

## CORPORATE MISCONDUCT

### *Statement*

**HON BEN DAWKINS (South West)** [5.40 pm]: Today I wish to speak about the unacceptable cost of corporate misconduct affecting Western Australian individuals and families. I am talking about unethical, harmful and unlawful corporate conduct. Corporate misconduct is allowed to occur and continues to occur because of a lack of government regulation, in effect. Sometimes government initiatives exacerbate and encourage corporate misconduct. I am talking about the building industry today. I am not professing to be able to demonstrate any wrongdoing of a criminal standard or even a civil standard of proof. It is not about that. Some matters within this sphere may well come under the Building Commission or the State Administrative Tribunal; I do not know for sure. Obviously, that is a matter for them. I am not a judge. As I said, my role is to expose corporate misconduct for the electors who come to me.

John Whinnen is an Afghanistan veteran. Members may have seen reference to him in the paper. He is a father of one. He has been waiting 960 days for his house to be built. His builder is BGC. Hundreds of other people are affected. “Sarah” from Hammond Park has just ticked over 1 000 days waiting for her home to be built. Other clients have waited 1 200 days—well over three years—for their house to be built by BGC. I do not need to tell you, President, or anyone in the chamber about how that is affecting them. Obviously, they are paying rent somewhere else. They already pay a mortgage on the portion of the house that has been built, and they have drawn down against their mortgage. Obviously, they do not have anywhere to live, so they have an incentive to get their houses built within the contract time.

Why I do say that BGC has engaged in no misconduct? I have visibility of the evidence behind what I am saying today. I am not necessarily under any obligation to prove anything I have said today but, for the sake of completeness, I have seen documents. The BGC sales team was incentivised to sign up people, with promises of new cars and overseas holidays. BGC broke the all-time building sales record in June 2020. In one month, basically 1 000 new clients were signed up to building contracts. The question is whether the salespeople could realistically deliver within the time frame specified and whether they knew they could not deliver. They were effectively signing people up to fail. In June 2020, the number of contracted sales for that month was 2 400-odd, so of that, 1 000 were signed by BGC—somewhere near half. To achieve sales targets, the sales teams were providing contracts for signing at an initial meeting, pushing clients to sign rather than miss out on building bonuses and other perks. When clients voiced their displeasure on social media, the sales teams would find the clients’ personal phone details and text them, in some instances calling them liars. That was what occurred when individuals expressed their displeasure at the delays. In John Whinnen’s case, BGC delayed providing his building contract until 29 December 2020, two days before the stimulus package deadline, despite him making weekly calls to BGC in order to have time to review the terms. He did not get to look at the contract. He was assured by the sales team that it would be a standard contract, and not to worry: “Trust us, we’re the good guys.” I should mention that the sales team that signed up John had a house and land package around the corner with BGC; unsurprisingly, while John has waited 960 days and his house is still not completed, the BGC employee’s one is well advanced.

BGC claims that the delays were out of its control. However, there has been a fair amount of contention about whether the delays were foreseeable. Early in the pandemic there is evidence to suggest that it was foreseeable that delays would ensue. If delays were foreseeable, it was not valid to extend contracts and keep people waiting. As early as March 2020, the CEO, Daniel Cooper, and executive general manager, Michael Bartier, are on the record talking about the impact of the pandemic on build times. To put it simply, BGC Housing Group was at all times aware that there would be delays to builds, and it signed up a record number of clients in any event on the false promise of a 10 to 12-month building schedule. In some instances, those contracts have been delayed for three years. The bad part of this is that, obviously, companies were allowed to take full advantage of the state and federal governments’ stimulus packages. Also, BGC is not taking any responsibility and is basically avoiding the legal process as much as it can. There are also reports of intimidation and effectively threats to withdraw bonuses or discounts if the company is taken to the Building Commission or the State Administrative Tribunal. We can call that what we want, but it is certainly threatening behaviour.

An active group of my constituents are saying that BGC must come to the negotiating table with humility and transparency in order to bring confidence back to thousands of clients who are without a home more than three years after signing a contract. We say that BGC has hidden behind internal processes to avoid giving clients full information.

I refer to the government’s COVID building incentive. That has almost encouraged this behaviour. That is not really anyone’s fault, except that maybe some of this behaviour of signing up too many clients in a short period could have been foreseen and some regulation put in place. The situation with the government incentives for COVID is essentially that these people cannot sell their house. Even though the house is still not built and they are not able to live in it, they cannot sell without losing the incentive, because they have to live in their house for 12 months to get that incentive package. That is limiting people from being able to get out of the situation. People are calling for—this is a federal issue—potentially some relief on capital gains taxes if they have to sell to get out of these toxic

contracts, if I can call them that. That is what I am saying. Basically, they are stuck with the situation. The way that BGC has operated has caused a lot of anguish for clients and families out there in the community.

The minimum that the government could do would be to protect the thousands of vulnerable Western Australians preyed upon by the state's largest and slowest builder, BGC. I say preyed upon because the circumstances surrounding it sound predatory. We do not necessarily associate predatory behaviour with the building industry; it is more something we talk about with lending, but there is evidence that that has happened and affected a large number of constituents. I call for BGC to come to the table and assist those people in hardship.