case histories that illustrated some of the problems that can occur with the current strata title arrangement, and why the new act, in effect, is required. One of these was an actual case example in which the owner of a development site, which was building a big multistorey development with great views, had obtained an interest in a smaller strata property directly in front with the specific purpose of making sure that that second strata scheme was never terminated by using their power of veto. In advertising materials spruiking their own development behind the strata, the developer had even bragged, in effect, that they owned a place in the strata title property in front to make sure that the views would never be built out. That raised the possibility that even though owner residents in strata titles are going to have their rights respected and guaranteed under the new regime, tenants, of course, are a different kettle of fish. In effect, a tenant with a long-term lease could frustrate the termination of a strata scheme in the way that an owner currently could. That is the sort of thing that in large part this bill is trying to get rid of. How ironic that a person could actually flout this whole new regime by simply installing a family member or mate as a notional tenant so

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that all of a sudden they had a power of veto by virtue of the provisions of the Residential Tenancies Act. I see from the government's proposed amendment that that would also be the case with commercial tenants potentially. That is where this comes from. It is in accordance with the recommendation of the committee, and the government has given the appropriate response. I think initially government members just wanted to hide their heads in the sand and perhaps pretend this gaping hole did not exist, but it definitely needs to be plugged. I assure the honourable member that the other provisions that have already been incorporated and strengthened through our amendments would address his concerns. I support the amendment that the government has brought forward.

Amendment put and passed.

Proposed section, as amended, put and passed.

Progress reported and leave granted to sit again, on motion by Hon Stephen Dawson (Minister for Environment).