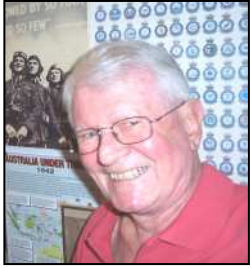


The Landings and Sakkara Investment Holdings Pty Ltd

Village: The Landings, North Turrumurra

Operator: Sakkara Investment Holdings Pty Ltd (trading as a Trust)



The Advocate: Neil Smith, a resident at The Landings, represented 28 other residents (including Jan Pritchett, the President of the RVRA). Neil has worked tirelessly for his village and for the RVRA in promoting fairness in the industry. He has been an active member in the RVRA Study Groups.

The Dispute: Residents identified six typical instances where they believed the Village Manager had inappropriately spent from Recurrent Charges for the financial year ending 30-6-2010. The residents believed these items should have been paid by the operator, under legislation.

One of the six items was for Management Fees of \$30,118, that had been charged to residents, without residents' consent to a new contract, or any transparent disclosure of detail, or the operator having established relativity to residents' benefits.

The other five matters were carefully selected as typical examples of what could constitute "repair" as distinct to "replacement" of items of capital, both in dwellings and in common areas of the village.

The total would have amounted to \$54,500 if all six items that were being challenged were considered by CTTT to be refundable. The Member's comments included his opinion that the legislation prior to 1st March 2010 (the date that the new legislation commenced) was applicable to some of the matters and he had ruled accordingly on those matters.

The Case History: Tribunal interpretations according to legislative definitions were in reality being sought under legislations applying both before and after 1st March 2010.

There was a one day hearing. The elapsed time between residents' application and CTTT Member's issued ruling was well over ten months.

The Result:

The result was most pleasing, to not just the twenty-eight pioneers who lodged the application, but to all the 280 residents at The Landings, who benefited by the CTTT's ruling to refund to residents of:

- Management Fees of \$30,118, which had unjustifiably been paid by the Village Manager out of residents' funds, to a contractor, who was unable to substantiate that their services were to the benefit of residents;
- \$5,777 for work that the Village Manager had unfairly classified as "repair", but which the CTTT Member clearly agreed with residents that the work constituted "replacement", and had to be paid for by the operator.

What has been learnt?

Residents should never be hesitant to question how the Village Manager is spending their money, collected as Recurrent Charges. Legislation is now in place to protect residents, but they need to understand possible interpretations and work together, through the RVRA, to keep those operators who try and take unfair advantages, honest by taking steps to achieve enforced compliance with legislation.

Note: This village has had two further CTTT hearings in the past year, because the residents rejected the proposed large increase, in the vicinity of 30% for each year, in recurrent charges for the 2011 and 2012 financial years. CTTT Mediation on the first case took so long that the financial year had ended, and the village had run normally on the previous recurrent charge rate, and there was a surplus. However, the mediation on the second case is still continuing.
