

RECEIVED
15 AUG 2007

Submission No.....154.....
Date Received.....

MT

15 August 2007

BY: LACA

The Secretary
House of Representatives Standing Committee
On Legal and Constitutional Affairs
Box 6021
Parliament House
CANBERRA ACT 2600

A Submission to the Inquiry into Older People and the Law

Background

I am 61 years old and until 2 years ago, had been ignorant of the the issue of Elder Abuse and Elder Rights.

In 2005, I started researching on how to get help for a friend, Frank, who was living in terribly cramped and unacceptable living-quarters.

Found out that his children refused to discuss property settlement with him, on behalf of their mother (one of them has power of attorney for the mother; but they work jointly re issues of their parents). Their mother was diagnosed with a serious mental illness 5 years into the marriage. They have been married for 40 years before the victim found out through his daughter that the wife no longer wanted to be with him. The man had worked hard to look after his wife and family. Financial assistance and gifts were generously given to the children.

This submission is relevant to 2 of your Inquiry Terms of Reference:

1. **Financial Abuse** – denial of proper access to the victim's assets – over 8 years! Friends and relatives could not understand why 2 well educated adults (in their 40s) did what they did, until the victim took the case to a solicitor in 2005. Victim found out that as all his assets were either in joint-names with his ex-wife or the family trust, his death before any property settlement would see his children have total control of the asset pool.

These are the responses obtained from various agencies:

- Apply to VCAT. As the victim was not the one who gave the son the POA and the ex-wife would not revoke the POA, this option was useless.
- Public Advocate. "Has the man got capacity?" "Yes? Sorry we can't help you.
- A Lawyer – "Don't touch it. Get on with your life."

Even when the matters were in family law practitioners, there were unnecessary delays from the children.

- They took lengthy period of time to reply to the victim's lawyer's mail;
- Outrages demands e.g. 60% of the asset pool, maintenance payment (expecting the 76 year old father to work to pay maintenance). A 50% split would have seen the wife well looked after, for the rest of her life, without government assistance.
- Requesting documents that were already provided.

Enduring Power of Attorney – There should be something in place to assist people like the victim and his wife in this case. No laws were broken but neglect and failure to act must be taken into account.

Click on the link below to see the victim's home for over 8 years. Just bear in mind that this man has worked hard, looked after his family and has assets that many of us can only dream of, yet his children did nothing.

<http://youtube.com/watch?v=kgO83N2x7tE>

What astounded friends and relatives of this victim is the fact that the daughter works in the government-funded mental health organisation and has been on a ministerial advisory committee for consumers and carers.

There are laws to protect the abusers – their names cannot be revealed; even though there are concrete evidence of what they have done.

There are NO laws in place to help the victim and others like him.

Thank you for the opportunity to make this submission.

Audrey Cooke