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OLDER WOMEN'S NETWORK - MELBOURNE

ABN.11208679251

Ross House, 247 Flinders Lane, Melbourne 3000

Telephone: (03) 9438 1330 or 9795 5905; Fax: (03) 9650 3689

Please address all correspondence to **The President**

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BY: LACA

INQUIRY INTO OLDER PEOPLE AND THE LAW

We thank you for your invitation to make a submission to the above inquiry and for the extension of time to contribute. As you may realize, we have no paid staff and all our work is done on a voluntary basis by older people. And we are getting older all the time with a few dropping off the twig; and the voluntary work increases rather than decreases.

The main problems reported to us by older people in their attempts to deal with the law concern three main areas:

1. Matters related to staying in their own homes – mainly to do with local government.
2. Appointing trustees and bestowing power of attorney without losing complete control of their lives.
3. Lack of money.

Staying in our own Homes

Most older people would prefer to remain in their own homes as long as possible but this sometimes requires alterations being made to the premises to make it physically possible. Another option for some is to build a granny flat for another family member or perhaps a family member would be willing to build a flat on their ground. However this is not a simple matter and local councils demand expensive reports, the building of concrete car-parks and all sorts of special requirements. Older Australians should have access to free legal advice to help them stay in their own homes for as long as possible.

General & Enduring Power of Attorney & Family Agreements

A recent report on Assaults on the Elderly found that most assaults were committed by members of the victim's family and that the majority of such assaults were financial. A number of our members have reported personal knowledge of such cases. The most common offence is the children of an older person, having obtained control of that person's financial affairs, selling up the house and moving the parent into other accommodation, declaring that it would be better for her or him.

We support the recommendation of the Public Advocate of Victoria that older folk should appoint two trustees – one a family member or trusted friend and another who would be a professional person such as a lawyer, accountant, bank manager etc. and that any action would have to be endorsed by both of them.

Here we would add a word of warning about reverse mortgages, often recommended to older people by banks, and suggest that government should provide some free legal advice on such financial transactions.

We suggest that any financial agreement, trusteeship or bestowing of power of attorney should have to be registered with the Federal Attorney-General's Department and that any move to dispose of the person's house or investments or to withdraw large sums of money from her/his bank account should have to be notified to the AG's Department and they should have someone investigate the matter to make sure that the owner is happy with the arrangements. We understand that this could present some difficulty in the case of people suffering from dementia but believe that the Federal Government should co-operate with the Public Advocate in Victoria (and other states, if they have one) to work out the best way to ensure that older people are not forced out of their homes against their wishes or left destitute. These matters are often not reported as the victims are ashamed and embarrassed and do not wish to take action against their children.

Lack of Money

This is the main barrier to older Australians accessing legal services. It is of particular concern to women because most have experienced a lifetime of financial inferiority. The idea that women should be dependent on men is no longer generally accepted and is especially irrelevant to older women as they usually live longer than men. However many of the women now retired were expected to remain at home caring for children. Those who were employed were usually in occupations which are remunerated at a lower rate than those in which males predominate; and that is still the case today, probably because they are considered female occupations. Teaching, nursing, child-bearing and rearing, volunteering and other caring activities undertaken predominantly by women should be more highly valued and rewarded accordingly. The Carer's Allowance of \$50 per week, paid to women (and a few men) who care full-time for disabled partners and/or disabled adult children, is grossly inadequate.

It was reported recently in The Melbourne Age (13/6/07) that the superannuation savings of women now aged 35-44 years is expected to be approximately half that of males of the same age by the time they all reach 60 years of age. Women who are aged 60 and over now are in an even worse situation, as few of them had any superannuation at all.

The Federal Government practice of subsidizing superannuation, private health insurance and private education by tax concessions is grossly discriminating against women, as such concessions overwhelmingly benefit high-income-earners at the expense of low-income-earners.

The age pension provides a basic existence, but is insufficient for unexpected large maintenance expenses or involvement in activities outside the home. The pension is not enough to pay back loans or even the interest on them. It is certainly not adequate to provide for legal advice.

Community legal services, free for pensioners, could provide such information.

What ever happened to Legal Aid?

MARY R. OWEN
President