

**Submission
No 1**

**INQUIRY INTO THE APPROVAL OF THE DESIGNER
OUTLETS CENTER - LIVERPOOL**

Organisation:

Name: Mr William Taylor

Telephone:

Date Received: 09/08/2004

Subject:

Summary

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26 Meredith St
Blaxland NSW 2774

9th August 2004

Director Steven Reynolds

Subject: Approval of the Designer Outlet Centre/ Liverpool

The Chair of Senate Inquiry

In regard to the Orange Grove debacle, I draw a parallel for your inspection to illustrate double standards employed by the Premier Mr Bob Carr and others in State Govt Dept's.

Background to our comparative issues: -

It concerns a development taken to LGAT [Local Gov. Appeals Tribunal] in 1979. The Court on the grounds of floor space/site- ratio coverage exceeding 50% upheld council refusal of a DA. The site-specific decision was not appealed to the Supreme Court and still stands to this day. In 1980 a complying development was approved and built.

In December 1998 Council approved an extension to the building to 90% site coverage, while still zoned at 50% circumventing any judgement by the Supreme Court.

All appeals to Bob Carr and relevant Govt Dept's have received replies such as "It is a matter for Council to determine" or "Council determine their own policies in these matters"

At my request our local member and NSW Attorney General Mr Bob Debus enquired [2002] on our behalf to our local council. Mr Debus in his reply indicated we should refer the matter to ICAC for investigation.

As in Liverpool councils "Oasis" ICAC could not find any corruption in their initial finding!

As a parallel to these stated opinions on Orange Grove: -

- *¹ The land & environment court found Orange Grove does not comply with planning laws
- *² Orange Grove is illegal and must close to obey the law
- *³ Liverpool council staff did not understand its own planning laws when approving DA
- *⁴ Bob Carr is favouring his mates
- *⁵ Mr Carr stood by the Government's decision that the retail centre had been operating illegally and had no intention of reversing a court decision to close it down [as reported in the Daily Telegraph 24/7/04]

We offer the following reply in our matter: -

- *¹ When approved, our issue had already been ruled non-compliant by the Local Govt Appeals Tribunal system of that time.
- *² The bureaucracy has fobbed us from one Govt Dept to another, but none cares with the legal aspects of this matter and the development is still in full operation.
- *³ When presented to open council for approval in 1998 councillors were not informed by council staff of the court decision that was applicable to this site.
- *⁴ The owner/developer of the DA was an ex Mayor still serving as a councillor when the development was approved 8/12/98.
- *⁵ The Director General of the then Dept of local Govt Mr Garry Payne in correspondence stated in part " there are no remedies legislative or otherwise."

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We are amazed of the similarities and the State Govt stance on these separate matters
The Premier cannot have it both ways, they are either legal or as Mr Carr states illegal

The facts raised in our case are available as copies of the originals for examination.

The original or other documentation for view or copy consists of: -

Letter from council on their decision to defend DA refusal at the Appeals Tribunal 1979.

Letter informing of Appeals Tribunal decision 1979

1981 letter from Bob Debus advises the need for Supreme Court to overturn court decision.

Letters from State Dept's

Letter from Premier Carrs' dept noting our concerns and referral to another Govt Dept [2002]

Letter from Bob Debus on the response from local council [2002]

Copy of local council memo referring to the enquires by Bob Debus on our behalf [2002]

Letter from Garry Payne, Director General Dept of Local Govt

Also of interest is this transcript in part from Stateline [ABC TV] Broadcast: 23/07/2004: -

Reporter: Quentin Dempster

QUENTIN DEMPSTER: Last November, Planning Minister Craig Knowles officially opened Orange Grove, Gazcorp's Liverpool Council-approved outlet.

Following legal action by the retailer Westfield, the Land and Environment Court ruled in January that the council's approval for Orange Grove was unlawful.

JUSTICE LLOYD, LAND & ENVIRONMENT COURT OF NSW: The system of planning control in the State could be set at nought if a use of land which is prohibited by an environmental planning instrument is allowed to continue.

The whole system of planning control is dependent upon the orderly enforcement of environmental law.

QUENTIN DEMPSTER: Justice Lloyd's ruling was upheld on appeal.

BOB CARR, PREMIER: -

Now if the Government moved in and retrospectively endorsed a planning decision that contradicted the zoning made by a council not in good repute -- a council that had to be dismissed -- in defiance of what this judge said and what the Court of Appeal then upheld, we would be open to the sternest criticism.

We ask in the light of Justice Lloyd's ruling above and Mr Carr's response on Stateline, what laws apply in NSW, are they standard across the board or otherwise?

JUSTICE LLOYD also stated in his Judgement Jan 2004: -

As noted by Kirby P in *Warringah Shire Council v Sedevic* (at 340) a sense of inequity would be felt by those who complied with the requirements of the Act if relief were not granted

Sincerely,



William Taylor

