

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Subcommittee

Inquiry into the retirement housing sector

Melbourne — 29 November 2016

Members

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Witness

Mr Max Penaluna.

The CHAIR — Mr Penaluna, thank you very much for joining us this afternoon. 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. 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. We have allowed about 20 minutes for our time today, and we have received and digested your submission no. 228. Thank you very much for taking the effort to do that and for being here today. I invite you to make some opening remarks, and thereafter we will have questions.

Mr PENALUNA — Well, for starters, I thank you for your invitation to appear today at the committee. My name is Max Penaluna, and I am a resident of the Federation village, Glenroy, which is located in Box Forest Road. It is a purpose-built village, where construction started in about 1998, and it has 183 units, either of single or double-bed style; all transportable homes, all of which were built on site. The population of the village consists of 65 per cent females, 14 per cent males and 14 per cent couples. The couples are either married or mother and son. Mostly they are on a pension of some description, and the majority, I would say, are in the age bracket that I am currently in. At the time of writing there were 10 units that were vacant. I have been a resident of the village since 2003, and I am currently the secretary of the residents association.

There was a change of ownership in the village in October of last year, and a company by the name of Allswell Communities took over the village. They are situated in Queensland, and they are operators of caravan parks in both New South Wales and Queensland. This is their first attempt at running a residential village or villages, because when they took over not only did they take over Glenroy but they took over Federation Werribee and Federation at Sunshine.

You can refer to my submission from earlier this year, which talked about deferred management fees and the resale of units, so I do not intend to elaborate much on that, and I will leave it to you to ask questions. I was extremely pleased today to hear residents from Willow Lodge talk about their deferred fees and the three-year battle that they have had with their particular company to gain some form of resolution to what we think is not on. A deferred management fee, as far as we are concerned, is not on.

What I would really like to say is, although I am under the Residential Tenancies Act, I do not live in a caravan park, for God's sake. It is a purpose-built village that contains 183 units, and the only provision available for caravans is a storage area around the back, which some residents do make use of. All states, with the exception of Victoria, have a Residential Villages Act, and even in some of the states, if not all of them, they have reviewed and updated the act to comply with current goings-on.

I agree with the people that have spoken on the need for an ombudsman, because what we need is somebody with teeth, where people are not frightened and it does not cost them a great deal of money, nor need legal advice to be able to come into tangles, for want of better terminology, with the village.

Managers need to be better trained. A manager of a village has an onerous task to comply with everything that goes on in the village. They have to have a happy knack of being able to communicate with people of all ages and all different types. Let me say, it is not hard to run into a blue with other residents of the village just because we have got a difference of an opinion. What I am trying to say is that they have got that much on their plate. They have got the emergency management procedures, which they should have a good working knowledge of. The embedded electrical system or the power system, they have got to have a good working knowledge of that. The insurance system is also embedded.

The problems associated with our community is, because it is an embedded system, that we have got nowhere to go other than to management, and management say, 'Well, that's how it is'. But if we want to take it further, which we did at one stage, another secretary and I had to take it to consumer affairs, and they acted as conciliators to overcome what we saw was an excessive charge on residents. Bear in mind that the majority of these people are on a fixed income and any great increase bears upon their outcome.

Ranking highly on the majority of concerns is security of tenure. Whilst with my particular agreement I had supposedly — or I do have — a 99-year lease, which is terrific, it does not give me security of tenure, because if I have a run-in with the management or the owners of the village, they are at liberty to give me 12 months notice, and I have got no recourse.

A couple of other things that I would really like to talk about are building standards and the emergency management procedures in the village, but seeing that we are limited for time I will draw a halt there. I am open for questions, if you have any.

The CHAIR — I am happy for you to address the issue of building standards.

Ms HARTLAND — That has not been covered very much, so that would be good.

Mr PENALUNA — Well, I will give you a classic example. You complain about certain aspects of the village. While they look aesthetically pleasing, coming out the front door you step out onto a verandah and then you have three galvanised steps to lead you down to a supposed footpath. If you go around to the side entrance or the back entrance, those three galvanised steps are right at the back door, so if you are coming out of the unit — say, for argument's sake, you have got a washing basket and it is full of washing — as far as I am concerned you are taking your life in your hands because you are stepping out of that area of the lounge room or wherever and you are stepping down to a step. As far as I am concerned, you should be stepping out onto a landing to make sure that it is safe to continue down the steps, or alternatively you have a ramp of some description.

In my particular case I had a ramp built, because I have a daughter who is a quadriplegic — paraplegic. I get the terminology mixed up, but she is confined to a wheelchair due to an accident which took place in Egypt in 2006. If she comes out to visit her mum and dad, she cannot get access to the place. To get her up the steps you would have to be Man Mountain Dean — to drag her up the steps and then drag her into the place. The doorways on the village are standard sized doorways, but to get a wheelchair in you are really pushing your luck. If she wants to use the toilet facility, you have still got a standard door opening, and how you wheel around one door, close it and then get into another door and close it to use the toilet leaves a lot to be desired.

If you are coming into a showered area, we have a shower base which has a step. People of our age are well and truly past all that. You may as well say these places were designed for people of 30, 40 and 50 years of age, where they are quite capable of handling that. As I said, I moved in in 2003, and I was quite happy. But now that I am getting a bit older, I am afraid steps and all that sort of thing are way out, including for people that rely on walkers and/or walking frames. How do they negotiate the steps? How do they get access to various locations in the village?

What I am talking about with building standards is there are places in the village that have not had the sewerage connected. No, I will rephrase that: they have not had the shower connected. Consequently when they took a shower the water from the shower recess was running straight onto the slab underneath. It was not until somebody that was doing maintenance on the unit got underneath the place and had a look and said, 'Hey, your shower's not connected'. That had been the case for a minimum of four years. What I would like to know and the majority of other residents would like to know is: who inspects the units?

The other major concern is stormwater drainage. Whereas most of the units have a gabled roof, one side of a unit has a downpipe arrangement that could be rectangular, 90 by 45 millimetres, which is par for the course; on the other side of the building, where the water comes down the gable into the spouting, that spouting then runs onto the carport area, and the carport area drains to a downpipe which may be 50 millimetres in size. Now, where is the standard in those types of units?

Emergency management. To cut a long story short, I complain to the fire department because, in the main, currently you will find around the streets a blue reflector. If you have any knowledge of the fire brigade and what that blue reflector means, it designates to the driver of the fire unit that there is a hydrant close by. With our particular unit I said to the manager, 'Where are these reflectors?' — 'Oh, you don't need them'. We have got hose reels around the place and we have what is called standpipe hydrant. Now, if you are unfamiliar with standpipe hydrant, it is something like a 6-by-4 rectangle, cast iron, in the ground, and you pull that rectangular top off and you put in a standpipe, which you turn, and then you turn the tap on and the water issues out at mains pressure. Now, the manager says, 'Well, everything is, in the gardens, rosy'. I was not happy with that, so I rang the Metropolitan Fire Brigade, and I said to the firey, 'How do you determine where the standpipes are, because you blokes are supposed to have an inspection every 12 months, the same as local government is supposed to inspect the premises every 12 months', which I now understand, with local government anyway, has been taken back to three years. What I want to know is: what does local government do on their inspection?

Getting back to the fire brigade, when I said that there were no reflectors and, ‘Where are the standpipes? Do you fellas know where the standpipes are?’, the very next day the fire tender from the local fire station and a crew of four went through the village and determined where the hydrants were. As a result of that they spoke to the manager, and they said, ‘What you need to do is put reflectors down so that the fireys, when they attend an incident in the place, know exactly where. If they’ve got a unit number and as they are driving up the street they can see the blue reflector, they know exactly right opposite that there is a standpipe where they can connect their hydrant to and/or their pumper truck to be able to fight the fire’.

As it turns out, the reflectors were not available — they were waiting on supplies to come in — so as an alternative what they had to do was put aluminium strips on light poles, complete with a blue reflector. So they were not at ground level; they were at an upper level. The fireys, to most of their credit, sent down two trucks and a crew of eight, and they spent the whole time there assembling these reflectors. Since we have got a supply of reflectors, in they have come.

In my time in the village there has been one emergency management exercise and one tabletop exercise. I have been there 13 years, and currently the new manager is looking at it, and he wants to get consultants in to advise him the best way to go about handling this, because the last emergency management plan stated that there would be residents of the village acting as wardens and there would be gardeners who are full-time employees. My argument was, ‘What happens after 6 o’clock, when all these people are not available? Who handles it then?’.

The CHAIR — Thank you, Mr Penaluna, for those remarks. I might just see if there are any questions from members.

Ms HARTLAND — Just one more question on what you have been talking about, and that was really helpful. When the fire trucks did come, were the roads wide enough for them to be able to manoeuvre around the village?

Mr PENALUNA — Yes. What they do not like — and I think the ambos are much the same — is that they do not like these speed humps which have been put into the villages. It does slow the truck down. It shakes the living daylights out of you, and if you have a patient in the back, if you are an ambulance service, the patient in the back is shaken up on the stretcher. But yes, the fire brigade do react very quickly, and in actual fact we have had two incidents that I am aware of where the fire brigade has turned out.

In one incident one of the residents drove over a gas meter. Fortunately one of the gardeners got underneath the car and turned the gas supply off, which negated a lot of the emergency, but they had to lift the car off the meter and get it out of the way. The first police to arrive were from the highway patrol, complete with the big pistol holder down the side, and they gave the resident the breath test and all that sort of thing. What the outcome of it was I do not know, but that was one of the incidents.

Another incident was where an electric blanket caused a reasonable amount of smoke, and the manager turned out and did not consult his wardens in any way, shape or form. Really, the ambos who turned up on the scene to treat the patient also treated the managers because they were overcome with smoke and there was nobody there to resus them. That is the sort of thing that goes on.

Ms HARTLAND — Yes, so basic training. Thank you.

Mr MULINO — Thanks very much for your evidence. You have provided some insights on a few issues that we have received other evidence on, so that was very helpful. In relation to the contracts, you have referred to the fact that you have got security of tenure but there is this big devil in the detail.

Mr PENALUNA — No, no — —

Mr MULINO — But what I mean is that you do not really, because there is the devil in the detail — the 12-month clause.

Mr PENALUNA — Exactly. I have an agreement and a lease that says I have 99 years plus 1 year. What the bloody hell am I going to do with 100 years? I do not intend to live that long.

Mr MULINO — My question was: another issue that people have raised is that within a village there is often not just complexity in individual contracts but a whole range of different contracts, which adds another layer of challenges. Based on your experience, have you seen a lot of different types of contracts over time being offered to people, or is it fairly standardised?

Mr PENALUNA — No, it is not standardised. In actual fact, up until the new owners took over the village, there were six different contracts which related to deferred management fees, and just before I came to the village it was 2 per cent per annum for a maximum of 10 years, which meant if you stayed there for 10 years you were up for 20 per cent of the resale price of your unit. When I went there they changed it to 3 per cent for a maximum of 12 years, which means that I am now up for 36 per cent if I move out of the village.

There were other contracts that were written up. The last one, prior to the village being sold, stated that for the first 12 months you would be up 6 per cent and then it would be 3 per cent for a maximum of 11 years, which brought the deferred management fee up to 39 per cent. When the new owners took over — and I have got to admit, this guy is a really smooth-talking bloke; my personal opinion is that the jury is still out on him — I asked him, ‘What’s Allswell’s feeling on the deferred management fee?’, and he says, ‘Well, we’re charging a maximum of 36 per cent, which means it’s 6 per cent for the first 12 months and then it’s 3 per cent per annum for a maximum of 10 years, which makes 36 per cent’. I said to him — because they tell you they are going to honour the contracts that have already been written — ‘What about the people who have signed a contract which states that they’re going to be paying 39 per cent?’. ‘Well’, he says, ‘as far as we’re concerned, we’re only governed by what the contract says’. So I leave it up to you.

Mr MULINO — Thank you.

The CHAIR — Mr Penaluna, thank you very much for your evidence. As Mr Mulino said, you have given some insights into some issues we have had before but not in recent times, so we appreciate that. Thank you very much for your preparedness to appear before us today.

Mr PENALUNA — Thank you for listening to me.

Witness withdrew.