

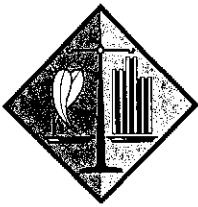


# Senate Select Committee on Superannuation and Financial Services

## Main Inquiry Reference (a)

**Submission No. 180**

**Submittor:** Resource Management and  
Planning Appeal Tribunal  
Ms Helen Anderson  
Registrar  
GPO Box 2036  
HOBART TAS 7001  
 - 03 6233 6464  
 - 03 6224 0825



**RESOURCE MANAGEMENT AND PLANNING APPEAL TRIBUNAL**

Your Ref: H. Anderson  
Our Ref: (002) 33 6464  
Officer:  
Tel Extn:

22 May, 2001

Ms S. Morton  
Committee Secretary  
Select Committee on Superannuation and Financial Services  
Parliament House  
CANBERRA ACT 2600

FAX 02 6277 3130

Dear Ms Morton,

**Re: Senate Inquiry into Solicitors Mortgage Schemes in Tasmania. Submission No. 139 - JM Holland**

Thank you for your letter dated 16 May 2001 enclosing a copy of the above submission, and requesting a response.

I enclose a response on behalf of the Tribunal.

Yours faithfully

*HA*  
**Helen Anderson  
Registrar  
Resource Management and Planning Appeals Tribunal**



## **RESPONSE TO SUBMISSION NO 139 - SENATE INQUIRY INTO SOLICITORS MORTGAGE SCHEMES IN TASMANIA**

This is a response to submission number 139 by Mrs J.M. Holland to the above Inquiry.

The paragraphs of the submission which appear to be relevant to the Resource Management and Planning Appeal Tribunal in its carriage and conduct of the proceedings before it number A 52/97, involving Mrs J.M. Holland, are identified by letters adjacent to the relevant sections, on the left-hand side of each page of the attached copy of the original submission. This response refers to the paragraphs so identified.

### Paragraph A.

By way of background the Tribunal's three decisions, J259/98, J10/99 and J37/99 are each appended. They detail the course of the applications before the Tribunal, the Tribunal's reasoning, and the results.

Insofar as paragraph A infers that the Tribunal did not uphold the laws of Tasmania, the decisions speak for themselves. In addition, an application which was substantially an appeal by Mrs Holland to the Supreme Court of Tasmania from the Tribunal's decisions, was lodged; the Tribunal has not been made aware of the outcome of that application, but to date has not been advised of any order by the Supreme Court setting aside or varying any of the Tribunal's above decisions. Further, as is evident from Mrs Holland's submission number 139, approaches to Tasmania Police, the Ombudsman, the Tasmanian Sex Discrimination Commission, and the Minister for Primary Industry Water and Environment have been made, without any known conclusion that the Tribunal did not uphold the law.

### Paragraph B

Neither the "Solicitors Guarantee Fund" nor the "Solicitors Mortgage Funds" nor the possibility of a "financial meltdown", nor the proposition of "wildly excessive loans" was put before the Tribunal in any way, in the course of this application from its lodgement to its final conclusion and the final order by the Tribunal. Nor did any of these concepts play any part in the Tribunal's reasoning in reaching any of the three decisions (J259/98, J10/99, J37/99). On examination of the Tribunal's files there is no reference whatever to any of these subjects present in any of the documents in those files. The first reference to these subjects, to the knowledge of the Tribunal, of any relevance to the Tribunal, is in submission 139 to which this response is made.

### Paragraph C

By letter dated 25 May 1998 the Tribunal advised Mr and Mrs Wallace, the owners of Unit 3 in the development the subject of the application, that orders had been sought for demolition of various structures on the site, including Unit 3; and inviting them to participate in the proceedings if they wished. The reference to Unit 3 was a mistaken reference to Unit 2. Unit 2 was the subject of an application on behalf of Mrs Holland, in the form of a document entitled "orders sought" and dated 12 May 1998, which by paragraph 4(e)(i) sought relocation of Unit 2 or other modifications so that it complied with the boundary setback dispensation condition. At a directions hearing before the Tribunal on 16 June 1998 Counsel for Mrs Holland referred to his contention that the permit for the development in question was not valid; that if the appropriate actions were not taken to validate it, then as one option application would be made for an order for demolition of the whole development. The Wallaces, the owners of Unit 3 mistakenly referred to, were represented by Mr Otlowski of Counsel at that hearing on 16 June 1998. A direction was made that Mrs Holland's solicitors file a consolidated document setting out the orders sought by Mrs Holland and the grounds upon which they were sought. From the date of that hearing on 16 June the Wallace's Counsel, Mr Otlowski, was aware that there was no order

sought specifically for demolition of Unit 3, but that what had been sought was demolition of Unit 2. After that date the Wallaces remained parties to the proceeding, but for the protection of their interests with respect to matters other than the possibility of demolition of Unit 3. The application to the Tribunal by Mr Otlowski on behalf of the Wallaces for costs, a letter dated 17 December 1998 from Simmons Wolfhagen, by paragraphs 1.2 and 1.3 makes it clear that their continued participation in the proceedings was not the result of the mistaken reference to their unit.

#### Paragraph D

The reference to “legal legerdemain” is answered by reference to the Tribunal’s cost decisions J10/99 and J37/99, where the reasons for the costs orders are set out.

#### Paragraph E

The Tribunal was aware, prior to making its substantive decision J259/98, that Murdos Nominees was the mortgagee for Mr Hurburgh, and for the Wallaces. The Tribunal was not aware, until after decision J259/98 had been made, of the value of the respondent Hurburgh’s house or of the amount of the mortgage over it; or of the government valuation or other valuation indices of any of the units, or of the amount of any mortgage over the units, or of the proposition that if the units were sold at government valuation there would be insufficient funds to repay the mortgage indebtedness, or of the income of the respondents Hurburgh, until so informed by the letter dated 11 January 1999 (mistakenly 11 January 1998 on the front page) from Murdoch Clarke to the Tribunal making the application for costs resulting from the Tribunal’s substantive ruling in J259/98. Nor, apart from the statement on 16 June by Mrs Holland’s Counsel that one possibility was demolition of the whole development, was there any suggestion that the total development would face demolition, if Mrs Holland was successful. When the orders sought by Mrs Holland were last formulated in writing prior to the principal hearing of the evidence in the application on 26 and 27 August 1998, there was no order sought for demolition of the whole development. Reference to the Tribunal’s decision J259/98 enumerating the orders sought also does not reveal that any of them was for demolition of the whole development. The Tribunal in making its decision upon this matter was not aware of the proposition that there would be significant adverse consequences for any mortgagees following upon the Tribunal’s decision; and the Tribunal did not take the issue of consequences to mortgagees into account at all in making its decision.

#### Paragraph F

While the Tribunal was aware that Mr Otlowski was Counsel for the Wallaces and that his firm Ware and Otlowski had a second mortgage over the Wallaces unit, that fact was not relevant to or taken into account by the Tribunal in making its decision J259/98.

The Hurburgh Supreme Court action was not the subject of evidence to or submissions to the Tribunal in the course of the hearing of A 52/97, nor was the Tribunal, to the best of the Chairman’s knowledge, aware of the currency of that action at any relevant time. In any event the allegation of acting contrary to Mrs Holland’s instructions appears to be directed at someone other than the Tribunal.

#### Paragraph G

See paragraph C above.

#### Paragraph H

The basis of the award of costs is referred to in decision J37/99 with respect to the costs awarded for the Wallaces against Mrs Holland. The remainder of the paragraph does not appear to be relevant to the Tribunal.

#### Paragraph I

If this is a reference to the Tribunal’s mistaken reference to the Wallaces Unit 3, instead of Unit 2, in the letter of 25 May 1998 to the Wallaces, then reference is made to paragraph C

above. The statement that Mrs Holland was “unaware of the facts” or that information had previously been concealed from her, is not one which the Tribunal can usefully answer. Mrs Holland’s Counsel, Mr Crisp, was present at all hearings and in possession of all relevant documents. With respect to whether and when Mrs Holland was aware of the mistaken reference to Unit 3, Mr Brian John Wallace’s affidavit sworn 17 July 1998 paragraphs 12 and 13 are relevant to the information given to her.

#### Paragraph K

This is referred to in paragraph J above.

#### Paragraph L

Mrs Holland’s Counsel, Mr Crisp, was one of the legal practitioners with planning expertise named on a list maintained by the Tribunal for public reference and provided to Mrs Holland. The persons on the list had agreed to the Tribunal to provide a first consultation on planning matters, to persons referred to them by the Tribunal, free of charge. The Tribunal did not recommend those persons other than for the purpose of that initial consultation. Any further representation was a matter for the client and the representatives involved to negotiate.

#### Paragraph M

At no time, in numerous preliminary hearings or prior to the final termination of this matter, did Mrs Holland’s Counsel or Mrs Holland express to the Tribunal any concern as to bias or discrimination arising from the fact that the Chairman, Mr K.A.M. Pitt QC had been the Chairman of the Planning Appeal Board involved in a previous hearing with respect to Mr Hurburgh. Mrs Holland was not a party to that previous hearing. The previous hearing did not involve any assessment of Mr Hurburgh’s credibility. That decision was J131/93 of the Planning Appeal Board. It arose out of a purported planning approval granted by the Kingborough Council to Mr Hurburgh for the development in question. A number of conditions were imposed upon the purported approval. Conditions 5 and 7 of the purported approval required upgrading of vehicular accesses. The Planning Appeal Board substituted for Condition 7 requiring upgrading of the whole access, a condition requiring construction of a 1 metre wide footpath along one side of the access, and a handrailing across a small culvert. The Planning Appeal Board did not as asserted by Mrs Holland “delete the very clause that upheld my rights as owner of the land”. There was no bias, nor was there any conflict of interest present for Mr Pitt in sitting on the previous Planning Appeal Board hearing and then on the Tribunal hearing A52.97 or subsequent proceedings. Had any suggestion that he should disqualify himself been made, that would have been considered.

#### Paragraph N

Mrs Holland had sought to prove the terms of the relevant planning application and approval by tendering the subsequent detailed building plans. These were objected to by opposing parties because they were for a different purpose and not necessarily the same as the planning application. The Tribunal upheld that objection, but subsequently with the consent of all parties had regard to those building plans. Otherwise the reference to proof not being accepted, is not understood.

#### Paragraph O

Assuming for this paragraph that the reference to the “Solicitors Mortgage Fund” is a reference to the mortgages held by Murdos Nominees and by Ware and Otlowski, neither the fact of those mortgages nor any potential outcome with respect to the general concept of solicitors mortgage funds, was a factor, explicit or implicit, in the Tribunal’s decision upon the principal merits of the matter, J259/98.

Paragraph P

The Wallaces were aware, through their Counsel Mr Otlowski, at least by the hearing of 16 June 1998, that the reference to their unit number 3 should have been a reference to Mr Hurburgh's unit number 2.

Paragraph Q

The Tribunal does not have any way of knowing when Mrs Holland was advised of the hearing on 16 June 1998. Her Counsel was advised and was present at the hearing.

Paragraph R

The arrangements made between the respondents Wallace as to who was to appear at the hearings, were outside the power of the Tribunal. The gender balance of the Tribunal hearing was never raised by Mrs Holland or on her behalf by her Counsel, at any of the numerous directions hearings or substantive or costs hearings conducted by the Tribunal, but only after the adverse decision with respect to costs had been made. Had she been concerned at being the only woman there was always the potential for her to instruct a female instead of male representation, or to otherwise raise the issue. The Tribunal's Registrar, Mrs Anderson, had spent more time explaining procedures to and assisting Mrs Holland, than with any other single party in the whole of the Tribunal's history. Mrs Holland could have raised the gender issue with Mrs Anderson but did not do so before the decisions of the Tribunal.

The duration of cross-examination on each side was a matter for decision by the respective parties' Counsel.

Paragraph S

The Tribunal was not involved in any attempt to force settlement.

Paragraph T

The reasons for the awards of costs are set out in decisions J10/99 and J37/99.

Paragraph U

The reason for the application taking more than the standard 90 days, was that there was repeated necessity for revision, clarification and further revision of the orders sought by Mrs Holland. The application was lodged on 24 November 1997. The orders formulated in the document dated 12 May 1998 from Mrs Holland's Counsel were the subject of further amendment in the document marked "XX", and further formulated pursuant to the order of 16 June 1998 at an unspecified date in August 1998 (see document "W" this response); evidence was then further exchanged between the parties, and the hearings held on various dates including 26 and 27 August, 3 September and 27 November 1998. The Tribunal's decision was given on 16 December 1998. The delay had been caused by the need to clarify the orders sought by the applicant.

Dated.....day of .....2001

**Helen Anderson  
Registrar  
Resource Management and Planning Appeal Tribunal**

PL. 1227 8536

Kingborough Council apparently did not understand the Land Use Planning approvals Act 1993 or the Strata Titles Act and had no idea that enforcing their own regulations and Planning Scheme was legally binding for a Planning Authority under the law of Tasmania.

My solicitor apparently could not understand my four word instructions: "COMPLIANCE WITH APPROVED PLANS" so apparently he decided to ignore them without telling me.

The Resource Management & Planning Appeal Tribunal was the correct avenue of appeal for breaches of Land Use Planning Approvals Act and Strata Titles Act.

A | It seems that the Tribunal did not understand that they were meant to uphold the laws of Tasmania, namely the Resource Management Planning System.

B | Perhaps they all DID understand the need to protect the Solicitors' Guarantee Fund and the Solicitors' Mortgage Funds from a possible financial meltdown caused by wildly excessive loans granted because apparently the Mortgagees did not understand Law Society guidelines for loans.

However it seems THEY DID UNDERSTAND that a widow (vulnerable by virtue of age and marital status) who was one hundred per cent in the right and who insisted that the law be upheld, looked like an easy prey -

Assembled against her were:-

- 1) Kingborough Council
- 2) Solicitors' Guarantee Fund President
- 3) Murdoch Clarke (Hurburgh)
- 4) Murdos Nominees (Mortgagees)

C | and resulting from the Tribunal's "mistaken assertion" letter stating that orders were sought IN MY NAME to demolish the Wallace unit when this was completely untrue

- 5) Solicitor Otlowski (Second Mortgage)
- 6) B&J Wallace

It would certainly appear that THEY DID UNDERSTAND how to use the law and their unified masculine power against a woman whose solicitor could NOT understand her four word instructions.

D | Legal legerdemain enabled heavy costs to be awarded against me.

SOLICITORS GUARANTEE FUND  
(M Crisp, President, retained by JM Holland)

ANDREW HURBURGH (\$9.6 MILLION MACQUARIE LOSS)  
Solicitors' Guarantee Fund rumoured to be insolvent

#### JM HOLLAND V. J.H. HURBURGH

Hurburghs Solicitors (Murdoch Clarke) were also Mortgagees through their fund Murdos Nominees - the Mortgage Loan was \$550,000 on Govt. Value of \$577,000 and advertised asking price of \$500,000. There was NO VALID PLANNING PERMIT for this development - had Holland instructions "COMPLIANCE WITH APPROVED PLANS" been followed the development could have faced DEMOLITION with potential \$530,000 loss for Mortgagees. A SECOND MORTGAGE over only unit sold was held by Solicitor Ollowski. THESE SOLICITORS ALL HAD DOUBLE INTERESTS AS MORTGAGEES

#### HOWLETT V. HURBURGH

Supreme Court action against Hurburghs (dating from 1987 and believed to be in vicinity of \$600,000) was running concurrently with Holland case. Therefore it seemed prudent to act CONTRARY TO HOLLAND INSTRUCTIONS in order to prevent what could have been a financial meltdown for the Solicitors Mortgage Funds, and to set her up to meet most of the costs, since MURDOS NOMINEES could have had to meet costs of either demolition or making the development comply with the legal requirements.

Murdoch Clarke letter actually stated that the interest owed by Hurburgh already exceeded his income and they were providing extra money to meet his living expenses

Apparently JM Holland was to be the sacrificial lamb to save the Solicitors, Mortgage Funds from the consequences of what seemed to be an excessive and very dubious loan to someone who (so I have been informed) has a history of bankruptcy - the loan conveniently in his wife's name.

Murdoch Clarke, according to advice received, also act FOR the Kingborough Council which provided the Certificate of Completion for a development which was in blatant violation of:-

- Kingborough Planning Scheme
- Approved Engineering Plans
- Approved Building Plans
- Approved Development Plans
- Strata Titles Act

Land Use Planning & Approvals Act

The Council had also accepted the VERBAL assurance of this man I had never even met, when he stated that my permission had been granted to obstruct a private Right of Way CONTRARY TO APPROVED PLANS.



When I requested removal of encroaching obstructions the Council told me it was a civil matter and I must take private legal action, whereas according to the provisions of the Land Use Planning & Appeals Act the Council as Planning Authority was legally bound to enforce their own regulations and Planning Scheme.

g | The correct avenue of appeal was the Resource Tribunal. They not only failed to uphold the law but found most of the costs against me - due to some legal legerdemain. The Tribunal sent a letter stating that an order was sought IN MY NAME to demolish the only unit sold. This was untrue but as a result of this "mistaken assertion" (euphemistically described as such by the Tribunal) the terminally ill owner of the unit became involved.

HA | One notable item was the \$5000 costs awarded against me for this man (WHOSE SOLICITOR HELD SECOND MORTGAGE) to defend his NON EXISTENT RIGHT (as per Stratum Plan) to VEHICULAR ACCESS over an UNMADE right of way BLOCKED BY LOGS AND COVERED WITH TREES and to unlawfully traverse land owned by St. Luke's Church. Apparently his solicitor, even after studying the Stratum Plan, failed to advise him that he did NOT have that right of access - he was quite unaware of this until I sent proof at his request, when the case was over.

715 | If I had done so to a dying man, the things attributed to me by the FALSE USE OF MY NAME I would consider myself guilty of actions bordering on MANSLAUGHTER. I was unaware of the facts until I went on my own behalf to the Supreme Court - BECAUSE I DID NOT HAVE A SOLICITOR the information, PREVIOUSLY CONCEALED, came directly to me.

(over case)

9

# Ray White

REAL ESTATE

## 6 COCLANON RD

160,000  
 155,000  
 185,000  
\$ 500,000 TOTAL

\$160,000

2 Bedrooms

A

\$155,000

2 Bedroom

B

\$230,000

HOUSE

WESTPAC IS  
MORTGAGEE

SOLD

(wallace)

C

\$185,000

3 Bedroom

D

### Ray White

HOBART

71 Bathurst Street

Hobart Tas 7000

Phone: 03 6231 4488

Fax: 03 6231 0327

Internet: www.raywhite.net

When delivering the annual John West Memorial lecture, the Governor Sir Guy Greene (Examiner 29/4/00) stated that the Rule of Law ought to be inviolate, and if he were faced with a choice between accepting the advice of the Executive Council or of upholding the law, he would uphold the law.

The oath taken by Executive Councillors at the swearing in ceremony which reads "I do swear that I will well and truly serve Her Majesty the Queen" etc clearly seems to be a solemn vow to uphold Crown Law.

H I believe I have been denied natural justice because the law has NOT been upheld, and that I have been subjected to discrimination in the area of administration of the law on grounds of age, gender and marital status.

It seems that also due to my widowed status I have been deprived of my civil rights, my property rights and my human rights - the most basic of which is my right to MY OWN NAME.

Very briefly:-

- 1) A man I had never met told a lie to the Council IN MY NAME
- 2) Council accepted that lie IN MY NAME
- 3) My solicitor, without consent, abandoned orders IN MY NAME and actions taken IN MY NAME caused stress to a dying man.
- 4) The Resource Tribunal sent a letter falsely stating that an order was sought IN MY NAME for demolition of this man's home, causing severe shock and distress which exacerbated his already terminal illness.

If I had actually perpetrated these deeds attributed to me I would feel guilty of little less than MANSLAUGHTER.

I have suffered financially and emotionally as a result of these acts of fraud and misrepresentation which generated huge potential liabilities and forced me to become involved in undeserved litigation because the law was not upheld by those entrusted with its administration.

SL JM The lawyer retained by me was one recommended by the Resource Tribunal from its "register of professional experts". Right from the beginning, I was deeply concerned with the aspect of bias or discrimination because the Resource Tribunal, with the same person acting as chairman, had found in the Respondent's favour in a previous hearing and in so doing had DELETED THE VERY CLAUSE THAT UPHELD MY RIGHTS AS OWNER OF THE LAND. I knew it was normal procedure for a judge to disqualify himself in such a situation, and I felt very uneasy. My disquiet stemmed from the fact that it did not seem to be procedural fairness.

Since I knew I was one hundred per cent right ACCORDING TO THE LAW and had absolute proof of the violations, I thought it should be a simple matter of the Resource Tribunal upholding and enforcing the law. MY ABSOLUTE PROOF WAS NOT ACCEPTED INTO EVIDENCE.

Parts of my claim referring to the lawyers and the Resource Tribunal were rejected by the Anti Discrimination Commissioner on grounds that the complaint may better have been dealt with by:-

- a)The Law Society
- b)The Supreme Court

THE LAW SOCIETY- my complaint read :-

"I request an investigation into the terms of the loans by solicitors as detailed on the grounds that they did not meet Law Society of Tasmania guidelines, and they may have had an adverse influence on legal action taken by me concerning a development financed by them".

Under Law Society guidelines investment money may only be lent on Tasmanian Real Estate, not exceeding 66 per cent of valuation.

The details of the Solicitors Mortgage Fund loan referred to in my complaint come from their own costs submission, and I quote :-

- a)"The units are mortgaged for approximately \$530,000."

The ADVERTISED VALUE was \$500,000, some \$30,000 less.

Had Law Society guidelines been observed, the Mortgage would have been AT MOST 66% of \$500,000 which was \$330,000.

Govt. valuation was \$377,000, so that was a conservative loan amount.

This loan exceeded those guidelines by TWO HUNDRED THOUSAND DOLLARS and was over 100% of the advertised value, presenting an alarming level of risk for investors in their Mortgage Fund.

Further quote:-

- b)"If the house (mortgaged to Westpac) and the units were all sold at Govt valuation there will still be insufficient funds to repay the mortgage indebtedness. In fact the borrowings are at the level they are in order to enable interest to be paid on the mortgage and provide living expenses."

The Law society was apparently unable to understand from these figures that a serious breach of their guidelines may have occurred. They were also very evasive about answering questions of legal ethics with regard to two members of the same firm representing parties with conflicting interests. After five months of these tactics I felt it was futile to pursue it further.

Since the Law Society enjoys "a monopoly of review of its members' conduct" and (quoting from print media) "the bottom line is Law Societies are set up largely to protect the interests of solicitors" perhaps they felt that an investigation of my complaint would NOT be in those interests.

It is also pertinent to note that the development had no valid Planning Permit and could have faced demolition if the law had been upheld.

### THE SOLICITORS

Concurrently with the Tribunal hearings my solicitor, as President of the Solicitors' Guarantee Fund, was appearing in court regarding a rumoured two million dollar loss to investors in a failed Solicitors' Mortgage Fund. If my instructions had been followed, a demolition order may have been made for the whole of the heavily mortgaged development. This information was withheld from me - apparently with good reason.

Perhaps such an order could have had a major financial impact upon the Solicitors Mortgage Fund (Mortgagees) and the Solicitors' Guarantee Fund which, at the time, was rumoured to be insolvent.

By abandoning orders and failing to pursue matters on my behalf (all done without my knowledge or consent) it seems that my solicitor not only breached Duty of Care but managed to portray me as some flippant, flighty female prone to changing her mind at the last minute. This set the stage for the Tribunal to find me frivolous and vexatious and order costs against me.

### THE RESOURCE TRIBUNAL

When the Solicitors' Mortgage Fund involvement was revealed, I became even more apprehensive about the outcome of the Resource Tribunal hearing. These concerns were expressed in letters to the Legal Ombudsman four months prior to the final hearing - I felt the odds were stacked against me as a widow alone versus Respondents whose solicitors were also the Mortgagees - and my solicitor president of the Solicitors' Guarantee Fund.

As a direct result of the Tribunal's demolition threat two more Respondents became involved. Like myself, they were never told that the letter had given false information. This seemed strange, because their solicitor had phoned the Tribunal the same day and the duration of the call was fifteen minutes as per his itemised account. It seems that either the Tribunal did not tell him the truth or he involved his clients without any valid reason. It was at this point I began to sense that something was very definitely amiss.

One week later there was a Tribunal hearing which lasted 1 hour 15 mins. I was advised by letter ONLY AFTER it had taken place. The letter gave little information other than that Mortgagees had attended. In retrospect, I believe that this was highly irregular, and now wonder whether, in my absence, my fate may have been decided by men with vested interests.

In the final analysis, it seems that it was either them or me - and being a widow, legally inexperienced and naive, I was shrewdly outmanoeuvred.

### THE SUMMONS TO THE RESPONDENT

R  
The Summons was issued by the Resource Tribunal to ONE Respondent. That Respondent NEVER made an appearance at the Hearings. Apparently it was arranged for her husband to appear instead, thus ensuring masculine domination of proceedings-I was subjected to approximately SIX HOURS of cross examination while outnumbered TEN TO ONE. -I believe that this was blatant discrimination and unreasonable harassment. Conversely, the Respondent's HUSBAND was questioned for only ONE HOUR.

### DURESS

S  
There was an attempt to force settlement and I quote "Your matter must settle and settle before the resumed hearing date"--I believe the legal term is "duress". I resisted because I felt it was manifestly discriminatory.

T  
Quite shockingly, costs were awarded against me even though I had been totally in the right and simply asked for the law to be upheld- yet I had been victimised and discriminated against for that request.

### THE SUPREME COURT

Determined never to lose control of my life again, I went to the Supreme Court and appeared on my own behalf - I presented my proof of evidence in sworn affidavits. The Supreme Court judge granted a Writ for the Resource Tribunal to show cause why the costs decision should not be quashed, and I quote:  
"on the ground that I was denied material justice as my lawyer acted contrary to my instructions".

Because I had no lawyer, all relevant information was sent directly to me. This was how I discovered decisions had been made in MY NAME without my knowledge or consent and other documents, previously unseen by me, provided evidence of possible misconduct-a veritable litany of betrayal.

The Resource Tribunal advised the Supreme Court that they would not show cause and would abide by the decision of the judge.....the judge did not make a decision, and the matter was adjourned "sine die".

Just prior to his death, I made a settlement on compassionate grounds to the man whose involvement was caused by the Resource Tribunal's letter. As soon as I discovered what had been done to him IN MY NAME I offered my heartfelt apology and assured him that I would never have consented to such actions, especially in the circumstances of his rapidly deteriorating health. I was shocked, disgusted and completely devastated by what had happened, but grateful I had found out in time to set the record straight.

Sadly it seems he was caused unnecessary pain and suffering judging from comments made in letters from a solicitor, and I quote:-

"The fact that no orders were then, or since, sought that would materially affect them, suggests that they had no need to participate in the proceedings at all" etc.

"Solicitors appeared on behalf of the owners of unit 3, and ON BEHALF OF THEMSELVES as the Second Mortgagee over the unit".

It seems significant that Westpac, (first Mortgagee) found no reason to participate - when I asked them, I was advised that since the letter referred only to an application and no order had been made, they did not consider that the expense of legal involvement was justified at that stage.

#### FINAL COMMENTS

The Resource Tribunal Act states:-

"The Tribunal must hear and determine an appeal within 90 days of it being lodged". WHY did it take a whole year in my case?

The Governor, Sir Guy Greene, has stated

"WHEN THERE IS A CONFLICT, THE RULE OF LAW MUST PREVAIL"

I appeal to this Tribunal to investigate my claims that:-

1) I have been discriminated against in the administration of the laws of Tasmania

2) I have been denied natural and material justice because THE RULE OF LAW DID NOT PREVAIL.

*Criminal Investigation Branch.  
TASMANIA.*

*10 Coolamon Rd.  
TAROONA.*

*27-6-00*

*\* I confirm my formal complaint made to the CIB Kingston Branch on 15th June with reference to the acts of Fraudulent Misrepresentation committed against me by:-*

*DONALD HURBURGH of 171a Channel Hwy, Taroo,na who verbally advised the Kingborough Council that he had obtained my consent for works on my property contrary to Approved Engineering Plans. As a direct result of that false statement I have suffered financial loss and acute nervous stres*

*RESOURCE MANAGEMENT PLANNING APPEALS TRIBUNAL, who sent a letter stating that a demolition order for the home of the late Brian Wallace had been sought by me when no such order was ever sought -this resulted in financial loss to me and stress related health problems both to myself and the terminally ill recipient of the letter.*

*Proof is provided by the enclosed letters from Kingborough Council and the Resource Tribunal, and further detailed information can be supplied when it is required.*

*.....  
Mrs. Janice Holland*

*\* 6/5/01 no reply to date.  
JH*



*Additional*  
Attachments held by the Secretariat.  
Available on request.

Definision of a crime:--

A crime is an act or a failure to act so that the law is broken.

In my case I believe the first crime committed against me was one of FRAUDULENT MISREPRESENTATION in a false verbal statement to the Kingborough Council (from a man I had never met).stating that he had obtained my permission for works ON MY PROPERTY even though these works were in blatant violation of the Approved Plans and the Kingborough Planning Scheme and there was no valid Planning Permit.

The Council refused to enforce compliance with its own regulations and I appealed to the Resource Tribunal for removal of the illegal encroachments. FRAUDULENT MISREPRESENTATION was again committed against me by the Resource Tribunal in a letter falsely stating that an order was being sought by me for demolition of Unit 3 of the development As a direct result of this "mistaken assertion" a third party became involved and I suffered financial loss and severe nervous strain.

However, apparently in order to protect the liquidity of the relevant Solicitors Mortgage Fund and the partners in that legal firm from the consequences of a very unwise and excessive loan granted to this developer in blatant breach of Law Society guidelines, I believe that the subsequent actions of the Resource Tribunal and the solicitors concerned, culminated in the crimes of:

- 1 CONSPIRACY TO OBSTRUCT JUSTICE
- 2 COLLUSION TO PERVERT THE COURSE OF JUSTICE

Legal ethics do not permit solicitors from the same firm to act for parties with conflicting interests. I believe that this fact alone could invalidate the costs order made against me by the Resource Tribunal.

Furthermore, I do not believe I had a legal right to make a decision which concerned land owned by St. Luke's Church, particularly when the Planning Scheme and the approved Development Plans denied any access over Church land. However, the Tribunal in its wisdom decided to grant costs against me to a solicitor acting outside legal ethics (but holding second Mortgage) for his client to defend a non-existent right (as per Stratum Plan and Development Approval) to VEHICULAR ACCESS over an UNMADE road already blocked by logs and covered with trees - even though their crime of Fraudulent Misrepresentation had actually caused the involvement of this person in proceedings.

I therefore request an investigation into apparently unlawful actions, unethical and unconscionable behaviour, the failure to uphold the provisions of the Strata Titles Act and Land Use Planning & Approvals Act 1993, as well as the violation of my Human Rights, my Civil Rights and my Property Rights