

Amanda Honeyman

From: Anita [REDACTED]
Sent: Friday, 20 January 2012 5:01 PM
To: Legal Affairs Police Corrective Services and Emerg Svc Committee
Subject: Submission to Parliamentary Committee Regarding s99A Manufactured Homes (Residential Parks) Act 2010
Importance: High
Attachments: Peta-Kaye Croft s99A Letter to Residents 001.jpg; Peta-Kaye Croft s99A letter to Residents attachment 1 001.jpg; Peta-Kaye Croft s99A letter to residents attachment 2 001.jpg; Peta-Kaye Croft s99A letter to residents attachment 3 001.jpg; DG Communities s99A Letter to Park Owners Page 1 001.jpg; DG Communities s99A letter to park owners page 2 001.jpg

My family have been the owners of a Manufactured Home Park on the Gold Coast for nearly two decades. I wish to make the following submission in opposition of s99A of the Manufactured Homes (Residential Parks) Act of 2010 as I believe that the imposition of this legislation is detrimental to both residents and owners of Manufactured Home Parks.

Attached please find documentation sent by Peta-Kaye Croft to every resident in our Resort regarding s99A.

Electricity charges at our Resort have been calculated in accordance with the Electricity Charges Ready Reckoner published by the Department of Employment, Economic Development and Innovation since its inception. I understand that any increase must be gazetted by parliament and that the process is rigorous.

In Ms Crofts' documentation, park owners are referred to as putting unfair cost on home owners, overcharging and double dipping. Further, park owners are referred to as exploitative. I fail to understand how these comments can be made when residents are charged in accordance with government legislation. This process has been established business practice within our industry for over 20 years. The Electricity Act and DEEDI govern the on-selling of electricity. Presumably if on-sellers of electricity are behaving as Ms Croft implies they would be dealt with by DEEDI.

I understand that if our business was a body corporate (ie. on-sellers of electricity) then the ready reckoner charges are perfectly acceptable, however because our clients live in a Manufactured Home Park the charges are abominable. With respect to electricity charges, residents in a Manufactured Home Park are elevated to a status above that of a pensioner who lives in the general community. Pensioners other than those that live in Manufactured Home Parks will pay a service fee as part of their electricity account and receive the electricity rebate to offset their costs. I would be interested to know how s99A is explained to these "regular pensioners".

The basis of the s99A proposed amendment is flawed. In her letter to residents Ms Croft has noted that park owners can increase site fees to cover the cost of providing electricity and maintain the electrical grid or utility. I have conducted

an exercise to examine past electricity charges to residents on the basis that the service fee charge is excluded and the site fee adjusted accordingly. Nearly half of our residents would lose part of their monthly electricity rebate as their electricity charge, exclusive of the service fee, would dip below the maximum rebateable amount. They would however bear the cost of the service fee as increased site fees. Most of these residents have incurred costs installing solar panels and will now pay a penalty by losing their electricity rebate. For those residents that do not lose their rebate, the service fee charge will be transferred to site fees and there is effectively no benefit.

Some Manufactured Home Parks owners have elected not to have their own grids. The site fees for these resorts will not include the cost of providing and administering electricity. These costs will be paid by the resident directly to the electricity provider. These residents will be paying lower site fees however site fees plus electricity will be at a higher total cost. It will be very difficult for prospective purchasers to make an accurate, informed choice when comparing site fees. Market reviews will become more complicated.

I have also attached a letter sent to our Resort by the Director-General of Communities. Her letter requires that park owners review the way they charge for meter reading fees, account fees, infrastructure and administrative charges. She goes on to say that these costs may be recovered following the procedures in the Manufactures Homes Act. I have been strenuously advised by Communities that to continue to charge the service fee charge beyond the date on which I received the Director General's letter would be a great folly. I do not understand how such a decisive direction can be made where the relevant legislation is not in place. This advice however leaves me without the mechanism to recover these costs for at least 2 months until an increase can take effect under s71.

Where a resident does not agree in writing to the s71 site fee increase we will need to apply to QCAT. Matters before QCAT are currently taking between 6 -12 months to be resolved. Any adversarial process may unsettle the relationship between owner and resident. Government and law makers need to understand that we are not arms length parties. If a resident does not respond to telephone calls or is not seen by neighbours for some time, our managers will attend to a possible emergency 24 hours a day, 7 days a week. We do this because we are a community and we have regular and often very personal interaction. This is not in our site agreement, we do it because we are a community. Pitting owners and residents against each other in a court of law would surely be the antithesis of the "quiet enjoyment" the Manufactured Homes Act seeks to protect.

Ms Croft and Ms Struthers fail to acknowledge one very important point. Manufactured Home Parks are businesses, not charities. We bear the cost and risk of business. I would ask the members of the parliamentary committee to consider what business would choose to build their own electricity grid, maintain it, read meters, implement a billing system, maintain an office, (57% of all transactions over our counter are electricity related), take responsibility for the calculation of

rebates, collect and bank monies and comply with all relevant legislation ie GST, Income Tax, Electricity Act and Manufactured Homes Act – for no return?

Residents of Manufactured Home Parks are not bulk buyers of electricity and the contract rate procured by park owners is a consequence of our business decisions to have our own electricity grids. If electricity costs are unaffordable for pensioners, there is a simple and equitable solution, increase government rebate for all pensioners.

As owners of a Manufactured Home Park we have the expectation of making a reasonable return on our investment. We need security of income so that funds can be committed to capital works with certainty. We do not deserve to be portrayed as adversaries, we are in partnership with our residents and the value of their asset is extremely dependant on the success of our business.

We have had a meeting with our residents regarding the impact of s99A. Comments were made that residents purchase homes within a resort seeking “lifestyle”. They resented being spoken about as if they have not provided for their future. Much is said particularly in the political world, about the limited income of retirees. I totally accept the fact that their income is limited, however a retiree does not suddenly lose all cognitive powers. They are capable of making a decision to buy a home within a Resort and determine advantages and pitfalls. They are also able to judge whether they can afford the lifestyle they have chosen and further, they have a saleable asset for security. Manufactured Home Parks appeal to retirees seeking resort style facilities. I urge policy and law makers not to enact legislation which erodes the economic viability of Manufactured Home Parks which in turn will diminish owners capacity to upgrade Resort facilities.

Site Fees, budgets and future capital commitments have been based, in part, on electricity charges as per the ready reckoner. I believe that the Manufactured Homes Act should be amended to reflect this. In the absence of a reversal in this policy, with respect I request that the parliamentary committee move to repeal s99A. The implementation of the changes will create enormous amounts of paperwork. If there was to be a retrospective element to the legislation GST, Income Tax and electricity rebate claims may all be impacted. There is no benefit in this legislation, in fact some of the people the act seeks to protect, will be worse off.

I thank you for the opportunity to express my opinions on this matter.

Anita Neate

[REDACTED]

[REDACTED]

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Peta-Kaye Croft MP
State Member for Broadwater



Parliamentary Secretary
Assisting the Premier on the
Gold Coast & Commonwealth Games



I am writing to you with good news with regards to the price of electricity in residential parks.

After considerable concern expressed by home owners like yourself, the Queensland Government will soon pass laws to prohibit all administrative fees or charges on the on-supply of electricity or other utilities by park owners.

I would particularly like to thank Mr Fred Harris of the Hammond Village Home Owners' Association for his hard work and valued input to these amendments.

I believe these fees were putting an unfair cost on home owners in residential parks, many of whom live solely on their pension or superannuation returns. These fees were overcharging, and potentially double-dipping by park owners.

I am pleased that I can inform you that amendments will be introduced into Parliament within weeks that will do this, by closing a loophole in section 99A of the *Manufactured Homes (Residential Parks) Act 2010*.

The effect of section 99A is to prevent park owners from charging more for the supply of electricity to home owners than the actual cost charged to the park owner by the retailer. The amendment will make sure that section 99A cannot be avoided by the charging of administrative or meter reading fees. Park owners are also being directed to review current charging regimes for the on-supply of utilities to ensure that they are only charging for electricity at the same rate that they purchase it at, as required by the current law.

It's important to note that Park Owners can still include a component of the site rent to cover the cost of providing electricity, and maintaining an electrical grid or other utility. Should a park owner need to increase and/or adjust the amount of site rent to cover these costs outside the terms of the Site Agreement, they may do so by following the procedures outlined in the Act.

I want to hear from you if you are aware of overcharging for electricity, please contact my office by phone or email me. You can also contact the Department of Communities on 13 QGOV (13 74 68).

As your MP, I am committed to ensuring home owners are protected from unfair business practices. I will remain vigilant on this issue and am confident park owners will reassess their business practices where required.

Yours sincerely

Peta-Kaye Croft



RECORD OF PROCEEDINGS

FIRST SESSION OF THE FIFTY-THIRD PARLIAMENT

Thursday, 27 October 2011

27 Oct 2011

Questions Without Notice

3489

Manufactured Homes in Residential Parks

Ms CROFT: My question without notice is to the Minister for Community Services and Housing and Minister for Women, and I ask: can the minister please advise the House as to what is being done to protect homeowners in manufactured home residential parks?

Ms STRUTHERS: I commend the member for working with Fred Harris, the chair of the homeowners' association, in drawing attention to this very important issue. The Bligh government will change legislation to protect mobile home owners from the extra fees that have been added to electricity bills by some residential park owners. Hundreds of dollars have been added to homeowners' utility bills by the unfair charging of administrative, service and meter-reading fees, and we are going to stop this unacceptable practice.

We will change the Manufactured Homes (Residential Parks) Act of 2003, effectively closing a loophole that saw park owners double dipping—slugging pensioners and others on fixed incomes with additional fees and charges. Park owners can no longer exploit homeowners. Instead, they can recoup any reasonable cost of their electricity network through site rentals. This is upfront and transparent.

This amendment is just the first step in a review of the industry with further consultation to follow asking for feedback on ways to support the growth of more residential parks, improved tenure and termination agreements for residents, and ensure residents are accessing state government electricity rebates...

27 Oct 2011

Private Members' Statements

3514

Manufactured Homes, Residential Parks

Ms CROFT (Broadwater—ALP) (3.01 pm): Manufactured home residents in my electorate brought to my attention some months ago that the owners of some manufactured home parks were charging an administrative fee to cover the cost of a groundsperson reading the electricity meters for their homes. Some manufactured home parks, when developed, established a separate electricity grid for the residential park.

The people who live in manufactured home parks are generally seniors on fixed incomes who have invested in purchasing their homes. However, they sign a site agreement that sets the cost of the land rental for the actual home. In my view, this land rental and any further costs associated with maintenance of the park should be clearly stated on the site agreement to ensure transparency of costs and enable park residents to budget for these expenses when buying into the park. It also assists people who are looking at the cost of buying these homes. I believe that to charge residents an administration fee of up to \$8.60 per household per month just to read an electricity meter is double-dipping by some park owners, who have been making up to \$2,000 extra a month with this charge.

I am pleased that the Minister for Community Services and Housing has announced today that the Bligh government will amend the governing legislation to prohibit this practice. I thank her and her staff for their assistance in this matter. In addition, some park owners have been buying grid electricity in bulk at a discounted rate yet charging the residents a tariff 11 rate. The state government will write to park owners advising that our legislation is clear in its intent that park owners cannot profit from the provision of essential utilities.

I wish to thank Mr Fred Harris, the president of the Hammond Village Residents Association, and his committee for their assistance with this matter. He has lobbied me very strongly on behalf of the residents of the parks in my electorate and I am pleased to have been able to work with him to achieve this outcome. *(Time expired)*

QUESTIONS AND ANSWERS

How will the amendment impact industry?

Industry will no longer be able to charge additional fees and charges relating to the on-supply of utilities. Park owners may only charge for the actual cost of on-supply of a utility.

How will the amendment impact on home owners?

Home owners will not be charged additional fees on their utility bills. Home owners will need to refer to their site agreement to determine how the park owner is charging for costs associated with utilities.

Why was this amendment necessary?

It recently became apparent that there was confusion as to whether administrative or meter reading fees were allowed under S99a of the Act. The Department of Communities obtained legal advice that recommended amending s99a to make it clear that administrative fees and charges on utilities that are not agreed to in the site agreement are forbidden.

What can a home owner do if they believe they've been overcharged?

Under section 140 a dispute about a site agreement may be taken to the Queensland Civil and Administrative Tribunal (QCAT). The Tribunal may make an order it considers appropriate. In addition a home owner may send copies of material to the department where the documents may be used in a prosecution against the park owner.

Will the proposal work retrospectively?

To do so would may in breach of a fundamental legislative principle. However, the section could be drafted in a way that the penalty could be enforced from 1 March 2011 - consistent when section 99A commenced. The department will liaise with OQPC to draft the legislation in a way that allows those Queenslanders that have been incorrectly charged by park owners to potentially recoup their monies through QCAT.

What if a park owner still charges a home owner more for utilities?

If the park owner charges extra for fees and charges on a utility bill, they may be in breach of the Act and risk being fined up to 200 penalty units. We will ensure park owners and home owners are aware of their rights and obligations under section 99A of the Act.

Why did this not occur when the bill was debated in 2010?

Section 99A was inserted in 2010 to prevent park owners from charging extra fees for the provision of a utility. The wording of section 99A has inadvertently proven to be unclear and open to interpretation. This amendment will make the application of section 99A clear.

Until the Amendment Bill is passed how will the provision be regulated?

Section 99A still requires park owners to charge no more than the price they pay to their supply authority. Park owners who continue to charge home owners in excess of this cost for consumption will be advised they are in breach of the Act. Should the over charging continue they can be issued with an infringement notice or prosecuted in a court of law. The Department of Communities will communicate with park owners to inform them of their current obligations under section 99A

Does a park owner have a legitimate right to recoup costs associated with providing infrastructure to support the on-supply of a utility?

Yes. Legitimate costs associated with the on-supply of any utility to a home owner should be able to be recouped by a park owner. It is no different to any other administrative or maintenance cost incurred by a park owner when providing infrastructure and facilities within a park.

Park owners may legitimately recoup the full costs charged by the supply authority. For example, park owners bulk purchase electricity as negotiated in their contract with their electricity supplier. The monthly invoiced amount charged by the supplier should equate to the combined amount charged to the home owners. It is cost neutral to a park owner for the on-supply of electricity to the group of home owners who reside in that park. The variation to a home owner's utility bill will depend on the amount of electricity consumed during the billing period.

How does a park owner transfer these costs into site rent?

Site rent should cover the costs of providing utility infrastructure within the park. Should a park owner need to increase the amount of site rent outside the terms of the Site Agreement they may do so by following the procedures in the Act.

The Act contemplates rent increases for significant increased operational costs, significant increases in rates and taxes or utility costs for the park. If the home owner and the park owner do not agree on the proposed increase within 28 days, the park owner may apply to the QCAT for a determination on the increase.

Who has jurisdiction to hear disputes between home owners and park owners?

Disputes between park owners and home owners, particularly concerning site rent and the responsibilities of park owners and home owners, can be referred to QCAT. Access to QCAT is relatively simple and based on a user pays system which requires the party lodging the dispute to pay an application fee of \$53.

Home owners have expressed a level of dissatisfaction in QCAT's process. Although the application fee is minimal, the time taken to have a matter heard and finalised can be anywhere from six to twelve months.



Dear Park Owner

I am writing with regard to the issue of electricity charging in residential parks.

The implementation of the *Manufactured Homes (Residential Parks) Amendment Act 2010* and its associated legislative changes to the *Manufactured Homes (Residential Parks) Act 2003* on 1 March introduced a new section 99A – cost of utility supply.

The policy intent of section 99A is to prevent park owners from charging more for the supply of electricity to residents than the actual cost charged to the park owner by the retailer. I am aware there is dissatisfaction among home owners who have made complaints to the Department of Communities alleging overcharging on their electricity bills.

I understand that some park owners may be misapplying the Ready Reckoner provided by the Department of Employment, Economic Development and Innovation as a guide to charging for the on-supply of electricity under the *Electricity Act 1994*. Applying the rates in the Ready Reckoner without regard to the actual cost is not consistent with section 99A of the *Manufactured Homes Act* and may constitute a breach which can carry a maximum fine of 20 penalty units (\$2000).

As a guide, the market contract for the bulk supply of electricity with your retailer will be a competitive price and lower than the notified price (Gazetted Tariff 11 – Domestic). Section 99A requires that this lower, actual price is passed on to the home owner. In calculating electricity charges for electricity consumed by individual home owners during a billing period, the consumption rate used should therefore be a lower per kWh amount than that of the notified price. For instance, if the adjusted rate you purchase electricity for is 15.00 cents per kilowatt hour, this is the rate used to charge home owners, not the notified price of 22.76 cents per kilowatt hour (GST inclusive).

It has been discovered some park owners are adding meter reading fees, account fees, infrastructure and administrative charges in excess of the actual cost of supplying the electricity to residents. The policy intent of section 99A of the *Manufactured Homes Act* is to prevent the imposition of these kinds of charges.

The site rent charged to home owners may include a component to cover these legitimate costs of providing utility infrastructure within the park. Should a park owner need to increase and/or adjust the amount of site rent to cover these costs outside the terms of the Site Agreement, they may do so by following the procedures outlined in the Manufactured Homes Act.

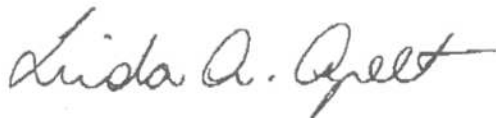
I strongly urge you and your management to review current charging regimes for the on-supply of utilities and ensure your park operations comply with the provisions of the Manufactured Homes Act.

It has also been brought to my attention that some park owners have not complied with the section 139C requirement to provide information to my department for the record of residential parks. The transitional provisions allowed existing park owners until 30 May 2011 to submit a Form 10 (Information for record of residential parks). If you have not fulfilled this requirement, please attend to it as a matter of urgency.

Additional information including prescribed forms can be found at the Department of Communities website at www.communities.qld.gov.au.

If you require any further information or have queries pertaining to the content of this letter, please contact Mr Mark Francis, Executive Director, Policy and Performance, Housing and Homelessness Services, Department of Communities on 3235 4853.

Yours sincerely

A handwritten signature in cursive script that reads "Linda A. Apelt".

Linda A Apelt
Director-General
Department of Communities