

**SUBMISSION TO THE COMMUNITY AFFAIRS REFERENCES COMMITTEE OF INQUIRY INTO THE FUNDING AND OPEARTION OF THE COMMONWEALTH STATE/TERRITORY DISABILITY AGREEMENT.**

**Financial arrangements of the Hospitaller Order of St John of God and men in Victoria with intellectual disability and receiving a pension from the Commonwealth government.**

This submission is being made to inform Committee members aware of a situation that we believe was able to develop within the provisions of a Commonwealth – State Disability Agreement involving the State of Victoria. Part of the overall story is now historical. Even so, if the analysis and interpretation of events and administrative arrangements is correct, then a substantial amount of Commonwealth funding (taxpayers contributions) passed either directly or via a government in Victoria to the Trustees of a religious order that we consider not a fit and proper one to be a major service provider to government. The submission raises serious questions about the way these agreements and transactions were negotiated and followed through and there appears to have been an instance of very poor public administration on the part of the Commonwealth government department(s) at the time.

Another part of the story overall appears to be ongoing. We suspect that a group of men who are in the “care” of St John of God Services, Victoria, have been subject to financial exploitation for some years and furthermore this situation probably continues today.

**In relation to this inquiry by Community Affairs References Committee, we consider that the matters disclosed and the questions raised can be considered within Terms of Reference (a) and (c).**

In respect of (a), we believe that the information and documents provided illustrate that one effect of a previous Commonwealth/State Disability Agreement was to enable the Trustees of a religious order within the Catholic Church in Australia to acquire monies for properties that were already owned by those same Trustees and, to set up a financial scam through a landlord-tenant arrangement. In respect of (c) we believe that the Committee must look at the information that we have provided about deductions from Commonwealth pensions provided to men with intellectual disability who are in the “care” of a not-for-profit company set up in Victoria by the same Trustees.

We ask the Committee to then inquire as to whether other, similar situations might be happening for a larger number of vulnerable, ageing and disabled people who are in various care-arrangements across the country. We sincerely hope that this is not the case. Our pessimism is brought about by what we see as poor and sometimes superficial public administration on the part of both Commonwealth and state agencies in their dealing with NGOs that are service providers and working with vulnerable people.

## **Background.**

Over the past six years or so, Broken Rites has been contacted from time to time by men who had spent their childhood in one or both of two institutions that were run in Victoria by the Hospitaller Order of St John of God. These institutions were a Home for boys at Cheltenham and a Farm in Lilydale called “Yarraview” which became a facility for the accommodation of about 50 or so teenage boys and young men with various forms of intellectual disability. Around 1958 the Home at Cheltenham was closed down and the property was sold to the Myer retailing business. In the sixties the Myer-Southland retail shopping complex. Over time boys at Cheltenham (orphans, state wards, abandoned children) were moved to “Yarraview” to join the existing community of boys and men with intellectual disability.

We received many stories from former residents of the Cheltenham Home about the operations there of a ring of paedophiles, most of whom were Brothers in the Order. Two male employees at the farm were also alleged to be paedophiles. We also learned that some of the religious paedophiles at Cheltenham visited “Yarraview” on a regular basis.

A second group of callers to Broken Rites have been parents and relatives of some of the intellectually disabled people who were at “Yarraview”. They too were making complaints and allegations about the activities of paedophiles operating at the Lilydale farm. Again the alleged offenders were Brothers in the Order. From our records of interviews etc we now understand that there would have been a religious community of about 30 brothers located across the two homes and at least 12 (and possibly 15) were sexually abusing the residents over at least 2-3 decades. These offences were occurring up to the mid 1980s. In the mid-nineties the Trustees of the Hospitaller Order of St John of God settled out of court in a class action brought against them by at least thirty of the men who had made allegations about sexual abuse.

Another set complaints from parents and legal guardians dealt with financial matters and the running of “Yarraview”. There was nothing specific. Usually parents recounted how some were giving substantial gifts to the Order by way of money, property and family estates. Despite this situation, nothing seemed to ever change in respect of the quality and comfort of the facility and these parents questioned where all of their contributions were going?

**We have information that suggests that the Hospitaller Order of St John of God and the “not for profit” company – St John of God Services, Victoria, have been and maybe still are engaged in a fraud of the Commonwealth and possibly the Victorian government. As well we believe that these organisations have been, and continue to take money unlawfully from the now adult men that they receive government grants to care for. Many of these same men are the ones that were sexually abused in their earlier lives. The religious Order now acknowledges that this abuse did happen. It is our firm view that, given everything that has gone on and continues to be allowed to go on, neither organisation is a fit and proper one to be a service provider.**

**Issue No.1 – Purchase of houses using Commonwealth funds.**

Our analysis of the financial information suggests that the Order has been operating a financial scam for some years. A key arrangement in the scam appears to be the relationship between the Trustees of the Hospitaller Order of St John of God (NSW) – the religious Order and St John of God Services (Victoria) which is a Victorian-registered company limited by guarantee. St John of God Services Victoria is a major provider of accommodation, training and respite services for the intellectually disabled and on behalf of the Government of Victoria. For this purpose it has been receiving funds in the form of grants from the government of Victoria and possibly from the Commonwealth government. Whether the Order provides services on behalf of other jurisdictions in other States is not known to us.

**The closure and sale of the “Yarraview” property is linked to the setting up of this financial scam and the movement of intellectually disabled residents off the farm and into residential accommodation in a number of outer suburbs around Melbourne.**

An initial trigger to this opportunity was the awarding of a grant in September 1988 from the Commonwealth department of Community Services and Health to St. John of God Yarraview Inc. by (**Document 1**). The document indicated that this grant of \$488,000 was to cover a range of things including the purchase of three houses that would be used to provide residential care for the **last-remaining 12 residents** who were on the farm.

Another key step appears to be the negotiation completed in June 1992 of a Commonwealth/State Disability Agreement (**Document 2**). This agreement appears to be the mechanism by means of which the Government of Victoria took over responsibility for a range of accommodation services including some involving the Order of St John of God. Item C in **Document 2** identifies six houses either being operated or planned to be operated by St. John of God Yarraview.

*It should be remembered that at the time that these financial arrangements between government and a charity/service provider were put into place, governments across Australia were implementing a broad policy of de-institutionalisation in relation to services for the mentally ill, disability services and some aspects of correctional services*

Clause 16 (1) of the Agreement talks about equity and it suggests to us that the Commonwealth maintained a continuing interest given that it was providing about 80% of the valuation of the properties. With the Commonwealth government meeting 80% of the valuation, the remaining 20% may have come from either the Government of Victoria or from the Trustees of the Hospitaller Order. This detail is not known to us.

The two documents indicate that government provided substantial monies so that the St John of God Order could purchase and or set up suburban residential accommodation for a number of men with intellectual disability who, up to this time had been cared for and accommodated on the Lillydale farm. This movement of residents off the Lillydale farm then allowed the Order to sell the property for \$2.4 million. The property now exists as the Yarraview Country Club, an up-market golfing complex.

***Who owns the properties?***

We have always believed that the Trustees of the Hospitaller Order must have been the owners of the property because of the rental arrangement that has been able to be set up. This is the existing arrangement where the Trustees are the landlord and the company appears to be the tenant. However we have always been curious as to how this could be so given that for the six properties that are identified at least, the Commonwealth government appears to claim an 80% interest.

**Title searches that were done for two of the properties, No.10 Songbird Ave, Chirnside Park and No.17 The Eyrie, Lilydale. The searches indicated two things. The Trustees for the Hospitaller Order of St John of God, Yarraview Inc., own these two properties and furthermore the Trustees already owned them at the time that Commonwealth government funds were provided for the purpose of the Trustees purchasing the same properties. The historical ownership arrangements may be the same for all of the properties and this could be revealed by further title searches.**

We believe that the following scenario is very possible. Apart from acquiring the Lillydale farm, the Trustees over the years were purchasing and in some cases being given houses that they then operated as rental properties. When the government's policy position was announced the Order saw that it could extend its operations to residential care operations by getting rid of its tenants, putting other intellectually disabled men into the houses and taking the money on offer from government. Thus it would have been able to make a capital gain. Alternatively it may have read the climate of government policy at the time (i.e. to de-institutionalise persons with either mental illness or intellectual disability) and it realised that it could get government money for all or part of a service that it was already providing

***Issue No. 2 - Timing of the purchases.***

The table in **Document 1** lists as an "evidence measure" the purchase and occupancy of the three houses by 30/9/89. If the money granted in 1988 was for the purchase of the three houses to accommodate the remaining 12 residents on the farm what was then proposed as the funding need prior to 1992? Presumably all of the men were by this time already in residential accommodation

***Issue No 3 - The rental arrangements for the current tenants.***

**Document 3** is the Financial Report to 30 June 2001 for St John of God Services Victoria. It shows that although the Victorian operation provides accommodation services and care to people with intellectual disability, it appears not to own the properties which these people are housed. It is suspected that the bulk of the "property, plant and equipment" covers motor vehicles and the like.

It appears that because the Trustees of the Hospitaller Order of St John of God owns the houses, the Order has been able to set itself up as a landlord with St John of God Services Victoria being the tenant. On first glance one might say that this is OK. Now enter the residents with intellectual disability. It is understood that each of these people receives some type of Commonwealth Disability Pension. At the time we investigated this situation about two years ago, a pension of this sort provided approximately \$440 per fortnight to the person.

We understand that two major deductions are taken each fortnight from each of the resident's pension. St John of God Services Vic. bills each resident for the two amounts:

- Payment for **RENT** and **ADMINISTRATION**. Up until a year ago this amount was \$160. Last year we understand that the rents were reduced by about \$25 per fortnight.
- Payment (\$175?) for living costs. These include the house account (FOOD ETC), utilities and **maintenance of the house**.

Thus if a resident was receiving say \$440/ fortnight in his Commonwealth pension, he is paying out \$325 of it (approx 75%) to St John of God Services Vic which is in turn paying the Hospitaller Order at least \$160/ resident/ fortnight for the rent of the house. As already indicated, under the Commonwealth/State agreement, the Commonwealth has already provided funds that give it 80% equity in each house. If the Government of Victoria did in fact provide the rest of the funds, then the residents have been and are still paying rent to stay in houses that government has already purchased for them to use. **Furthermore the landlord meets no maintenance costs!**

The scale of this rip off could be substantial. The number of current residents is not known although it is at least 30 and possibly as high as 50-60. If say the average number of residents over a ten-year period was 40 men, then the rental income going to the Order would be been about \$1.664 million.

There is a second aspect to this apparent scam; it is the scale of the rentals that are charged. A visit to one house at No. 17 The Eyrie, Lillydale indicated at the time that it was clean, comfortable although very basic. At the time, five men with intellectual disability were living in the house. The monthly rental income would have amounted to about \$1600. These houses are in the outer suburbs of Melbourne where rents are in the mid to lower range for Melbourne. At the time of a visit to the house, a check with a local Real Estate Agent indicated that an average rental for such house in such an area would be in the range \$800-1000 per 4 weeks.

The information and the documents that we are submitting suggest that there has been a serious failure in the administration of at least one Commonwealth-State Disability Agreement. Part of this failure must be attributed to a deficiency on the part of the relevant Commonwealth Government Department. We do not rule out the possibility that one or more relevant agencies in within the Government of Victoria may have been deficient also and it is very possible that the respective responsibilities of the two jurisdictions was not clear at the time.

Whether the consequences of this failure are restricted to only one service provider or whether a number of service providers have been involved in similar apparent scams, is not known to us. It is a matter that Committee members may need to make further inquiries about.

**The most disturbing feature now, is the fact that a group of men in Victoria may still be being ripped off by the service provider who is contracted to provide for their care. We are aware of actions having been taken with both the State and Commonwealth government ministers to no avail. In November 1999 two members of Broken Rites met with the then Minister for Community Services, Ms Christine Campbell MP about these matters. We were surprised that this minister was not prepared to follow up the matters in any way. Copies of correspondence between Broken Rites and Minister Campbell's office is provided as Documents 4 and 5. We are also aware that questions on notice have been put to two successive ministers with the portfolio responsibility (Senators Amanda Vanstone and Kay Patterson). We consider that the responses from each of these ministers at the time to be unsatisfactory.**

#### **Matters that need to be explained.**

Broken Rites is of the opinion that there remain several questions that need to be properly considered and fully answered. They include the following:

- In entering the 1992 agreement, did the Commonwealth government believe that it was providing moneys for the purchase and fitting out of additional houses?
- If the relevant department believes that the Commonwealth's interest is being maintained, how does this come about when the Commonwealth of Australia does not appear on the titles of at least two of the properties?
- Why are the residents of these houses paying excessive commercial rents to live in houses that were supposed to have been purchased with funds provided from the Commonwealth government through a previous Commonwealth-State Disability Agreement?
- For how long have these rental arrangements been in place and when did the relevant departments (Commonwealth and/or State) first know of them?
- If the Commonwealth government has provided 80% of the costs to provide for the accommodation of these men with intellectual disability, how can the charging of full rent and at such high rates be justified?
- If the rental arrangements cannot be justified, will the Trustees of the Hospitaller Order of St John of God be directed to make restitution of these moneys to the residents?

- How does the responsible Commonwealth department know that similar rental arrangements (or some other forms of financial scam) have not been put in place by other service providers either within Victoria or elsewhere?
- If that Commonwealth department does not know the answer to the question above, does it intend to find out, perhaps using the services of the Commonwealth Auditor General or the Federal Police?

Prepared by –

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