

[REDACTED]

From: valda gleghorn [REDACTED]
Sent: Monday, 30 May 2016 3:14 PM
To: LSIC
Cc: [REDACTED]
Subject: Submission for ombudsman

Follow Up Flag: Follow up
Flag Status: Flagged

Hi, please find following information in relation to my family's dilemma with the non-sale of our mother's unit more than 5 years after she died.

The first was a letter sent to John Elder from the Age.

The second letter was sent to the owner of the retirement home on advice from the consumer law group.

Can you please advise if this could be submitted to the enquiry into the necessity or otherwise of an ombudsman for this industry.

I would also appreciate any advice re any other forum we could go to get this debacle finalised.

"John. I read with interest your article re "Retirees need ombudsman ..." and it related closely with an experience my family are going through with the sale of my late mother's unit at Pascoe Vale Gardens Retirement Village.

Mum bought the unit in 2004 and died in January 2011. We were told at the time, on average, it takes about 2 years to sell. We were quite happy to let them handle the sale on advice from a real estate agent. However, as of this date, it still has not been sold 5 years later.

We paid fees for 6 months and, at which time we were advised there would be no further charges. However, in December last year we received a bundle of invoices dating back to 19th August 2011 for monthly "service fees" which amounted to about \$3000, plus corporate body fees and rates for that period of time. Plus they are charging us \$5000 for advertising costs. These costs are ongoing until it's sold.

I have contacted Consumer Action, thanks to your article, and they're interested in looking into this for us.

There are other issues to be sorted out, however, I thought this might be of interest to you.

Please don't hesitate to contact me if you wish to follow this up."

"Dear Dino,

We are writing to you, on legal advice, in relation to some serious concerns we have about the contract/agreement for our late mother's unit and the sale thereof.

At the outset, we have been advised by two separate lawyers that it is the worst drafted document of this kind they have witnessed and therefore open to various interpretations in many clauses.

In the first instance, having been informed verbally that there were no further costs to us after the 6 months following mum's death, we didn't query why we didn't receive requests for payment for anything. We were aware of the rates which we would be liable for at the time of the sale of the unit.

You can imagine our shock and amazement, as we have previously advised you, when we received a bundle of invoices in December for "service" fees dating back to 19th August, 2011! The position you have taken is what is described as "estoppel" whereby you have asserted a fact/claim which is inconsistent with a previous position taken by "you" by advising us we had no further payments to make after the 6 months. We actually find this an unconscionable expectation by you for this payment.

Further, we would like to know under which Clause of the Act you were obliged to send us those invoices. In relation to the percentage payable at the time of selling up to 10 years, we have been advised that this is not applicable to us due to the length of time which has elapsed from the signing of the contract/agreement until now.

Also, the \$5000 resettlement/advertising fee we find extremely excessive compared with campaigns run by real estate agents for private properties. We understand there are some differences between advertising retirement village lifestyles and suburban properties, however, this certainly seems extreme. As of writing we are still awaiting the breakdown of how the \$5000 is expended.

In relation to the Body Corporate fee we would appreciate how that fee is broken down and what components relate to a vacant unit where no specific maintenance or servicing is required apart from the general security and external maintenance.

Having agreed to allow you to sell the unit we accepted your advice that it would take about two years.

However, now that has stretched to five plus years and we are still 'liable' for rates etc. we feel that it is totally unacceptable for you to expect payment of these costs when you are responsible for the sale.

Having conferred with two independent estate agents and told them our story they are absolutely amazed it has taken so long to sell this property."

The response received to this letter was from their solicitors quoting clauses from the Tenancy Act without addressing other issues raised.

Thanking you in anticipation of an early response.

Regards

Val Gleghorn

