

CORRECTED VERSION ONLY

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Subcommittee

Inquiry into the State Taxation Acts Amendment Bill 2015

Melbourne — 15 June 2015

Members

Mr Joshua Morris — Chair

Mr Philip Dalidakis

Mr Khalil Eideh

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Witnesses

Mr Craig Whatman, partner, taxation, and

Mr Andrew Clugston, partner, business advisory and assurance, Pitcher Partners.

The CHAIR — I declare open the Legislative Council economy and infrastructure committee public hearing. This hearing is in relation to the inquiry into the State Taxation Acts Amendment Bill, and I welcome Mr Whatman and Mr Clugston from Pitcher Partners. I am Joshua Morris, the chair of the committee. We have Mr Eideh, who is the deputy chair of the committee, Mr Elasmarr and Mr Dalidakis here; we are a subcommittee of the committee that is undertaking this hearing today.

All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege.

All evidence is being recorded and you will be provided with proof versions of the transcript in the next couple of days. We have allocated 45 minutes for this session, and you have the opportunity at the start of the session to make any opening remarks that you should so wish. I would just like to remind you that this inquiry is in relation to how this bill will impact housing affordability amongst housing supply in Victoria. At this point I might throw it to you to make any opening remarks, and then we might go along the committee and have some questions. Over to you.

Mr WHATMAN — Thank you very much. Firstly, thank you for the opportunity to appear before you this afternoon. I am Craig Whatman, one of the tax consulting partners at Pitcher Partners, and Andrew Clugston is a business advisory partner. Pitcher Partners has a significant client base in the property and construction area, including a number of clients that will be impacted by the proposed surcharges. We have done a brief presentation if I might hand that around to the committee members.

The CHAIR — Yes, please.

Mr WHATMAN — What we did in preparation for our appearance at the hearing was just to seek the views of some of our larger clients that are likely to be impacted by the proposed measures, and the slides that appear before you are really a high-level summary of a combination of the views that they have expressed to us and also our own views as property advisors. Both Andrew and myself do practise predominantly in the property advisory area — it is probably exclusively your practice and predominantly my practice from an indirect tax perspective.

If I could just draw your attention to page 2, first of all, what we intend to cover. Firstly, just looking at the impact of the proposed measures on developers and purchasers, then moving on to more of the general comments around potential impacts on the Victorian economy, as we see it and as our clients see it, and then specifically addressing the terms of reference in terms of housing affordability and supply.

Moving on to page 3, the impact on developers and purchasers as we and our clients see it. It is clear that there are a number of significant developments that are currently being undertaken in Victoria, particularly in the Melbourne CBD and surrounds, by international developers. A number of those are our clients. It is clear to us that future acquisitions that they will make if this measure proceeds will be impacted by the surcharges, both in terms of their acquisition of development sites for future development and also in terms of their sales to offshore purchasers, particularly in the apartment market space.

What they have told us is that, to the extent they can, they will seek to pass on the costs of the surcharges to their customers. As with every developer, obviously they undertake feasibility to determine how they are going to cost their developments and the surcharges would form part of that feasibility and part of the costs that they would seek to oncharge. That will impact not just the international purchasers of their product but also the domestic purchasers of their product to the extent that they supply to the domestic market, and I will touch a bit more on that.

Other impacts that we can see potentially are restricted access to international equity for development projects. Post the GFC it has become much more difficult for our clients to get finance, for example, for their development projects from local banking institutions and others, and therefore some of them have looked offshore for equity — so joint venture partners, for example, to support their developments, acquiring the capital that they need to undertake those developments. It is possible that these measures could influence the international investors' willingness to invest in those projects. If the measures were to result in a decrease in sales of apartments, which we can see, particularly to the offshore purchasers, then that is going to impact the

banks' willingness to lend to some of these projects, because obviously they have presale requirements and a number of other measures that need to be met. If the market slows down and the purchasers decrease, then that could impact the banks' willingness to lend to the development market.

In terms of the local developers — I understand you just heard from the property council; obviously they were involved with the development of the Treasurer's guidelines and particularly looking at some of the domestically based developers — we can see an impact here not just within what we call the brownfield or the apartment type of development market but also the greenfield development sites. That is where you have the domestic development entities that have some foreign ownership and it constitutes a foreign controlling interest for the purposes of the legislation. Then obviously those developers are not selling predominately to offshore buyers, they are selling to the domestic market. We are talking about the development of the greenfield land sites in the growth corridors of Melbourne — that is not a market that the international purchasers are buying into, that is where the domestic first home buyers are purchasing their products.

That is where the guidelines come in. I am not sure whether you discussed with the property council in their previous submission the administration process of the guidelines, but we have a real concern around the administration of the guidelines. I think the guidelines are a step in the right direction, but based on our experience with other states in terms of the link between Treasury and the State Revenue Office on these types of matters, normally the administration responsibility is handed to the revenue office, which reviews the application and makes a submission to the Treasurer on whether it should be exempted or not in any particular case. The SRO's process — it only has a certain number of people who will be able to do this, and the timeliness of those decisions is going to be a very fundamental issue in terms of certainly our clients and their need to be able to make a decision on acquisitions of certain sites and whether they should proceed with certain developments. It is not something that can wait three or six months, for example, to go through an administrative process within the State Revenue Office. I think a fast-track exemption process would be something that we would be keenly seeking to lessen the impact on particularly the domestic developers who are going to be impacted by this.

Just focusing for a moment on apartments, it is clear that the stamp duty surcharge will significantly increase the cost of off-the-plan apartments. Just by way of a basic example, if you take an apartment with a selling price of \$500 000, if that got the maximum entitlement under the off-the-plan concession, the amount of duty that would be payable pre the surcharge would be approximately \$3000. Post the surcharge it is going to be approximately \$17 000 of stamp duty, so a more than 500 per cent increase in the stamp duty costs for the buyer of that off-the-plan apartment. Whether that impacts their decision on purchasing the apartments in Melbourne versus apartments in Sydney or somewhere else is yet to be seen, but certainly you can see that that is a very significant increase in the stamp duty costs that they will have to bear.

I will turn now to page 4 and I will hand over to Andrew.

Mr CLUGSTON — When we surveyed our clients we asked a number of clients, both domestic and international developers, what they thought of the changes. Probably one of the things that surprised us was to see that our local developers, who are not foreign owned in any way, had quite a strong negative view of the introduction. It is mainly around the impact it would have on their purchase of their completed homes or apartments.

The main concern was around a 3 per cent surcharge on new housing in particular. That was their concern, simply because some of our larger developers are now selling up to half of their apartments offshore. Even our local clients are doing that now, so their concern is that if developers from other states are aware of these changes, just the negative press that Victorian apartments will get. With the changes to stamp duty, as Craig said, if you say there is a 500 per cent increase in stamp duty, just the negative press that might get overseas has got them concerned. What that has tended to mean is that for some of our clients who were solely focused on Victoria, it has now given them cause to look elsewhere. No-one can really say whether it is going to impact the level of demand for foreign purchasers buying completed apartments, but it has got people concerned. Where they have never had a reason to look into other states, they now are. A few are now looking at Queensland in particular for some reason, whereas before they had been solely focused on Victoria.

Then if we look at the impact on Victoria and the economy, a lot of these international developers employ none of their own staff internally; they outsource everything. They outsource all the project management, all the construction, all the consultants to local businesses here in Victoria, including us. They do not employ any

accountants for their finance team; we do everything for them. So if suddenly these projects are shifting their focus from Victoria to other states, just the impact that has on local businesses. If we look more broadly at the Victorian economy, also just the impact that might have on payroll tax if there is more work shifted up north.

The CHAIR — Very good.

Mr CLUGSTON — Craig might just finish off.

The CHAIR — Anything further to that?

Mr WHATMAN — Sorry, one more, if you do not mind. Just focusing particularly on housing supply and housing affordability, it is clear as a general statement that apartments are the most affordable form of new housing at the present time. Again, it just comes back to the supply and demand equation, which I am sure you are going to hear a number of times today. If the amount of sales decreases, then that potentially leads to a decrease in future development activity, which means less available housing stock, which means increased prices at the end of the day. Whether that happens, it is probably too early to tell, but it does come back to supply and demand at the end of the day. That could be one of the impacts, that in fact we are not achieving what the government is seeking to achieve from this ultimately because it decreases the amount of housing stock available and the supply/demand equation gets out of whack. Therefore the prices go up for both domestic and international consumers.

In terms of what our clients see as the other factors that affect housing affordability, there is really a few that they consistently talk to us about. One is consistent access to developable land that transcends the government of the day, so really that is about maintaining a consistent supply of land that is able to be developed. Whether it is on both sides of politics, so irrespective of who is in government at any particular time, it is maintaining that consistent supply available.

The planning process is obviously a significant one for them, and once again they just talk about having an efficient or a more efficient planning process. Certainly there has been some work done over a number of recent years to try and improve that, and I think there have been some improvements made. I think there is more work that could be done in that area. One particular area of focus perhaps at the moment is the revised zoning laws that came in several years ago that are now being administered by the local councils. Anecdotal evidence that we are hearing from our clients is that there is a very inconsistent approach among the local bodies to the administration of those zoning laws, and what that is leading to is a very inconsistent decision-making tree, if you like, for the client in terms of whether they can go to one area and develop an apartment block versus another area of town. And there are all kinds of interest groups that are involved from that point of view.

Then in terms of other potential ways in which affordability could be increased, access to the first home owner grants and the stamp duty concessions is an obvious one. Then particular incentives, whether it is tax incentives or other incentives to encourage the development of more affordable housing is another area that we see as something that could be looked at. That was it, thank you.

The CHAIR — Fabulous, thank you. We might move along the subcommittee for a few questions. I might just kick off in terms of, you spoke about the State Revenue Office reviewing applications and that being an area of concern. Is there anything that could be done, do you think, to ensure that these reviews do occur in a timely manner? Is there a mechanism that could be put in place to ensure that developments are not held up?

Mr DALIDAKIS — Good question.

Mr WHATMAN — Absolutely. It is an area where I think there has to be a certain level of resourcing allocated to it within the State Revenue Office. I was at a State Taxes Consultative Council meeting earlier this week where I asked that question, and it appeared that no thought had been given as yet as to how this process was going to be administered within the SRO. In fact the answer was that they were not even sure whether they would be the ones administering it.

If you look at South Australia as an example where you have a Treasurer's discretion in relation to stamp duty corporate reconstruction relief, that is a Treasurer's discretion but the South Australian revenue office is the administrator of that discretion and makes the recommendation to the Treasurer. I really cannot see the

Treasurer or his staff directly reviewing these applications themselves. I am sure the Treasurer does not have the time or the resources to be able to do that, so it seems reasonably clear to me that is going to end up in the SRO.

The issue with that is that the SRO is already very busy doing lots of other things, and in terms of the turnaround time for some of those things, we are talking 6, 12-plus months to get responses on certain applications. If that happens in this case, I think we are going to have a serious practical issue in terms of the application of these guidelines.

The CHAIR — It could be disastrous, absolutely. In South Australia you are talking up to a 12-month wait?

Mr WHATMAN — It can be, yes.

The CHAIR — Quite significant. In terms of apartments, you were talking just before about apartments being a very affordable type of housing stock. From my understanding, it is quite often foreign investors that often buy off the plan and buy early in the development of apartments. If that early purchase of off-the-plan apartments was to fall away as a result of this measure, what impact is that going to have on future developments?

Mr CLUGSTON — The concern is that a lot of the developers will struggle to get funding. There are presales requirements that the major banks impose on development funding, so they have got to achieve generally at least enough presales to cover the debt in full, plus another 10 per cent for the GST, before the bank will start lending on the construction facility.

The CHAIR — Could you say that again? What was that?

Mr CLUGSTON — Normally, say, if there is a \$50 million construction facility, they will need to presell \$55 million worth of apartments — being \$50 million debt cover, plus another 10 per cent GST — before the bank will start lending on the construction facility.

The banks have been relaxing the number of foreign presales that they will count towards that qualifying presales target, so more and more developers are selling off the plan overseas and having that counting towards their qualifying presales for their construction finance. It is just going to mean a delay in obtaining the finance or a change in strategy where they have to sell more locally early on, if the market supports that at the current prices, or maybe — who knows? — discount potentially to get the local presales over the line to qualify for their bank funding.

The CHAIR — In terms of the new taxes, we often hear about business just wanting certainty. Has this provided certainty or has it caused uncertainty within the development sphere?

Mr WHATMAN — I guess from a general state taxes point of view, none of our clients look for new taxes being introduced, or none of them think that is a good idea, but beyond that I think that the level of uncertainty is around those that are affected by the exemption guidelines, in terms of how that is going to work. Obviously they are quite general guidelines, and a fair amount of subjectivity perhaps might come into the application of those guidelines. I think that has created quite a degree of uncertainty for those developers that will be impacted by that, in terms of on which side of the line they are going to fall at the end of the day on the Treasurer's discretion. And then beyond that it is really the uncertainty as to what Andrew was talking about in terms of if the level of purchases starts falling away and therefore the level of available finance starts falling away, how does that impact in terms of your future decisions whether to invest in Victoria or to go to Queensland?

You had the Queensland government come out within a day of this announcement saying, 'Come to Queensland; we are not going to impose this tax'. Obviously that is all marketing, but the clients do think about those things. They put everything into the pot, they stir it all around and they decide whether they are comfortable with Victoria or whether they will go elsewhere in terms of these development projects.

Mr EIDEH — Just a quick question. In your view, do you think the 0.5 per cent land surcharge prevents land banking?

Mr WHATMAN — The land tax surcharge?

Mr EIDEH — Yes.

Mr CLUGSTON — Certainly my clients have not expressed any concern with that surcharge. Generally because they are developers, they will only hold the land for two years, three at the most. I think probably the land tax is going to have more of an impact on long-term hold investors rather than property developers. It is more the stamp duty that is the issue, rather than the land tax, for developers anyway.

Mr EIDEH — In your view, what other measures could be implemented to improve housing supply and affordability?

Mr WHATMAN — They are really the measures that I outlined on page 5 of the slides here, which is, firstly, consistent supply. I think that is the main one. I think you have probably already heard that today as well. There needs to be a consistent level of supply across a number of years to ensure that there is enough access to land for developers to keep developing, which ensures that there is a set level of stock available on the market, and that is one good way of keeping prices as low as possible. The planning process is another important one. We live in a very regulatory-based environment. All of the development community has to jump through a number of hoops, mostly for good reasons but in some cases perhaps there are multiple layers of doing the same thing as part of the planning process when you are dealing with five different agencies who all have different requirements. I think, as far as we can, streamlining the planning process, speeding up the approval process for permits, are all measures that our development clients would be looking for.

Mr ELASMAR — Talking on the impact for foreign investors, can you elaborate more? What would be the impact?

Mr WHATMAN — On the apartment purchasers' side, really it is the cost of buying the apartments. The decision will be whether they want to continue buying an apartment in Victoria that has got a \$17 000 stamp duty cost attached to it rather than a \$3000 stamp duty cost or whether they start looking to apartments in Sydney or Brisbane or Perth et cetera. That is the potential impact from their point of view. In terms of our developer clients, it is more about do they start doing projects in Victoria or do they start looking elsewhere to undertake their development projects.

Mr DALIDAKIS — I get a distinct twang. Obviously you have, I presume, come from New Zealand — —

Mr WHATMAN — Correct.

Mr DALIDAKIS — But you chose to live in Melbourne. Can you explain to me how you chose to live in Melbourne when it is such a high-priced society to live in?

Mr WHATMAN — Firstly, I have been in Australia for almost 15 years and I am an Australian citizen as well as a New Zealand citizen, but thank you for the question. When I moved here it was just prior to the introduction of the GST and I was recruited specifically for GST implementation. I spent six months in fact in Telstra on GST implementation, so really it was around the opportunity for my working career more than anything else that I made the decision to — —

Mr DALIDAKIS — I guess the point, if I can tease it out, is that the cost of living is much lower in Adelaide, or it was, Tasmania — anywhere in Tasmania actually. They are both beautiful places, so I do not want Hansard to think that I am being nasty about other places in Australia, but the point is that there are always going to be differentials in charges or costs incurred either in the cost of living or in terms of the cost of doing business, so is this as significant as you make out in terms of businesses transacting here in this jurisdiction?

Mr WHATMAN — I think it is too early to say the answer to that question, but certainly we can only base it on what our clients are telling us, and our clients are telling us that they will have to factor these charges into whether they do start their development projects in Victoria or whether they start them elsewhere. I think only time will tell whether that translates into them making a decision to go elsewhere.

Mr DALIDAKIS — Can I just indulge you, Chair. Do I seek this document to be tabled as part of the Hansard hearings? Do I need to move that? I just think it is important, given that this is a presentation being provided, that we note it, that is all.

The CHAIR — It is so done.

Mr DALIDAKIS — Thank you. You mentioned your clients. I am keen to find out: are you in a position to talk about who your clients actually are? We just had the property council in and it had Australand and AV Jennings here. So I am keen to understand, because — again my colleagues should correct me if they think that I have misrepresented the testimony before us — they argued that they were very comfortable with the legislation as it currently is, with the guidelines as they were released, and saw no fear of impact on their construction or their development plans going forward. I am keen to understand what type of nature of your clients are we talking about: big, small, indifferent et cetera?

Mr WHATMAN — Firstly, we do not have authority to mention names in terms of clients, but perhaps if you would like to give an overview of the types of clients that we work with.

Mr CLUGSTON — Yes, sure. Our international clients are quite significant property developers, mainly developing here in Victoria but also they do have projects in other states, and they are doing quite large residential apartment towers — 500, 600, 800-apartment towers — so quite significant projects. Mainly residential, but then quite often they will also acquire other investment properties as well as a bit of an income stream, so retail complexes, office buildings. Investing hundreds of millions of dollars into the property market here in Victoria. In terms of locally, we have selected a cross-section of developers — mainly the larger ones, who tend to do apartments but also house and land packages out in the outer suburbs and other townhouses and medium-density developments.

Mr DALIDAKIS — Again, not wanting you to disclose client details that you are not authorised to, but are we talking about the size of, for example, Central Equity or we talking smaller than that? That is what I am trying to understand — the type of size of the clients that we are dealing with.

Mr CLUGSTON — Probably not quite the size of Central Equity, but fairly significant. They are producing, you know, hundreds of new houses every year.

Mr DALIDAKIS — Are we talking about houses or apartments or a mixture?

Mr CLUGSTON — A mixture — it is townhouses, house and land packages, apartments, everything.

Mr DALIDAKIS — As we have seen, on an average house of about \$500 000, it is about, on average, \$15,000. I think Mr Whatman suggested it was just under \$14 000 — between 503 to 517 but, rule of thumb, \$15,000. Is your testimony before us that that \$15 000 on average per \$500,000 has the potential to be a serious impact on the decision-making of your clients in the construction of their projects? Bear in mind that there is only often a limited number of those apartments that are often sold overseas or to ‘non-residents’, as the term is applied to this legislation.

Mr CLUGSTON — It is just too early to tell for sure. All we can say is that our clients are concerned that it might be, and so to plan for the next project they need to start early. As I said before, it has given some cause to start looking at other states, whereas otherwise they would never have thought to. Whether that is an overreaction and whether they end up investing in other states, who knows. But it has got them concerned — that is all they are saying at the moment. We do not know for sure.

Mr DALIDAKIS — Again we are talking anecdotal at this point, but that is understandable. The legislation has been proposed — it has not actually been passed and implemented.

I have got a number of questions to come still. Mr Whatman, you mentioned that you had a concern about the administration of the legislation, and I think you said last week you raised it with SRO officials. Have you had any experience previously where the SRO has been responsible for administering a part of the legislation, be it stamp duty or otherwise, where their tardiness has caused you or your clients concern going forward?

Mr WHATMAN — The SRO has responsibility for administering a number of parts of the stamp duty legislation as well as the land tax legislation. In some cases applications for certain things can take a significant amount of time. As I said, I think it is a question of resourcing. I am not having a go at the SRO here. They only have a limited number of staff and therefore a limited capacity to turn things around. Unfortunately, sometimes that does not line up well enough with the commerciality of the transaction and the timing issues that our clients face.

Mr DALIDAKIS — What is the typical lead time for a construction development from beginning to financing to planning to construction? I presume that as part of this process it is quite possible that in fact as your application goes into the SRO you could actually have a great period of time prior to the construction of the development.

Mr WHATMAN — What we are talking about here, though, you must remember is the acquisition of a particular site and therefore whether you are paying the additional surcharge in relation to the acquisition of that piece of land.

Mr DALIDAKIS — Again, feel free to correct me if my understanding of the legislation is not correct, but my understanding is that the effective implementation of that surcharge is at the end user if they are a non-resident, and that is why the exemption can be sought, so that it is actually not picked up by the non-resident corporation, trust et cetera that is undertaking that construction.

Mr WHATMAN — Correct, but at the time they acquire the land, if they believe that they may be caught by the 3 per cent surcharge, they need certainty on whether that surcharge is going to apply to the development because that is one of the costs that they have to feed into the feasibility model.

Mr DALIDAKIS — Explain to me how it is your interpretation that they would then get caught up in that application, given that if they sell to residents or citizens, they do not need to pay that 3 per cent on that transaction and they only need to pay it if they sell to non-residents. It can only be if they do not get an exemption, but they get an exemption by the Treasurer, under the guidelines, if they undertake that course of action I have just described.

Mr WHATMAN — I am not sure if I am completely understanding the question, but to give you an example, if you are talking about a greenfield developer, it is a local development entity. We are talking about the types of entities, for example — one or two that we act for would be competing in the Australand/Stockland-type of market. They are not our clients, but that sort of market. They may have ownership within their structure which means they have a foreign controlling interest and therefore technically they are caught by the terms of the legislation. But within the bounds of the Treasurer's guidelines they have the ability to apply for an exemption in respect of their next acquisition of greenfield development land and to determine whether they will be subject to the surcharge on that exemption. At that point they need to know before they settle the acquisition of that site, before they are committed to buying that site, whether they will or will not in fact be subject to the surcharge.

Mr DALIDAKIS — It is good that we use Australand as an example because they testified just prior to your arrival. They were not only very relaxed about the legislation and the guidelines before us, and being effectively a non-resident-controlled entity, given their shareholder structure, I think they fit the example that we are discussing perfectly. One of the things they said clearly on the record was that if they were successful in seeking the exemption from the Treasurer, they would be very happy to have that disclosed on the public record. Given that you are reluctant to talk about who your clients are — you know your clients best in that respect — would they be equally as comfortable having their details publicly available as receiving an exemption?

Mr WHATMAN — We have not discussed that issue with them, but I think the honest answer is that some of those clients may have a concern about having their records declared on the public record. Part of the reason for that, to put some context around that, is that we are talking about clients from Malaysia, Singapore who are not used to dealing with governments of the same type as the Victorian government or the commonwealth government of Australia. They have different factors within their own country that they have to deal with in terms of the way that they work and therefore they are not as used, perhaps, to having such an open and transparent system in terms of the — —

Mr DALIDAKIS — I suspect the issue of transparency would be a very different conversation if we were in Singapore or Malaysia, and I ask you if you can take that question on notice. You will have an opportunity to respond within a number of days when you get the Hansard. If you can speak with those clients, without disclosing who they are if they do not want to, but to better inform the committee as to whether or not they would be comfortable having their details on the public record, à la the testimony from the property council before you.

You claim that your concern is that the surcharge will significantly increase the cost when we agree that, on average, for properties selling for \$500 000 we are talking about \$15 000, give or take. And you talked about the nature of the supply curve. I am very interested in your view or definition that by the very nature that if the cost is increased, then obviously the demand will decrease, because when I did my economics — and I have got a masters of commerce — the natural supply curve would be that if demand is low, then of course the price drops, but your testimony was in fact that if demand was low, the price will go up. Have I misunderstood your testimony before us?

Mr WHATMAN — No, you have not misunderstood. There are a number of factors that go into the supply curve and the supply/demand equation. Given the limited time that we have — we could probably spend the day talking about that issue itself — but in terms of what I was trying to say, if in fact the increase in the cost does deter people from purchasing the apartments and therefore that leads to a decrease in the developers' appetite to actually build the apartment buildings in Melbourne, then you have, as a result of that, in five years, if you like, a decrease in the level of available stock that is available to the general public, both domestic and international purchasers. If that level of stock gets to such a level where people are competing against each other to buy the next apartment, then that is going to increase prices. That will be the outcome of that equation.

Mr DALIDAKIS — If I have understood that correctly, if prices drop, that might be a bad thing? Because that is not what the federal Treasurer said last week or the Prime Minister when he said that he likes his housing price in Sydney going up because it is better for him when he sells in the long term. I am trying to clarify and better understand — —

The CHAIR — I do not think that is what the Prime Minister said.

Mr DALIDAKIS — I am happy for him to write in to the committee to correct the record. I am trying to better understand that under the supply curve, demand drops, prices go up, the net effect is that it hurts the availability of stock — that it leads into that stock reduction. Is that sort of where you were going?

Mr WHATMAN — Yes.

Mr DALIDAKIS — Okay, great. Again I refer back to the property council testimony. They were very comfortable with the guidelines as they were presented in terms of the process. I want to come back to this. I am naturally concerned about your testimony that you fear that the length of time in the administration is something that will hurt your clients, because that was not an issue raised by the representatives before. I need to better understand why you are so concerned with the tardiness, potentially, of the SRO, because the very nature of the guidelines — and you will be used to getting guidelines from tax departments both state and federal, and you would be well inclined to understand that the guidelines are effectively what gives you currency, in terms of the transactions and the dealings that you have. I do not quite understand your concern on behalf of your clients. I am not sure whether I have misunderstood or whether there is a better way of, I guess, providing that advice.

Mr WHATMAN — What I was trying to say was that certainly the guidelines, I think I said, were a step in the right direction. I make that point first. Without the guidelines there were serious concerns around the impact of these measures on particularly developers who are active in terms of the local sense, that are predominantly local developers but have some foreign ownership within their structure. So the guidelines are definitely a step in the right direction at a theoretical level, but someone has to administer the guidelines and these projects are driven around commercial deadlines which sometimes do not line up with the administrator's deadlines and ability to produce decisions on applications of this nature in a timely manner or in as timely a manner as our clients would like. That is really a concern. It is around the timeliness of the review of the exemption applications to enable clients to make effective and informed commercial decisions at the time that they need to commit to the acquisition of development properties.

Mr DALIDAKIS — Thank you, Chair, you have been very generous; I have just got two more questions. The first one is: why is it that Pitcher Partners are appearing before us but none of the big four are?

Mr WHATMAN — Pitcher Partners was invited to appear before the committee is the short answer to that question. I believe that that invitation came through one of your research assistants identifying an article that I had written on the bill when it was first released.

Mr DALIDAKIS — Prior to the guidelines being released?

Mr WHATMAN — Prior to the guidelines being released.

Mr DALIDAKIS — Does the Institute of Chartered Accountants or the CPA have a view on this legislation at this point, or are you aware of either of your roof bodies expressing a view?

Mr WHATMAN — I am not aware and have not had direct discussions with either of those bodies.

Mr DALIDAKIS — My last question for you is: by virtue of the fact that you are a taxation partner, your role as per a client is to minimise the tax that they pay — legally, by the way; I am not insinuating anything other — and I am keen to understand that when they approach you on this issue, given that the surcharge gets passed on to the end consumer, what is it that they are fearful of?

Mr WHATMAN — First of all, our role is to provide the best commercial advice to our clients. Tax is one aspect of that, and although I am a taxation partner I am also a property advisory partner, so we look at this in the context of the whole commercial needs not just in a taxation context. In terms of their concern, really it is about the impact of the surcharge on the appetite for people to buy their product and therefore their ability to keep investing into Victoria and keep producing the sort of development activities that they are currently undertaking in Victoria.

Mr CLUGSTON — Probably their other concern is that they might have to cover the cost of that surcharge. The apartment market is pretty keenly priced, and for them to simply pass on another \$15 000 on the same apartment on 1 July is not necessarily going to happen, so their profit margins are potentially going to be diminished by this.

Mr DALIDAKIS — Correct me if I am wrong, it is only if the contract was entered into post 1 July, so if they have entered into a contract but have not settled, they are not caught up in this legislation as is.

Mr CLUGSTON — No, that is right, but the feedback we are getting is that some have potentially committed to acquiring a site and they have done their feasibility on a particular scenario and by the time they undertake their marketing campaign in July or August, things have changed and now there is suddenly a 3 per cent on-cost.

Mr DALIDAKIS — I am not a marketing expert, but I would have thought the ability to sell apartments and/or property in the next two weeks at a saving of that surcharge would be something that I would dare say that your clients would probably be advertising right now.

Mr CLUGSTON — They are if they can. Some cannot because they are just not ready yet to start their marketing campaign.

Mr DALIDAKIS — So in actual fact the state of Victoria is missing out on taxation revenue as a result of generously providing a transition period of 1 July. If we had used it from the date of the announcement at the time of the budget being delivered, that would have stopped people trying to gain the system prior to 30 June's expiration. That is just what you said.

The CHAIR — Which would also require retrospective legislation.

Mr DALIDAKIS — No, it would not actually, because it would come into force at the time the budget was handed down. But you agree that there are some clients that are using that pre-30 June deadline as a way of trying to engender greater sales right now?

Mr CLUGSTON — It would be logical if they are. No client has actually specifically told me they are doing that.

Mr DALIDAKIS — I thought that was your testimony. My apologies.

Mr CLUGSTON — No, just to clarify, it would be logical if they are doing that, but none of my clients have specifically said they are bringing forward marketing campaigns. They happen when they are ready and they try to sell as soon as they possibly can.

Mr DALIDAKIS — Could I ask you to take that again as a question on notice and speak with your clients and find out if any of them have attempted to use that as a way of selling existing stock that they have got off the plan?

Mr CLUGSTON — Yes, sure.

Mr DALIDAKIS — I would be interested to find out from your clients' perspective.

Mr EIDEH — In your view, what is making foreigners invest here if they are non-residents? On what basis?

Mr WHATMAN — Why do they want to invest in Victoria?

Mr EIDEH — If they are non-residents and they are not living here in Australia, why are they investing here?

Mr DALIDAKIS — Because they want to get their money out of Greece. They are worried about the system collapsing.

Mr ELASMAR — Because it is a good state.

Mr CLUGSTON — Generally the feedback is that Victoria has a sound economy and it is a safe place to invest. It has a great name in terms of investment in property. Sometimes it is a trophy asset. There are a whole lot of different reasons for why investors like to buy in Australia, but they quite often like to be able to say they have got an apartment here in Melbourne and either they rent it out or they come and stay here from time to time for holidays. They can brag to their friends they have got an apartment on a particular street in Melbourne. There are a whole lot of different reasons for why they buy an apartment here. Sometimes it is sound investment; other times it is for staying in themselves.

Mr EIDEH — Is what is happening that they want to be granted a visa to stay here? Is that why they would invest?

Mr CLUGSTON — I am not hearing of any coming or buying here to be granted a visa, no. It is more that it is a safe place to invest. It has had a strong property market for a long time. Quite often they have studied here in the past or their children are studying here so they are familiar with Melbourne and understand all the locations, so it is attractive to buy here as opposed to somewhere else that they are not familiar with.

Mr DALIDAKIS — We are a safe place to park their money.

Mr EIDEH — It is good to hear that!

Mr DALIDAKIS — I have got one more question.

The CHAIR — Of course you do!

Mr DALIDAKIS — Of course I do. I just want to tease this one issue out: when my wife and I purchased our residential property some five years ago, we factored in the cost of stamp duty as to our total purchasing price, what we were able to afford based on the bank side of things of course and also from our personal repayments side. My question to you is that when your clients look at the cost of doing business and the transactional cost, and they incorporate that additional 3 per cent surcharge only for non-residents — and remember that it is a small component for some builders, and I acknowledge that you have implied that it is quite large for some of your clients — given that we are talking about 15 grand per half-million-dollar investment, are we implying that as a result of that price point it scares the non-residents away? Again you might like to take that on notice and have a better discussion with your clients rather than respond now. It is up to you.

Mr WHATMAN — I do not think our clients know the answer to that question yet. We will probably know the answer to that in two, three, four, five years time. If we have another hearing, perhaps we can answer that question then, but at the moment I think that is one of the uncertainties. What it does do, though, is it gives those investors the opportunity to look elsewhere. Where they may have been focused, as Andrew said, on Melbourne for a number of other different reasons, they may now have the cause and opportunity to say, 'Well, hang on a

minute, if Melbourne, Victoria, is going to charge me an extra \$15 000 of stamp duty, should I in fact look at Sydney or somewhere else?’.

Mr DALIDAKIS — So then what I ask you to take on notice is that your clients will know the profile of the people that they sell to predominantly. They will know the type of financial assets and background professional expertise of the people they target in those sales processes, and I would be very keen for them to share with you and the committee that type of profile so that we can better understand whether we are talking about people who are struggling to make ends meet back in Malaysia but looking to try and get some money together for their son or daughter down the track, or are we talking about people who are potentially multimillionaires who will be able to absorb the 3 per cent surcharge? Your clients will know the profile of the people they try and sell to, and I would be keen to understand from them — obviously keeping confidentiality aside — the type of profile as well so that we can better understand that in looking at the legislation.

Mr WHATMAN — Sure.

Mr DALIDAKIS — Excellent. Thanks.

The CHAIR — Thanks, Mr Whatman. Thanks, Mr Clugston. I will close our hearing there and thank you very much for your attendance today.

Committee adjourned.