

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into the retirement housing sector

Mornington — 5 October 2016

Members

Mr Edward O'Donohue — Chair

Ms Nina Springle — Deputy Chair

Ms Margaret Fitzherbert

Mr Daniel Mulino

Ms Fiona Patten

Mrs Inga Peulich

Mr Adem Somyurek

Ms Jaclyn Symes

Participating Members

Ms Colleen Hartland

Mr Gordon Rich-Phillips

Staff

Acting secretary: Mr Patrick O'Brien

Witnesses

Mr Jim Crawshaw, and

Mr Neil Franks, committee of management, Beleura Village, Mornington.

The CHAIR — I would now like to welcome Mr Jim Crawshaw and Mr Neil Franks from Beleura Village just nearby in Mornington. Thank you, gentlemen, very much for being with us today. Before I invite you to make some opening remarks, I will just caution that 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 any comments made outside the hearing are not afforded such privilege. Today's evidence is being recorded, and you will be provided with a proof version of the transcript within the next week. Transcripts will ultimately be made public and posted on the committee's website.

We have allowed approximately half an hour for our time today, so I would invite you to make some opening remarks. Thereafter the committee will have questions. I would like to thank you for your submission, which the committee has received and digested. Thanks again for being with us, and I look forward to your comments.

Mr CRAWSHAW — Thank you very much indeed. Thank you for giving us the opportunity to have a few words. I would just like to introduce myself and Neil Franks. Both of us are residents at Beleura Village and have been so for the last three and a half years. We are here to represent concerned residents in the village. We have both been resident in the village for over three and a half years and have seen the development and changes over this time. Both of us have served on the interim residents committee prior to transition, and Neil has been elected in recent weeks onto this year's committee of management as he was the only nomination outside the existing committee.

The specific concerns that we have as far as Beleura is concerned are the lack of reporting process from the committee of management to residents at Beleura in relation to monthly financial performances against an approved monthly budget, regular progress reports by individual portfolios of committee members — the bulk of the reporting is done simply by the chair — and the lack of reporting of subcommittees operating under the committee of management's control, such as the OHS committee, the social and bar committee, sporting groups et cetera. We feel that residents need to know a lot more about the activities of these people within the village.

There is no printed detail of resident committee of management meeting minutes available for resident perusal, which has been promised by the resident committee. Resident information sessions are controlled by their chair of the committee of management in preparation of minimal agenda items of the chair's selection, with strict refusal to deal with any other items not listed on the prepared agenda. There is very little resident input into the committee of management decision-making, and the committee of management's decisions are made purely by the chair, the deputy chair and the village manager. It is a totally autocratic management structure. Communication with residents is restricted by the chair.

There is a lack of information and discussion advice in relation to programs and changes instigated by the chair, and there is a very poorly presented AGM, which we have just been through, with unsatisfactory resolve of resident queries relating specifically to accurate reporting of financials. There is incorrect balance sheet presentation and errors in reporting references. This matter has been subject to follow-up by a resident and the deputy chair, who has acknowledged the reporting accuracies and has the matter under review. It is totally unresolved at this stage, which is most unsatisfactory. It is a very clear inaccuracy and a matter of serious misreporting to residents and their interests.

There is victimisation of residents resulting in non-participation in village life. Those that do express their concerns are in many cases victimised, and naturally they are not overly keen to speak out and speak their mind. They are in there for a retired life, and over 30 to 40 per cent of the villagers are in there for that reason and do not participate.

There is no strategy plan being made by the committee of management either last year or this year, to my knowledge. There is no business plan, and there is no committee structure with highlighted responsibilities presented by the committee of management during their past 12 months in office. There is a dictatorial attitude of committee of management members towards residents and a total lack of communication, relationship building and respect — a clear 'them and us' situation.

In general there is no standard approved dispute resolution process for retirement villages. We need to have an independent ombudsman appointed to provide a simple way to speak to people and get the message across and to provide guidance as far as village life is concerned and the village residents are concerned. This is most important as far as we are concerned — to have somebody of independent view that we can go and talk to. We

require urgently an independent review of the council rate charges with council. Monthly service fees charged by village management incorporate many of the items also covered by these rates — that is, street lighting and road and footpath maintenance. Therefore residents could be paying twice for this service.

There is a need for an improved resident communication relationship and independent resolve within the village management, an acknowledgement of a ‘better together’ attitude in managing our working together. Thank you for listening to me. Have you got anything to add?

Mr FRANKS — Not at this stage, no.

Mr CRAWSHAW — Thank you very much indeed to the panel.

The CHAIR — Thank you very much, gentlemen, for those remarks. Mr Crawshaw, many of your comments have focused on the committee of management and transparency of decision-making processes and the like. What is your understanding of the obligations of the committee of management in relation to those issues?

Mr CRAWSHAW — My understanding is that they were inducted to represent the interests of the residents, and they would be conferring and seeking more information as far as resident resolve was concerned. Some of the letters that have gone out to residents from the committee of management have been very abusive and very rude and have not answered the questions and queries that were at hand. So it has been a real dictatorial type of relationship unfortunately.

Ms SPRINGLE — Can I ask how the committee of management were appointed? Were they appointed or elected?

Mr CRAWSHAW — They are elected.

Ms SPRINGLE — They are elected?

Mr CRAWSHAW — Yes.

Ms SPRINGLE — By the residents?

Mr CRAWSHAW — By the resident vote, yes.

Ms SPRINGLE — Annually?

Mr CRAWSHAW — Annually. Well, this year, of course, there was only one nomination, and that was the gentleman sitting on my right. They were re-elected again for a second term.

Ms SPRINGLE — And are they paid positions?

Mr CRAWSHAW — No.

Mr MULINO — Thanks very much for your evidence. I think you have supported a lot of points that have been made about the need for stronger dispute resolution mechanisms and so forth. I just wanted to ask a question in relation to an issue that Ms Springle raised earlier, and it deals with the complexity of arrangements that people face. There is a whole range of different types of accommodation out there. I am just wondering: what is your sense as to how many people seek legal advice before they enter into arrangements? One of the aspects of regulatory regimes in other jurisdictions — for example, New Zealand — is to provide more support for people before they enter into arrangements by either mandating or encouraging people to get more advice. Do you think that would be worthwhile?

Mr CRAWSHAW — In my estimate — and I really have no proof of this — most people I have spoken to in our village have sought some form of legal advice as to the documents and the conditions that they are signing and have a basic understanding of what is involved. However, it is a fairly emotional move when you are downsizing into a village. You tend to look at the prettiness — how attractive is the villa, how comfortable is the villa, this, that and the other thing — and I think there are a number of people who just gloss over some of the main facts of what they are signing off on. It is only when you really get into village community life that you understand exactly what it is like. Have you got anything to add?

Mr FRANKS — Just in my experience we have been here for four and half years basically. We were advised to go to a solicitor to get advice. We did that. The solicitor marked certain parts of the contract of deeds — ‘Make sure you’re aware of those things’. We said, ‘Yes, we understand those’. We have had people move out of the village in four years; it just was not for them. It is one of those things. If you go and buy a new car, you go and test drive half a dozen. If you go to a retirement village, you cannot test drive it. You go in, and you are stuck there. And you know the penalties if you go out; there are exit fees and all the rest of it. Now if you are prepared to lose money, then you move on. There is no avenue of finding out before you move in what it is going to be like. Some people just cannot cope with it.

Mr CRAWSHAW — I mean, it is a very different life to what you have experienced in the big wide world and the working world, and personally I find that I need to get outside the village as much as I can whilst I can. It is very necessary and gives some reality back into your life. But there are people who cannot do that or are not able to do that or are not inclined to do that, and they are the ones that have to live in this changed environment. Many of them choose to cut themselves off for various reasons because of the environment in itself and the small community that they have found themselves in.

Ms PATTEN — I am interested in this notion of a varied council rate, which as you quite rightly say, and the previous witnesses stated, that you are already paying for a lot of services that councils are then charging you for. I am wondering how a council comes up with a valuation for your property to account for their rates. Also, does that take into account the deferred management payments, which obviously reduce the value of your property, or do they just look at a two-bedroom villa in the council area?

Mr CRAWSHAW — That is a difficult question for me to answer, although I am fairly involved in the local council in very many other areas. It varies from council to council; it varies tremendously. There is no standard that is applied. Councils seem to choose their own rating program, and I guess it is the luck of the draw. They come in and they check the rateability of the property, where it is placed in the village and then adjust accordingly. It is a question you would have to ask councils as to how they actually measure, and every council is different.

Ms PATTEN — Yes, thank you, we will. I am just trying to get that together.

Mr FRANKS — From my knowledge, there would be no accountability or for them saying, ‘There are exit fees at the end of your term or life, therefore we will reduce your valuation’.

Ms PATTEN — Yes. Even though that does affect the value of the property obviously. Congratulations on your appointment to the committee. I was wondering when you were speaking about the lack of transparency there, is any of the reporting that you expect to receive from that committee of management mandated anywhere within the management agreements of your village?

Mr CRAWSHAW — Do you mean when we come into the village?

Ms PATTEN — Yes. You must see a management agreement that would tell you what sort of reporting they would provide to you.

Mr CRAWSHAW — Well, the reporting from the actual village management is different to that reporting from the committee of management. That is their decision on what they pass on and what they deliver to residents. So the village manager has a mandated requirement as far as reporting is concerned, but what is totally passed on to us through committee of management is the decision of the committee of management.

The CHAIR — Just a follow-up question in relation to the differential rate issue, one of the challenges, I think, for the committee is that we have received written submissions and we have received evidence from previous witnesses about the different levels of service provided in different types of villages, so that makes it difficult for a universal application of a differential rate. The residents of this village have suggested a 20 per cent or 25 per cent discount, but some of the services provided here may not be provided elsewhere and may be provided by the council. How do you suggest we reconcile that issue?

Mr CRAWSHAW — It is not an easy one, I totally agree with you, because most of the people in our village do obviously use certain facilities that are provided by the council. But I do think a discounted rate would be able to be worked out between councils. It is done in other shires and other councils. I know it has to

be a negotiation with the council, but I do not see why it should not be possible. As far as maintenance of the roads and the lighting and all those sorts of facilities, that is part of our monthly charge rates within our village. But I do agree that we are utilising roads outside the village and we do utilise library facilities and other facilities of the council, so obviously we have to pay for those, but I think there should be some recognition of density living taking advantage of some sort of rebate. Do you want to say anything?

Mr FRANKS — No.

The CHAIR — Mr Crawshaw and Mr Franks, thank you very much for your evidence today. As I said in the introduction, there will be a proof version of the transcript to you in the next week or so.

Witnesses withdrew.