

03 - 10 - 2014

The Standing Committee on Environment and Public Affairs  
Parliament House  
Perth WA 6000

Dear Members

## **Ocean Gardens Retirement Village - City Beach Petition No. 60**

Further to our recent petition (No. 60) and following receipt of your letter to Mr Musca dated September 19 2014 I write on behalf of the approximately 260 residents of this village. The Ocean Gardens Residents Association (Inc.) is a committee of residents elected at our Annual General Meeting each year to represent the views of all residents according to our Constitution.

In 2001, following complaints by the Town of Cambridge (the Town), the Ombudsman carried out an investigation of the actions of the Board of Ocean Gardens Inc. (the Board) and the City of Perth which at that time had three City of Perth Councilors on the Board. This report eventually led to the passing of the Oceans Gardens (Inc.) Act 2004 which included a draft Constitution. This Constitution contained the requirement that the Board of OGI should comprise 3 Councillors from the Town and three elected members from the wider community. This condition was slightly modified in 2005 by the Board, which recognized the need for residents to have some voice in the affairs of the village, and therefor included an amendment that one resident should be included on the Board. Thus the Board then comprised one resident, two members elected from the wider community and three Councillors from the Town. The Board and the village operated very satisfactorily and harmoniously with this arrangement from 2005 until 2009.

The personnel on the current Board have of course changed since 2001 but unfortunately the problem is now very similar to that which existed at that time namely secrecy, lack of transparency, lack of consultation and taking no notice what-so-ever of the residents' wishes or opinions.

In 2007, Mr Simon Withers, Mayor of the Town of Cambridge, took over the chairmanship of the OGI Board and has subsequently led the Board into numerous Constitution changes which have weakened the residents' position and strengthened that of the Board.

**In 2008** the Board proposed that :

- a) It should appoint the two members of the wider community to the Board. That left 3 Directors appointed from the Town Councillors, 2 by the Board and the sole Resident Director from the Residents Association.
- b) All Directors should become members of OGI for the term of their Directorship (9 years max). This made it much easier for the Board to gain effective control of OGI (the group of approximately 20 people who legally own the village) which was necessary to pass changes to the Constitution in the future. The Town also had to approve those changes but Mr Withers is the Mayor of the Town.

**In 2009** the Board sacked the Resident's Director and replaced the position by a Board Observer who could not speak or take an active part in Board meetings and could not report back anything to the Resident's Committee. That left the Board with 3 Directors from the Town and 3 community members selected by the Board.

**In 2011** the Board removed any requirement for there to be any Town Councillors on the Board We do not know how they could do this as it is directly against the main spirit and intent of the Ocean Gardens (Inc.) Act 2004. That meant that the resident's only chance for unbiased and fair representation was gone -- no more checks and balances.

**In October 2013** the Board changed the Constitution again and among other changes, they now directed that the Board could operate with **up to 6** Directors. This was important from the Board's standpoint as it enabled it to ram through their contentious and unpopular plans to build a high rise block of apartments in the centre of the village with only 4 Directors on the Board; Mr Withers and 3 of his nominees to the Board without any other Town Councillors being on the Board.

The Board has now 5 Directors (Mr Withers and 4 of his nominees) to manage the operation of the village and the residents have *no say* in its operation, being absolutely powerless in the face of massive expansion plans for the village unveiled recently by the Board. Prior to this date the Town had the right to object to any person nominated to the Board by the Board without giving a reason. The Board at this time proposed that this be changed so that the only

reason the Town could object to an appointment would be if the person did not meet eligibility standards. The reason stated for this amendment was that, with the coming council amalgamations, elected members of the new council *"may not understand the councils role"*.

For the past couple of years, the Board has become more arrogant, secretive and non-consultative and their behavior has cast serious doubts on whether they were managing the affairs of the village for the benefit of residents.

The resident's main fight with the Board has been the wish of the Board to start a large expansion program of some 30% by the proposal to construct a high rise block of apartments right in the centre of the village (the Palm Gardens Development). This building, should it proceed, will cause massive disruption to the village during the construction period of around two years and be an eyesore when completed. There are many technical matters wrong with the design of the structure and it will completely inhibit future sensible and organized growth of our community facilities in its present form. Despite all the things wrong with the proposal, it will contribute only 9 additional units to a village of 230 units so it is an example of planning at its worst.

As a typical example of the Board's secrecy, they called a meeting of all residents of the village in September last year to **inform** them on what was planned to happen. One month **before** that meeting, (when the residents knew nothing about the plans) the Board had already submitted the preliminary plans to the Town for development approval (August 2013).

A survey of residents carried out by the Residents Association in November 2013 resulted in 98% of the residents rejecting the proposed building. We have been at pains to point out to the Board that we are not against expansion and not necessarily against some high rise development but that both should be in the right location. They have consistently refused to present to us any valid reason for the need for massive expansion – no business plan or any other valid justification.

The Board recently spent \$3.65 million in purchasing a multi-unit development site adjacent to the eastern boundary of the village site for expansion purposes and there are at least two other sites within the village which could be further developed to increase the resident numbers, all of which would be supported by the majority of the village. To this point in time however they have made little sign of changing their minds.

After 12 months of the residents trying to get the Board to see the folly of this particular proposal, the Board has finally agreed to produce a Master Plan of the proposed village expansion into the future. Despite the fact that this should have been done before making definitive plans for Palm Gardens we welcome this move but are not at all convinced that it will change their plans.

There have been numerous examples over the last couple of years of the Board breaching the spirit and intent of the Retirement Villages Code Regulations particularly in regard to their lack of proper consultation and lack of disclosure of their proposed plans for this building to recently arrived residents. These residents have purchased their units in good faith based on the existing structure and ambience of the village. Furthermore the Board was trading for some years with obsolete promotional information on its website including an out of date constitution and Directors who had long since retired. Many residents who purchased units in the village over the past few years did so in the knowledge that there were three Town Councillors on the Board.

These issues were brought to the attention of the Dept. of Commerce and the Ombudsman. The Ombudsman stated that he could not investigate the actions of the Board as they were a private entity and not a government department. The Dept. of Commerce sympathized with our situation but said that there was nothing in our reports to them on which they could take action against the Board. They did however speak to Mr Withers, and suggested to him that they *"re-engage with residents and give further consideration to managing their concerns."*

Since that time the co-operation of the Board has improved a little but basically the situation is unchanged and as far as the residents are concerned is unsatisfactory. The residents require proper consultation by the Board and an open, non-secretive operating environment. In the short term the residents are adamant that the Board should abandon their planned development for Palm Gardens and concentrate their attention on other available sites.

In the medium term we require the re-instatement of three Town Councillors to the Board, one Board Director to be a resident of Ocean Gardens Village (having been elected by the residents) and two members elected from the wider community in accordance with the spirit and intent of the Ocean Gardens (Inc.) Act 2004 and the subsequent amendment in 2005 by the Town.

Yours Faithfully

J D S Hill (Secretary)