

## **KARRINYUP LAKES LIFESTYLE VILLAGE**

### *Grievance*

**MR A.P. O’GORMAN (Joondalup)** [9.13 am]: My grievance this morning is to the Minister for Commerce, and it is about the Karrinyup Lakes Lifestyle Village. It is a bit unusual for me to be raising this grievance because I am not the relevant local member, albeit the local member is working very closely with the residents of the Karrinyup Lakes Lifestyle Village. I was a member of the Economics and Industry Standing Committee that undertook a review into the lifestyle village, as were you, Mr Speaker.

Concern was raised with me again by the Karrinyup Lakes Village Residents’ Association in a letter I received last month, despite the fact that the committee had conducted the inquiry last year and handed down its findings and recommendations in a report. As members can see, it is quite a substantial report and a lot of work went into it. The findings were very disturbing in as much as they revealed that the developer that built Karrinyup Lakes Lifestyle Village, Moss Glades Pty Ltd, continually took advantage of the senior residents of the village.

The committee undertook the inquiry as a result of a motion moved in this house by the former member for Carine, Katie Hodson-Thomas. As a result, agreement was sought to send the issue to the Economics and Industry Standing Committee. Following the committee’s report, the Department of Consumer and Employment Protection lodged its response in this house in December last year. I have to say that it was quite a respectable response. However, my concern with the response was that it relied very strongly on the fact that Moss Glades had employed a management agent to run the village in accordance with one of the standing committee’s recommendations.

That was fantastic. The person employed was Miss Sigrid Adams, and I spoke to her in the past week or so. She is a truly professional person and was moving to implement some of the committee’s recommendations and to bring the village up to industry standard. However, after six months of involvement and after having gained the trust and support of the residents of the village, Sigrid was removed by Moss Glades. The village now has in place a management regime that is not professional, does not seem to know the code in the Retirement Villages Act and has reverted to the old ways of persecuting the residents.

I acknowledge many of the residents who are in the gallery this morning.

This is not a criticism of DOCEP; it is a criticism of Moss Glades because it has completely ignored the committee’s recommendations of the Parliament of this state. It has also completely ignored the Retirement Villages Act and the codes within it. If you will indulge me, Mr Speaker, I will read some of the issues raised by Miss Adams, and thereby bring it to the attention of this house and keep on the record that there are serious problems at this lifestyle village. The department is revising the act and will be bringing forward new legislation in the very near future.

At the moment, the act does not have the teeth to enable the likes of Moss Glades to be prosecuted to the full extent of the law—that is, to have the courts force Moss Glades to do the right thing by their residents.

The following is an excerpt from a residents’ committee document containing Miss Adams’ comments —

After giving serious consideration to my position at Karrinyup Lakes Lifestyle Village I have regrettably come to the conclusion that without the authority to manage the village in the spirit, and with integrity of the industry, Village Support —

That is Miss Adams’ company —

is unable to continue its commitment to KLLV. I am currently unable to communicate at a professional level with Moss Glades (namely Eion Martin) and their management of the village and residents requests is offensive.

This actually reflects what the committee found and it is continuing. Her comments continue —

My quarterly review is due on the 3<sup>rd</sup> March and I intend to forward a proposal that I continue ONLY with a contract that incorporates a full management appointment that will include the services of a qualified independent accountant to ensure accuracy.

She is referring to the fact that the accounts for the village have not been presented appropriately in due time to the residents’ association and, therefore, the residents are in fear of their funds being lost. The residents are also concerned that Moss Glades is now advertising and selling further units and intends to do that for some time to come. That is causing a major problem.

You will recall, Mr Speaker, that maintenance at the village was a big issue. Miss Adams’ letter continues —

- ... maintenance is being achieved in a highly disorganised fashion with no preventative maintenance or planned schedule to follow. Village Support is unable to control maintenance as a budget has not been specified. V.S. is powerless to deliver on maintenance items and must take all requests to Moss Glades.
- Building warranty inspections-have not been undertaken in the majority of units

Moss Glades' behaviour has gone back to exactly the way it was, again showing its complete contempt for the Parliament and for the standing committee's report.

There is only one way forward on this issue. Yes, the revision of the act will help the village, as it will other residents and developers. However, I am asking the Treasurer and the government to fund a civil action against Moss Glades on behalf of the residents so that we send a very clear and very strong message to all developers of retirement villages that they cannot exploit our seniors and that if they do, the government will come down hard on them. The member for Carine and I have been talking and working with the residents. This is not about gaining political points; it is about all members in this chamber coming together to fight unscrupulous developers and unethical behaviour in the business sector. We should have the highest ethical standards. Across the rest of the retirement village industry there is a very strong code of behaviour and very strong business ethics. I know that it is springing it on the Treasurer to ask for \$100 000 to begin to mount the case, but it is really important that we strongly represent senior residents in our community and make sure that these developers do not get away with this.

**MR T.R. BUSWELL (Vasse — Minister for Commerce)** [9.21 am]: I thank the member for Joondalup for raising this issue, and also acknowledge, as he did, the work the member for Carine is doing on this matter. He is constantly providing me with updates on the village, as is the Department for Commerce. The member for Joondalup is right: it is not a political issue; it is about looking after a group of people who have made a very important investment decision at a very important time of their lives. Fortunately, this developer is not reflective of the vast majority of developers in this industry. However, the message I have received loud and clear in correspondence from residents, the standing committee report and correspondence from the department is that this developer is doing a disservice to not only the residents at the village but also the industry as a whole.

As a result of the Economics and Industry Standing Committee's report into the Karrinyup Lakes Village a number of positive things have occurred and there have been some steps forward, although I acknowledge that in recent weeks, following the departure of the manager, it appears that there has been a reversion back to the bad old days. As an example of positive developments, my understanding is that despite the process being like drawing blood from a stone, at long last the clubhouse has received building approval and is under construction. A number of uncertainties in the planning process have been addressed with the City of Stirling, although some matters are still being discussed or worked through with the State Administrative Tribunal, as the developers have launched some objections. As the member noted, the department's response to the Economics and Industry Standing Committee's report has been tabled, and the department is working through the commitments it gave in that response.

As the member pointed out, this is an awkward issue. My instruction to the department has been to take the strongest possible action it can in this matter. The member highlighted the complications that arise because of the interplay between the Retirement Villages Act 1992 and the retirement villages code under the Fair Trading Act 1987. As I understand it, the department has on three occasions sought undertakings from Moss Glades and its directors on a range of matters. As the member is aware, these undertakings are required as part of the code. One of the undertakings was to seek to force Moss Glades to comply with the provisions of the code of fair practice for retirement villages under the Fair Trading Act, specifically to promptly market properties for residents who wish to sell. As the member pointed out, this is a major issue. Moss Glades has failed to respond, and consequently the department sought an enforceable undertaking at the SAT in February. The SAT set a date for the matter to be mediated—today—and despite Moss Glades requesting that the matter go to mediation, the company's solicitor informed the department late yesterday that the company no longer wishes to mediate, and now requires a hearing. We will now have to wait for the SAT to determine the time of the hearing.

After seven months of delays by Moss Glades, a real estate agent, Gerald Major, has received exclusive authority to market two residents' lease loans. However, Moss Glades failed to supply Mr Major with the required disclosure and promotional material by 18 March 2009 to enable units to be marketed. This is quite remarkable, and I can only imagine the stress it has put those people under. There has been some interaction between Moss Glades and the residents about the payment of a fee. I raise this issue because Mr Major is unable to progress negotiations with interested buyers until Moss Glades provides the necessary disclosure material. He has basically suspended the marketing of the property. The department is pursuing that, and yesterday I gave permission under the Consumer Affairs Act 1971 for the commissioner to instigate civil action on behalf of two

residents against Moss Glades. My view is that, as we reach checkpoints in this process at which we can take legal action, we will do so.

**Mr A.P. O’Gorman:** Is that for the two residents who are selling?

**Mr T.R. BUSWELL:** That is for those two residents. The member for Joondalup raised a broader issue, and I will ask the department to investigate that. I can only give an undertaking to the member and to all the residents. I understand the frustrations of the process, and we are trying to fix the process under the act. However, when we hit checkpoints in that process at which legal action can be taken, we will stand side by side with the residents and defend their rights in this case. The member is right: this is not a political issue. The government will do everything it can within the flawed legal framework under which it must currently operate to protect the rights of the residents. I was very happy to sign an authority yesterday so that the commissioner can, at least in the first instance—I think this is the first time we have been able to take legal action—work with the residents through the court process. That is something that the commissioner will do on behalf of those residents who have formally notified Moss Glades that they wish to terminate their arrangements.

I will not go into the full details, but my advice is that the commissioner is currently gathering evidence to support the civil action. The commissioner has already advised Moss Glades of her intention to represent these residents if the matter is not resolved. The time for talk is over in relation to this matter. The commissioner can take civil action for damages on behalf of the residents under the Consumer Affairs Act for claims up to \$40 000. We are still working through the issues regarding what case we can legally mount, but we will exercise the full capacity we have under the law to protect those residents. I hope that this starts to send a clear message to Moss Glades that it can delay and defer and bluff and all these sorts of things in a whole range of processes, but when we get to certain points—we are trying to reach those points at which we can take legal action as quickly as we can—we most certainly will take action.

It has been suggested to me that there are issues around Moss Glades trying to force the residents to pay a facilities fee on termination. Our advice is that that is not legal. My message to Moss Glades is that if it tries to do that it may well be liable to prosecution under the Retirement Villages Act. I give an assurance to the residents that we will seek legal remedies wherever we can. I will seek further advice from the department on the broader issue of civil action, but when we reach checkpoints where we can take strong legal action, we will do so. We will fund the legal action and we will prosecute Moss Glades to the fullest extent of the law, because its behaviour in this matter has been nothing short of disgraceful. Everyone in this Parliament owes it to the residents of that community to help bring these issues to a resolution.