

**ECONOMICS AND INDUSTRY
STANDING COMMITTEE**

**INQUIRY INTO IRONBRIDGE HOLDINGS PTY LTD AND OTHER
MATTERS REGARDING RESIDENTIAL LAND AND PROPERTY
DEVELOPMENTS**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 17 OCTOBER 2011**

SESSION FOUR

Members

Dr M.D. Nahan (Chairman)
Mr W.J. Johnston (Deputy Chairman)
Mr I.C. Blayney
Ms A.R. Mitchell
Mr M.P. Murray

Hearing commenced at 3.17 pm**JAMES, MR PETER NORMAN****Director, Recreation Drive Pty Ltd, examined:**

The CHAIRMAN: Thanks, Peter, for coming. I will read a standard opening statement. Thank you for your appearance before the committee today. This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings of the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Before we commence, there are a number of procedural questions that I need you to answer. Have you completed the “Details of Witness” form?

Mr James: Yes.

The CHAIRMAN: Do you understand the notes at the bottom of the form?

Mr James: Sure.

The CHAIRMAN: Did you receive and read the “Information for Witnesses” briefing sheet regarding giving evidence before parliamentary committees?

Mr James: I did.

The CHAIRMAN: Do you have any questions relating to your appearance before the committee?

Mr James: No.

The CHAIRMAN: Before we ask any questions, do you wish to make an opening statement that addresses the terms of references and as they relate to your experience as director of Recreation Drive Pty Ltd?

Mr James: No.

The CHAIRMAN: What is the current status of Recreation Drive Pty Ltd?

Mr James: The current status is that it is basically insolvent—the company. There are a number of reasons for that, which we can go through in due course. Essentially it has got one block left, which is the large lot, which is mortgaged to some of the investors who bought the mortgage off St George when they put the company into receivership. That is its current position. Essentially it is insolvent. As soon as it has been dealt with, my intention would be to appoint a liquidator.

The CHAIRMAN: Recreation Drive Pty Ltd had a development down at Eaton—that is why we are here. As part of the release of blocks, the company gave a commitment to build or provide fences and landscaping, as we understand is often standard policy in developments. There were a few complaints to consumer affairs and others as to the delivery of those.

Mr James: Yes.

The CHAIRMAN: There was a conciliation process undertaken by, I think, consumer affairs between you and some of the parties and other parties—purchasers. Did that conciliation lead to some results?

Mr James: I think it is probably best if I take you back to the start and give you some background so that you understand why we are where we are. We bought the land in 2005 with the intention of subdividing and selling the lots, obviously, as is our business. We had a significant delay by council as a result of their senior planner leaving and going to Pinjarra. What happened is that by the time it got to the Western Australian Planning Commission, the Minister for Planning at the time noted that it had not been advertised properly, so we had to go back through the process, which was a delay of

eight to 10 months. They certainly were far more willing to assist in pushing it through the next time round. However, we were delayed with the Christmas break; eight months turned into 12 months.

The CHAIRMAN: What year was that?

Mr James: That would have been 2006.

The CHAIRMAN: The peak of the boom.

Mr James: Yes. So we missed probably a window of opportunity. By the time we released our lots in July 2007 the market was still considered strong. We released the lots and in the first week had 25 contracts.

The CHAIRMAN: How many lots were in the —

Mr James: Fifty plus one large lot. Our thoughts at the time were that we would be out of the deal by Christmas and everyone would look like they have done a wonderful job. What we did not foresee coming was the GFC. The events that turned the project really were we had an interest rate hike in sort of August 2007. The Prime Minister called an election there, or close to. We had another two interest rate rises before Christmas. I think we lost every sale bar eight, I think, eventually settled.

The CHAIRMAN: A lot of the people reneged on their purchase.

Mr James: Yes. We then entered 2008 and did not sell a lot for probably 18 months at which time we needed to get very aggressive on our sale price. In the process of that period, early 2009, I lost my brother, who was a very integral part of my business, through suicide, which really I suppose took my eye off the business for six to nine months. I just lost complete focus, not that that is of any relevance to why we are where we are. However, leading into 2009 we had the first home buyer scheme had been put in place, which certainly was of assistance, but I am not sure of how much assistance, because each lot that was bought under the first home buyer scheme took some three to four months for the approval process. What we had to do is, when we first released the lots to the market at an average price of 165 to 175, we were selling them at 125 to 135, in that sort of —

The CHAIRMAN: That was in 2009.

Mr James: Yes, and through to 2010.

The CHAIRMAN: What about the people who purchased those early and held through the contract—they would have paid 165?

Mr James: No. Oh, the original?

The CHAIRMAN: Yes.

Mr James: Probably five. They got their fences and all the rest of it. That was early days. Obviously the project was running into three or four areas that were items that we foresaw at the start. The delay caused a problem. Obviously going through a sustained period of no sales, interest rates became an issue for us. With the time delays, we then went into penalty rates. We had cost overruns through EPA in the order of \$500 000 and with Western Power, it was also in that order, although we were able to negotiate that down to sort of \$250 000 to \$300 000 for them to put the power across the other side of the South Western Highway, which we did not feel was our responsibility. Be that as it is, that is what happened.

In around August 2010, the property was put into receivership. We owed very little to the bank, but we had been selling the lots at a greatly reduced price. What we probably should have done with hindsight was, on the basis of selling the lots at a reduced rate, have taken the rebate away. We did not do that, but with hindsight we should have, given they were getting the lots at that price reduction. The lots were hard to move. Some of the first home buyers did not get their approvals, so we had to resell again. As I said, that was a minimum three-month process. That would drag the lots

out for a six to nine-month period in some cases before they could settle. The bank took all the funds. They would not allow us to settle with any excess. We were left in a fairly precarious situation. I do not sit here and for one minute feel good about what has happened. It has been a lesson for all, I suppose. Certainly, as far as Recreation Estate goes, we went out with good intent, and we did not foresee the circumstances that were around the corner.

[3.30 pm]

The CHAIRMAN: What would have happened do you think—this is just hypothetical—if there was a law that required you to set aside moneys for those incentives in some form of escrow account? How do you think that would have worked out? It is very hypothetical, I admit.

Mr James: I mean, look, with hindsight, yes, some of that could be contemplated. I mean, it is just a question of value. You pay X amount for the land. It is a purely economics matters that the land is valued at what it is. You think the price is going to achieve what you do. You do not anticipate significant cost overruns. I mean, you always have a contingency in there. We normally have a contingency of 10 per cent. And then you do not foreshadow the price reduction. So, I mean, if you are budgeting on that from day one, I would not have an issue with that. But I think it became evident along the way that unless we put rebates in place, we would not be able to sell the lots. So, you know, I guess that you do what everyone is doing. We also did not anticipate that St George would be taking the fees and the interest rates that they did. And the time period in which we were thinking it was a two-year project, and it turned into being almost a five-year project, and your debt reduction only happens when you sell the lots. So, there were some significant cost overruns.

Mr W.J. JOHNSTON: Could I just ask a question on that? Were there directors' guarantees to St George in respect of their loan for the project?

Mr James: There would have been, yes.

Mr W.J. JOHNSTON: And so what has happened is that the unsecured creditors now, the people who purchased the blocks who have not had the fencing and other incentives paid, become unsecured creditors.

Mr James: Essentially.

Mr W.J. JOHNSTON: And the directors' guarantees have finished because you have repaid St George.

Mr James: Essentially, yes, that is a fair comment.

Mr W.J. JOHNSTON: So at what point did you realise that you would not be able to finish the incentives?

Mr James: Look, I mean it has probably been ongoing for 12 months or more. I mean, I anticipated that I would personally be able to try and achieve an outcome but we have had, you know, numerous issues along the way that have caused that not to be the case. And we have, you know, from a personal point of view, we have lost everything. I lost my business. I lost my brother. I lost my house, you know.

Mr W.J. JOHNSTON: Sure.

Mr James: We are having to start from ground zero. So, I mean, you can have all the best intent in the world, but at the end of the day you can only do what you can do, and that is where I have got to. You know, I am sort of putting my hands up and saying, "Well, I can't do any more."

Mr W.J. JOHNSTON: So, I just want to continue to explore this thing with St George.

Mr James: Sure.

Mr W.J. JOHNSTON: Just by way of disclosure, I am a St George client. I do not know whether that is relevant.

Mr James: There are a lot of St George clients around.

Mr W.J. JOHNSTON: Absolutely, but I just want to get a picture. Were they asking Recreation Drive to sell the blocks to pay back the debt or they would be —

Mr James: Oh, yes, we were under huge pressure. I mean, Recreation Drive was not the only project we had on. We were under constant pressure, and the threat of having receivers put in, which with hindsight I should have done; I should have just let them take it and let them worry about it.

Mr W.J. JOHNSTON: You mentioned some other projects that they were also putting pressure on with you.

Mr James: We had a lot of projects on at the time—2003, 2008 or 2006—and we did not undertake any new ones from probably 2006 on, but we had, you know, we did have a lot of projects going. But, you know, with hindsight I would have done a lot of things differently.

Mr W.J. JOHNSTON: Sure.

Mr James: We are all better with hindsight.

Mr W.J. JOHNSTON: Absolutely.

Mr James: But as far as St George goes, I think that we were unable to settle lots unless they took 100 per cent. So, there are GST issues, there are fencing and landscape issues, you know, and they are charging significant rollover fees. I know at one stage they just took \$100 000 in rollover fees just to continue funding the project. We do not have any—that is not negotiable: “If you want our money, this is it.” So—and I am not saying that they are at fault. What I am saying is that there are probably a number of forces that work towards a project that finishes up being less than acceptable, which is the position we finished up in. My brother was a director of the company, so he has gone; he is no longer here. Another partner resigned as a director probably 12 months ago. I have chosen to stay in here and try and do the right thing, but, you know, I have just got to a point where I cannot see any way through it. And I went down and saw all the residents at one stage hoping that we would have some other projects which would allow me cash flow so that I could provide a way through, even if it took a period of 12 months or so. But those particular deals that I was talking about when I saw the residents in March fell through. So, I currently do not have anything that even allows—my wife is back at work, so it is, you know, not a pleasant position that I find myself in. It is not like I am sitting on a hoard of assets that would allow this to be paid. I mean, I just would not do that, so it is not the way I do business.

The CHAIRMAN: Have you been in the development game for a long time; that is your profession basically?

Mr James: Yes, it is, yes.

The CHAIRMAN: And generally you are a, let us say, medium-size developer.

Mr James: Yes. We would be probably second, third tier.

The CHAIRMAN: Yes, okay. And has it been the general trend in the market to provide these incentives?

Mr James: I think that always happens when the market becomes difficult.

The CHAIRMAN: Difficult, yes.

Mr James: I mean, I know that there were incentives being offered around the Bunbury and greater Bunbury area. And, so, therefore, the location itself was not going to sell.

The CHAIRMAN: Even in 2005 and 2006 when things were hot, they still provided these types of incentives?

Mr James: Yes, and that was our general market research. I have got to say that I probably would not do a subdivision again myself, simply because I think that the time periods in which it takes to get your approvals in place, including titles issued, for a smaller developer—you know, 100 lots or less—the burden is too great. You need to have a pipeline of thousands to be able to carry that, and that gives you the critical mass to enable you to see you through that.

The CHAIRMAN: It gives you an asset base, too.

Mr James: And it gives you a balance sheet; that is right.

The CHAIRMAN: Yes. What about banks after the GFC; did they really tighten up?

Mr James: Yes. I mean, we were on a hiding to nothing.

The CHAIRMAN: So, after—if I remember the scenario—2008, everything dried up.

Mr James: Yes.

The CHAIRMAN: In 2009 with the stimulus and others it started trickling back the money, particularly first home buyers.

Mr James: Yes.

The CHAIRMAN: But even those were slow.

Mr James: Yes.

The CHAIRMAN: They kicked in in June, if I remember correctly.

Mr James: Yes, that is right. In fact a fraction later.

The CHAIRMAN: Okay.

Mr James: We got very aggressive with that and the settlements for the first home buyers market, which started to come through, did not occur for the project until sort of late 2009, early 2010.

The CHAIRMAN: Really? Wow. What was the slowness about; just getting through the —

Mr James: Getting through the process. I mean, it was a 90 to 120-day process for a first home buyer to get approval.

The CHAIRMAN: That was a big incentive on your blocks, if you sell them for 120 and the incentive was \$21 000.

Mr James: Yes, and the builders are then giving incentives on top of that.

The CHAIRMAN: Okay.

Mr James: And that is what I am saying: with hindsight, I should have withdrawn that offer when we started selling the lots at that sort of price, but we did not—so my view on that was that we had a commitment that we needed to make and hold and honour, but, you know, as time has worn on, it has just become impossible for me to continue to carry it.

The CHAIRMAN: When you sold the blocks in 2009 for 120 or so, basically all those proceeds went to pay back, to meet the loan, the bank's requirement for cash.

Mr James: Yes.

The CHAIRMAN: So you had no free cash flow.

Mr James: No.

Mr W.J. JOHNSTON: Can I just ask: you said that you bought the block that turned into this estate in, I am sorry, 2006?

Mr James: No, no, no. We probably settled on it in 2006; we bought it in 2005—early sort of 2005.

Mr W.J. JOHNSTON: Who did you buy it off?

Mr James: It was one of the neighbours. In fact, it was a rural block, which is why we had to go through a town planning process. And in fact that in itself was flawed because we adjoined a subdivision, but we got significant objections in relation to building a residential subdivision alongside. I mean, the pain and purgatory of that process is just crazy.

Mr W.J. JOHNSTON: Which local government is that?

Mr James: Dardanup. And, look, we got through; that is okay. But then when it did get to WAPC, we had to go back through the process again.

Mr W.J. JOHNSTON: Because there was some technical —

Mr James: They had not advertised it.

The CHAIRMAN: Who—the shire?

Mr James: The shire. And it sat on someone's tray after—I am just trying to think of the planner at the time. He moved to Pinjarra, but it sat on someone's tray for three weeks, four weeks, so then they pushed it through. But when it got to WAPC, they said, "No." So we had to go back and start again. So, I mean, it was less than perfect, I can assure you, on what should have been a good project.

The CHAIRMAN: They were a target for first home buyers.

Mr James: Yes. I think the market was probably—I mean, 160 at the time, 165 —

The CHAIRMAN: That is pretty low at that price.

Mr James: It was probably first home buyers.

The CHAIRMAN: Yes.

Mr James: I mean, you are putting a house on top of that; you are getting to a house-and-land package for under half a million.

The CHAIRMAN: Quite easy.

Mr James: And at the time that was where the market was at.

The CHAIRMAN: Median house prices, pushing five point —

Mr James: It was pushing above —

The CHAIRMAN: Yes, it was over five.

Mr James: Over five. I mean, you can build a pretty good house, even outer metro, for, you know, \$1 000 a square metre—project homes. So, I do not think—it was not like we were overpriced. We were very cognisant of the fact that we needed to meet the market, and I think that was evident by the lots we sold in that first week. The fact that they did not settle was entirely another external issue altogether.

The CHAIRMAN: Sure.

Mr W.J. JOHNSTON: You have sort of answered this; you have given us this information, but I just wonder whether I could just get it down. How many lots was it in the development—was it 50?

Mr James: Fifty lots, plus —

Mr W.J. JOHNSTON: Plus a super block or something.

Mr James: Yes, a super block.

Mr W.J. JOHNSTON: And did they all include the incentive package?

[3.45 pm]

Mr James: All the lots did.

Mr W.J. JOHNSTON: To get the incentive, did the buyers have to do something to become eligible?

Mr James: It was on completion of their building there.

Mr W.J. JOHNSTON: Was it within two years or —

Mr James: I think it was—look, I cannot remember, Bill, to be honest with you. I would need to go back and have a look. But there would have been certain—it was a very typical fence and landscape package that would be used by Peet or Satterley or the like.

Mr W.J. JOHNSTON: Once they became eligible for the rebate, was there a commitment about time frame for Recreation Drive to complete the works?

Mr James: I think it was—look, the answer to that is probably yes. I mean, it was not written in stone that we will have your fence built within certain—I think what we were expecting was that we would sell the lots at the prices we were anticipating, and then we would keep a certain amount aside to build those. We started, I suppose, 2007. You set out with all the best intentions in the world —

Mr W.J. JOHNSTON: Sure.

Mr James: — but sometimes you do not see there is a train wreck coming the other way. As I said, I feel terribly upset for the residents down there. I am not sort of sitting here saying that we are in a house on the hill and I have put all my assets in my wife's name and I do not really care. I can assure you that is not the case. In fact, it is as far from the truth as you could get. I have received pretty bad—you know, a lot of emails, but in the end, what can I do? I can only respond to them and say, "Look, we've got nothing left." If I had the funds, I would pay, but I do not. As far as an investment goes, we have lost three or so million dollars down there, of which we were a significant shareholder of that entity personally. So, I mean, we had a house, we had a farm—we had all the trappings—and none of those are left.

Mr W.J. JOHNSTON: Sure.

Mr James: So, as I said, we are starting again, and that is okay, too. I mean, I accept that. So for the next five years we will just have to work. But, I mean, I am not sure where or how long I can continue to pretend that I can pay for the fences and landscaping at Rec Estate. I think there is somewhere along the line you draw a line in the sand and go, "Well, I'm sorry, but that's it; the cupboard's bare." Going forward, if you were asking me the question about, you know, whether you can fix this problem now or whether you can change the legislation so that it does not happen again, I reckon I am—there is a couple of comments I would like to make there in relation to them, and that is, yes, probably, they should go into a—what you do not want to do is overtly complicate something that should not be that difficult. In an ordinary market, I do not believe that you would need to, but I do believe that there probably needs to be something in place, but I do not quite know what that is. But, also, from the point of view of the banks refusing to settle, had we been able to put some of the money into the settlement agent's trust account for that to be drawn, then each lot—that could have happened. But the bank would not do that, and they also would not allow us to keep the GST. They said, "If you don't—if 100 per cent of the funds aren't settled in favour of the bank, we don't settle; and if you don't settle, we'll put you into receivership." So you are sort of sitting there going, "Right." What do you do? As I said to you, with hindsight, I should have just let it go into receivership and let someone else worry about it.

Mr W.J. JOHNSTON: What happened to the GST moneys?

Mr James: That is still to be resolved, so I have got that hanging around as well. You know, I am not without some issues, I can tell you.

The CHAIRMAN: Of course, the ATO might chase the bank.

Mr James: They might?

The CHAIRMAN: Chase the bank.

Mr James: Good luck. I mean, where is that going to finish up and what sort of a precedent does it set? Look, I do not know. I think the bank is—I do not know. I mean, we are not here to discuss the bank, I suppose, so you could leave that one aside for another day, but I could talk for hours on that.

The CHAIRMAN: Just one other question: of the lots that you sold, how many received fencing and landscaping packages in full?

Mr James: So how many did, like —

The CHAIRMAN: Yes, how many did receive it?

Mr James: God, I do not—honestly, Mike, I could not tell you, but I would think that in the early days we would have honoured all of those original contracts.

The CHAIRMAN: So the ones that you sold in 2007?

Mr James: Yes. I would think that they —

The CHAIRMAN: Could we get back to you and find out how many were —

Mr James: Yes, sure.

The CHAIRMAN: Okay.

Mr James: I mean, I am—as I said to you, I am not here to try and gild the lily or pretend that something like this has not happened. I do feel terribly, terribly responsible for a situation that eventually got out of control.

The CHAIRMAN: Yes. This is not a witch-hunt.

Mr James: No.

The CHAIRMAN: This is not at all; okay. What we are trying to do is just come to grips with the data about —

Mr W.J. JOHNSTON: Sorry. As you know, we have been talking to people who purchased land in the Recreation Estate.

Mr James: Yes; absolutely.

Mr W.J. JOHNSTON: Some of those people have said to us that they have been contacted by a company called James Corp Investments.

Mr James: Yes.

Mr W.J. JOHNSTON: Is this a business that you have got a role with as well?

Mr James: Yes. James Corp took over the role that Rec Estate was playing, I guess, and said—look, Rec Estate did not have any money, and that is where I personally was going to try and do the right thing, but James Corp would have only been able to do it had we finalised a couple of deals earlier this year, which is—when I went down and met with the residents I said, “Look, I’m happy to accept responsibility and try and do the right thing.” You can only do that if you have got income, and what happened was that particular deal that I was working on at the time we thought was going to settle, and in the end it did not, and that finished up—you know, we lost the best part of a hundred-odd thousand out of that.

Mr W.J. JOHNSTON: So you are talking about, say, 40 lots where incentives have not been delivered; that is in round numbers.

Mr James: Yes, that could be right. Round numbers, I would agree with that.

Mr W.J. JOHNSTON: And about, say, \$8 000 for the incentive package with all the landscaping and all the fencing.

Mr James: Yes. I do not know—it was about three grand, and the fencing was, depending on how big your fence—because some people just needed a back fence, so it would vary quite a bit, but I would say probably three grand each—three and three; six.

Mr W.J. JOHNSTON: Right; so six. I was going to say five, but six. So you are talking about two —

Mr James: Plus GST; so probably \$250 000 worth, and I think, had I been able to negotiate a better package with our supplier, I could probably have done that well within that price. But we—as I said, I went ahead and engaged a contractor to put up some of the fencing. Now he is still waiting to be paid. So that is just another issue.

Mr W.J. JOHNSTON: Sure.

Mr James: So it was not like I did not think that I was not going to be able to do it. I mean, we were as confident as engaging him and getting it moving on the basis that I thought this other project was going to settle, and that had not happened either, so, you know —

Mr W.J. JOHNSTON: But James Corp is still trading; it is still —

Mr James: Yes. It does not do anything. It has got some debt and has not got any income. There is a number of companies that I am involved in, but that does not help the cause. They do not have a huge amount of money in them. If they did—I know I have got, it would be, four or five current cases before the court on some—one of them is from a builder that we built with in 2005. I had two other partners then, but they are not here. There would be half a dozen purchasers of Recreation Estate that I have got court orders with, and do I want them? No.

Mr W.J. JOHNSTON: Sure. So when you say the word “we”, you mean Recreation Drive.

Mr James: Yes—well, and me personally. So I do not sit here for one minute and try and pretend that things are all rosy, because they are not.

Mr W.J. JOHNSTON: Sure; but there is a difference between people’s best intentions and their legal obligations, and I was just trying to differentiate between if it is Recreation Drive —

Mr James: Sure. Well, the legal obligation probably is that we have an obligation to pay for the fences, but where does that extend to? Is that just the directors, or does that extend to the investors or does it extend to where? Where does it start and stop? And if that is where it goes to, then what do I do? I go, “Well, I’ll ring the solicitor and say I’ll do a part X or go bankrupt”, and then where do you go? So I am not for one minute trying to remove my obligation of responsibility as a director of that company. You know, go and talk to St George and see if they will give you some money. That is the bit that frustrates me.

The CHAIRMAN: Have all the lots been sold?

Mr James: Yes.

The CHAIRMAN: And most of them were sold at the discounted price in 2009 and 2010?

Mr James: Yes.

The CHAIRMAN: Okay.

Mr James: Yes, and that is what I am saying. You have got it coming from about four or five different ways, with the extra interest, including penalty; your rollover fees with the bank. Then you have got some development costs that were not anticipated. Then you have got a 30 or 40 per cent reduction in price in some of the cases, and my only mistake was that we should have withdrawn that offer of the rebate when we started reducing the prices. Then we would not even be having this discussion. But I did not, and therefore we are.

The CHAIRMAN: Yes. As you mentioned, you might have been better, in hindsight, going into insolvency and let the —

Mr James: I should have appointed a voluntary administrator a long time ago.

The CHAIRMAN: Yes, and allowed them to separate assets —

Mr James: But you press on with the best intentions, and in the end it just comes back and bites you.

The CHAIRMAN: Yes—be out there with the tsunami.

Mr James: Yes, basically.

The CHAIRMAN: Are you okay to take a couple of written questions relating to things that we have discussed already?

Mr James: Yes; sure.

The CHAIRMAN: I have a closing statement. Thanks for your evidence. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections. The sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on a particular point, please include a supplementary submission for the committee's consideration when you return your transcript. Okay. Thanks very much.

Mr James: Yes. That is fine.

Hearing concluded at 4.00 pm
