

KARRINYUP LAKES LIFESTYLE VILLAGE — RETIREMENT VILLAGE LEGISLATION

Motion

MR A.P. O’GORMAN (Joondalup) [4.27 pm]: I move —

That this house condemns the Barnett government for its lack of action in bringing forward legislation to amend the Retirement Villages Act 1992 as per the recommendations of the Economics and Industry Standing Committee inquiry into the Karrinyup Lakes Lifestyle Village and in refusing to acknowledge the victimised elderly residents who are suffering under their unscrupulous owners.

I bring this motion on today because we have now had —

The ACTING SPEAKER (Mr J.M. Francis): I ask that members who want to leave the chamber should leave the chamber. I need to hear the member for Joondalup and I cannot hear him because there is far too much background conversation.

Mr A.P. O’GORMAN: Thank you, Mr Acting Speaker. I am raising this motion today about the review of the Retirement Villages Act 1992 because of an issue that was raised in this place by the former Liberal member for Carine, Katie Hodson-Thomas, in March 2008. That member, who actually cared about her constituents, particularly the ones in the Karrinyup Lakes Lifestyle Village, moved a motion in March 2008. I will read it out again so that everyone is clear about it. It reads —

That this house calls on the government to investigate the entire manner in which the directors of Moss Glades Pty Ltd have acted in regards to the development of the Karrinyup Lakes Lifestyle Village, who have repeatedly ignored many local and state government regulations established to protect residents in retirement villages.

The former member for Carine detailed the major issues surrounding the Karrinyup Lakes Lifestyle Village. I want to acknowledge some of the residents from that village who are here today—the long, enduring residents, some of whom have been in that village now for seven years. That motion was moved in March 2008 to try to get a resolution to the problem at Karrinyup lakes. Following that resolution, a number of government members at that time responded and talked about issues in their own electorates around lifestyle and retirement villages. The then Minister for Consumer Protection, Hon Sheila McHale, spoke about the Karrinyup Lakes Lifestyle Village, and, with the agreement of the former member for Carine, she moved an amendment to the original motion that had been moved. I am just providing some background so that members who were not in the Parliament at the time will understand where we are coming from. The then minister moved that the motion be amended so that the following matter be referred to the Economics and Industry Standing Committee —

The actions of Moss Glades Pty Ltd, and its individual directors in relation to the development of the Karrinyup Lakes Lifestyle Village, and in particular the extent to which local government and state legislative and other requirements for the protection of residents in retirement villages have been complied with.

The Economics and Industry Standing Committee undertook over a period of months an inquiry into the Karrinyup Lakes Lifestyle Village. It found many things that had not been done correctly in that village. It compiled its report, and it made a number of findings and recommendations, not the least of which was the recommendation that the Retirement Villages Act 1992 be reviewed. That review has been underway for a number of years. However, the elderly residents of this village are still being persecuted by the management of this village. Therefore, in April this year, I believe it was, I brought a grievance into this place. The member for Vasse, who was at that time the Minister for Commerce, responded to that grievance and committed an amount of money to fund some court cases against the management of Karrinyup Lakes Lifestyle Village.

We are now a number of years down the track from when the original motion was moved by Katie Hodson-Thomas, the then member for Carine, and there still has been no progress on this matter. We still do not have in this place any notice of legislation that will be brought in to amend the Retirement Villages Act 1992. That was a key recommendation of the inquiry, and it was a recommendation that the good people in the gallery relied upon and hoped would fix some of the problems in this village.

I have received some correspondence from the residents of this village. I am sure I have not been singled out; I am sure I am not the only member who has received this correspondence. With your indulgence, Mr Acting Speaker, I would like to read from some of the letters that have been sent and some of the comments that have been made via email to my office about this lifestyle village. I know I am not allowed to read these comments in their entirety, and I will try to make each excerpt as short as possible. The first letter I will read is from Bernie Sheridan. I trust he will not mind my using his name —

Extract from *Hansard*

[ASSEMBLY - Wednesday, 20 October 2010]

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Mr Tony O’Gorman; Mr Tony Simpson; Mr David Templeman; Mr Mick Murray; Dr Janet Woollard; Mr Tony Krsticevic; Mr Bill Marmion; Acting Speaker

Since June 2008 (28 months) we have had 4 managers and acting managers on 3 occasions. The acting managers have been either the owner or secretary.

When we held the inquiry, the owner, Eion Martin, was the manager, and he was the person who was causing most of the problems. The recommendation of the committee was that he be removed and that a manager be put in. The letter goes on to say —

Of the managers employed only one was experienced in retirement village management. Her contract was terminated after 6 months.

I know this lady. When I spoke to the residents of this village, they were very happy with this lady, because she knew how to run a retirement or lifestyle village, and she was doing that according to the act. But obviously Mr Martin did not like that, so he had her removed. The letter continues —

The other two managers resigned suddenly.

No reason has been given for why they resigned. The letter continues —

The residents have to pay for the cost of training the manager. AND THE MANAGER IS TRAINED BY MOSS GLADES!

That is a shame, because one of the recommendations of this report is that the managers should be trained properly and have the proper qualifications. The letter continues —

The last manager was employed from 24th May and resigned after 4 months and at a cost to residents of approximately \$8000 for 4 hours per week.

Again this is contrary to the SAT Orders quote “acting expeditiously to ensure that a competent, qualified manager is appointed to manage the Village.”

Presently we have **no manager** and Len Whyman is acting manager again.

Len Whyman is also one of the owners of Karrinyup Lakes Lifestyle Village. The letter continues —

We have been forced into a Dispute Resolution Process which can be manipulated to be costly to residents and therefore will not be used by them. So we have no avenue of complaint.

Any complaint to Consumer Protection which necessitates them taking issue with Moss Glades results in an increased cost to residents of an estimated \$10,000 which is confirmed by a notice pinned to the village notice board by Moss Glades.

I assert that this way of dealing with this matter—for Moss Glades to stick up a notice saying that if the residents make a complaint, it is going to cost them \$10 000, and that is the way Moss Glades is going to move from now on—amounts to a bullying of these elderly residents.

In April this year, I believe it was, I brought a grievance into this place.

Dr J.M. Woollard: Is your motion specifically about this village?

Mr A.P. O’GORMAN: No. It is about retirement villages in general. But this inquiry recommended that a review of the act be instigated, and we are still waiting for that bill to come into this place.

Dr J.M. Woollard: So this is in relation to all retirement villages, because I have had complaints from the retirement villages in my electorate —

Mr A.P. O’GORMAN: There are many retirement villages. What I am trying to highlight is the duress, the stress and the angst that these people have been put under. Bear in mind that this is a retirement village, so people need to be over the age of 55 to get into it. In this particular village of roughly 200 residents, the majority are aged 70 and 80. I have received a letter from a lady who is over 90 years of age. These people are being victimised all the time. I am trying to highlight the extent of that victimisation so that the minister will understand that it is imperative that he get a bill into this house so that we can debate it and put in place legislation that will protect not only these residents, but the residents of all retirement and lifestyle villages in Western Australia.

This is a matter that has come back to me a number of times. It is very close to my heart. I have also spoken with the former member for Carine, Katie Hodson-Thomas. She is very concerned that this matter has taken so long. The chair of the committee at the time, Hon Bob Kucera, rang me this morning to say that he is watching this matter very closely. People in other retirement villages around the state are also watching this matter very closely. Other members may get up to speak in this debate to raise similar issues in their electorates.

Dr J.M. Woollard: Will you be discussing their contracts as part of your contribution?

Mr Tony O’Gorman; Mr Tony Simpson; Mr David Templeman; Mr Mick Murray; Dr Janet Woollard; Mr Tony Krsticevic; Mr Bill Marmion; Acting Speaker

Mr A.P. O’GORMAN: I want to tell members about the victimisation of these people. I know this is not going to happen by the end of this week. But even if the minister can get this legislation into this place at the next sitting in early November, the earliest we will be able to deal with it is February–March next year. If the minister does not get this legislation in by November and he does not bring it in until February–March next year, it will be another three weeks from then, and then another three weeks, and before long we will be halfway through 2011 and I will be moving this motion again in October next year. I do not want to do that. I want to impress upon the minister the need to get this legislation into this place now.

I now want to go back to the letters that I have received. The letter that actually kicked this off for me was a letter from Mr Bob Ascott. The letter reads in part —

Believe it or not, we have now been charged for legal fees incurred by Moss Glades for an action at the State Administrative Tribunal brought by Consumer Affairs against Moss Glades ...

The amount is \$53,440 with more charges to come.

I will outline those charges later. The letter continues —

This is the first time I have heard of a third party having to pay the legal fees for a defendant in a case brought by a Government Department.

Today, there are over 200 Retirement Villages in Western Australia and over 200 000 residents; and if these owners are allowed to do this; —

That is, charge their legal costs back to the residents —

it could have ramifications for the whole Retirement industry.

Other members also have retirement villages in their electorates. If Moss Glades can get away with this, the managing agents of all these other retirement villages will be able to do the same. I am not saying they are all unscrupulous, but it will leave that option open for them.

I will whiz through this, because we have wasted a lot of time this afternoon, and I would like to get some more things on the record. I have another letter from an elderly resident named Rosemary, who lives in the village —

Prior to the last State election I was among a group of residents who met with members of Liberal party hoping to be elected (including Colin Barnett now Premier) at Gwelup Plaza Shopping Centre and there seemed to be tacit support for the plight of the residents here.

I will just read that paragraph because, later on, I go back to that when I refer to another letter from another person at the village. I will refer to another letter to highlight that it is not coming from just one or two people. This is right across this village. Every single resident in that village is feeling victimised and pressured. This one reads —

I have lived here since March 2004, I am a 24/7 Carer for my husband who was seriously disabled by a stroke 8 years ago. I have enough stress in my life, just managing from day to day. The added pressure of village problems is a burden I did not envisage and it is affecting our health. We are Pensioners, and have not the cash to move elsewhere without selling this Unit. The village houses are not selling, the village is not yet completed, and for some of us, it is rather like living on a building site. It is dusty, dirty and an eyesore. Our neighbours here are wonderful, we get on so well —

The only saving grace is that these residents come together and support each other in the community.

I will read a further letter. I am dropping the names because I do not want these people to be individually victimised. This letter reads —

We are now being charged in total —

This is adding on to the \$55 000 that I spoke about earlier —

\$88 400 this year for legal fees incurred by the owners I and others on this village are on a government pension how can we pay these costs?

Dr J.M. Woollard: This is the legal fees against the residents themselves?

Mr A.P. O’GORMAN: The legal fees that Moss Glades is claiming because the department took legal action in the State Administrative Tribunal. I will continue reading —

I can’t sell my unit, I am a prisoner on this village. I have been waiting nearly seven years to get flooding fixed even though there was a court order last may saying it had to be done. I am still waiting.

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Mr Tony O’Gorman; Mr Tony Simpson; Mr David Templeman; Mr Mick Murray; Dr Janet Woollard; Mr Tony Krsticevic; Mr Bill Marmion; Acting Speaker

Members can see that Moss Glades is still not complying with state law and is not complying with local laws either. Since the former member for Carine, Katie Hodson-Thomas, brought this issue to this place and a report has come down, nothing substantially has changed. These poor residents are bearing the brunt of it.

I am a fair bit younger than the residents who are seated in the gallery—I am glad to say that I am 52!—and if I had these sorts of stresses, I think I would have walked away by now. At my age, if I had those sorts of stresses, I would have just chucked in the towel. I pay credit to these people for having the guts to stand up to this bully and to bring it back to us again.

I have a further letter that reads —

After your grievance motion on our behalf, we had hoped for better things for this village but no, if anything things are worse. Moss Glades Pty Ltd is now charging the residents \$53,440.00 for their legal fees, with the provision for an additional \$35,000.

That is where we get up to \$88 000. It continues —

We think this is quite wrong and unreasonable.

We have an unfinished clubhouse, fitted with sub-standard minimal furnishings, no pool or outdoor area and yet we have a levy being invoiced to us monthly.

We still cannot sell the lease on our unit, as Eion Martin still controls the management of the village, despite the ruling of the State Administrative Tribunal that he was not to be involved in any way.

I thank the Acting Speaker for his indulgence as I have got two or three more letters. This one reads —

This letter from the committee is also attached and I thought you may be interested in the last paragraph. This commitment was given by the Premier to a group of residents on 4 September 2008.

I referred to the residents meeting with a group of Liberal members, of which the Premier was one. Continuing —

Residents were expecting that the Review of the Retirement Villages Act when brought before Parliament would go some way to resolving the failings of the present Legislation which unscrupulous Developers used to their advantage. We now fear that there may be further delays and even possible objections to the proposed legislation by interested parties.

This was a letter to the Premier. The letter goes on —

The commitment you gave to us that, if elected as Premier, you would implement the Findings and Recommendations of the Inquiry has enabled us to believe that good Legislation will bring to an end the sorry saga of Karrinyup Lakes Lifestyle Village.

Even the Premier has made a promise to these people that he will implement these recommendations, and he will implement them in the review of the Retirement Villages Act, and that would resolve their issues. We are here in October 2010 and, as yet, no review of the act has come to this place. We have heard that some of the recommendations in the review are not in keeping with this report. I do not know that yet for sure; it is hearsay that has been fed back to me. I hope the department, through the minister, is taking all these matters into consideration. I hope that when the minister introduces legislation, it is legislation that we can pass through this place pretty quickly because it is urgent to get it through. It will only get through this place quickly if it covers the relevant issues that have been raised time and again in this place. If it does not cover those issues, I, for one, will try to find as many amendments as I can to make sure that legislation comes up to scratch. There is no point in us putting through legislation that pays lip-service to the residents of Karrinyup Lakes Lifestyle Village. All the residents want to do is enjoy their retirements. That is why they moved into a lifestyle village. They moved there so they would not have the large gardens and they would not have to take care of all those things that normally go with a house on a normal suburban block. They downsized to these villages. There is management in place in these villages. There is maintenance done to the common areas. There are places for them, normally, to park their caravans, boats and whatever other accoutrements they have gathered over their lifetime. They also want the socialisation available in these villages to be able to go to a properly furnished and comfortable clubhouse. That was promised to them in the information given to them before they bought into this lifestyle village.

We are still in a situation in which these unfortunate residents are trapped. One of the letters, which I have not read out, refers to a resident feeling as though she is imprisoned. She is afraid to go outside her door because Eion Martin intimidates her. She is afraid to speak up. She also cannot get out to her neighbours in a common room in the clubhouse because it is not completely finished. She cannot get the exercise because there is no pool. Aquarobics, or exercise in a pool, is far less stressful on the body than going for a walk or anything like that. It is

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good to exercise in a pool. These are things that have to be done. These residents cannot onsell their leases because these things are not there. One of the unfortunate things about politicians like me raising this in the public eye again is that everybody knows there are problems with that village, and that makes it harder for residents to onsell their leases. The only person who can onsell those leases at the moment, or the only person who has been involved in it—again this is against the recommendations—is Eion Martin. I have been informed verbally that he is not putting anything about it in a prospectus. He has put nothing in writing about onselling these leases to other people; it is all word of mouth. That is dangerous because when somebody says, “But you said we will get this”, he will say, “No, I didn’t.” I believe he is so unscrupulous that he would say that and he would lie. I am asking the minister to bring this legislation on. This is a motion of no confidence, basically, in the government because we have waited so long. The department has been onto this. It knows about it and the minister knows about it. I am wondering whether the minister has managed to read this report yet. He has—good. He will know the recommendations. The previous minister gave great support to this. I hope he will support this motion so that we can get this legislation into this house as quickly as possible to alleviate the stress and pressure that should not be on these people. These are their retirement years. They should be able to live them out in peace. They should be able to get in their caravans and cars and wander up or down the coast or take their boat out and be very relaxed about coming home, and they are not. I ask the minister in his response to give me a direction or a commitment that this legislation will be before us by the end of the year.

MR A.J. SIMPSON (Darling Range — Parliamentary Secretary) [4.50 pm]: Whilst in opposition I was a member of the Economics and Industry Standing Committee that carried out a review into the Karrinyup Lakes Lifestyle Village as a result of a motion moved by the former member for Carine, Katie Hodson-Thomas. I will recapture the events of some three years ago for members present. In 2008 the citizens of the Karrinyup Lakes Lifestyle Village brought a grievance to the member for Carine about the issues they had with the lifestyle village. I looked back through the *Hansard* of 12 March 2008 to find that the member asked the government to carry out a review of the regulations governing bodies such as the Western Australian Planning Commission, local government, the then Department of Consumer and Employment Protection and the State Administrative Tribunal to ensure that more penalties are available and, more importantly, utilised by those bodies when regulations are deliberately ignored or flouted. It was definitely a sad saga. The member raised a number of issues relating to the directors of Moss Glades Pty Ltd, Mr Eion Martin and Mr Leonard Whyman. The member for Joondalup outlined where we are at the moment. Members may not be aware that Mr Martin was a councillor of the City of Stirling in 1977. He was also subject to a formal investigation by the then Department of Local Government and Regional Development in August 2000. The report of the investigation was tabled in the house on 20 September 2000. It found that Mr Martin had used his position to gain personal benefit and had misled owners of other properties. The investigation was initially into events around Karrinyup Lakes Lifestyle Village, which was known at the time as lot 36, Gribble Road. The investigation soon expanded to examine two other matters of building approval that had been before the City of Stirling. I will give members some background to the directors of Moss Glades applying to the City of Stirling to have lot 36 rezoned in preparation for a high density development. It was refused by the City of Stirling in 1994. In the following year, 1995, Mr Martin sought to become a councillor of the City of Stirling. He did not succeed until 1997. Between 1998 and 1999 a number of attempts were made to have lot 36 rezoned and, as appropriate, Mr Martin declared his interest and took no part in those decisions. He may as well have been there during that process because he used his influence.

In the 2000 inquiry a number of complaints were received from landowners near both lot 36 and elsewhere that alleged Mr Martin had intimidated them into changing their building plans and, further, that he would otherwise use his position as a councillor to delay approvals, which would inevitably cost them money. The report of the Department of Local Government and Regional Development stated that Councillor Martin’s assertion of concern with adherence to requirements were not echoed in his actions in relation to lot 36. Requests made to Councillor Martin or Moss Glades by the City of Stirling that activities on lot 36 be brought into compliance with council requirements were met with non-compliance. In her speech, the former member for Carine went on to talk about how Mr Martin became a councillor of the City of Stirling. She queried whether he was motivated by community service or self-interest. When he sought re-election in 2005, he was not successful.

A number of serious problems were associated with the development of the Karrinyup Lakes Lifestyle Village and getting the approval of the directors of Moss Glades. The directors applied to develop a retirement village at lot 36, Gribble Road, Gwelup in 1999. Problems emerged between the developers and the City of Stirling from the outset, with the developers being extremely reluctant to obey conditions set down by the City of Stirling. The council subsequently refused to grant development approval on 23 July 1999. We should bear in mind that Mr Martin was actually a councillor of the City of Stirling at this time and was later found to have misused his position in seeking to establish this development. The directors of Moss Glades took the matter to appeal. That decision was overturned by the then Minister for Planning and Heritage, Hon Graham Kierath, on 15 August

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2000. The decision allowed the developers to proceed. The City of Stirling imposed a number of conditions, which, again, the developers appealed to the then Minister for Planning and Infrastructure. They were upheld in April 2003. It is important for members to realise that when the minister upheld the appeal related to condition 3, which related to a gate being constructed on a private road with a right-of-way easement and in favour of the City of Stirling for the provision of council services, part 2 of condition 3 was deleted.

The developers obviously felt empowered by their ability to bypass the decisions and judgements of council. They found ways to get to where we are today. The City of Stirling did a good job in trying to keep Moss Glades accountable from the beginning. In 2003 and 2004 the City of Stirling took the unusual step of instituting legal action against the developers for their refusal to obey council directives. Finally, in January 2007 the City of Stirling wrote to the Minister for Planning and Infrastructure about Moss Glades as the developers had built 32 of the planned 52 dwellings, yet had failed to apply for and gain subdivision approval. It was interesting that the developers still found time to continue to market and sell those dwellings. Forty dwellings were completed by 2008. It seemed that they could not be bothered completing the planning approval applications or keeping the promises they had made to residents. In 2007 the City of Stirling asked the Minister for Planning and Infrastructure to resolve a number of outstanding conditions that the developer had still failed to agree to seven years after commencing the work. It is staggering that a lot of that has still not been resolved.

The member for Carine raised a lot of issues. I can go on for a bit longer but I do not want to take up too much of the house’s time. I guess members get the picture of where things are at. There is also the issue of the senior citizens centre that was going to be built. There was talk of having a hairdressing salon and a doctor’s surgery. That never happened.

There was also the problem of acid sulfate soils. The Gwelup area is very much a high wetland area. When water is drained off, the peat turns into acid sulfate and it needs to be removed. It was never done in the planning process. There were issues with getting a development licence from the Western Australian Planning Commission. The WAPC has still not concluded the process relating to planning approval. Mr Acting Speaker (Mr A.P. O’Gorman), you have raised some good points, being the chair of that committee. I looked back at the former member for Yokine’s speech to Parliament. I thought we presented a great report. The committee had all those hearings. The directors of Moss Glades were very smooth snake oil salesmen. Every question we put to them, they were very quick to put forward a reason or provide an answer or say it was not their responsibility. We identified issues in the report relating to the Department of Consumer Protection. I think I described it as a toothless tiger. It said it would write letters to residents but it did not follow through. There were a number of issues. I take on your concerns, Mr Acting Speaker, relating to the hearing when the residents came to give us their account of day-to-day living in that village. You are dead right; in the autumn years of life, people should be able to say that they have made a decision to retire and they should be the happier years of their lives, when they can spend time with their grandkids and travel et cetera. It was very, very hard to listen to these residents. I was in opposition when the report came down. Now that we are in government, we need to try to find a way to navigate through this. We need to look at the Retirement Villages Act 1992. We also have to resolve a number of issues relating to Moss Glades and planning areas and so forth. I do not know how Eion Martin sleeps in bed at night because he seemed to go through a process of taking people’s money and did not seem to have a conscience at all. We thought the report would have a flow-on effect and that a number of issues would be resolved. However, after hearing the member speak today, it appears that nothing has moved on and we are pretty much back where we were in 2008 when the report was tabled.

Again, I put it to the Minister for Commerce and those responsible for consumer protection and the Retirement Villages Act that we must look at the process and try to speedily resolve a number of those issues.

MR D.A. TEMPLEMAN (Mandurah) [5.00 pm]: This is very important. I acknowledge the comments made by the member for Darling Range. This is now very serious and the time for excuses or going back over history is over; it is now time to ensure that not only do the people of Karrinyup Lakes Lifestyle Village have their issues and concerns dealt with as quickly as possible, but also that the underlying issue for all other lifestyle and retirement villages throughout the state of Western Australia is dealt with. As members know, there are a significant number of retirement villages of various models in my electorate. Given the demographic of the population of Western Australia, and the number of people in the age group that is more inclined to look at a retirement village as a housing option or a place to call home, it is very, very important that we have in place legislation that keeps up to date with the phenomenon of retirement village living.

I salute you, Mr Acting Speaker (Mr A.P. O’Gorman), for bringing, in your capacity as the member for Joondalup, this very important motion to this place. I know that you are passionate about this issue and that you are well aware of the plight of the people in the gallery today. I am disappointed that more members are not in this place to listen to this very important matter that is up for debate in front of the community.

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Mr C.J. Barnett: There are quite a few on this side!

Mr D.A. TEMPLEMAN: I will go on to talk about the Premier because he made some very specific promises. He made some very specific promises two years ago and he has not delivered on them. He has not delivered on them! The Premier made some personal commitments to people and he has not delivered on them. He has a responsibility to respond as well.

As I was saying, Mr Acting Speaker, the phenomenon of lifestyle and retirement village living is of course increasing throughout Western Australia. No matter where we go in the state, we see more and more retirement village complexes being developed and marketed to a significant proportion of the Western Australian population. It is absolutely crucial that we have in place up-to-date and effective legislation to protect the interests of people from the Karrinyup Lakes Lifestyle Village, and also all those people who choose retirement village living as an option. I thank the member for reading out some of the letters that he read out during the debate. As he highlighted, a number of the people who go into lifestyle villages have sold up; they have sold their life asset, the family home, and downsized. Others have made arrangements to purchase into a particular village. These people have made a significant investment with the expectation, as the member for Joondalup aptly highlighted in his speech, that they will be able to live their retirement years in comfort and peace and, of course, in a way that enables them to be physically, mentally and emotionally well. I can only imagine the anguish that some of these people here today have gone through. I am sure that many of them found it difficult even to come here today, because they are putting themselves out there again, despite the duress they have experienced over a number of years. I admire their courage in coming here today. However, the time for words—in terms of this is what happened, this is what the standing committee recommended et cetera—is over; it is now time for action. Over the past two years, we have not seen any action. I compliment the former member for Carine, Ms Katie Hodson-Thomas, for her absolute commitment in bringing this to the attention of the house back in March 2008. Her commitment is ongoing, even though she is no longer a member of this place. The time for action is now. The Premier made a commitment over two years ago that, if elected, a Liberal government would do something; but we have not seen anything yet. I hope that the Minister for Commerce is able to deliver for not only the members in this Parliament, but also those people in the public gallery from Karrinyup Lakes Lifestyle Village and all the other people throughout Western Australia. I recently met with a lady from a retirement village in Mandurah who sits on one of the peak bodies; she comes to Perth every month to attend meetings of a group the name of which escapes me.

Mr P.T. Miles: The Park Home Owners Association Western Australia.

Mr D.A. TEMPLEMAN: Yes; one such group. I met her only two weeks ago and she has been highlighting the importance of resolving this. How do we resolve it? Minister, bring the legislation to this place and implement the recommendations in the standing committee report. Give these people and many, many others in Western Australia, in communities throughout the state, the confidence that they will be protected because that is what this is about. Give them the confidence that they, their hard-earned investment, the lifestyle they have chosen to follow in their retirement years and their rights will be protected. I have read about the harassment that some of these people here today have experienced. It is outrageous. It demonstrates what happens when a rogue operator who works outside the law also decides that he can bully people. That is what I am hearing—bullying! I tell members, if my mother or father, or my grandparents, lived in one of these villages, I would be outraged. I am sure other members are outraged and I am sure the family members of those in the public gallery are outraged that their family members have been treated in this way. It is absolutely unacceptable, as is the fact that it has gone on for so long. I am appalled that there are people in the public gallery today who have been treated like this. It is outrageous! The plea to the minister, so aptly put by the member for Joondalup today and so aptly presented by the former member for Carine, is that he tell us today when we will see action. He should tell not only us, but also those seated in the public gallery when we will see the protections put in place. After today, I want to be able to tell the people in my electorate who live in retirement villages in Mandurah and the Peel region that we have word from the minister and the Premier—I hope the Premier contributes to this debate today—that there will be action, when it will happen, when it will be in place and that it will be real protection for the people who deserve the protection so eloquently highlighted in the member for Joondalup’s presentation earlier this afternoon.

I say to the minister that the time has come to stop saying things like “this happened” or “this committee reported” or “in 2000 this happened”. I do not give a tinker’s cuss what happened then. I want to tell the people in my community that the minister will make sure that they will be protected into the future. As long as the legislation that the minister brings into the house is absolutely watertight and protects the interests of these people and the other people in these villages throughout the state, the member for Joondalup will make sure that this opposition cooperates absolutely with the minister and does anything that is necessary to make sure the

Mr Tony O’Gorman; Mr Tony Simpson; Mr David Templeman; Mr Mick Murray; Dr Janet Woollard; Mr Tony Krsticevic; Mr Bill Marmion; Acting Speaker

legislation is fast-tracked through the Parliament so that these people can be protected. I, as the member for Mandurah, give the minister that commitment, because I know how important it is to people in my electorate. It is not only important in my electorate, but also important in all our electorates. The minister should not forget that this phenomenon of retirement village living is growing, and it will continue to grow. It is absolutely the responsibility of this Parliament, of this government and of this Premier to make sure that we protect those people who choose to take that as their lifestyle option in retirement.

I am waiting for the minister’s response. I think it is critical today that the minister not give his flowery stuff that he gives when he waves his hands around and says, “We’re looking into it and we’re looking at this.” Do not give us any of that. Tell us what is going to happen, tell us when it is going to happen, and we will make sure that we cooperate as an opposition to make sure that these people are protected in the future.

MR M.P. MURRAY (Collie–Preston) [5.10 pm]: Having heard that passionate speech from the member for Mandurah, I must hang my head in shame as one of the original members of the committee that reported on this matter who did not put the efforts in after the report had been tabled to make sure that the report’s recommendations were worked through and came to fruition. But I do take my hat off to you, Mr Acting Speaker (Mr A.P. O’Gorman), for the work that you have done since that time in keeping this matter in the face of Parliament and in the face of our caucus on many occasions.

As I say, I am not overly proud of my efforts in this area. I thought when that report was tabled that the issues of people being bullied, harassed and driven out or frozen out to some degree when they were too scared to speak up would have been dealt with. I thought it would have been as a matter of course that the issues would be dealt with. They certainly have not been. They are issues that should have been dealt with and I hope they will be dealt with in the very near future. I am sure that the members of the Economics and Industry Standing Committee—although the membership changed after the change of government—do not want to have on their record another report that has gone onto some shelf, that probably over time has fly specks on it and that no-one has read again. It is something on which Parliament itself should have a check and balance to make sure that the recommendations, if possible and if agreed to by the government of the time, are acted upon. I do not see any reason why the recommendations should not be acted upon, especially for the people who, as the member for Mandurah said, are not young people. These people are the grandmothers, grandfathers and older people of generations of workers who have gone into retirement villages. They hoped to have a place where they would enjoy the later years of their lives without the stresses and worries of looking after a large house and garden or yard, and the security that goes with that. I know that in those smaller types of communities people look after each other. If Mrs Brown has not got up in the morning and gone out to get the paper or said “Good morning” and had a cup of tea on the veranda, someone will check.

Unfortunately, there are always some rogue operators, and the one at Karrinyup retirement village is one of those. The owner of that village, I must say, was not very compliant with the committee itself. We harangued and harassed him but it was very hard to get anything out of him. He made a lot of promises, as he promised the people themselves in the village, that have not come to fruition. Time and time again he would not come out and say that it was a dollar issue and work it through. I feel it was about filling his pockets and not worrying about the people in that village.

My speech, therefore, is very short. I am ashamed. But I can say, along with the member for Mandurah, that if a bill comes before this house, I will do my utmost to make sure it gets very quick and speedy carriage through this Parliament so that we can tidy up these problems within this industry. These people deserve respect; they deserve help. I ask the Premier and the minister to please do that.

DR J.M. WOOLLARD (Alfred Cove) [5.14 pm]: I stand to speak on this motion, but not in support of the wording of the motion because this issue is not a new issue. This issue has been on the table since I became a member of this Parliament. The wording of the motion is “that this house condemns the Barnett government”, but really the wording could be “that this house condemns the Gallop government or the Carpenter government” because this retirement village issue has been on the table that long. I have been calling the government for that long about retirement issue problems within my own electorate. I therefore know that it is a very complex issue. As members of this place have already said, it is a very complex issue but it needs to be addressed because it affects the most vulnerable people in our community—elderly people—who often are very concerned about speaking up for themselves, particularly within the retirement village scenario. They are very concerned about going to management meetings. They will not put up their hands to go to management meetings. A few people will put up their hands to go to management meetings, but then those few who do put up their hands are very concerned that they might then be victimised by the managers at those meetings. I did ask the member for —

Mr D.A. Templeman: Joondalup.

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Dr J.M. WOOLLARD: — Joondalup whether he was going to elaborate on the contracts, as I know that the contractual issue is a big issue within my electorate. Some retirement villages in the City of Melville commenced approximately 30 years ago. Four of them started one after the other in different suburbs and were referred to as City of Melville retirement villages. In the past 30 years different people purchased units in those retirement villages because at that time they had the title “City of Melville” at the front. They ceased to be City of Melville retirement villages many years ago, but it was only about two or three years ago, with assistance from the former Department for Consumer Protection in the previous government, that we managed to get the current owners to take down that sign that said “City of Melville”, because people thought that they were buying into the local council’s retirement village and they would therefore be looked after.

Other things happened with their contracts. We found that contracts for the refurbishment of the village were awarded in-house to people on the management committee. There were other issues with the management committee. When the management committee was first established many years ago, I believe it comprised four councillors and the chairperson, who was the Mayor of the City of Melville. There are still four councillors on the management committee. For many years the people in these retirement villages paid a peppercorn rent. Mr Acting Speaker (Mr A.P. O’Gorman), you would probably be aware that in the past few years the City of Melville was one of the councils whose premium investments were hit very heavily and it lost something like \$20 million-odd. It was therefore looking all over the place to see where it could get its money back.

The number of retirement villages is now increasing, so the council wants to increase the rent rather than just accept that peppercorn rent that they have paid for many years. No longer will retirement villages pay that minimal rental. While \$50 or \$100 a month might not seem a lot to some people, to those people in retirement villages who are struggling to make ends meet, it is. I have people coming in to see me saying that they are having difficulties. These are just little things.

Other things have happened within the retirement villages. In the past, when they had management committee meetings, a representative from each of the four villages was meant to attend the committee meetings, but there have been meetings when those representatives were asked to leave. Even though it is stated in the villages’ constitution that the village representatives are meant to be at the meetings, they were told they had to leave. One of the brave residents took the board to the State Administrative Tribunal, which told the board that it was in the constitution and that they had to allow the retirement village representative to attend the meetings. For several months this particular village nominee was able to attend meetings, and then, after several months, this person was told that they could not attend the meetings. A series of things have happened that may seem like minor problems, but they are not.

I return to what was said by the member for Joondalup. I asked the member for Joondalup whether he was going to discuss the contracts because of an issue that has arisen for people who initially purchased properties in those retirement villages. Unfortunately, this notice of motion was put on the table yesterday, and because the manager of opposition business decided that it was going to come on today and I had committee meetings, I only saw it this afternoon. Consequently, I did not have time to bring in all the records I have in my office on this matter. I can assure the member for Joondalup that I have very thick files on this issue. I could have spent the whole of private members’ business time reading through letters and discussing this issue with this Parliament because it is a big issue in my electorate. I am not condemning the government, but, yes, I urge the government to progress this very serious issue.

I would like to talk about the contracts, because people who purchased units maybe 20 or 30 years ago in those villages are very concerned that the board is now thinking of purchasing land to start a new village. They are worried about their investment, should things fail. When they signed their original contracts, the contracts stipulated that those people would get back what they paid for their unit, which, 20 or 30 years ago, may have been \$100 000 or \$150 000, which will not get them much at today’s rates; whereas I believe that for most people signing contracts to go into retirement villages today, if they decide to sell or if someone dies and the family then sells the unit, the unit would be renovated, the cost of the renovation would be taken from the purchase price, and then the family would get back the sale price. There is a big difference between contracts signed by people who entered retirement villages 30 years ago and those signed by people entering retirement villages today. Because of that variation, some people are very concerned that if they needed to leave a retirement village now and wanted or needed to move into a private hostel because they had problems with the activities of daily living and needed more supervised care, the cost of the unit that they purchased in that retirement village would not cover their cost of care.

The Retirement Villages Act needs to be looked at carefully. It is a long time since I looked at the act, but when constituents have come in to see me, it has been for things such as security and nuisance problems, as well as problems when they have had to phone the manager, and also the time it has taken to have a problem, such as people creating a nuisance by running through the village, fixed. It might take months and months before

something is done about security issues or getting gates installed with unit numbers on them, or even issues with birds attacking elderly people and their cars. They might sound like small issues, but they are not small issues to the elderly people in these areas.

I believe that a review of the Retirement Villages Act is long overdue. It is a very complex act, but I encourage the minister to take this on board; I am sure that many, many people will be very, very grateful if this can be progressed, hopefully, this year, or if not this year, certainly within the early part of next year.

MR A. KRSTICEVIC (Carine) [5.28 pm]: The Karrinyup Lakes Lifestyle Village is in my electorate of Carine. The matter is a number one priority for me as the member for Carine. It is the most important issue that has come across my desk since I was elected to Parliament. When I was first elected, I sat with the former member for Carine, Katie Hodson-Thomas, and went through the Economics and Industry Standing Committee report on the Karrinyup Lakes Lifestyle Village. I got involved in the issue prior to being elected as the member for Carine.

Firstly, I would like to acknowledge all the residents of this retirement village who have come to Parliament today. This is not the first time they have come to Parliament to hear this debate. They are all friends of mine; I consider them to be very close friends. Every time I think about what they are going through and every time I read the hundreds of letters that have come to my office over the past two years, I contemplate how to resolve this issue. The level of heartache, stress and feeling that goes through me is unbelievable and unbearable. I often think how would I feel and what would I do if my parents were in this situation. I am amazed at the way that the residents are coping and are handling the situation, and I commend them for that. I ask them to hold on and to believe in what I am doing and in what we are doing in this place today in pushing this issue.

I would like to make reference to my maiden speech to reflect on my thinking and my perspective on this issue at that time. I said —

The saga of the Karrinyup Lakes Lifestyle Village is an issue some members will recall. Residents of that retirement village were placed in a very difficult position by the actions of management and sought Katie's help to resolve the situation. I know that Katie had hoped that this matter would be resolved prior to her departure as the elected member, having moved a motion in Parliament that the issue be referred to a standing committee. It must be said that this would not have happened without the support of two former ministers, the Minister for Planning and Infrastructure, the member for Armadale; and the Minister for Consumer Protection, the former member for Kenwick. Katie would also like to thank the former member for Yokine, Hon Bob Kucera, for his outstanding work as chair of the committee and, indeed, all the committee members.

As we have seen today, some of them are still in this place and spoke very passionately about what has occurred. I went on to say —

The committee's report upheld the concerns of the residents that Katie had represented to Parliament. However, the matter of the Karrinyup Lakes Lifestyle Village is far from over. Residents are still awaiting the resolution of long-delayed planning approvals before they can sell their units and have been anxiously awaiting the re-formation of the Economics and Industry Standing Committee to ensure its recommendations are carried out. In addition, with the Retirement Villages Act 1992 coming up for revision, I believe that all members of the house should become familiar with the sad saga of the Karrinyup Lakes Lifestyle Village so that we can ensure that the new legislation improves the protection of seniors' interests and rights, and also ensure that the terrible experiences of these Gwelup residents are not repeated. I am committed to seeing this matter through and to ensuring that the residents of the Karrinyup Lakes Lifestyle Village receive justice.

From the first day that I started in this job, I have worked tirelessly on this objective. There have been a lot of hurdles along the way. I have learnt a lot about some of the things that retirement village owners can do and the things that they can manipulate in this process. Some members indicated that the Premier made a commitment on this matter, and that is something that I was involved in with Katie at the time of the election. The Premier came to the Gwelup Plaza Shopping Centre. The residents were there and a discussion took place. I think it was very important. I know that in the private conversation I had with the Premier, he was also very supportive. As a result of that, in early October 2008, I wrote a letter to the then Minister for Commerce. It reads —

I write regarding an ongoing problem residents of Gwelup have experienced concerning the Karrinyup Lakes Lifestyle Village ...

You may be aware of the background of this matter, as the retired member for Carine, Katie Hodson-Thomas, put considerable effort into gaining justice for residents of KLLV.

Extract from *Hansard*

[ASSEMBLY - Wednesday, 20 October 2010]

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Mr Tony O’Gorman; Mr Tony Simpson; Mr David Templeman; Mr Mick Murray; Dr Janet Woollard; Mr Tony Krsticevic; Mr Bill Marmion; Acting Speaker

Following her representations to Parliament, the matter was referred to the Economics and Industry Standing Committee, whose report was handed down in June 2008 with a series of recommendations.

I understand that normally Parliament is given 3 months to respond to the report, but due to the calling of an early election this process has obviously been interrupted.

I therefore write to request your advice about the progression of this matter, and the recommendations made by the Standing Committee.

I have received correspondence from residents, copies of which are enclosed, which clearly show that the situation for them has not been improved, despite the clear findings by the Committee that the Managers of the facility, Moss Glades Pty Ltd, have conducted themselves very poorly in dealing with the residents.

That was an understatement —

Our Premier, the Hon. Colin Barnett MLA, came to the Village —

It was actually at the Gwelup Plaza Shopping Centre —

with myself and the former Member for Carine, Katie Hodson-Thomas, and made a commitment to residents that the Committees recommendations would be implemented, and justice given to the residents, which is all they ask for.

In the discussions that I have had with the Premier, he has not changed his view on supporting those recommendations and working through the implementation of the report as quickly as possible. I have had lots of discussions with the responsible minister and with all members to encourage them to bring this particular legislation to Parliament with great speed. I know that the member for Joondalup is exceptionally passionate about this issue. He raised a grievance about it in Parliament. One of the things that was instigated when I spoke to the previous minister was to support and fund civil legal action on behalf of the residents. The then minister was very supportive of that and the new minister has continued in that vein. The department has taken numerous legal actions against the owners of Karrinyup Lakes Lifestyle Village with success and failure. Unfortunately, this man is amazing. I could not even dream of the sorts of things that he does. I have no idea how he comes up with some of the plots and schemes and some of the ways to deal with problems. I will read an article in *The West Australian* of 6 April 2009. It is very important. It states —

The State Government has pledged to take unprecedented legal action against a WA-based retirement village developer which has been at the centre of long-running allegations of threats and bullying of elderly residents at a northern suburbs village.

Treasurer Troy Buswell told Parliament last week that he had asked Consumer Protection commissioner Anne Driscoll to gather evidence in a bid to launch civil action against the developers of the Karrinyup Lakes Lifestyle Village, Moss Glades Pty Ltd.

“My advice is that the commissioner is 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 and the time for talk is over.

As I have said, a number of actions have been taken, with limited success. I know that the department is looking into this matter. Eion Martin is trying to off-load his legal costs to the residents of the village, which is an absolute disgrace. I do not know how low this man will go before he realises that he is doing damage to genuine, honest, hardworking people. It is an absolute disgrace and I have no idea what he is thinking.

One of the matters that I would like to put on the record, and I think it is important to highlight this, is that when Katie brought this issue to Parliament on 12 March 2008, she made some statements in this place and she made some observations about Eion Martin and Leonard Whyman. I think it is important to make the house aware of those statements and to put them on the record again so that they are fresh in people’s minds, but also so that the owners of the Karrinyup Lakes Lifestyle Village get the message that we are still very focused on what they are doing and are very keen to bring justice against them. Her speech in *Hansard* at the time states —

The sad saga of this development, which I will outline today, can be described only as the abuse of senior citizens who were seeking a peaceful existence and a home for their retirement and who had invested their savings in that home. As the population ages, we must ensure that unscrupulous developers cannot exploit this vulnerable group of citizens. I am taking the unusual step of coming into the Parliament today and using parliamentary privilege to name individuals. However, in this instance I say that the developers have been given many, many opportunities to right the wrongs they have created and have simply refused to do so. Further, they have stalled the processes designed to protect the

community at every turn and have continually bullied and harassed the senior citizens concerned until one was forced to take out a violence restraining order.

Another one was taken out subsequent to that, and that is an absolute disgrace —

I have therefore no hesitation today on calling on the Minister for Consumer Protection and the Minister for Planning and Infrastructure to take the necessary steps to compel the directors of Moss Glades Pty Ltd, Mr Eion Martin and Mr Leonard Whyman, to resolve these matters as a matter of urgency.

Firstly, for the benefit of members I will give some background to Mr Martin. Mr Martin was a councillor of the City of Stirling from 1997. He was also subject to a formal investigation by the Department of Local Government and Regional Development in August 2000. The report of the investigation was tabled in the house on 20 September 2000. It found that he had used his position to gain a personal benefit and had misled owners of other properties. The investigation was initially into events around the Karrinyup Lakes Lifestyle Village, which was known at the time as lot 36, Gribble Road, Gwelup. However, the investigation soon expanded to examine two other matters of building approval that had been before the City of Stirling.

She goes on to say —

In 1994 the directors of Moss Glades Pty Ltd applied to the City of Stirling to have lot 36 rezoned in preparation for a high density development, which was refused by the City of Stirling. In the following year, 1995, Mr Martin first sought to become a councillor for the City of Stirling. He did not succeed until 1997. Between 1998 and 1999 a number of attempts were made to have lot 36 rezoned and, as is appropriate, Mr Martin declared his interest and took no part in those decisions; I might add that all those attempts were unsuccessful.

I return to the 2000 inquiry. The inquiry followed a number of complaints from landowners near both lot 36 and elsewhere that, allegedly, Mr Martin had intimidated them into changing their building plans; and, further, that he would otherwise use his position as a councillor to delay approvals, which would inevitably cost them money.

Findings of improper conduct against Mr Martin were upheld, and it was agreed that he had used his office as a councillor improperly.

She also says —

One might ask why Mr Martin became a councillor of the City of Stirling. Was he motivated by community service or self-interest?

I think we all know the answer to that today. She continues —

It is a fact that when he sought re-election in 2005, community dissatisfaction with his performance was reflected at the ballot box and he was not re-elected.

This is an extremely serious matter. I think that the minister and his advisers, in the discussions they had with me, have done an outstanding job in keeping me informed about what is going on. When the current Minister for Commerce was appointed, I wrote a letter to the minister dated 21 July 2010. In that letter, I said —

As you are no doubt aware, there has been a serious and ongoing issue in my electorate with a retirement village—Karrinyup Lakes Lifestyle Village—that has necessitated a Parliamentary Standing Committee Investigation and ongoing input by Consumer Affairs, SAT, and numerous legal actions.

This saga has been in process for about six years, during which time the residents have suffered extremely badly from ongoing delays in process and lack of support.

As a consequence of these negative events, I understand that their experiences have informed many of the changes proposed for the Retirement Villages Act.

Their situation has not yet been resolved, and they anxiously await the review of the Retirement Villages Act and hope that the revised act, once passed, will provide them with greater protection under law. So for them, it is a matter of some urgency, and they feel frustrated by what appears to be a very slow process.

This review has been in process for some time, so can you please advise at what stage it is, and when we might see it presented to Parliament?

I did receive a response from the minister, and I would like to put that on the record as well. That response came back on 30 August 2010. It says —

Dear Tony

Thank you for your letter of 22 July 2010 inquiring about the progress of the statutory report on the review of the retirement villages legislation and matters relating to your constituents at Karrinyup Lakes Lifestyle Village (KLLV).

Since the draft report of the review was released for comment in August 2009, the Department of Commerce has received 50 submissions, some considerably detailed. All comments received have been considered in the drafting of the report which is now nearing completion.

The Department has addressed a wide range of views over a considerable period of time and is finalising recommendations which it believes are in the public interest, balance the needs of both residents and village operators, and promote changes which are practical and feasible and where the benefits outweigh the costs of regulation.

The Department will shortly be holding final meetings with key resident and industry stakeholder groups before forwarding the report to me for consideration. When I have approved the report for public release and have tabled the report in Parliament, the Department will write to all interested parties, including yourself and the KLLV residents' committee, about the availability of the report.

In addition to guiding changes which could be implemented administratively, the report will serve as a basis for drafting instructions to amend the legislation. I would like to introduce a Bill in 2011, subject to the proposed amendments being approved by the Cabinet and the allocation of sufficient drafting priority.

In relation to your constituents at KLLV, the Department of Commerce has for some time met regularly with the residents and represented them in the State Administrative Tribunal, the District Court and the Magistrates Court. This action has led to some settlements and agreements with the directors of the operating company, Moss Glades. I understand that the Department will continue to represent the residents until all issues are resolved.

I acknowledge your on-going efforts on behalf of the KLLV residents and once again thank you for your letter.

That was a very good letter to receive, and it gave me some confidence that this matter is moving on. I have received a lot of letters on this issue. This is the biggest issue in my electorate. It is the most important issue to me in my electorate. I have massive files on this issue.

Mr D.A. Templeman: Have you raised this as a grievance in this place?

Mr A. KRSTICEVIC: No, I have not.

Mr D.A. Templeman: Why not?

Mr A. KRSTICEVIC: The member for Joondalup did raise this as a grievance in the middle of last year. From my perspective, the minister and the department are doing absolutely everything that can possibly be done on this matter.

Mr D.A. Templeman: So where are the amendments?

Mr A. KRSTICEVIC: Well, apart from the legislation itself —

Mr D.A. Templeman: That is what we want to hear today. Where is that legislation, so that we can debate it and get it through? With all due respect, I know that you are a passionate and hardworking member, but where is that legislation?

Mr A. KRSTICEVIC: This is exceptionally important to me.

Mr D.A. Templeman: The time to talk is over now. We want to know when the legislation will come in, so that we can debate it and get it through and fix the problem.

Mr A. KRSTICEVIC: As I have said to the residents on many occasions when we have spoken about bringing in a grievance, everything that can possibly be done is being done, apart from the legislation itself being introduced. There is nothing more that can possibly be done, that I can think of or that the minister can think of or that anybody else can think of, in terms of the actions that are being taken by the government to support the residents. The only thing that is left is for the actual legislation to come through. The minister has told me that it is very complex and that a lot of work needs to be done on this, but he is definitely working on it. I will not read all the letters —

Mr D.A. Templeman: Are you aware of whether the amendments have been drafted?

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Mr A. KRSTICEVIC: I understand that at the moment, only two contentious points remain that are being looked at and need a decision made on them. But I will let the minister talk about that; I will not go into detail about that now. I have spoken to the minister at length about where things are at and how this matter is progressing. I emphasise that the legislation needs to be strong enough to send a message to rogue operators that their village can be taken off them and sold, if that is what needs to happen. We need to have the power to solve the problems. I want the residents to know that I am here, I am available; and, as always, if they need to talk to me, they can come and see me.

MR W.R. MARMION (Nedlands — Minister for Commerce) [4.39 pm]: I also want to acknowledge the residents of Karrinyup Lakes Lifestyle Village who are in the gallery today. I sympathise with their situation. I have been the Minister for Commerce for only about six months, and in that time I have not seen another report so thick on one particular topic. I was appalled to read this report. I have some retirement villages in my electorate. Those villages have issues as well. But they do not have the issues that members have raised today. Those issues are absolutely appalling. So this is certainly an issue that needs to be addressed. There are some issues at Hollywood Village in my electorate. I have almost weekly or fortnightly meetings with elderly residents in that retirement village. The owners of that village are not replacing residents when they leave, and that is causing a lot of problems to those residents. They certainly do not have the problems that the residents at Karrinyup Lakes Lifestyle Village are enduring.

I acknowledge the contributions of the members for Joondalup, Southern River, Alfred Cove, Mandurah, Collie—Preston, and particularly the member for Carine, who asked me on an almost daily basis how we were going with the review that is currently underway. I would also like to acknowledge Katie Hodson-Thomas for all the work she had done before I came into Parliament.

I propose to cover four areas. I will deal firstly with the general issues regarding retirement villages. I will then talk about where we are at with the review and, I guess, put on the table some of the likely recommendations in the draft bill. I want to outline what work the Consumer Protection Division of the Department of Commerce has done over the past couple of years in working on many of the issues surrounding the village. It has actually taken up a quite considerable amount of time. One could argue that if they had not done that, maybe we might be a tiny bit further advanced.

I want to put the policy setting in context. The Premier indicated in his major statement to the Parliament in February this year that our government is focused on economic development and sustained growth, and that we are going to concentrate on being socially responsible in caring for the vulnerable. I agree that this is a particular area where we need to take action.

Mr D.A. Templeman: When will it come in here?

Mr W.R. MARMION: Member, I will get to that.

Mr D.A. Templeman: The minister did not mention it in his four things.

Mr W.R. MARMION: I have 57 minutes. I will tell members exactly.

Mr D.A. Templeman: We will be back here again debating this in a year’s time, I guarantee it.

Mr W.R. MARMION: I do not think so.

Older people who have retired and are depending on their investments are a vulnerable consumer group. The role of government is to ensure that there are protections in place to ensure that seniors get a fair deal while also allowing the retirement village industry to grow and remain attractive to future investment in seniors housing. We have to get that balance right.

Older people are looking for retirement villages that are well managed, that provide affordable living, that provide the benefits of pleasant locations not far from public transport routes and shopping centres, and that offer the comforts and pleasures of security, companionship and shared amenities. Continued investment in the retirement village industry on the part of developers, investors, owners and operators is very important in that it provides seniors with a variety of housing and lifestyle options. Demand for seniors housing will increase as Western Australia’s population ages. Population ageing is not just a Western Australian trend but a worldwide trend. With increased longevity and good health, Western Australians now have as much as a third of their lives to live beyond what is currently considered to be retirement age. That is why we have to get this legislation right.

The ageing of Australia’s population is well documented. According to the Australian Bureau of Statistics, ageing is the most noteworthy population change projected to occur internationally, and in Australia, over the next 50 years. Population ageing is the change in age structure where the population has an increasing proportion of older people, those aged 65 years and older, in comparison with the proportion of children; that is, those aged 15 and younger.

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Mr T.G. Stephens: The minister is trying to filibuster this issue rather than tackle it.

Mr W.R. MARMION: No. I am allowed to have my time.

Mr T.G. Stephens: I can tell the minister that when I was faced with problems at Ocean Gardens, I got on with it and fixed the problem!

Mr W.R. MARMION: That is what I am doing, member.

Mr T.G. Stephens: No, you’re not. You’re filibustering the motion.

The ACTING SPEAKER (Mr A.P. O’Gorman): Members, this is a very important issue. I would like to hear the minister’s response, and I would like to get to the end of that response as quickly as possible. I ask that members hold their interjections, please, and let the minister respond.

Mr W.R. MARMION: The retirement village industry appears to be a growth industry with the ageing population. Everyone will agree with that. It will expand in the future. An ageing population has significant policy implications for the government. The growth in demand for accommodation for older people is one such implication. The review of retirement villages legislation acknowledges the increasing popularity of retirement village living at both the state and national level. That is the background.

In terms of what we are doing at the moment, as everyone is aware a statutory review is being undertaken of the retirement villages legislation. I want to give a bit of background, the current status and the next steps that will be taken. The Department of Commerce’s Consumer Protection Division has conducted a comprehensive statutory review of retirement villages legislation to identify whether it is meeting community needs. Retirement villages legislation comprises the Retirement Villages Act 1992, the Retirement Villages Regulations 1992 and the Fair Trading (Retirement Villages Code) Regulations 2009, or the code, as prescribed under the Fair Trading Act 1987. The review has been undertaken in the knowledge that since the Retirement Villages Act was introduced in Western Australia in 1992, the legislation has largely been unaltered. Over the past few decades the nature of the industry has changed considerably. Historically, retirement villages were owned and operated by churches and charitable institutions. Private sector for-profit involvement in the industry can be traced back more than 30 years. More recently, in light of Australia’s ageing population, many institutional players have seen opportunities within the sector that have led to significant growth and investment in the industry.

The department has addressed a wide range of views and issues. It has developed a report with nearly 100 recommendations which it believes are in the public interest, balances the needs of residents and village operators, promotes practical and feasible changes, and identifies where the benefits outweigh the costs of regulation. During the drafting of this report, the Legislative Assembly of Western Australia referred an inquiry into the Karrinyup Lakes Lifestyle Village to the Economics and Industry Standing Committee. The terms of reference of this inquiry required the committee to inquire into the actions of Moss Glades Pty Ltd and its individual directors in relation to the development of Karrinyup Lakes Lifestyle Village. In particular, the committee examined the extent to which state and local government legislation had been complied with. The findings and 34 recommendations of this inquiry were taken into account in this report.

The current review began with extensive community consultation in the latter half of 2006. I acknowledge that is a fair while ago. There was a series of 18 public meetings with all key stakeholders including residents, prospective residents and commercial and not-for-profit operators. Statewide, a total of 900 people approximately attended information sessions. This was a major exercise in community consultation. In August 2006 the department also called for written submissions on issues relating to retirement villages. More than 150 written submissions were received. In June 2007 the department released an issues paper bringing together all issues raised through the consultation process. A four-month period was allowed for public responses to the issues paper. A total of 131 written submissions were received in the second stage of the review. Last year the previous Minister for Commerce approved the release of a draft report of the review which contained over 80 recommendations for change. The report was released by the department in August 2009. Fifty submissions were received in that round of consultation.

Following the close of the written submission period, further meetings were held with key stakeholder groups to resolve as many issues as possible. These groups included the Retirement Village Association, representing the commercial sector of the industry; Aged and Community Services WA, representing churches and the charitable sector; and the Western Australian Retirement Complexes Residents’ Association, representing the residents and prospective residents of retirement villages. To finalise the report, the department met with major stakeholders representing village residents and operators during September and October this year. Final meetings were held as recently as Monday and Tuesday of this week. Consultation has been detailed and extensive. It is important that the department and the key stakeholders agree on as much common ground as possible before the report is

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submitted to me and tabled in Parliament. The issues are complex and not easily resolved. The stakeholder groups representing the residents and operators are keen to have the report finalised but are also appreciative of the care and detail with which the department has sought to obtain their views and tried to broker a consensus. The department will provide me with a report before the end of this month. I will then review it. I can assure members that I will be reviewing it very quickly. I will look to approve the report as soon as practicable. I will then table the final report in Parliament, as required by the act, and arrange for the department to release the report as a public document and notify the release of the report to all people who made submissions during the course of the review. The report will then be used as the basis for a cabinet submission to draft an amendment bill. This will be a sizeable task as the report contains nearly 100 recommendations for change and improvement. Some of these recommendations do not require legislative change and can be implemented administratively through the department's ongoing programs and the proposed seniors housing information service. One of the significant reforms will be to restructure the retirement villages code of practice. The code is currently subsidiary legislation under the Fair Trading Act. It is proposed to move the code across to sit under the Retirement Villages Act. This will make it more coherent and the total legislation of government will be under one act. The report also contains many recommendations to modify the code to improve it.

I want to go through a few things about what this report will have in it, although I have not finalised it yet. We realise that this is an essential part of legislation in Western Australia. It is important to protect the interests of senior consumers and, in particular, retirement village residents. Senior consumers need to be confident that they will get a fair deal when moving into, living in and exiting from a retirement village. It is also important that the industry is able to operate in a dynamic and competitive environment. Continued interest and investment in the retirement village industry are critical if retirement villages are to be developed and available to seniors as a housing option in the future.

As minister, I have not yet received the report from the Department of Commerce. However, I understand from the department that the key recommendations include the following. First, seniors need good independent information on which to base their decisions. The Department of Commerce is proposing the establishment of a seniors housing information service to provide prospective residents and current residents with independent information and support on housing matters relevant to seniors. The establishment of such a service would require cabinet approval. Good management of retirement villages is one of the key indicators of a happy and successful village. To ensure the financial and physical wellbeing of residents, the report will recommend new criteria in the legislation, which will prevent people with previous convictions for violence, sexual offences, dishonesty, fraud and bankruptcy from operating or managing a retirement village. In extreme cases, and as a last resort, it is proposed that there be a power to remove non-performing managers of retirement villages and a power to appoint an administrator to manage a village in which the wellbeing or financial security of residents is at risk.

Retirement village contracts are complex documents and require decisions on matters in which prospective residents have had little or no experience. That is acknowledged. The department proposes that more time be given to prospective residents to consider precontractual disclosure information and a longer time for cooling off from contracts.

The report will recommend that the holding of reserve funds be mandatory to enable villages to be maintained in a reasonable condition. It is also proposed that auditing of retirement village operating accounts and special funds be mandatory unless residents vote each year not to require an audit. The report will include recommendations to enable residents to appeal to the State Administrative Tribunal against excessive or unwarranted increases in charges for which residents are liable in relation to annual operating budget charges and charges for contributions to reserve funds. The report will also contain recommendations dealing with the question of liability for ongoing charges after a resident delivers vacant possession of the premises. The report will recommend that the department continue to work with resident and industry associations to provide educational materials and training to strengthen the effectiveness of residents' committees. The review will also look at the need to strengthen the powers of the Commissioner for Consumer Protection in relation to compliance with the law, including a power to seek enforceable undertakings and procedures to better streamline taking a matter to court.

I want to make a few comments on work the department has done on the Karrinyup Lakes Lifestyle Village. It has dealt with a wide range of issues concerning the village since September 2004, so it goes back a long way. These can broadly be categorised as lease agreements, clubhouse construction, financial disclosure, marketing of residents' leases and incorporation of the residents' committee. The department cleared the way for residents of the village with invalid leases to sign valid leases in March and April 2007 under the previous government. That is acknowledged. This issue has been finalised.

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In relation to the clubhouse—this is disturbing—residents lodged an application with the State Administrative Tribunal about their dispute over delays in building a clubhouse. The department assisted the residents during the SAT mediation process, which concluded in July 2008. Given the failure to achieve resolution, the department has supported the residents in both the State Administrative Tribunal actions and prosecution action in the Magistrates Court. The department commenced prosecution proceedings in the Perth Magistrates Court under the Fair Trading Act 1987 against Moss Glades and its directors concerning false representations made to residents in relation to the promised village clubhouse. Moss Glades pleaded guilty to a charge of making a false or misleading statement in respect of the clubhouse in an agreed statement of facts. The court convicted Moss Glades and imposed a penalty of \$5 000, and costs of \$1 660 were awarded to the department. Through SAT orders, Moss Glades also agreed to complete the clubhouse by 1 June 2010, including furnishings, and the lap pool by 1 December 2010, or any earlier date otherwise agreed. The clubhouse has now been opened and residents have access to it, but some have expressed disappointment with the fit-out and furnishings. The department has written to Moss Glades and questioned its intentions regarding the fittings and furnishings.

I turn to the management of the village. Residents have complained that Moss Glades has not managed the village in a prudent, efficient and economical manner and has not consulted with residents on budgeting, financial and other operational matters. On 3 October 2008, the department entered a deed of undertaking with Moss Glades and its directors in relation to the prudential, efficient and economical management of the village. The department investigated a number of complaints, and in September 2009 made application to SAT for leave to prosecute in the Magistrates Court and for SAT to make a number of specific performance orders. Although Moss Glades has sought on occasion to engage independent managers, there have continued to be problems. In March 2009, Mrs Karen Arnie of Strata Focus commenced managing the village, but resigned on 24 September 2009. Mrs Kaye Vladich, a longstanding employee of Moss Glades, was then appointed acting manager. An independent manager appointed in May 2010 has also resigned recently. The residents reported that none of the managers has demonstrated that they have the authority to manage the village. A meeting with residents occurred today to ascertain the progress in engaging a new manager.

In relation to overall management, the department also investigated four complaints that stormwater flooding had been occurring in some properties since 2004 and had not been remedied despite requests to do so. The investigations revealed evidence of a breach of the code and a deed of undertaking. Consequently, this matter has also been added to the application currently before SAT. A significant milestone was achieved in May this year. The department obtained from SAT, by consent, an enforceable order dated 6 May 2010. The order requires Moss Glades to observe the deed of undertaking with respect to those clauses concerning management procedures and resident consultation, village operating budgets, annual accounts, residents' meetings and a dispute-resolution process, and also makes further orders regarding a flooding issue in some courtyards. The enforceable SAT orders formalise the obligations of Moss Glades Pty Ltd, Mr Eion Martin and Mr Len Whyman. The orders also specifically prohibit the directors from consenting to or conniving in the failure of Moss Glades Pty Ltd to observe the code undertakings. In essence, the orders mean that KLLV must appoint a manager with sufficient authority to ensure compliance with the obligations; allow the manager to provide services to the residents to meet residents' reasonable needs; must not restrict the manager from providing information residents are entitled to receive, including specific administrative or operative budget matters; provide information about budgets in a consistent format and provide a clear written presentation of the operating financial position as at the end of each financial year; ensure that maintenance requests are managed efficiently; and hold meetings of residents within 20 days of a request, unless otherwise agreed, where the meeting is requested by the requisite number of residents and give proper notice of annual budget meetings. The SAT has exercised its powers to place conditions on KLLV to observe the undertakings. The conditions imposed are significant and should have greatly improved the enjoyment of the village.

Some of the specific conditions that have been imposed are that Mr Martin must not involve himself with residents or with complaints from residents; Mr Martin is not to participate in or vote as a director of Moss Glades Pty Ltd on any matter relating to residents' rights, management issues at the village or the village manager's contract; Mr Martin is not to interfere in any way with the village manager's management of the village; and at all times a competent qualified manager must be appointed to manage the village and if at any time a village manager is not appointed, the Commissioner for Consumer Protection must be notified of the reasons why this has occurred.

In addition to these conditions, KLLV was required, within 30 days or by 2 June this year, to establish and publish a dispute resolution procedure that includes three stages. In stage one, any resident with a dispute is, firstly, to raise the dispute with the village manager in writing. In stage two, if a dispute is not resolved within 14 days, the dispute is to be referred to a dispute resolution committee consisting of the village manager, a

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residents’ representative and a representative of Moss Glades, but not Mr Martin. In stage three, if the matter remains unresolved after 14 days, the dispute is to be referred to arbitration.

The SAT has also granted leave to prosecute Moss Glades and its directors for failing to observe the undertaking with respect to specific clauses. This capacity will provide an important basis for possible future actions. The department has reserved its right to prosecute Moss Glades for breaches of the undertaking should Moss Glades fail to comply fully with the consent orders.

In terms of marketing of units, two residents who attempted to terminate their leases in September 2008 were obstructed by Moss Glades from selling their leases. The leases were not actively marketed until March 2009, which obviously did not help. The department sought a deed of undertaking from Moss Glades and its directors in relation to the failure of the company to market the units as requested by residents and required by the code. On 2 April 2009, the parties signed a deed of undertaking in respect of clause 5.7, which is a requirement relating to marketing of leases. In May 2009, the commissioner instituted representative civil action for damages in the District Court on behalf of two residents, which Moss Glades had at first refused to allow, and then obstructed efforts by, the residents to terminate their leases, and mediation was not successful. The department has now obtained deeds of release for the two affected residents as follows. One of the residents received \$20 000, and the other \$25 000 on 1 September 2010 and \$499 000 plus 10 per cent per annum interest from 1 September 2010 is due by 1 November this year. However, if the property is released between now and 1 November this year for a greater amount, then that resident will get the benefit of the greater amount. Moss Glades will not seek any facilities fee or refurbishment or make any claim whatsoever against the two affected residents. The parties bore their own costs; that is, there was no order as to costs. The commissioner agreed to discontinue the civil action, and the residents signed their respective deeds of release on 14 May this year. Since March 2009 the residents’ leases have been actively marketed by Moss Glades, but the department received allegations of a failure by Moss Glades to provide the required disclosure and promotional material necessary to market the leases. Sufficient evidence to substantiate breaches of the legislation was not found.

In summary, the department has been very active in this matter and has been regularly liaising with the residents’ committee while undertaking a number of legal proceedings and investigations of various issues. The department commenced a number of actions which have now culminated in a global settlement being achieved in May 2010. Civil action on behalf of two residents in the District Court in relation to the sale of their leases has been settled by agreement, and the relevant deeds of release have been obtained. Moss Glades entered a plea of guilty in the Magistrates Court on 31 May 2010 and was convicted of making a false and misleading representation in respect of the clubhouse. A SAT application in relation to various breaches of the deed of undertaking has resulted in enforceable consent orders being made, as well as leave being granted to prosecute Moss Glades and its directors in the Magistrates Court for failing to observe certain aspects of the undertaking. The department has reserved its right to prosecute Moss Glades and its directors in the Magistrates Court should Moss Glades fail to fully comply with the SAT consent orders and an agreement to complete the clubhouse by 1 June 2010, including furnishings and a lap pool by 1 December 2010 or by an earlier date, otherwise agreed. The department has directed extensive resources for taking action on recommendations that are within its jurisdiction. The department has been liaising sensibly with the residents’ committee. In March 2009 the department appointed a special project officer, who has had fortnightly meetings with the committee members since then to ensure that any action regarding new issues or complaints is expedited. A regular meeting is even occurring today. The member for Carine has taken an active interest in the village and he has been provided with regular updates.

As members are aware, the Economics and Industry Standing Committee held an inquiry into matters raised by the residents of the village. Longstanding disputes between village management and the residents had caused considerable frustration to the residents. The report of the Economics and Industry Standing Committee was tabled on 19 June 2008, and the department’s response to that report was tabled on 4 December of the same year. These issues have been addressed both through legal action and the formation of policy recommendations.

The department is aware of two other residents whose leases are for sale, and the department is dealing with those matters as well. I can appreciate the extreme frustration that all members of the village have endured over the many years they have been there.

I refer to other matters conciliated by Consumer Protection way back in 2004. The City of Stirling advised Moss Glades that the internal roads in the village were not gazetted, which impacted upon Australia Post’s ability to deliver mail and emergency services’ ability to respond to emergency calls.

Mr A.P. O’Gorman interjected.

Mr W.R. MARMION: I am happy to wind up.

Mr A.P. O’Gorman: Can we get to where we are with the legislation?

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Mr W.R. MARMION: That is a fair point. What I would like to say is that out of the 60 or so recommendations in the report —

Mr A.P. O’Gorman: Is that the report on the act?

Mr W.R. MARMION: It is the statutory report. Hopefully that should be on my desk next week or the week after. I undertake to get that finalised, and my aim will be to get that report into Parliament this year. That report will frame the draft changes to the legislation, which I will have to take to cabinet to get approval to print the bill. I am pretty confident. I can say to the house that this bill is my number one priority—that is, me personally. It is probably long overdue. The residents have endured this since way back in 2004. That is far too long. I can assure members this is my number one priority.

Amendment to Motion

Mr W.R. MARMION: I would like to move an amendment to the motion. I move —

To delete all words after “house” with a view to inserting the following words —

- (1) acknowledges the continuing difficulties suffered by the residents of the Karrinyup Lakes Lifestyle Village and supports further enforcement actions by the Department of Commerce in pursuing any unlawful activities by Moss Glades; and
- (2) recognises the complex issues, extensive public consultation undertaken and almost 100 recommendations made as part of the review process of the Retirement Villages Act 1992 and supports prompt legislative change.

Mr D.A. Templeman: You said you will take a draft to cabinet.

Mr W.R. MARMION: The draft amendment?

Mr A.P. O’Gorman: No, the report and the review on your desk.

Mr W.R. MARMION: They have got only two issues and they are consulting with both sides at the moment.

Mr A.P. O’Gorman: You said you hope to have the legislation in this house, or the report.

Mr W.R. MARMION: I hope to be able to table the report this year.

Mr D.A. Templeman: Table the report?

Mr W.R. MARMION: Yes, that is the statutory report that all the work has been done on, and that is the end of the process. I have been minister for only six months. It would be silly for me to draft the legislation before the statutory review is complete. The statutory review would inform the legislation, so it is actually a very sensible approach.

Amendment put and passed.

Motion, as Amended

Question put and passed.