

MEMBER FOR BALLAJURA

Traffic Infringement Notices - Personal Explanation

MR J.B. D'ORAZIO (Ballajura) [3.03 pm]: I would like to make a personal explanation to the Parliament.

Leave granted.

Mr J.B. D'ORAZIO: I would like to report to Parliament on the ongoing saga of the member for Ballajura versus the Fines Enforcement Registry. In August 2005, I received a traffic infringement notice for driving at 67 kilometres an hour. I was handed the infringement notice by a police officer at the side of the road. I provided my correct address of 137 Leake Street, Bayswater, as required under the Road Traffic Act. The address was recorded on the infringement notice. On or about 27 September 2005, I posted a cheque for the infringement notice to the payment centre. On 25 October, I received a traffic infringement notice for exceeding the speed limit by between 10 and 19 kilometres an hour. I was handed the infringement notice by a police officer at the side of the road. I provided my correct address of 137 Leake Street, Bayswater, as required under the Road Traffic Act. The address was recorded on the infringement notice. On 22 November, I gave my wife a cheque to pay for this at the Morley Post Office. She was, however, informed that the payment was one day late and could not be accepted. She was advised to wait until the next notice, which was required to be sent by law. I did not receive any further notice in relation to these fines. Both these fines were as a result of infringements issued by a police officer in person at the side of the road. They were not Multanova fines or traffic-light camera fines.

On 24 April 2006, an item of mail from the Fines Enforcement Registry, addressed to me at my old address of 8 Forster Way, Noranda, was handed in at my electorate office in the Centro Galleria shopping centre, Morley, by the current resident of 8 Forster Way. He had written on the envelope words to the effect "RTS - told you before, does not live here". I had not lived at Forster Way since February 2002. The notice purported to suspend my licence effective 13 April 2006 for non-payment of traffic infringement E459832 relating to the speeding offence committed on 25 October 2005. Within hours of receiving this notice, payment was made by my wife. She checked to see whether I had any other outstanding matters with the Fines Enforcement Registry. She was informed that a separate fine suspension of my driver's licence was in place effective 22 February. It related to a speeding offence that was committed on 31 August, the fine that I believed had been paid. This fine was also paid on 24 April 2006. On 25 April 2006, I attended the FER and spoke to the acting registrar, Mr Geoff Watson. I explained the circumstances to him - that my licence had been suspended illegally - and requested that the suspension orders be rescinded. Section 5(2) of the Fines, Penalties and Infringement Notices Enforcement Act 1994 states -

A document issued under this Act may be served by post on a person by properly addressing and posting it by pre-paid post as a letter to the person at the person's last known address.

Section 5(4) reads -

In the absence of an address for a person from other sources, a person's last known address may be taken to be the person's current address shown in the records of the Director General.

All notices were sent to Noranda, even though my current and correct address was shown on the infringement notice, which was clearly contrary to the act. The acting registrar advised that the orders could be cancelled if there was a good reason to do so as provided in the relevant legislation. He indicated that there was good reason in my case and requested that I leave him copies of the relevant documents to support my position. He advised me that, because of who I was, he would write to me to confirm the cancellation of that order after he had crossed the t's and dotted the i's.

On 4 May 2006, I received a letter from the FER stating that my licence suspension would not be rescinded. On 7 May 2006, I swore an affidavit before a justice of the peace, which included all the facts that I outlined above. On 8 May 2006, Justice Templeman held an emergency hearing in the Supreme Court and all the evidence was presented. The matter was adjourned. On 23 May 2006, Justice Hasluck ruled that the state had a case to answer in relation to my fine suspension. Given that my case could affect thousands of Western Australian residents, he referred the matter to the Court of Appeal to be heard before three justices. On 29 June, the State Solicitor officially conceded that the procedures used by the registrar were incorrect and illegal and that at no time had I driven while under suspension. Laura Christian, assistant state counsel, wrote a letter on 7 July 2006. It reads -

In our view, the consequence of the invalidity of the licence suspension orders is that they were invalid from the time they were made and for all purposes. Therefore, they can be treated as if they were never made in the first place.

That was some comfort for me! It continues -

Further, he -

That is, the Acting Registrar -

has notified the Department of Planning and Infrastructure of the steps he has taken and of the consequence that your client's licence was never suspended.

My legal counsel questioned the power of the registrar to retrospectively amend one's records. The matter was listed for a full hearing. The State Solicitor argued that the registrar has that power and stated that my records have been amended. Last Friday, 14 September, I was awarded \$15 000 compensation in lieu of costs from the state government. The matter has been terminated. I have never had my licence suspended, nor have I driven without a licence. This matter is now at an end. As members may be aware from the history of this saga, it has been a painful period for me.