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Special Bulletin

"It's been fixed"

The Queensland Government's response to the recommendations of the Transport, Housing and Local Government Committee *Report No. 14, Inquiry into the Operation and Performance of the Queensland Building Services Authority 2012* was tabled in Parliament. The Bill before the Queensland Parliament is the **Queensland Building and Construction Commission and Other Legislation Amendment Bill 2014.**

While the above paragraph may appear rather bureaucratic, what part of the Bill sets out to do is define what exactly constitutes a home and home owners living in residential parks can take some pleasure in knowing their home, under this Bill will cease to be a mere chattel *(an item of property other than freehold land or property that is movable, as opposed to real property or real estate).*

ARPQ has long argued that our so called chattels are indeed homes in terms of real estate as a definition and not chattels which according to the dictionary means *tangible item or property other than real estate* although park operators can claim real estate commission if they are involved with the sale of your home.

As recently stated by ABC's Alan Kohler on ABC's **The Drum:** "The latest boom is in what's called "over-55 communities" ….They are essentially caravan parks, except you don't put a caravan on the plot of land - you buy a building that sits on it. And as with caravans, you don't buy the land - you rent it".

Put the above two paragraphs together and we can then reasonably assume that if a residential park in its entirety is **real estate** then it is also reasonable to accept that what is in the residential park is also real estate. It would seem that we have been listened to and changes are being made. The Honourable Tim Mander introduced in August this year the above mentioned Bill which gives clarification to the so called manufactured home:

Section 67 WE (3) - Meaning of residence on Page 33 states:-

"A manufactured home fixed to land in a residential park (whether or not it is permanently fixed) is also a residence"

It is equally important that home owners living in residential parks understand that a Bill before parliament is not law, in simple terms, it is a proposal that exists in the Bill prior to the Bill becoming law and does not become law until it the Bill is passed into law by the Government and receives assent by the State Governor.

Considerations on the Bill becoming law

If section 67 WE (3) becomes law we have tried to assess some of the affects it may have on the residential parks industry.

1. Perhaps the first consideration is based more in favour of park operators who have been building manufactured homes in residential parks that do not truly satisfy section 10 of the *Manufactured Homes Residential Parks Act 2003* (the Act) because of the non-permanent fixture requirements of section 10 of the Act. ARPQ has supplied all the data required to prove these homes are permanent fixtures in the purpose built parks.

2 This was confirmed by the government of the day in the review of the Act dated May 2008 page 12, part **5.1.1 Permanency of manufactured homes** when the then Minister for Fair Trading made it very clear that manufactured homes being built then were permanent fixtures.

   Add to this the case in the Planning and Environment Court, Application number 659 between the applicant Walter Elliot Holdings Pty Ltd and respondent Logan City Council and the much controversial decision by Justice Alan Wilson who later became President of QCAT. No comment!

   The bottom line in all of this is that both sides of the house have sat on their collective hands on this issue while manufactured homes being built do not comply with the Act. Therefore section WE (3) of the Bill seems to firstly satisfy the developers and park operators.

2. Another disturbing element of WE (3) is that it is reliably reported that under the *Property Agents and Motor Dealers Act 2009* (PAMDA), real estate agent commissions are to be de-regulated thus meaning that agents will be able to charge whatever they want in commissions.

   Now government will claim that this change will bring about greater competition within the industry thus forcing commissions down which should start the alarm bells ringing. We were told this about the privatization of the energy sector so just imagine what rogue park operators will do with a windfall like this.

3. Perhaps the one advantage that does exist for home owners is that because our homes, especially in the more modern parks, greater compensation under section 38 (f) of the Act when a park is re-developed and homes have to be moved, the true cost of relocation to a park of equal status should be more realistic. This is because of the claim by the 2008 review of the Act speaks of the true cost of relocation and the decision relative to the cost should not be left to a lawyer sitting in the Tribunal with little knowledge of the house moving industry and costs involved.

4. The real worry about this WE (3) is the GST factor. The decision last December 2013 by the Taxation Commissioner when he accepted the view that homes in residential parks were the same as caravans and could be easily moved. In essence the introduction of the National Energy Retail Law Bill which will see extra costs for meter reading, home owners in residential parks face the specter of a GST increase in their site fees. Is it the intention of government to price us all out of our homes?

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