



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

(Reference: [Inquiry into commercial rates](#))

**Members:**

**MRS V DUNNE (Chair)**  
**MS T CHEYNE (Deputy Chair)**  
**MS B CODY**  
**MS N LAWDER**

**PROOF TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 27 FEBRUARY 2019**

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**Secretary to the committee:**  
**Dr B Lloyd (Ph: 620 50137)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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## **Privilege statement**

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*Amended 20 May 2013*

**The committee met at 10.00 am.**

**CIRSON, MS ADINA**, Australian Capital Territory Executive Director, Property Council of Australia

**NGO, MS BELINDA**, Executive Director Capital Markets, Property Council of Australia

**KATHEKLAKIS, MR GEORGE D**, Managing Director, KDN Group

**ELLIOTT, MR MARTIN**, Knight Frank Valuations and Advisory Canberra

**THE CHAIR:** Welcome to the fourth public hearing of the public accounts committee's inquiry into commercial rates. Today the committee will hear from the ACT branch of the Property Council; the Capital Property Group and Canberra Airport; a commercial tenant, Mr Michael Holmes; commercial property owners Mr Barry Faux, Ms Karen Paxton and Mr Scott Molloy; Mr Arthur Lagos of the Phillip Market Place; and Mr Clayton Clews, who is another owner of commercial property.

I ask witnesses to indicate that they have read and understood the pink laminated privilege statement on the table. Today's hearings will be broadcast, recorded and transcribed. Witnesses will receive a proof of the transcript of their evidence for their consideration, from the committee secretary. Any requests for corrections should go to the committee secretary, Dr Lloyd.

If any questions are taken on notice, please liaise with the secretary. There are new standing orders in the Legislative Assembly, and standing order 254D(b) now provides that questions taken on notice are to be answered within five working days of receipt of the uncorrected proof transcript of the proceedings.

I will begin with the Property Council, Ms Cirson and Ms Ngo; and Mr Katheklakis and Mr Elliott. Thank you for your attendance here today. Could you indicate that you have read and understood the pink privilege statement?

**Ms Cirson:** Yes, we have.

**Ms Ngo:** Yes.

**THE CHAIR:** Thank you very much. Does the Property Council wish to make an opening statement?

**Ms Cirson:** We do. Thank you very much for asking us to appear today. We want to bring a bit of breadth to this from the property sector expertise and a national focus on the ACT's tax reform program.

The Property Council of Australia is a not-for-profit industry association. The property sector nationally employs about 1.4 million Australians, so we make a significant contribution to the Australian economy. Here in the ACT we employ about one in seven Canberrans, about 25,000 of them, and we are the second biggest industry behind government and health services. We pay 57.5 per cent of all taxes and charges which go into consolidated revenue and fund community infrastructure,

education, health, schools and all of those things that the ACT budget contains.

Our priorities in relation to this committee appearance really are around fairer taxes and charges. As a significant contributor to the ACT economy, it is an area that we spend a bit of time talking about, though it is not the only thing.

Our submission can be just taken as read. We have had some positive engagement, as always, with the ACT government and treasury around the impact of tax reform on our members.

Since the reforms came into place after the 2012 Quinlan review, the Property Council has been very supportive of the process of tax reform. We do believe that stamp duty is an inefficient tax which should be abolished. All eyes really are on the ACT as we go through this process. I will hand to Belinda shortly to give us some insight about what other jurisdictions are doing in this regard, watching very closely as we enter our, I think, seventh year of the tax reform agenda.

Our submission highlights the issues that members have been talking to the Property Council about over the past probably 18 months, particularly that the tax reform agenda is having a disproportionate impact on the commercial sector. We are now paying nine times the rate for commercial rates compared to residential rates. In effect, the property industry is paying the equivalent of a stamp duty like charge every single year at five per cent for properties over \$600,000. There has been growing concern, particularly in the past, I would say, six to eight months, around the impact for commercial property owners and their tenants. Our leasing structure in the ACT means that sometimes those costs are not able to be passed on through the leases, but are actually borne by the building owners and restrict and prevent them from reinvesting in and refurbishing their own building properties.

Our submission draws out four key points.

Firstly, we are seeking to establish a task force to review commercial general rates. The motivation behind that is around the recommendations that came from the Quinlan tax review that transition to tax reform must be done carefully and must take into account the impact as general rates go up. There are a number of recommendations, which I will not go through, that we would like to see looked at through such a review that would involve community, industry and, of course, government.

There are some other issues that we would like to bring some attention to, primarily around the impact on mixed-use precincts, something that is government policy and can deliver great planning outcomes and community outcomes as we undergo the greatest transformation we have seen in this city. However, the apportionment rates and valuation methods that have been utilised in determining the rateable value of those properties is of great concern to our members.

Secondly, we would like to talk briefly about the introduction of a simple rate dispute system. Key to this is the independence of such a system and the methodologies which are used. In other jurisdictions, this process is done by independent parties. I will come to Martin, perhaps, during the course of this, to talk about what other

jurisdictions do in this regard and about the independence and arms-length nature of determining rates.

Finally, although there are some other issues identified within the submission, the issue around certainty and transparency is key to what our members are saying to me: that there needs to be greater disclosure of information on our rates notices and there needs to be certainty about what rates increases will be incurred over the life of the tax reform so that people can factor those charges into their leases—which are often very long-term leases—when they sign up tenants.

In regard to stamp duty abolition, we acknowledge that under \$1.5 million there has been the abolition of commercial stamp duty, but we have not got any indication from the ACT government about whether that cap will be lifted.

And we would be asking for a quicker transition to the abolition of commercial conveyance duties.

I will leave it there. Belinda, do you want to give us a bit of a national perspective?

**Ms Ngo:** I just want to add to Adina's points about the importance of having a modern, effective and efficient tax system. We are very supportive of that. It will help drive economic investment and growth, and we support that. What we have seen, however, is the experience we have had around the reliance on stamp duty previously in the ACT and across the country.

We are still collecting about \$26 billion of stamp duty across Australia. Of that, \$275 million is budgeted in this year's budget in the ACT still, and that is a third of the way through the tax reform. It is a significant amount of revenue. We do need that revenue, we understand, to support services. But that transition from stamp duty to other types of taxes has to be done carefully to ensure that we have transparency and certainty for businesses as they forecast their returns on investments and make decisions for the future.

The way commercial property is generally invested—we are talking about office buildings, shopping centres, logistic centres—is that they are long-term investments. You are investing for the long term. They typically have long-term rent leases around them, therefore to be able to forecast with certainty what your overall return from that investment will be is incredibly important.

The transition process so far has shown that a lot of commercial property owners are paying stamp duty when they purchase their assets, or develop them, and they are paying incredibly increasing rates year on year. There has been a lack of real transparency on what that growth rate will look like for the rest of the 20-year transition period and what that final resting place will look like at the end of the 20-year reform process. That is one of the things that is incredibly important.

Over the past 12 months, as Adina said, with the most recent rate notices, they have come more and more to a point where we are hitting a tipping point where property owners are saying to us, "If it keeps going up at this rate, we are just not going to be able to invest in Canberra anymore." That would be incredibly detrimental to the

ACT.

We really welcome this inquiry, to be able to explore some of those issues.

**THE CHAIR:** There are a few issues that you have touched on that have already come up where the committee would value the Property Council's input. The first one is about a second-tier rate dispute system. What the committee has been told—and I think what you and the media are saying—is that most people do not go to a rate dispute system because the only mechanism is essentially going to the AAT, and then you have to lawyer up and it costs too much to do that. Could you describe for us what the Property Council would see as an appropriate rate dispute system?

**Ms Cirson:** Certainly. Our members are reporting that there is a rather large disincentive to go to a dispute resolution process through ACAT because of the cost. Costs ranging from \$80,000 to \$100,000 to dispute rates valuations are very significant for anybody undertaking that. We want to see greater independence and perhaps mediation, a second step, as you said. I might ask Martin to talk about how other jurisdictions handle this and what we might be able to pick up from those schemes.

**Mr Elliott:** In the course of preparing for this I made some inquiries internally within our firm, with other valuations in other jurisdictions. Without going through line by line what happens in other states, the general feedback was that the way that other jurisdictions operate is that there is a clear recognition that the valuer-general—it is usually a valuer-general—is an independent party that is appointed to undertake, I suppose, what we call a mass appraisal, the rating valuations each year. For statutory purposes, there is a general recognition that that process, I suppose, has its flaws. And that is just, I suppose, by necessity, given that a VG is appointed to value every block within a state or a territory.

A lot of these states and territories provide for opportunity for an objection process whereby an independent valuer is appointed somewhere along the line, prior to going to a full court or to a tribunal, to just try to mediate that step in the process and streamline that objection process.

**THE CHAIR:** Just touching on that, we do not have a valuer-general here in the ACT. Does the Property Council see that as an issue or something that perhaps should be addressed, that the rates valuation process is somewhat linked to the revenue collecting process? Can you see that as an issue?

**Mr Elliott:** I do, yes.

**THE CHAIR:** Would you like to expand on that?

**Mr Elliott:** I think, again from my inquiries, the other thing that came out was the independence of the valuer-general in undertaking these mass appraisals, these statutory valuations. They sit away from the Revenue Office or treasury. We seem to be—and I have not been able to get information for every single state and territory, but from the ones that I did—the only jurisdiction where that is not the case.

**THE CHAIR:** Except the commonwealth who did away, I discovered last week, with the statutory independent valuation office.

**Mr Elliott:** They did.

**Ms Cirson:** I think, in terms of the mediation process—and one of the examples that we use in the submission proper is—in Queensland a conference can be held between two parties. And that is chaired by an independent, non-government, chairperson. There are probably two things that we are talking about: actually the setting of the rates and how that process works. And the second is how disputes are handled.

Potentially, in other jurisdictions we are seeing a way that provides an arms length from government to determine the rates. That would provide greater certainty, I think, going forward but also make it easier to dispute the notices that are given from that authority.

**THE CHAIR:** You would see that a mediation process would be less likely to lawyer up to tens of thousands of dollars to—

**Ms Cirson:** I might come to you, George, because you have actually got experience in the transactions and you deal with the government on these issues.

**Mr Katheklakis:** To be quite honest, I have not actually taken it to ACAT, on the basis that if you were to take a case up, and lawyer up, like I say, you are facing costs in excess of \$80,000 to \$100,000. You would have to assess very carefully what you do because in the following year after your assessment your rates can actually be assessed again on a different basis. It is a cost exercise.

But I think, in short, that we need to say that we do, from the Property Council side, support an independent valuation process prior to any formalised ACAT hearing as required. I think it would go a long way in actually providing everyone access to a neutral space where you can argue the toss in terms of where you think valuations sit.

We have seen some rather large increases in rates and values across different parts of Canberra. And the methodology that is attached to it is what, I suppose, is the issue at hand in terms of how do you establish one valuer's assessment over another and is there a forum that we can actually enter into that is independent. Overall I think an evaluation process would go a long way in terms of resolving a lot of those issues.

**MS CHEYNE:** I might just follow on from there. We talked a little about this with the Chief Minister and officials on Friday and there is some history why it is done in house. But one of the things raised was that we have trouble attracting and recruiting valuers in the ACT and also that if there were an independent office it would be very small. Setting it up and sustainability of that would be potentially problematic and not necessarily efficient. Do you have some comments on that?

**Mr Elliott:** It is probably hard for us to comment on that, for me anyway. I sit in the private sector of the valuation industry. I hear what you are saying but it is hard for me to comment on whether that is correct or not. All I can say probably is—the only comment I would make—that every other jurisdiction operates in a different way.



**MS CHEYNE:** How could we attract the valuers?

**Ms Cirson:** Certainly I know from Knight Frank that valuation specialists are hard to come by but is not changing the system that is not working because of the staff shortage—

**Mr Katheklakis:** The other thing I would say is that if you approach a valuer and say, “Would you be interested in joining a valuation office that does not sit under an independent regime,” they might think differently about that. If you said to them, “We have a new, independent authority that is looking to take on some valuers,” I think their answer would be very different. You cannot just assume that because we cannot get valuers now that means that we cannot get valuers in any new process that is set up.

**THE CHAIR:** You think that there would be more status or kudos in being an independent, statutory independent—

**Mr Katheklakis:** The independence of the valuer is foremost, yes. Absolutely. I think, Martin, you should talk about that.

**Mr Elliott:** Yes. I suppose what I was going to say was that there are plenty of other private sector valuation firms that manage to get staff. It is not easy here. There is no valuation course here in Canberra. I know we attract staff; we employ trainees from interstate.

**MS CHEYNE:** No valuation course?

**Mr Elliott:** There is no degree here that graduates can graduate from and enter that profession from a university in Canberra. So you have got to go to Adelaide or Sydney or Melbourne or somewhere like that. There are hurdles but everyone else has managed to overcome that.

**Ms Cirson:** I think that that really goes back to the first recommendation we make in our submission around establishing a task force. And industry really stands ready to work with the government to see how we can better implement and proceed along the tax reform path. I think the task force that brought up these issues and actually worked through them might actually resolve some of those.

**MS CHEYNE:** There is obviously status potentially with an independent office but could the government be working with the university sector here in Canberra to try to establish a course like that?

**Mr Elliott:** That has been tried. We are not trying to get off tangent here. The Australian Property Institute has tried that for years.

**MS CHEYNE:** And no go?

**Mr Elliott:** No. Without success. It is something that the industry is obviously very cognisant of and has made efforts on before. But no success so far.

**MS LAWDER:** I want to ask about the simplifying dispute resolutions recommendation in your submission. You have given the example of it costing up to \$80,000 to seek a review. Is that an average? Does that involve legal counsel or does it include in-house preparation? Can you give me an idea of what comprises the \$80,000?

**Mr Elliott:** My comment would be that that is probably an average number. You hear all sorts of numbers thrown around by clients who have gone through this process. I have heard of \$50,000; I have heard of \$100,000-plus. I think \$80,000 would be a fair assessment. Obviously, it depends. Case by case, it will be different. Certainly, it is in that ballpark to see a full hearing through. By the time lawyers and barristers are involved, and valuers are engaged to represent their clients and argue valuation matters, professional fees certainly add up.

**Ms Cirson:** I have certainly had members say, as George has already indicated, “We just don’t bother,” because it is not worth it, in the long run, to go into a dispute.

**MS LAWDER:** It costs more than actually paying the rates.

**Mr Elliott:** A lot of the time, yes.

**Ms Cirson:** Because of the outcomes. This goes back to the methodology that is used, the transparency and the way that those valuations are undertaken. Really, it is a bit of a mystery.

**Mr Elliott:** Crown leases are unique to the ACT leasehold system. Every block of land has its own crown lease, so you can easily get bogged down in what may be fairly trivial matters—interpreting clauses within a crown lease and their implications on value. That drags on, in time and cost. It also creates a bit of a grey area and there is a cloud of uncertainty around what an outcome may be.

There is a lot of risk for a crown lessee who wants to object. With taking it to a full hearing, even if you have a very strong case and a strong, robust argument, it can be quite easy to come at it from a different point of view. It is not necessarily about one being right or wrong; it is about trying to go in there with the best intentions and negotiate an outcome. That can be difficult sometimes.

**MS LAWDER:** Do you have any data on how many appeals are successful or unsuccessful, when people appeal against their assessment?

**Ms Cirson:** Certainly, we would not keep that, but I imagine the government would. In terms of the discretion that can be exercised in these matters, there is the example of mixed use developments, regarding apportionment. That is a clear example of how the lines on this are a little grey sometimes. Certainly, if there is one square metre of commercial space in any development, even if you have 140 residential, the whole thing is rated as commercial. If you go back and have discussions with government, you can get some movement on those, but that is a whole process in itself. It can be quite subjective.

**Mr Katheklakis:** We have heard that, with the apportionment rule, it is essentially saying that if a property has any commercial component in it, it will be rated at the full value of the full commercial rate. Despite maybe having 60 units on a development site that are owned by one entity and having a small coffee shop in the corner, measuring, say, 50 square metres, the rates are valued on the value of the whole property, and the rates are at the commercial rate, which is nine times higher than residential. It is a hangover from an older system. We do not quite have the legislation in place to manage sophisticated mixed use developments. It is just a shortcoming in the system at the moment which we feel is not a hard one to amend.

**THE CHAIR:** What you are saying, Mr Katheklakis, is that the planning system has not kept up with its own aims; or is it the rating system?

**Mr Katheklakis:** We have a planning system that is trying to promote certain policies. On the other hand we have a tax system that has been inherited. Yes, the two need to be calibrated together to have a really successful outcome. And there is always room for improvement, I would say.

**THE CHAIR:** The public accounts committee has touched on these issues in relation to commercial rates two or three times before this inquiry began. I recollect being told in evidence by the commissioner that it was not the case that apportionment was on the commercial rating valuation if the development was strata titled.

**Mr Katheklakis:** That is correct.

**THE CHAIR:** In what circumstances would you have a large development, as you described, with 40 or 50 units and a coffee shop where they would not be strata titled?

**Mr Katheklakis:** The type of developments we are talking about are the type of developments that are on the table at the moment that we are trying to promote, which are build-to-rent models. It is almost like the US example where it is a condominium owned by one person. It provides benefits in the marketplace with regard to affordability and access to construction at times when the market is not doing so well. There are a few instances in town that adopt it, in terms of one owner owning all of the apartments and the commercial use is on the ground floor, perhaps. But that is where it occurs. If you go down the route of strata titling then you do—

**THE CHAIR:** Then you are free and clear.

**Mr Katheklakis:** You free it up. But thought has not been given to say, “What if we don’t go down that route? Is it fair to still apply the existing laws over a build-to-rent model?” If we are going to try to promote build to rent then we need to have a closer look at our current legislation in terms of how it deals with it.

**THE CHAIR:** Thank you. That has clarified that issue, for me, at least. Ms Cody raised the issue which I think Ms Cirson touched on.

**MS CODY:** Mr Cirson did touch on it.

**THE CHAIR:** Which is that you can go back to the government and negotiate.

**MS CODY:** I do want to follow up on that point, Ms Cirson. You said that where there is a commercial property that does have residential, you can liaise with the government and try to work out a—

**Ms Cirson:** Certainly. George might want to expand on that.

**Mr Katheklakis:** There are instances where we have heard that that occurs. But at face value it does not. If you were not aware of a way to achieve that outcome, you would simply be issued with a notice that said, “Pay your rates.” It is not a system that says, “Here’s a way you can get a remission,” if you are one owner and have the whole property, it is all residential and you have a component of commercial. We have said before that New South Wales uses the apportionment rule as well, so it is out there. Other jurisdictions are using it. We cannot see any reason why the ACT cannot have a closer look at it.

**THE CHAIR:** Which other jurisdictions would be an example?

**Mr Katheklakis:** New South Wales has an apportionment rule.

**THE CHAIR:** Ms Ngo, do you have a wider view on the issue of apportionment from your perspective?

**Ms Ngo:** It is definitely more pronounced in the ACT, given that there are different rates between commercial and residential. It makes it a much more distinctive element, in that you are being taxed at 0.5 per cent or five per cent. It is much more of an issue here than in some of the other jurisdictions which have the same rate for all properties; it is then just an element of what is residential versus what is commercial, and the valuation underpins the land value itself. It is much more pronounced in the ACT because of that differential rate that exists here between commercial property and residential property.

**MS CODY:** I would probably ask this of all members of the panel today. Are you currently a member of a political party, or have you been?

**THE CHAIR:** Could I intervene there? I am going to rule that question out of order. People come here to give evidence on behalf of their organisations and we do not discriminate on the basis of people’s political affiliations.

**MS CODY:** I am not trying to discriminate. It was just a simple question.

**THE CHAIR:** No, I am going to rule the question out of order.

**MS CODY:** Under standing order 264A, I request a private meeting, please, to discuss the matter.

**THE CHAIR:** I am happy to do that. I ask people in the public gallery to withdraw. We will be as quick as possible.

**Short suspension.**

**THE CHAIR:** We are off again. I do apologise for the break in transmission.

**MS CODY:** And I will resume with my question, just to catch up where we left off.

**THE CHAIR:** No, sorry, before we do—

**MS CODY:** I just want to ask—

**THE CHAIR:** Before we do—I am the chair, Ms Cody. Before we do, as we adjourned there was a question before the committee as to whether or not—

**MS CODY:** Mrs Dunne, I am a committee member—

**THE CHAIR:** I am the chair and I said that I would make a statement. And I will rule you out of order if you interrupt me again. As I said—

**MS CODY:** I disagree with you.

**THE CHAIR:** At the conclusion of the meeting you can disagree all you like. I am going to make a statement as the chair to put it in context for the witnesses. There was a discussion, and we adjourned to discuss it, as to whether or not it was appropriate to ask members about their political affiliations, because there had been questions asked at previous committee meetings.

I want to apologise to members of the public that I did not deal with this previously as I had intended to, but a couple of circumstances got in the way and it slipped my mind. It should not have come up in the way that it did.

That having been said, the committee has agreed that it is appropriate to ask those questions, but I do remind witnesses that they do have the right not to answer.

**MS CODY:** Are any of you a member of a political party?

**Ms Ngo:** No.

**Ms Cirson:** Yes.

**Mr Katheklakis:** No.

**Mr Elliott:** No.

**THE CHAIR:** Thank you.

**MS CODY:** Thank you. You were talking about different jurisdictions. I was just wondering: have you done some analysis, Mr Elliott, on what happens in Tasmania?

**Mr Elliott:** No, I have not.

**MS CODY:** Just because it is a similar size I thought that it might be a good

opportunity to be able to compare the pair, so to speak.

**Mr Elliott:** Yes. No, I did not have time.

**MS CODY:** That is all right.

**Ms Cirson:** Would you be happy, perhaps, for him to provide some of the little snapshots to the committee of the work that he has done on that?

**Mr Elliott:** Yes, of course.

**Ms Cirson:** Would that be useful?

**MS CODY:** Yes, that would be excellent. Thank you.

**THE CHAIR:** Okay.

**MS CODY:** When you were talking about the rates increases I think you were talking nine times the difference between residential and commercial. Is that correct?

**Ms Cirson:** The commercial rates are nine times higher than those in residential. I think it is important to say too that no building owner in this town expects to pay no taxes and charges. Nobody is coming to me and saying, "I don't want to pay a cent." But it really is around certainty about what those charges are over the long term and transparency in the system, because that really goes to the ability for any business to plan strategically, particularly when leasing long term.

I might come to you, George, because you certainly have talked to me about this before, about the importance of knowing what the rates are up-front.

**Mr Katheklakis:** Yes. As part of business administration you need to every year budget your costs year on year. So it is important to understand what the rate of increase is going to be in rates, if it is going to be an increase, and further to that you need to have an understanding of where it is projected to go over a longer term. And I say that because when you are involved in commercial leasing and you are doing leases to commonwealth departments over 10, 15 or even 20 years there needs to be a view on where do you think rates are going to go so that you are able to then competitively price your offering in a manner that is fair and just.

Let us just say that rates were to increase according to the past three years. Then we would have to make adjustments over the next 17 years to make up for that increase, to the point where it is going to come out as the end user paying the increases—and to what effect you do not know—and it also means that it will require a lot of businesses to convert what is the benefit of, say, a gross lease, which I am sure you have spoken about before, to a net lease.

When we business plan we like to provide gross leases, because it gives certainty to the tenant because they know what they are going to pay year on year. But what it does is expose the property owners to any increases in outgoings. If the outgoings go up, the owners wear it. With what we have just seen happening over the past few

years, we are now all re-evaluating that gross lease mechanism and we are all pretty much saying I think from here on in, “To protect ourselves in terms of not knowing what the rates are going to be, we might need to convert to a net lease.”

That will happen at different stages across all different businesses, because every business has a lease over different times. The business, say, tomorrow might renew a lease or they might be already in a lease over the next 10 years and have a gross. These leases will come up over the next five, 10 years and then we will start to measure the pattern in terms of is there a shift towards a net lease, and that is something, say, a review panel can actually start to assess and start to understand what the implications are of unknown rate increases.

**Ms Cirson:** I was just going to say there: a really simple example which was given to me by a member last week was that they had signed a 10-year lease with their tenant and they are now two years into that, and on the agreed rates they are already \$100,000 over what they anticipated would be the rates increases. Those costs could have been factored in to the long-term lease if those rates and the rate of increases had been clearer at the time of signing that lease.

**MS CODY:** When you talk about rate increases with members, are there also other discussions about payroll tax and other taxes and charges—you have mentioned some of that in your evidence today—and how that compares to other jurisdictions?

**Ms Cirson:** Certainly what we have seen, and there are some graphs we include at the back of our submission—

**MS CODY:** I saw those, yes.

**Ms Cirson:** All of the graphs really look the same. We have obviously seen an increase in the rates but what we have not seen over particularly the past five years is any real increase in the amount of rent that we can charge, and that is very subject to market conditions. The rents that you are able to collect in other jurisdictions, the Sydney and Melbourne markets, are not really being able to be collected here, and that is when the sort of the underlying value, I suppose, starts to come into play. If anyone wanted to add to that?

**Mr Elliott:** Yes. It is pretty simple. If the cost of owning a property goes up more than the income that it is generating, the value is going to decline and so—

**Ms Cirson:** And you have got good examples too.

**Mr Elliott:** Yes. Last night I had a look through some of the information that we have in our office as well, and to give you an idea of some of the matters that I have got on my desk at the moment—and I know you have had examples and case studies thrown at you throughout all this; so I will try to keep them brief and to the point—there is a property in the city here, the unimproved value in January 2018 went to \$22 million. The three years prior to that it was at \$12 million per annum. That is up 83 per cent. Consequently the rates increased by 31 per cent from just under \$700,000 to over \$900,000 in one year.

Another one in the city, in January 2018 was reviewed to \$4 million. The three years prior was \$2.9 million. That is a 38 per cent increase. The rates increased by 26 per cent, \$152,000 to \$191,000. And a property in Woden went to \$13.27 million, up from \$4.325 million prior. That is a 207 per cent increase on that property.

These increases in rates that I am talking about are only after one year of these new rating values coming in because the rates are assessed on the average unimproved value which is over three years. Every year going forward, assuming those statutory values are maintained—

**THE CHAIR:** They are not going to fall again.

**Mr Elliott:** They are going to go up exponentially year on year. This is just the first year that it has been hit. And as George and Adina spoke about, Canberra is predominantly a gross market. Ninety-nine per cent of leases in Canberra are structured on a gross basis which does not give the landlord much recourse to recover these increased costs.

There are implications obviously for valuations of properties, which I touched on earlier, but I think, as much as that, it just erodes confidence in our market. When you are talking to investors coming to buy an office building in Canberra here—they are looking at properties in Brisbane, Adelaide, Melbourne, wherever, and we are competing with those markets—it just erodes their confidence and their interest in investing in Canberra if they see this uncertainty.

Every jurisdiction has its problems. It is not about trying to be perfect and everything has got to be 100 per cent, but this is something that I think can be addressed and should be addressed. These are big implications for people trying to budget and manage commercial investment properties.

**MS CODY:** Do your members also talk about some of the other taxes and charges: payroll taxes, and insurance taxes and charges, as well as rates, as owners of businesses, and as part of the Property Council? Some people who own a building also own a business, as part of that. Do they talk about both sides of those things?

**Ms Cirson:** Certainly, all costs to business are things that our members talk to us about. In terms of rates, I am certainly conscious that the Chief Minister has spent quite a bit of time talking about the fact that payroll tax has been abolished, and we certainly do not want to get into that discussion. What we are looking at here is the rate of tax reform, commercial rates and the transition that we are currently going through. I do not think that it is particularly helpful to say that, because you are not paying payroll tax, therefore rates can go up exponentially, either.

**MS CODY:** No, that was not my point; I wondered whether there were conversations around all of the taxes and charges, as part of the business.

**Ms Cirson:** My members have an interest in all taxes and charges that impact on their business. In relation to this discussion, it is a little bit like saying, “We can afford the rent this week as long as we don’t buy groceries.” It is a very different issue that we are talking about.



**MS LAWDER:** Ms Cirson, when you gave evidence at estimates in June 2017, you talked about the cumulative impact of rates and charges—which I think Ms Cody was alluding to—that are administered at different times of a project’s life and that are causing problems. At that point you said:

... a need for review of how infrastructure charging is administered in the ACT, and it is something that we are doing some work on ... we are very focused on doing a bit of analysis about what the cumulative impact of these taxes and charges is ...

Have you been able to complete that piece of work that you referred to back then?

**Ms Cirson:** Yes, we certainly started it. We did a bit of an analysis around the country about what infrastructure charging models look like. It was more related to the water and sewerage charges that Icon have brought in. It was also about the way in which the lease variation charge is administered, and perhaps looking at an alternative model that might provide greater certainty. For example, in Queensland, I have had one member say to me, “Adina, I’m quite happy to write my cheque for \$1.4 million because I knew what the amount was before I bought the piece of land.” With other jurisdictions’ models, again, going to what Martin was saying, not all infrastructure charging models are perfect but, certainly in terms of what we can learn from other schemes across Australia, there is great potential for us to potentially pick up some of those.

**Mr Katheklakis:** Going back to the core of what we are trying to achieve in the ACT, if we are trying to make the ACT an attractive place to invest, we have to provide transparency across the board for investors to come into the ACT. Martin probably has a bit more experience than me in terms of people coming to their office and saying, “Where can I invest?” If there is a lack of transparency on where rates are going, for instance, it provides a hurdle, and if you do not get over that hurdle, you just do not invest.

We must have a system in the ACT that acknowledges that we are part of a region. We seem to forget sometimes that there is a border around the ACT, we can go over it and totally different rules apply there. We have to look at it in a manner that integrates the region so that investment in the ACT is seen as an attractive offering.

**Ms Cirson:** South Australia is a really good example of where a different approach has been taken.

**Ms Ngo:** Yes, South Australia went through a tax review process in 2015. One of the recommendations that came out of that was to abolish commercial stamp duty over a three-year period, which they have now undertaken. They are in their first year of not having stamp duty, and that has increased the attractiveness when people are looking at investing from a commercial real estate perspective, looking at all of the different jurisdictions and knowing that there is no stamp duty in South Australia anymore.

At the same time there was not a corresponding increase in land taxes or anything like that. The government there is now undertaking a review to try to make their land tax

regime more competitive by bringing down some of their top tier rates as well. They are really trying to drive investment and economic activity in South Australia. That has really increased confidence in and the reputation of South Australia. Some international investors are moving away from Sydney and Melbourne and looking at jurisdictions like Adelaide as potential investment jurisdictions. It is something to be mindful of when we think about the competitive tension between the states and territories.

**Ms Cirson:** Again it goes straight to that point about certainty, really. With having a defined period of three years for abolition of stamp duty, and as we can see in the budget papers from last year, there is no indication that commercial stamp duty will be abolished, past that \$1.5 million cap.

Going back to the start of your question, it was around the cumulative impact of all of these taxes and charges. We talk about lease variation charges ad nauseam here at the Property Council, and we have had good engagement with the government around that recently through the review that started through the Assembly. Certainly, it is about what that charge is going to be, what the rates are going to be, what charges and stamp duty will be payable in five years time. That is at the core of all of these issues that we talk to government about; it is around certainty and transparency.

**Mr Katheklakis:** It is difficult to assess, I suppose. When you do not know what the proposed trajectory of rates increases is going to be, it is very difficult to make comment at the time on whether we think it is weighted too heavily or not. We are finding that we are just reacting every year. We are seeing a rates notice and then saying, “Gosh, it went up that much this year; okay.” There is no real opportunity for us to work as an industry, together with government, and say, “We think the current weighting on commercial, for instance, might be a bit too heavy because we are seeing impacts on the ground.”

We would like to see—and this comes back to what Adina was saying—a transparent rating system whereby you can see what proportion the commercial industry is taking up of the total pool as opposed to just one number which is dissolved into both commercial and residential. We cannot really assess it, but our feel at the moment is that the weighting on commercial is very heavy compared to the residential. Even though residential has increased over the past few years, if you look at the increases in residential versus the increases in commercial, they are vastly different.

**THE CHAIR:** Could I pick up on that? You have talked about clarity and transparency. One of the issues that the Chief Minister touched on last week in his evidence was that during the tax reform discussions the property industry wanted to pay one fee; so land taxes were wound into commercial rates. I appreciate the notion of having one number, but does the Property Council see that there is a difficulty in that, although you have one number, it is hard to discern how much is property tax and how much is rates, for instance? Is that a matter that concerns you or is it the overall big number that concerns you?

**Ms Cirson:** In terms of the notices?

**THE CHAIR:** Yes.

**Ms Cirson:** Certainly, members have said that the combination of land tax and the rates, after the reforms commenced, makes it very difficult to be able to carve it out, when you are signing leases.

**Mr Katheklakis:** If you were to structure a lease that said, “How about if you pick up increases in land tax, as opposed to general rates,” or “pick up general rates as opposed to land tax,” it would probably be a nicer way to do it. It should not be a difficult exercise on the notice itself. The notices themselves do not provide a lot of detail, even on the rating system that you are being put under. It does not say where it was last year. In the past it has always outlined exactly where the rates have increased. I do not understand why that should not be included in the current rates notices.

**THE CHAIR:** Perhaps because they are so big that you do not want to draw attention to them.

**Mr Katheklakis:** I am not here to comment about why, but from a business perspective it is imperative that these rates notices and the rates in the dollar are actually stated on the bill, not just in this year but where it was in the past few years, because you are actually being averaged over three years. You need to make an assessment over the past three years of how it has increased, under what circumstances and why you have the value you have today. There is a clear case for more information being provided on rates notices.

**MS CODY:** I have one follow-up question on something that Mr Elliott said. Mr Elliott, when you were talking about the price increase in commercial properties—

**Mr Elliott:** The values?

**MS CODY:** Yes. Have we seen a reduction in commercial investment yet in the ACT?

**Mr Elliott:** I cannot answer that question. It ebbs and flows for a thousand reasons. I do not think anyone could sit here and pinpoint rates or any single reason as being the factor that drove investment or did not drive investment in one particular period.

**Ms Cirson:** Some examples have been provided to me of people, particularly in industrial areas or in Fyshwick, for example, and with Queanbeyan being so close, choosing to invest and to set up in Queanbeyan as opposed to Fyshwick. In the MBA’s submission—we have referenced it in ours—there is an example of a business that has done that. There have been other examples.

**THE CHAIR:** Are you saying that people are disinvesting in the ACT to go to Queanbeyan?

**Ms Cirson:** That is what they are choosing. The way it has been put to me is that they are choosing to move to Queanbeyan.

**Mr Elliott:** I can tell you anecdotally that I agree with what Adina said. I do not have statistics, though, to sit here and quantify an answer for you.

**MS CODY:** I just note that a report that the Property Council put out this month said:

... business sentiment remains strong, and with an expect an increase in office demand over the medium to longer term—things are shaping up well in the office market here in the ACT.

Do you stand by this comment and the report about office vacancy rates?

**Ms Cirson:** Yes, certainly. The office market report, which came out a couple of weeks ago, shows that we have seen a decrease in the vacancy rates, particularly for A and B-grade product. We are seeing a tightening particularly in the Civic areas. Certainly there is confidence around those figures.

Going to the C and D-grade stocks, the older office product, the vacancy rates are sitting at just over 19 per cent, and they have been there for some time. The relevance back to this discussion is that if you want building owners to upgrade and you want them to refurbish in order to be able to lower their vacancy rates—and also do other things, like improve energy efficiency, for example—they are not going to have the money to reinvest in those buildings. That is certainly what we are hearing. But yes, the office market is in good shape, and that is great for the economy as well.

Obviously 50 per cent of the market is commonwealth tenants, so some of that confidence comes from the fact that there have not been any announcements around significant cuts to the public service recently.

**MS CHEYNE:** Just going back to some of the comments about transparency and forecasting, and being able to have a bit more certainty—not just having to respond to shocks year on year—do you have an idea of the reasons for the government not being as transparent or giving those forecasts? Has it been put to you why there has not been that willingness to work with industry or to project into the future?

**Ms Cirson:** We have had good engagement with ACT treasury. Mr Katheklakis and I met with treasury officials just before Christmas to raise the issues that we have raised here through our submission. We got engagement and we are getting a hearing.

I think they are in the process of a review of where tax reform is up to. This is a new thing. No other jurisdiction has gone through this process before. Our point of view is that it is timely now to stop and have a look, but also to provide the path—where we are going—and to be clearer about that. Belinda, what is that figure that you talk about where we are only 84 per cent—

**Ms Ngo:** We are still collecting almost as much stamp duty now as we were in 2012 at the start of the abolition process. Part of that might be, yes, that the economy is a bit better, but in dollar terms it is still a significant amount of money that needs to be recovered.

**Mr Katheklakis:** It is important to note that we are all on this journey of stamp duty reform together. If we have a plan, and we can see it and it is certain, that gives everyone at least an understanding of where they are heading. At the moment, we are

feeling that it is about exactly how much rates are going to increase over the period of 20 years that we have been projecting. I am not saying that it has to be set in stone, but without even a proposed trajectory that we can forecast, it is difficult. It is saying, “To what extent are commercial properties going to increase their rates? What is the extent of the residential? Is it a fair share?” We cannot even make comment on that because we just do not know.

**Ms Cirson:** That really goes to the point in our submission calling for this task force to be established. There is a genuine willingness for industry to work with the government on achieving the revenue objectives, the economic growth, and making Canberra an attractive place to do business and invest in. We are certainly keen to see a task force established. It would allow that. But also, going to certainty, we would strongly say that we believe that a freeze on rates should be implemented while that review is undertaken. That is an important point. That would provide instant certainty to the sector and allow us to have a really frank and honest discussion in a working group with the government on how we go forward.

**MS CHEYNE:** I am hearing you loud and clear that projections would help. Could there be a possibility, though, that if the government moved towards a policy of giving more projections, or at least giving them a little way into the future, if they ended up being pretty wrong due to changing circumstances, we could be in a worse position and really lose trust between government and industry? I am thinking of a situation where the projection was going to be X but ends up being Y, and then everyone is going “Whoa.”

**Mr Katheklakis:** Ultimately, when you are in business, you take risks. You have to make some projections. You have to wear a lot of it sometimes. By being up-front and honest about where you think the direction is going to go, I do not think you are going to get criticised if something happens in the interim that affects it differently.

**MS CHEYNE:** So if it was justified: “This is why we think it is this.”

**Mr Katheklakis:** We are all reasonable people. We listen to what the reasons are. If what you are suggesting is that the government will hesitate because, if it does not come out as per the projection, that criticism will be put back onto the government, I think that is a worse position to take than to say, “We think it is going to be this. Let us see how we go. Let us put some mechanisms in place to review it along the way.” That way, adjustments can be made along the way to account for any anomalies that are in the system that we have not foreseen or changes in the economic environment that might be around us, which all of us understand are sometimes unpredictable.

It is a two-way street. We always try to work together with government in terms of providing our advice in a manner that works in achieving the right outcome at the end of the day. The right outcome at the end of the day for us is one where we all sit back and say, “We are in the best position possible as the ACT to put our business cases forward for whoever wants to put their business into the ACT and rent land or buy properties.” That is the key message.

**THE CHAIR:** I want to ask about the Property Council’s clients; that is, your commercial tenants. The committee has received a few—only a few—submissions

from commercial tenants who have said, “We are locked into a contract, we are locked into a lease, and we have not seen any increase in our business costs.” It seems to me that those people are going to see an increase in their business costs when their current lease expires in five or 10 years. They might be lucky; they might have eight or nine years to run on their lease. What communication does the Property Council have with its clients about the impact that that will have on their businesses down the track? And have you, as the Property Council, thought about the impact this is going to have on tenants of commercial properties when they get to the end of their lease and the rates have gone up tens of thousands of dollars, maybe hundreds of thousands of dollars, and the owner is going to try to recoup that? How much is the owner going to be able to recoup and keep a tenant?

**Ms Cirson:** I have a couple of spreadsheets—we have tried very diligently to get some data across a range of properties—which show the increases in rates and in some cases what the rents are on those properties. We are hearing that in some instances, the building owners are choosing to pass on rates increases, if they are able to, to some tenants who might be better equipped to pay—the commonwealth government, or the ACT government for that matter—and are choosing not to and choosing to bear the cost of the rates increases themselves because they know that if they passed those costs directly on to their tenants, they would not be able to rent those spaces anymore. That is happening across a range of developments. You would agree with that, George?

**Mr Katheklakis:** Absolutely. You have two mechanisms. There are two things in force here. You have the end of your lease or the termination of your lease. That gives the tenant the opportunity to negotiate across the market in terms of what is the best deal they can get. Then you have your reviews along the way, which also assess the market rent and make adjustments accordingly. There are probably two forces in play. With the increased rates in play, I think you are going to see an adjustment in the market rent at review time, not at the end of your lease.

**THE CHAIR:** Conventionally, how many reviews would there be in a lease?

**Mr Katheklakis:** Depending on the land, but traditionally in, say, a 10-year lease, you might have a review two times through that lease. With 15 years, it may be three. It could be at year 5 or it could be at years 3 and 8. It depends on the negotiation on the day. But that will probably reflect the market conditions of the day. So even though you think you are in a lease that has protected you, over time, as market reviews occur and as the industry starts to adjust rents accordingly—it is probably better for Martin to comment on this because I am not a valuer.

**Mr Elliott:** Even aside from those long-term projections he was talking about, anecdotally again we are seeing more immediate consequences whereby there may be a lease in place where the tenant has to pay increases in outgoings over what they call a base year amount. So the lease starts, and at that point the outgoings are a certain amount, and any increase over that amount is borne by the tenant and it is the landlord that is protected. That is quite a common scenario. The intention of that is to balance that risk out to both parties.

**THE CHAIR:** So rates would be included in outgoings?

## PROOF

**Mr Elliott:** Yes, rates are included. And more often than not those increases are based off just the statutory charges only, because there is a recognition across Canberra that statutory charges are the risky element. If statutory charges in year 1 of a lease are a certain amount, any increase is borne by the tenant. There are instances at the moment where property managers are having to deal with negotiations between the parties whereby the increases have been so extreme that the tenant cannot afford it and the landlord is having to come back and wear part of that cost. Even though the lease has provided for the tenant to pay 100 per cent of that increase, they are having to come to some sort of commercial negotiation to maintain the tenant in the property and also maintain some sort of return for the owner. We are seeing it already. Aside from the example that you put forward, we are seeing it already.

**THE CHAIR:** I thank the members of the Property Council for their attendance here today and for their submission. As I said at the outset, there will be a draft transcript from Hansard that will be circulated. I do not think there is anything that you took on notice. Mr Elliott, you did offer to provide some information.

**Mr Elliott:** I will provide some information.

**Ms Cirson:** I have some copies of the data that I referred to from a number of our members' properties that I am happy to table.

**THE CHAIR:** Please leave that with Dr Lloyd; thank you very much. Members may have some other questions; we will be in touch if that arises.

**Hearing suspended from 11.05 am to 11.47 am.**

**SNOW, MR RICHARD**, Head of Property, Capital Property Group  
**MCCANN, MR NOEL**, Director of Planning and Government Relations, Capital Property Group

**THE CHAIR:** We will reconvene the fourth public hearing of the public accounts committee's inquiry into commercial rates. I welcome Mr Snow and Mr McCann of the Capital Property Group and Canberra Airport. I draw your attention to the pink privilege statement and ask you to acknowledge that you have read and understood it. Does a representative want to make an opening statement?

**Mr McCann:** We are not representing the airport today.

**THE CHAIR:** Your submission is on behalf of the Capital Property Group and not the airport?

**Mr McCann:** Yes. The group is a major investor and has been in Canberra for a very long time. Richard's father is George Snow. You understand the long-term history between Terry and George Snow and where we are now. It is really only the Terry Snow family in the Capital Property Group. We have laid out a very simple submission showing that we believe that this system has got out of whack. We would like to see some review of the system itself. Our bottom line is that there should be an undertaking from the government to reduce the unit of rate for commercial properties to four per cent while there is a review sorting out why it is not delivering on the original intention. That is our position. We are open to answering questions.

**THE CHAIR:** Mr McCann, your contention is that the rollout of the rates reforms has not met their initial intention. Would you like to expand on that from the perspective of Capital Property Group?

**Mr McCann:** The concept, as we understand it, is that the rates will over time mean that there will be no stamp duty on commercial property at all. The experience is that the collected revenue on stamp duty is circa 86 per cent of where it started in 2012 and that the rates have doubled. Fundamentally, over five per cent it means that the rates are collecting the value of the land every 20 years. We do not think that that was the intent. We understand that government has got to raise revenue, but its income and expenditure should not impact on the short, medium and longer term investment profile of the territory as a high-tax environment.

**THE CHAIR:** It was put to us by the Property Council that moving the rating factor to five per cent is essentially a stamp duty like impost every year.

**Mr McCann:** It seems to marry up in the number. They are both over five per cent.

**MS CHEYNE:** Your submission says that the increase in rates is having an impact on the competitiveness of the Canberra market. Are you able to expand on that for us, either anecdotally or in what you have seen or experienced in Capital Property Group?

**Mr Snow:** In our submission we gave some data on some other jurisdictions, principally the Sydney situation, where you have the combination of land tax and



council rates sitting at 2.6 per cent of the unimproved land value. In Civic, for example, rates plus fire emergency levy plus the city improvement levy is over six per cent. You have rates well over double to triple what they are in, say, Sydney. You can choose any other jurisdiction but that is the one which is obviously the most proximate. And then you have stamp duty over five per cent in the ACT for properties over \$1.5 million anyway, so you have a situation in terms of an investment decision from an investor looking at, say, Sydney or Canberra property, where you have rates circa triple but you are still paying stamp duty over \$1.5 million. When you look at that, you ask, “Are the settings right to foster investment in the ACT when you look at that dataset?”

**THE CHAIR:** This might be a better question for the Property Council, but in your experience what proportion of the commercial property in the ACT would be under that \$1.5 million threshold?

**Mr Snow:** It is interesting to look at that. I know there has been discussion about the quantum of properties versus the value of properties in relation to the same question. My feeling is that from a value perspective they would be relatively low but it would be relatively high from a volume perspective. In terms of the numbers on that, I do not have that for you. But you have a situation where there is effectively a distortion in the market. From an equity point of view, you have a cap at \$1.5 million and all properties below that pay no stamp duty. Then you go basically to five per cent, or five per cent plus, for anything over that. You have to ask yourself whether that is the right setting for the market. You also have to ask yourself, in terms of the government’s position, and the government’s information back to the market, whether there is any real transparency about what the reduction in stamp duty might look like over the \$1.5 million threshold, because no advice, to my knowledge, has been given about what that might look like in terms of scaling back stamp duty.

**MS CHEYNE:** We were hearing this before in terms of transparency and projections. You were here, were you not?

**Mr Snow:** I was, yes. That is right. The other thing I think is important to note in the commercial context, and we put it in our submission, is that typically commercial property owners are longer term investors. Unlike the residential market, in which typically you turn over a house every seven or eight years, we are long-term investors. We have been in Canberra for 50-odd years. We typically like to divide property, improve it, own it and manage it. Therefore we do not have the same advantage of turning around a property every seven or eight years as in the residential context.

My question is whether this tax regime where stamp duty is going to be phased out is appropriate in a commercial property context, given that it is a long-term hold and there is not necessarily going to be an advantage from lower stamp duty anyway. Potentially you could have the impact of promoting speculation, because if you can transact property more easily it definitely would advantage those who are not going to be long-term investors in Canberra.

**MS CHEYNE:** What has been the impact of getting advice each year on what the rates are? For Capital Property Group, how has that affected your ability to invest?

**Mr Snow:** At the moment the rates have increased since the transition started in 2004 by roughly 7.5 per cent per annum. That has been the rate of increase every year for the seven-odd years since it started. There are some short-term budget estimates but you do not quite know how that is going to be applied to your property. Effectively each year when you open your rates notice is when you know what your rates are going to go to, because there is no advice on what the rate and the dollar amount are going to increase to. There are some estimates about the total amount that is meant to be collected but no advice about where the rate and the dollar are going to go.

Fundamentally you have a situation if you are an investor where, if you have, say, a 20-year horizon, which is the time horizon provided by the transition, and you have rent increasing at, say, CPI of about two per cent and rates increasing by 7½ per cent over that 20-year period, everything else being equal—unimproved land value stays the same—your rates are significantly outstripping your rent increase. That is going to have an effect on value. If, for example, rates start at roughly 25 per cent of your total income, over 20 years the value of that property is going to go down by around 35 per cent, all else being equal. So you have to ask yourself whether that is really an equitable situation.

**THE CHAIR:** How does the value of the property decrease by 35 per cent?

**Mr Snow:** The reduction in the value is because of the reduction in net rent, so—

**THE CHAIR:** Okay, sorry.

**Mr Snow:** It is based on the premise that none of the increase in the rates is passed on to the tenant and the investor absorbs all the increase in the rates. That gap gets higher every year and therefore after 20 years, all other things being equal—it is a theoretical exercise—it is going to reduce by that amount.

**THE CHAIR:** Yes, if the value of the property remains constant.

**Mr Snow:** The unimproved land value remains constant, yes.

**Mr McCann:** I think it is also fair to say that over history in Canberra the value per square meter for development rights for commercial office space and retail exceeded residential. At the moment, taking a straight line on residential redevelopment in the city or the Northbourne Avenue corridor, the value for office accommodation is at 50 or 60 per cent of residential.

There are a couple of factors at play there. One is that the government wants more people living in the corridor and around the city. That is one factor that is stimulating that. But the negative factors are fundamentally based on concern about the long-term issue of rates. The market sees the vacancy rate of offices, which is really in C and D grade, which is the worst grade, with A as the best grade. There is some evidence already. This has been going on for a couple years.

The concept we are putting to you is that the government has the levers that can stimulate or cut off investment. We see at the moment a lever, without review and a

clear articulation of where it is going for the next 13 years, which could be a disincentive as a high-rate environment for commercial property. That is our bottom line.

**THE CHAIR:** One of the things put to us in previous evidence is that, as you say, Mr McCann, the highest and best use in some parts of Canberra is now residential rather than commercial and that, where properties have been revalued based on their future residential use, people are paying commercial rating valuations on an unrealised future residential use. That means that the valuation is probably 50 or 60 per cent higher, as you have said. But also they get a double whammy of paying a rating valuation which is 10 times higher than the residential rate.

**Mr McCann:** Yes. That is the experience of the past three or four years. The government has been unwilling to amend the legislation to allow alignment with at least New South Wales, if not Queensland. The concept is that you value the property at the highest value and you hit it with the highest unit of rate. There is a disproportional impact for probably two or three years as you go through buying a property and getting it organised—whether it already has a purpose clause that allows residential but allows commercial too and there is a commercial tenant in there that has a two-year lease expiring, giving you time to get on and get your development approval for residential. Until you knock down the building and there is no commercial use and you build only residential, then the revenue office says, “This is the way the law is at the moment. We’re charging you on the highest value and the highest rate.” It is not proportional at all.

**THE CHAIR:** One of the issues is that you might have a commercial property with a change of purpose clause but it may not be propitious because, as you said—

**Mr McCann:** It might not be right, yes.

**THE CHAIR:** Because you cannot kick out your tenant. Or it may not be propitious to knock it down and build something else there because there is so much other activity in the market or whatever. What proposals have been put to the government to accommodate that?

**Mr McCann:** Proportional rating in terms of the component that is residential value should be rated at residential. The component that is commercial should be rated at commercial rate. And that is what happens when the building is built and there is a unit title. The commercial unit gets valued as commercial and gets rated as commercial. The residential gets valued as residential and gets rated as residential.

We will not get into the argument about how it is proportioned across unit title but that is fundamentally what happens when the development is done in strata title or unit title. But that is not what happens when it is coming together.

**Mr Snow:** But in terms of that point, I know there has been a bit of that in Braddon where you have had situations of old office buildings have got a change to their purpose clause to residential and therefore they are getting the higher value or AUV and paying the commercial rates on it because it is still a commercial building.

**Mr McCann:** Yes.

**Mr Snow:** I think one of the answers to that will be the timing of how you do it. I think one thing is changing your purpose clause and your lease to get residential in it. Another thing is when you lodge a DA to build it. I think there is a timing problem with how that is levied to reflect what has been there, what is going to be there.

**MS LAWDER:** In your submission you talked a lot about commercial rates and the equity or inequity of it. Last week the Treasurer spoke about, to paraphrase, three different types of charges on capital, on labour and on land. And obviously commercial rates is the one on land. Do you have a feel for, in totality, not just rates themselves but if you consider capital, labour and land is it still inequitable? Or because you may be paying less payroll tax, for example, if we look at the totality of the government taxes and charges, how does it stack up?

**Mr Snow:** I suppose, just looking at the commercial property sector, which includes labour, if you are not wearing the rates you are passing it on to your tenants. So you can look at it either way. One, the investor cops it and their value goes down or secondly they are able to negotiate a situation where the rates get passed on to the tenant and therefore the businesses and the tenants wear it.

If I just look at that bit, because not talking about residential rates or those sorts of things or insurance duties and those sorts of things, which is probably a little out of the remit of this, the main difference, I think, in there, given that stamp duty has only got a concession of \$1.5 million, is payroll tax. It is probably the other big change that has happened. And you look at payroll tax and yes, there is a high threshold for payroll tax in the ACT at \$2 million, which is great.

But if you are a small business and you have only got 10 or 12 people there is no payroll tax anyway in New South Wales. Yes, there is a \$1 million to \$2 million gap. I think New South Wales are going to a \$1 million cap in two years or so, roughly. There is a gap there, which means that there is an advantage, but when you compare that to your commercial rates I do not think that there is much of an advantage if the tenant is paying commercial rates.

My personal view in totality, even if you include the payroll tax concessions and where that is—if you add all that up and you do a broad sweep of the market from small business to medium business to large business and what the actual tax regime looks like—would be, just on commercial property and those that inhabit commercial property, the tax burden would be significantly higher.

**Mr McCann:** I think also that if it was an owner-occupied building—they own the building and occupy it—then there could be a saving for them in terms of the payroll tax. But our company would not have enough staff to pay the payroll tax; so we are only at the rate in terms of the investment profile. And I would think that most property companies that are developing in the territory would be in the same boat. There are some a lot bigger than what we are. We have got a really good book at the moment but we would not have the staff to generate or trigger payroll tax or get the benefit.

PROOF

**MS CODY:** Thanks for coming along today. Just a quick question to start with, is either of you a member of a political party or have you made donations to political parties? And if so, which ones?

**THE CHAIR:** Before you answer that, I made a statement earlier in the day. As the chair, I object to this question and I do not believe that witnesses need to answer that question, and the application of free speech applies there. But feel free to answer it or not, as you consider.

**MS CODY:** Thank you.

**Mr Snow:** I am not a member of a political party.

**Mr McCann:** Neither am I.

**MS CODY:** And no political donations?

**Mr McCann:** No.

**MS CODY:** Capital Property Group have a number of commercial properties in the ACT.

**Mr Snow:** Yes. Predominantly the two main ones are the development we are doing next door here—

**MS CODY:** I am very excited by that.

**Mr Snow:** Of course, it is great. We are too; it is fantastic; that, and the Denman Prospect residential development in Molonglo Valley. They are the two main Capital Property Group investments. But we have had a lot of investments in Canberra, outside the airport, under that banner for 40, 50 years. Some have been traded, some have not, you might say.

**MS CODY:** I guess with the two major properties still being developed it is difficult to estimate capital gains on those properties but in other properties you have had have you seen gains?

**Mr Snow:** Certainly there have been capital gains in properties we have had over that 50-year time frame.

**MS CODY:** I also just want to ask you quickly: you were talking about comparisons of jurisdictions, of the ratings systems and tax systems. I was just wondering: have you done any comparisons between the ACT and places like Tasmania, just working on a similar size?

**Mr Snow:** No, I have not.

**MS CODY:** So you would not be able to comment on what their tax rating system looks like compared to what we do here in the ACT?

**Mr Snow:** I would have to come back to you on that. I do not actually have anything on hand.

**THE CHAIR:** Going back to some of the issues that have arisen and are touched on in your submission, since tax reform you say that commercial rates have gone up close to 200 per cent compared to the rating factor being 2.361 in 2012 and now 5.167. Does that take into account the fact that commercial property taxes have been wound into that and, if that is the case, do you have a feeling for how much is actual rates and how much is property tax?

**Mr McCann:** Not off the top of my head, no.

**Mr Snow:** I could take that on notice but I believe that is the combination rate of—

**THE CHAIR:** That is the combination rate. Actually this is a question that I will be putting on notice to the government, as to what were the rating factors then, but also, from your portfolios—and it may be difficult, if you trade things in and out of your portfolios, to see—to give an assessment. If you have a case study of a property that you had before tax reform and when you were paying a separate property tax and a separate rating system and you still have that property, could you use that as a case study?

**Mr Snow:** Yes, I can certainly come back to you on that one and certainly come back to you on the 2.361 per cent. My understanding is that is including what it was, including land tax.

**THE CHAIR:** That did include—

**Mr Snow:** That is my understanding but I will confirm that.

**MS CHEYNE:** Going back to transparency again—and you would have heard evidence before about the actual notice itself and the information it contained within that—it is becoming a bit of a theme with our witnesses just in terms of how clear the information is. Not only is that the time that you find out what you are paying but there is the lack of information on there, lack of advice. “If this is a shock to you, you can call us and we can organise a payment plan,” things like that. Do you have any comment or suggestions about how the notification—

**Mr Snow:** Yes. Over the past few years the format of the notice has changed in that they just give you the rates, what you are paying—here it is, here is the rates bill—rather than what you used to have, which was more information about how it was derived, as well as the historical information of what you paid two, three, four years prior to that.

There was some talk in the previous submission that the process to change your rates is not very obvious. If you have to go through ACAT—that is an expensive process—it does ask the question about how that is handled and what is the best way to go about that, as well as the question: is it appropriate to think about an independent committee that actually is able to set rates based on economic factors, which is something which is prevalent in other jurisdictions?

**MS CHEYNE:** And you would support that?

**Mr Snow:** Yes, I think that is a good, rational suggestion.

**MS LAWDER:** I want to touch briefly on something that we have already talked about a little: that stamp duty has changed materially only for commercial properties sold under \$1.5 million. Does this tie in with your comment about not knowing where things will end up? Originally, under the tax reform, it was intended to be revenue neutral but, because the commercial stamp duty has not changed as much as was originally anticipated, is that having an effect as well?

**Mr Snow:** It goes to that issue of equity, in that there is a reduction or there is zero stamp duty for properties under \$1.5 million, but if you are not in that threshold and if you are above that threshold—properties over that threshold represent a significant amount of the market in Canberra—you are paying rates which are three times what they used to be seven years ago, but you are still paying stamp duty. You have to ask, in terms of how that plays out in the market: is the tax reform agenda being rolled out equitably? The premise of this tax regime, when it was first announced in 2012, was that it would be an equitable rollout. Given that there are plenty of property owners that—

**THE CHAIR:** A cost-neutral rollout, it was said.

**Mr Snow:** Yes. The other thing about it, going to that certainty point that I mentioned before, is that there is no certainty, or there is no advice, certainly, to the market about what the future of that stamp duty relief might look like above \$1.5 million. It is very hard to understand, from an investment point of view, how that is all going to play out, and whether you will or will not be in a better position as an investor, based on where the rates sit today, and based on what stamp duty might be at.

The problem is that if you are a long-term investor, and if you have purchased your property, you are paying stamp duty, anyway; therefore your rates are still going up. Even if stamp duty is reduced on a higher threshold, you are still not getting an advantage with that. The same goes for owners who purchased property before the tax regime was in place.

**MS LAWDER:** The lease variation charge has also increased quite a bit over time, and that has a compounding effect as well.

**Mr Snow:** Yes.

**MS CODY:** Do you manage business as well? The question I am trying to get at is: we look at the rating system as a conglomerate of taxes and charges, but how have all of the taxes and charges impacted you across the board, from a business perspective? There have been changes to a number of parts of the tax regime.

**Mr Snow:** Yes.

**MS LAWDER:** I asked a similar question earlier.

**Mr Snow:** With respect to how other changes to the tax regime have affected us, as long-term owners of a business in the ACT—Capital Property Group, and the airport—we are a large employer of people in the ACT. We have 190 staff at the airport, and that flows through to Capital Property Group as well. From that point of view, there has not been any relief in payroll tax because we are above that threshold in any case, so there has not been any reduction in that from a business point of view, in terms of us running our business. There have been some reductions in insurance duty, as well as lease stamp duty. Lease stamp duty is paid by the tenant, and the insurance duty, compared to the rates, is a very small amount, compared to where rates have gone to.

Overall, as a business, as well as an investor, based on where the rates have gone—and we are a property investment business—certainly, our tax burden as a percentage of where we were and where we are now has gone up.

**Mr McCann:** You will forgive me, because I am old. With the run-up to the year 2000 introduction of GST, there was a premise that the state and territory governments would phase out stamp duty as an inefficient tax, as a result of the revenue growth of the GST.

**MS CODY:** How many jurisdictions have done that?

**Mr McCann:** We accept that that has not happened. We have seen the fire levies and the precinct levy for the city added on to where people are trying to provide investment criteria. As I said earlier, the government has the levers to either turn investment on or turn it off. For 13 years ahead of us, it should be modelled and disclosed as to what the targets are, and when we get to revenue-neutral. That would be a pretty good outcome.

**THE CHAIR:** I will ask this question, and if you think it is inappropriate, or you are not in a position to answer it, I will understand. You are building this very large building next door. Is that all commercial or is there any residential component?

**Mr Snow:** There is no residential.

**Mr McCann:** There is a hotel in one—

**Mr Snow:** There is a hotel, which is—

**THE CHAIR:** That is commercial.

**Mr McCann:** That is commercial; everything is commercial rated.

**THE CHAIR:** I was going to ask about apportionment. But I will go back to your previous throwaway comment, Mr McCann, when you said, “Don’t get me started on the apportionment between the commercial and residential, if you strata title.” Have you seen or do you envisage problems with malapportionment across strata titled buildings?



**Mr McCann:** What was the word? Malapportionment?

**THE CHAIR:** Yes.

**Mr McCann:** No, I have not seen it, post unit titling. I have not had anybody talk to me about that. I still act as a valuer, outside my long-term profession, outside the Snow group. I have had plenty of experience of the before-development outcomes—the rates being apportioned.

**THE CHAIR:** I misunderstood what you said, in that case. It may not have been the throwaway line that I thought it was.

**Mr McCann:** No. It was all about what happened beforehand. I am sure that you have heard from developers about their own properties. I know of half a dozen properties—forget about what is in Braddon—and what happened before the development and the height rating.

**THE CHAIR:** If people are paying a high rating for a long time in anticipation of developing it for a higher and better use, somewhere along the line they have to recoup that.

**Mr McCann:** Yes.

**THE CHAIR:** If you are converting it into residential, somewhere along the line—

**Mr McCann:** Do their best to recoup it. The market will only pay what the market will pay.

**THE CHAIR:** Yes, someone has to pay.

**Mr McCann:** Yes.

**THE CHAIR:** Are there any other questions for the Capital Property Group?

**Mr Snow:** Could I make one last remark?

**THE CHAIR:** Yes.

**Mr Snow:** The thing that I want to say in closing is that, as Noel mentioned, we are a long-term, family-owned company that has invested in Canberra for a long time. We have been here since before Canberra existed. We are not saying that we are not happy to pay our fair amount of tax, because we absolutely are, and we have done that over a long period of time. We are very much focused on the growth of Canberra generally: the Canberra region and the Canberra community. I think that the settings in this tax need review. I think they are getting out of whack and they are really starting to affect things on the ground from an investment point of view, and from a business sentiment point of view.

**THE CHAIR:** Thank you, Mr Snow and Mr McCann. You will receive a copy of the proof *Hansard*. If you want to make corrections, you can take that up with Dr Lloyd. I did ask for a couple of things on notice.

PROOF

**Mr Snow:** Yes, we will get back to you on the 2.361 per cent.

**THE CHAIR:** Yes. We have just changed the standing orders, and that requires you to answer that within five working days of receiving the proof *Hansard*.

**Mr Snow:** Okay. When will the proof *Hansard* be provided?

**THE CHAIR:** It varies a little—say, Monday. But the clock starts when you receive the proof *Hansard*.

**Mr Snow:** That is fine. I am away next week but we will sort it out.

**THE CHAIR:** Thank you very much.

**TSIRIMOKOS, MR ARCHIE**, Chair, Canberra Business Chamber

**THE CHAIR:** Welcome to these hearings of the public accounts committee inquiry into commercial rates. I welcome Mr Archie Tsirimokos, Chair of the Canberra Business Chamber. Mr Tsirimokos, could you acknowledge that you have read and understood the privilege statement.

**Mr Tsirimokos:** I am familiar with it, and I understand it, yes.

**THE CHAIR:** Thank you very much. Do you have an opening statement?

**Mr Tsirimokos:** No, I do not.

**THE CHAIR:** The Canberra Business Chamber submission has outlined the impacts of the tax reform process. You quote the government as saying:

Importantly, this program will not increase the overall tax burden on the ACT community, with only the foregone revenues resulting from the abolition of inefficient taxes being replaced through the efficient and equitable rates system.

I get the impression from the chamber's submission that they do not quite agree that that has been the reality.

**Mr Tsirimokos:** I do not think it has played out necessarily. Yes, that is the case. As the previous witness indicated, the effect has been an overall increase, an overall impost on property owners in an overall sense. Stamp duty has been talked about as the inefficient tax that has been saved, if you like. But it is a bit of a furphy in some ways, because for property investors who purchase in the ACT stamp duty is tax deductible so it does not have the same impact as it would in other jurisdictions. Because you are buying under a leasehold system, if you buy commercial property the stamp duty is entirely tax deductible for you.

**THE CHAIR:** Whereas that would not be the case if—

**Mr Tsirimokos:** It is not in New South Wales or the other states. So the impact of taking the stamp duty away, in my view, has not been significant. It has not necessarily encouraged investment. It practically makes little difference, in my view.

**THE CHAIR:** It has been put to us by the Property Council that the increase in rating, the rating factor being slightly more than five per cent, is effectively a stamp duty like impost every year.

**Mr Tsirimokos:** Yes, particularly for property owners who have owned property for some time and who paid the stamp duty a number of years ago. They also now have this effect of having to pay that stamp duty, effectively, annually. The effect is a significant reduction in net incomes for property owners.

Just two days ago I came across an example of a small property of a family member in Fyshwick. It is a unit in Fyshwick on Newcastle Street. The new tenant comes in. The

## PROOF

rent is actually less than it was a year ago, because that is what the market is saying. It used to be \$45,000 a year; it is now \$43,000. The rates for that property are over \$14,000 a year. When you add the body corporate levies of \$2,000 or \$3,000 there is very little left for the property owner for a property where the rates were under \$5,000 a few years ago.

**THE CHAIR:** That is a small property. If it changed hands, it probably would not attract stamp duty. But do you see that translating into larger properties where people will be paying stamp duty as well as the rate increases?

**Mr Tsirimokos:** It would, but the effect on that small property would be probably not receiving what that property was worth three or four years ago. The net income from that property, in the example I have just given, is something like \$26,000 a year whereas before it was probably \$30,000-odd or \$35,000 a year. When capital rates are applied to it, that really means that the buyer for that property will not pay what they would have paid five years ago. Certainly a purchaser of a property above \$1.5 million will get the stamp duty deductible anyway but, as I said before, I do not think that that has provided a disincentive for people to invest before in any event.

**MS CHEYNE:** Where does concern over commercial rates sit in terms of the feedback you are getting in terms of the broader list of issues faced by businesses in the ACT? Is it the number one issue, the number three issue or—

**Mr Tsirimokos:** I think it is pretty close to number one. We are hearing that a lot from our members.

**MS CHEYNE:** Is it increasing?

**Mr Tsirimokos:** I am a lawyer by day, and I hear that a lot from my clients, both in terms of a property owner's perspective and from the tenant's perspective. Tenants' concerns are that if landlords can pass the rates on—the increases—that is a significant impost on the business. If landlords cannot pass that on, that is a significant impost on the landlord in terms of the value of their property and the net return for them. Either way you look at it, there is an impact on somebody. I do not know where balancing it out is because the market, in terms of rentals, is what it is: people are only prepared to pay, let us say, \$200 a metre, and whether the rates amount to \$50 per metre for that property or \$150 does not really matter. The market says they will only pay \$200 a metre.

It is having an effect across the board, certainly in the industrial areas: Fyshwick, Mitchell and Hume. It is certainly having an effect in the retail areas as well. I do not know about the big end of town—I am talking about the big shopping centres—necessarily, but it would be having an impact on them and their tenants because generally those landlords pass on the rates increases to their tenants. Again, it is a significant cost to business, not just to the property owners.

**MS LAWDER:** Thank you. Your submission says that commercial rates increases are “affecting the profitability of Canberra businesses now, as well as limiting the attractiveness of the ACT as a future investment destination”. Can you give evidence, either hard evidence or anecdotal, to support that statement?

**Mr Tsirimokos:** Again, I think it is at two levels. It is at the business level as well as at the investment property level. An example I can talk about in terms of a family interest is another property in Fyshwick where the tenant is a national tenant. The landlord had the right in that property to pass on the rates increase to the tenant. The tenant's first reaction was: "If this is what it is going to look like for me, I cannot pay that rent. I will move across the border to Queanbeyan, where I know the levels of rent are cheaper and the rates are cheaper."

In terms of the effect on property owners, there is no doubt that that is impacting. When you think about it, if I am going to get a return of, say, 10 per cent on a property and I can do that in New South Wales, if I am going to spend the same money and get five per cent here, the incentive to invest here is reduced. It is as simple as that; that is what it comes down to. It is the effect of what is happening at the moment.

**THE CHAIR:** But you are also saying that the tenant has the power to retaliate against rental increases by saying, especially if they are in Fyshwick, "I will go to Queanbeyan."

**Mr Tsirimokos:** I am not sure if that is the way I would put it. I think the market dictates that. The market dictates. The market is the market. If you want a property, you will get the best deal you can for yourself as a tenant. If you have the option of renting in Queanbeyan for \$50,000 or Canberra for \$100,000, the argument for Queanbeyan becomes a lot stronger. If that position changes from \$50,000 in Queanbeyan to \$130,000 in Canberra, it becomes even stronger.

**MS LAWDER:** There are some people who might say, to paraphrase a little glibly, that the greedy, evil capitalists who own property are just skimming a whole lot of cream off—it is not my belief, but some people are talking this way—and they can afford to absorb those types of increases.

**Mr Tsirimokos:** Yes.

**MS LAWDER:** What is the chamber's view of that?

**Mr Tsirimokos:** Most property owners in Canberra are not those big property developers or property owners that most people perceive. Many property owners are small investors. The first example I gave today of the \$43,000 is a mum and dad who own a property. That is their revenue for retirement. There is not much left after they pay their rates and they pay the body corporate levies.

So I am not sure that I agree with that position. I think it is fair to say that it applies across the residential sector as well. I digress a little bit. Lots of investors in residential property are mums and dads who invest in property because they see an opportunity to be able to do that and potentially get a capital gain over the long term. The reality is that even for them the effect of rates increases and land tax has meant that the net return for them is significantly reduced.

So I think it is having an impact across the board. I do not think it is limited just to commercial rates. The whole regime needs to be considered and the effect needs to be considered on investment long term. The macro view needs to be taken into account. It is not clear to industry that that macro long-term view has been considered.

**MS LAWDER:** Or, if it has been considered, not communicated.

**Mr Tsirimokos:** It has not been communicated, yes.

**MS CODY:** I think you have heard some of my line of questioning.

**Mr Tsirimokos:** I am not a member of a political party. I do not mind answering that question. And I have not made a donation to a political party.

**MS CODY:** Thank you. I am really interested from a small business perspective. I used to be a small business owner; so I do understand the pressures. I was just wondering, as someone who has talked about New South Wales versus the ACT model, from a whole business cost—stamp duty, taxes, charges, insurance, rates, there is a lot that goes into running a business, as you know—how the chamber looks at that across the board and how that is taken into consideration as a whole.

**Mr Tsirimokos:** What we are getting back is that I think the overall cost has increased. That is what we are hearing pretty loudly and clearly. In terms of the exact numbers, I could not assist you with that. All the information, all the evidence, all the feedback we are getting is that the overall cost on business has increased.

One rider for that is what I mentioned before, which is the market. If you are a tenant and you are paying \$200 per metre for your rental property and you have got the saving in terms of not having to pay the cost of insurance or cost of those other levies, then potentially there might be saving for you. But if you are in a property where the landlord can pass on the rates to you, you are significantly worse off.

**MS CODY:** And you do not have an idea of how many of your members, from a business perspective, the landlords are passing on those rate increases to?

**Mr Tsirimokos:** It varies. The biggest tenant in the ACT is the commonwealth government. The commonwealth government requires landlords to enter into what are called gross leases. In other words, the landlord wears the costs of the rates, no matter what they are, or any increases in those rates. The landlord has no capacity to pass that on to that tenant. That is becoming increasingly the norm across the board.

But there is still a disparity in the ACT. There are still some rates being passed on to tenants. I would say that that is probably still in the private space; probably more than 50 per cent. I would say significantly more than 50 per cent but I could not tell you whether it is closer to 90 or it is 60, but it would be much more than 50.

**MS CODY:** And do you have commercial property?

**Mr Tsirimokos:** I do not personally, no.

**MS CODY:** So you are really here just talking about your members?

**Mr Tsirimokos:** Yes.

**MS CODY:** And their impacts?

**Mr Tsirimokos:** Yes.

**THE CHAIR:** On the subject of not passing on the rates because you have got a gross lease, what implications does that have when you come to the time when you renew a lease? Someone is going along paying this much and then suddenly they say, "I've been carrying a burden of a significant rates increase which I have not been able to pass onto you and now I want to recoup some of that." What happens in that circumstance?

**Mr Tsirimokos:** The tenant has got the power, unfortunately.

**THE CHAIR:** The tenant has the power?

**Mr Tsirimokos:** And, again, it is a market driven thing. If you drive through Fyshwick there is a lot of empty space. Fyshwick is a good example. If you are a landlord there and your tenant says at the end of the lease, "I'm not going to pay any more than I paid last year," you run the real risk of your tenant walking down the road to someone who is more desperate than you and the tenant then being in a position to negotiate something that is potentially a cheaper position.

Again, from a business point of view what that drives is rental levels down and then property values down. What we do not want, ultimately, is property values to be run down to the extent that the landlords are not prepared to invest in them and we end up with ghost towns in parts of the city.

**THE CHAIR:** It was put to the committee by one witness, I cannot remember who, that there are some landlords who are prepared to have empty premises because if they take a lower rent that reduces the apparent valuation and that affects their gearing with the bank.

**Mr Tsirimokos:** Correct

**THE CHAIR:** And they may have to renegotiate a bank loan.

**Mr Tsirimokos:** Correct

**THE CHAIR:** And therefore they are better off receiving no income rather than reduced income.

**Mr Tsirimokos:** Yes.

**THE CHAIR:** Is that something that you are seeing with—

**Mr Tsirimokos:** Yes. There is no doubt about that. It is potentially a perceived fear from landlords rather than a real fear. But the fact is that if you are accepting \$200 a metre in rental before and you now can only get \$150 that will affect property value, whereas if you have a valuer doing a valuation who says the rental levels are \$200 a metre you are much better off as far as your bank is concerned and in terms of getting the valuation that would stack up from a bank perspective, loan to value ratio.

Again, that is probably something that we have not talked about, which is what happens when property values do decrease to the extent that it gets closer to what the bank has lent on the property in terms of the values. On commercial property the banks might lend 60 per cent of the value of the property, but if the property reduces by 30 per cent in value, 20 or 30 per cent, the banks will get nervous, the banks will step in and the banks will start doing something about realising those assets.

**THE CHAIR:** Do you think that we are in that situation or approaching that situation across the board?

**Mr Tsirimokos:** I think we are getting there. There is no doubt about that. Again, this is something that has played out over several years as leases end and this circumstance starts to impose itself. That is becoming a reality, I think, now.

**MS CHEYNE:** In terms of the notice itself, I think you have heard my questions about this before.

**Mr Tsirimokos:** Yes.

**MS CHEYNE:** What are the improvements that we need—a total overhaul?

**Mr Tsirimokos:** All the things Mr Snow said in his previous evidence. I think there is confusion, there is the word “transparency” getting thrown around a bit. I think people want to have better information on the notice. And I think it is probably not just that, it is understanding what it is going to look like next year—the expectation for next year, not just what it is now. When you open your envelope and you see the notice—and that is the first time you get the shock of it—that is probably not a good outcome for anyone.

**MS CHEYNE:** So it would help if the notice said, “This is what you are paying now and likely payment next year will be in the vicinity of this and this.”

**Mr Tsirimokos:** Yes, absolutely.

**MS CHEYNE:** And even if it was off the mark a little, it is still better than nothing?

**Mr Tsirimokos:** It is better than having nothing, yes, absolutely.

**MS CHEYNE:** And do you think the government would be opening itself up to criticism if it did get it wrong?

**Mr Tsirimokos:** It is being criticised now for not providing information. I am not sure which is the worse evil.



**MS LAWDER:** I think you mentioned earlier some areas were quite hard hit. Was it Fyshwick, Hume and Mitchell? Why is that in particular?

**Mr Tsirimokos:** Because rental levels in those areas have stayed the same pretty much, and all that has happened really is that rates have actually approached—

**MS LAWDER:** Occupancy levels, is that what you mean?

**Mr Tsirimokos:** No, rates of rent. If you are in Fyshwick—and I have been throwing around a number of \$200 a metre; it is just a made-up number—and you were getting \$200 a metre before, the market tells you that is what the tenants are prepared to pay. That has not changed in 10 years. That number has not changed.

What has changed, though, is that the rates have crept closer to that number, the rates as a proportion of the rental that is being received. From a commercial landlord's perspective, the incentive to continue to invest in the property or to buy new property is reduced significantly because the returns are not there.

**MS LAWDER:** How does that compare? Is one area like Hume or Mitchell or Fyshwick worse than another?

**Mr Tsirimokos:** I think Fyshwick is probably struggling more. There has been some development around Fyshwick, some newer development. The government has released land around Fyshwick. Those properties are probably achieving rental levels higher than other levels in Fyshwick, which would be right because they are newer, they are better properties generally. Even in Beard, next door to Fyshwick, those properties are not totally full, the tenancies, but there is a better offering there. But they are not offering that much more significantly than the rest of Fyshwick to necessarily attract new investment. And I think, it appears to me—and again it is an observation more than anything else—that there is no new development happening in Fyshwick for that reason.

**MS LAWDER:** And if people appeal about their rates assessment, the valuation, have you had much feedback about how hard, easy, difficult, successful appeals are?

**Mr Tsirimokos:** Successful—very little success, again from what I am hearing. The process itself is a difficult process because it is effectively a formal process where you have got to engage valuers. You might want to engage lawyers or not. But ultimately it is an expensive process because you are engaging experts. It is a new process for an individual to run themselves. They either have to engage somebody who knows what they are doing or have to learn very quickly how to do it. And whether that is a cost that you outlay to pay somebody or whether that is a cost of you taking time out of your business, it is a cost. I think people are seeing it as an imposition and a cost, and a disincentive to appeal for that reason.

**MS CODY:** I have a couple of follow-ons from Ms Lawder. In regard to Fyshwick, do you know what the actual vacancy rate is?

**Mr Tsirimokos:** I do not have the numbers at hand but I could get those numbers

pretty easily.

**MS CODY:** If that would be possible, that would be greatly appreciated. If you could find them for the other areas you mentioned, I am sure the committee would be interested in that as well, if that is possible.

**Mr Tsirimokos:** That would be possible, yes.

**MS CODY:** I know that 200 is a made-up number. I will not hold you to that number; I will also use it, for the sake of simplicity. You were saying that, 10 years ago, commercial properties were getting \$200 a metre, and today they are getting \$200 a metre, and nothing has changed. Ten years ago the rates were not as high. Their properties were not worth as much 10 years ago; would that be the case?

**Mr Tsirimokos:** They were probably worth more.

**MS CODY:** Do you have some anecdotal or other evidence that would support that theory?

**Mr Tsirimokos:** I say that only because of the net return to those owners. Let us say the rent was \$100,000 a year. If, before, the rates were \$10,000, the net return is \$90,000, whereas now the rates would be something like \$40,000 and the net return is \$60,000; therefore, necessarily, the property value is reduced because people are paying money to get a return of \$60,000 as opposed to paying money to get a return of \$90,000. It necessarily follows that the value of that property has decreased over that time.

**MS CODY:** Although rates have gone up, so—

**THE CHAIR:** But the unimproved land value would appear to have gone up.

**Mr Tsirimokos:** Yes, but people are still paying on a return.

**MS CODY:** You mentioned in your submission the tax reforms. We have heard some evidence today that tax reform is not necessarily the problem here; it is the way that it is working currently. Can you expand on that a little bit? Can you give me your opinions about that?

**Mr Tsirimokos:** Yes. With the principle of tax reform and spreading the base, if you like, the chamber's view would be that that is an appropriate way to look at tax in the territory. The territory has limited ability to be able to raise revenue, and we certainly understand that from a business perspective. But the application and the weight of application has affected the market, and continues to do so. If I had a perfect world I would rein it all back and say that it needs to come back to a position less than it is. I do not know what that number would be, but I think that these impacts are having an effect, and will continue to have an effect increasingly going forward.

The principle of spreading the base is an appropriate way to think about it. We have suggested that this should be looked at holistically across the board, and we should have a more detailed look at it, a detailed inquiry, to determine the best way to do that.

**MS CODY:** I do not know if you have had a chance to look at some of the submissions. The submissions of some witnesses we have heard from today have not been published yet. The Property Council this morning was calling for an inquiry into the current processes, not just what we are doing here but to have a little bit of a chat with business.

**THE CHAIR:** A review.

**Mr Tsirimokos:** We have called for the same thing. I have seen the Property Council's submission. In fact one of our recommendations is for a task force between government and industry to talk these issues through.

**MS CODY:** Yes, that was their word—"task force".

**Mr Tsirimokos:** It would be no surprise to you to know that I have spoken to the Property Council and other industry organisations to understand where they sit. Interestingly, they came to a similar position independently of us. We were very focused on the business side but we also saw that property owners are part of business and that we need to address it from both points of view.

**MS CODY:** Would you have similar members or do you have members that are members of both?

**Mr Tsirimokos:** Yes, we do. We do have property owners who are members of our organisation as well as just business owners.

**THE CHAIR:** One of the issues that has been touched on by a lot of witnesses is the issue about the independence of the rating process itself. Some witnesses have put to the committee that we would perhaps be better served with an independent statutory valuation office as most of the other states appear to have. Does the Business Chamber have a view on that?

**Mr Tsirimokos:** That is the Business Chamber's view as well. There certainly seems to be a lack of understanding from industry about how values are assessed within the valuation office. In my day job as a lawyer I see a lot of disputes in relation to rating values between property owners and the valuation office. That applies in areas of lease variation charge, not necessarily just rates.

**THE CHAIR:** I think you may have touched on this earlier. The other component of that was having some independent mediated dispute resolution process rather than going to ACAT.

**Mr Tsirimokos:** A simpler process would assist everybody. Certainly, from industry, for the reasons I have mentioned before, there is the cost, both in terms of outlay and in terms of time.

**THE CHAIR:** Would the Business Chamber have an example that they would point to as being the acme for that sort of approach?

**Mr Tsirimokos:** Not off the top of my head, but I could make some inquiries about that.

**MS CHEYNE:** How can we attract more valuers to the ACT?

**Mr Tsirimokos:** It is not about attracting valuers. To attract valuers, you pay them more money. People want to be paid better. There certainly is a problem in terms of valuers, and the ability to be able to identify valuers who can do this sort of work. There is no question about that. It is a very limited market. But it is a supply and demand thing. There are not enough valuers around the country, and they are being attracted to other jurisdictions.

**MS LAWDER:** In your submission, it uses the example of South Australia, which it states currently has the most confident property market, according to the latest survey. Are you saying that the chamber likes the South Australian model or do you have other examples of what could be done?

**Mr Tsirimokos:** It seems that South Australia is doing something, and this is the point about confidence. When confidence and investment start changing, that has an effect long term. It seems to be something which has turned around in South Australia, so that bears closer inspection. I do not know if that is necessarily the model jurisdiction, but we fear that we are not doing it right here and we are imposing obstacles to investment.

**MS LAWDER:** Is there such a national business chamber, a national body?

**Mr Tsirimokos:** Yes, there is.

**MS LAWDER:** Has there been analysis, on a state-by-state basis, and looking at other reasons why, for example, South Australia may be performing better? There could be some other component.

**Mr Tsirimokos:** I do not know, off the top of my head, but I imagine that information would be available.

**MS LAWDER:** In the chamber's forward planning, apart from your recommendation about the task force, do you have other suggestions about addressing the commercial rates question, on behalf of your members?

**Mr Tsirimokos:** Our members fear that the horse has bolted, to an extent, and that if it is not addressed it will continue to bolt away. The concern is that it will impact the market so significantly that there will need to be a change. We hope that that is not the case, and we hope that hearings like this will assist the government to better understand what the considerations are.

**MS LAWDER:** In the South Australian example, it has a moratorium or a cap for a few years—the abolition of commercial rates are over a three-year period.

**THE CHAIR:** Rates or stamp duty?

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**MS LAWDER:** In here it says the abolition of commercial rates. Maybe it is a mistake.

**Mr Tsirimokos:** I think it is.

**THE CHAIR:** The Property Council said that South Australia had abolished commercial stamp duty and that this year was the first year of no stamp duty over three years. Could you clarify that, Mr Tsirimokos?

**Mr Tsirimokos:** Yes, I think that is correct. I will clarify that.

**THE CHAIR:** Mr Tsirimokos, thank you very much for attending today on behalf of the Business Chamber. There are a few things that you took on notice, and things to clarify. You will receive a copy of the proof *Hansard* towards the end of this week or early next week. We ask that you return answers to issues taken on notice within five business days of receipt of that.

**Mr Tsirimokos:** I will do so.

**Hearing suspended from 12.54 pm to 2.17 pm.**

**HOLMES, MR MICHAEL**

**THE CHAIR:** Welcome back to this afternoon's hearing. This is the fourth public hearing of the public accounts committee's inquiry into commercial rates. We welcome Mr Holmes, who is a commercial property tenant. Mr Holmes, I am sure you have had your attention drawn to the pink laminated sheet which outlines privilege for this committee.

**Mr Holmes:** Yes.

**THE CHAIR:** Could you acknowledge that you have read and understood it?

**Mr Holmes:** Yes, I have read and understood it.

**THE CHAIR:** Mr Holmes, you submitted to this committee about the impacts, as you see them, in relation to commercial rates. Could you outline for the committee what sort of business you run and where you run it from?

**Mr Holmes:** I run an accounting practice at the Farrer shops.

**THE CHAIR:** Are you a sole operator or do you employ staff?

**Mr Holmes:** I have staff.

**THE CHAIR:** Do you fall into the category of people who pay payroll tax?

**Mr Holmes:** No.

**THE CHAIR:** You said in your submission that at this stage you have not seen any impacts on your business of the increase in commercial rates. Is that because you have a gross lease—a lease that does not have outgoings in it?

**Mr Holmes:** Yes. I purely pay rent. I am not required to pay the outgoings on top of that.

**THE CHAIR:** Have you had conversations with your landlord, or are you aware of whether your landlord has experienced an increase in rates?

**Mr Holmes:** I am aware of the rates that the landlord pays, and there has not been what I would consider to be a material increase at all.

**THE CHAIR:** In the Farrer shops, as far as your understanding goes, your landlord has not seen an increase in rates?

**Mr Holmes:** There has been an increase but it is nothing material maybe a couple of hundred dollars a year or something like that.

**THE CHAIR:** You are not concerned about the future, that, when your rental arrangement comes up for renewal, you might be confronted with a large increase in

rents, possibly?

**Mr Holmes:** At this stage I would say no. I suspect the main factor in setting the rent is that it would be a combination of market rates, which would be primarily led by vacancy. The shop next door to me has been vacant for 3½ years. I know the landlord would very much like to rent that out. The price that the landlord wants to charge will be dictated more by their perceived ability to have tenants. For instance, the lease specifies increases each year, CPI or something along those lines. They did not apply any rental increase in the previous financial year, because they were concerned about general market conditions.

I suppose you could say it was kind of like currying favour; they wanted the tenants to feel that they were not being ripped off. That is not the right phrase—that the landlord was doing the right thing by the tenants by not passing on an increase which they were fully within their rights to do. If the rates increased massively, that could be a factor, but with where it is at now, the landlords will be basing it on whether they think they will retain a tenant or not, if they increase the rates markedly.

**THE CHAIR:** You said that one of the shops is vacant. Are there others in the complex that are vacant?

**Mr Holmes:** At the Farrer shops at the moment there are one or two vacancies. There used to be a franchised post office next door to me. When the post office closed, the landlords cut that shop in half. Both of those halves are vacant, and they have been vacant for 3½ years. Other than that the shops are fully let at the moment.

**MS CHEYNE:** How long have you been in your current premises?

**Mr Holmes:** Since June 2015, so it is just over 3½ years.

**MS CHEYNE:** Are you aware of the government's broader tax reform agenda?

**Mr Holmes:** Yes.

**MS CHEYNE:** Did the changes to calculations in commercial rates and potential flow-on effects have any impact on you, in terms of where you chose to set up shop?

**Mr Holmes:** No. I live nearby, so I chose to go there primarily for personal convenience. There is also free parking and other stuff like that. Rates was not—

**THE CHAIR:** That is good for your clients as well.

**Mr Holmes:** Rates was not any type of consideration at all.

**MS CHEYNE:** In the business market generally, or with other tenants or property owners, have you heard the issue regarding commercial rates being raised?

**Mr Holmes:** I have never heard any other tenants raise it. I have a number of clients who either own or are leasing commercial property. I do not know if it is just a matter of where their businesses are specifically located but none of them has seen any

material rise in rates in the last few years.

**MS CODY:** From a business perspective, you said you have clients who either rent or own commercial properties, and I would imagine you have a number of clients who have businesses across the ACT.

**Mr Holmes:** Yes.

**MS CODY:** How are things going for them? Do you hear much from them about any of the tax reforms related to business?

**Mr Holmes:** Yes, just in relation to commercial rates. With the clients that I have, it has not impacted them.

**MS LAWDER:** In terms of the costs of running a business, in very general terms, do you have a feel for what percentage might be paid in your rent and fees and charges? Is it 30 per cent, 50 per cent, 70 per cent?

**Mr Holmes:** The rates would amount to about—

**MS LAWDER:** So you pay the rates? Is that what you said?

**Mr Holmes:** Sorry, I meant the rent. It would amount to less than five per cent of my business's turnover.

**MS LAWDER:** What is your major cost of doing business?

**Mr Holmes:** Wages.

**THE CHAIR:** How many people do you employ?

**Mr Holmes:** At the moment, there are just two people other than me.

**MS LAWDER:** Yes, labour can be expensive. As a percentage of your business, what percentage, roughly, might be other commercial businesses? Thirty per cent? Fifty per cent? That is as opposed to—do you do private clients as well, accounting clients?

**Mr Holmes:** Sorry, can you just repeat the first bit of that question?

**MS LAWDER:** In your business, what percentage would be other businesses as a client as opposed to personal people—

**Mr Holmes:** Business? It would probably amount to about a third of our revenue.

**MS LAWDER:** Are businesses?

**Mr Holmes:** Yes.

**MS LAWDER:** And they are often repeat clients, not just a one-off sort of thing?



**Mr Holmes:** It is all repeat business.

**MS LAWDER:** Do you speak quite a bit to the other tenants in the facility in Farrer?

**Mr Holmes:** Not necessarily a huge amount. To be honest, it is typically just saying hello. I do not act as the accountant for any of them, so I do not really know too much about any of their financial situations.

**MS LAWDER:** Mrs Dunne might have asked this question, and I am sorry if I am repeating it: do you have a fixed term lease, or is it annual review and renewal?

**Mr Holmes:** I signed a five-year lease initially. There would be about 18 months left to run on that.

**MS LAWDER:** By the sound of it, you are quite comfortable there and you are probably likely to stay?

**Mr Holmes:** Yes.

**MS LAWDER:** Because of parking and it being convenient to home?

**Mr Holmes:** Yes.

**MS LAWDER:** When you looked to rent those premises, was that where you went straightaway because of the convenience or did you look at other areas?

**Mr Holmes:** I looked at a few other places near where I live as well. I know the owner of the building, which was another plus for me. The only reason I really considered other spaces was that I was not sure if the size of the shop was going to be suitable for what I wanted. In the end it was. Once I knew that, I probably was not going to ever go anywhere else.

**MS LAWDER:** You were not actively seeking elsewhere. Did the owner fit out the office for you?

**Mr Holmes:** No, I paid for that.

**MS LAWDER:** Do they renew, repaint or anything?

**Mr Holmes:** No, I have to do all of that.

**THE CHAIR:** Is there a requirement for you to do that on a regular basis?

**Mr Holmes:** No. I was given an empty concrete shell and then I needed to do what I wanted with it. At the end of the lease, I am required to return it—

**THE CHAIR:** As an empty concrete shell?

**Mr Holmes:** Yes, if it came to that. I am not 100 per cent sure if they would want that or not. Another professional services business could go in and use it. Then they would

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not have to pay however many tens of thousands of dollars to have it fitted out again. But that is all hypothetical.

**MS CODY:** I do not have any questions for this witness.

**THE CHAIR:** I have one more question, though you may not be able to answer this. You are in the Farrer shops. There is a collection of buildings at the Farrer shops. Are they all owned by the one landlord or is there multiple ownership?

**Mr Holmes:** At the Farrer shops, the main shops, there is one building, and then next door there is a petrol station. Probably about a third of the building and the petrol station are owned by the people that I am leasing from. There is a supermarket there, which I believe is owned by the business operator. And then there are two restaurants in the shops as well. Another landlord owns that bit.

**THE CHAIR:** So there is multiple ownership in that complex?

**Mr Holmes:** That is my understanding.

**MS CHEYNE:** How did you hear about this inquiry?

**Mr Holmes:** Bec Cody randomly walked into my office and handed out her card.

**THE CHAIR:** See, the cards work.

**Mr Holmes:** The inquiry thing was very easy. It took 30 seconds, so that was good.

**MS CHEYNE:** It is helpful to get your perspective, Mr Holmes. Thank you.

**THE CHAIR:** Thank you very much for your attendance here today. You will receive a draft proof *Hansard* later in the week or early next week. If there is anything you want to clarify or if you want to correct errors, you can take that up with the committee secretary, Dr Lloyd.

**Short suspension.**

**FAUX, MR BARRY**  
**PAXTON, MS KAREN**  
**MOLLOY, MR SCOTT**

**THE CHAIR:** Could I welcome to the committee three owners of commercial property in Fyshwick, Mr Faux, Ms Paxton and Mr Molloy. Have you read and understood the pink privilege statement?

**Mr Faux:** Yes.

**Mr Molloy:** Yes.

**Ms Paxton:** Yes.

**THE CHAIR:** Hansard are transcribing, broadcasting and recording. They are recording first, transcribing second and broadcasting simultaneously. You all have experience in Fyshwick, which is why we have asked you to appear together. But you also have individual stories to tell. If you would each like to make perhaps a brief opening statement which describes your business and the concerns that you have that are relevant to this committee inquiry into commercial rates, and then we will move on from there. If we could start with you, Mr Faux.

**Mr Faux:** I have a furniture importing, distribution and, in somewhat weak form, retail business now in Fyshwick. I built a property there some years ago. At the time that I built the property there were hardly any blocks of land for sale in Fyshwick and I paid the appropriate price. Subsequent to that the government sold a lot—a lot—of leases, a lot more than in the previous 10 or 15 years and, as a consequence, the value of my building has gone down.

Secondary to that, there is huge competition and market disruption in all forms of retailing now, what with the internet and so on and so forth. We have done our best. I have been in business for 40 years and we have done our best to stay with these changes.

The changes that I have not been able to anticipate or react to are the government changes, firstly in the erratic way that blocks were sold in Fyshwick and secondly in the massive increases in rates in the recent few years. Do I need to read through my entire submission?

**THE CHAIR:** No, you do not. You do not need to at all. Could I go to Ms Paxton now. You have submitted as well.

**Ms Paxton:** Yes.

**THE CHAIR:** Could you give a brief summary of your circumstances in Fyshwick?

**Ms Paxton:** Yes. I am the chief executive of a public affairs recruitment company which specialises in media marketing, PR people. I have been in Fyshwick since I bought the building in 2006, so that is 13 years. As per my submission, it relates to a

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block of land that is associated with my main building. It is an ex-railway easement which I am calling a sitting-duck block of land because it has a history that has been forgotten and I think it has been spied and somebody has gone, “The value of that is far too low. Let’s rack it up.” In one year it went up 305 per cent.

**THE CHAIR:** The value of the whole—

**Ms Paxton:** It is an ex-railway easement. It is a long, narrow, old railway easement they chopped up and they chopped into bits and sold to everybody off to the side.

**THE CHAIR:** Is your property over two leases in that case?

**Ms Paxton:** Yes. Mine was the only ex-railway easement that could not be amalgamated with the main block because the person that bought it was unit 1 of a four units plan. And units plans have their own difficulty. The other owners could hand back commonwealth lease and get a new one with the attached block of land; so it took on the same lease purpose clause as what they had.

Because the person who bought it, the previous owner to me, bought that block—it was only unit 1—they could not attach it to the units plan and they could not hand it back. It is a very long, detailed process where you have to hand the commonwealth lease back and then all the buildings would have to be upgraded. There was no guarantee that we would have got a units plan back again.

Government insisted that those blocks were amalgamated and they admitted that they could not insist that that block be amalgamated with the unit that bought it. So it has a separate block and section number and it sits out there on its own. It is the only one in all that area of Fyshwick over three or four sections that exists.

**THE CHAIR:** Are the other three blocks in a different unit plan now, one presumes?

**Mr Molloy:** They are stand-alone blocks, you are saying? Are they?

**Ms Paxton:** Mine is the only stand-alone.

**THE CHAIR:** Yours is a stand-alone block—

**Ms Paxton:** Yes.

**THE CHAIR:** And the other three of what was previously four—

**Ms Paxton:** Nineteen, sorry. In the units plan of four units, unit 1 bought the block of land; so it is physically separated from it. It is legally tied to my building. So if unit 1 sells, that block of land has to be sold with it because it is parking for the building.

**Mr Molloy:** Can I just say—

**THE CHAIR:** Yes.

**Ms Paxton:** Have I confused you?

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**Mr Molloy:** I have got a commercial property company. I own a commercial property company in Fyshwick called Barton Molloy Property—or until tomorrow I do anyway. But that is another story. What you were asking about with the other three blocks, they were probably amalgamated into those people's blocks because they were stand-alone buildings, whereas yours was unit titled and yours cannot be amalgamated into your unit—

**Ms Paxton:** Two different things. The units plan is four units.

**Mr Molloy:** Yes. That is where you are.

**Ms Paxton:** And I am unit 1 and I am the one that owns the block of land.

**Mr Molloy:** And because it is a unit plan they cannot amalgamate that railway block into yours.

**Ms Paxton:** With the units plan, because nobody else wanted the land. It cannot go into the units plan. It had to be a separate legal entity that was attached to my building.

**THE CHAIR:** Why is it attached to your block? Does your building extend onto that easement physically?

**Ms Paxton:** No, mine is rated as offices so it needs parking. Over time they reduced the lease purpose clause. You can only use it for storage and parking. It is not of any use to anybody else except for me to park or store stuff on. When they split the railway easement up, there were 19 properties that could own those bits and pieces. Eighteen got them amalgamated. Mine is the only one that sits there like a carbuncle.

**Mr Molloy:** Because the other three owners did not want anything to do with it.

**Ms Paxton:** Yes. Unit 1 was the only one that wanted to buy it and the ACT government, rather than having it as a landlocked block that sat there that nobody could access, they wanted somebody to buy it. They have basically tried whatever way they could to get unit 1 to be the owner of it.

Their solution was—and it was very practical at the time—to have a separate block and section number. But legally it is tethered to my building. So you cannot sell it separately. It is not a block of land that you can go, “I will go and buy that and I will build a property on it.” Nobody can do anything with it except unit 1 owner who can park on it and store stuff on it.

**THE CHAIR:** And what is the impact? You said it seemed like a good idea at the time.

**Ms Paxton:** It was a practical solution at the time, I think. That was in 1994. There is no way they could roll on to 2016. And I think what has happened in the valuation offices is that someone has gone, “That’s a 290-square metre block of land. It couldn’t possibly be worth that little. Let’s rack it up.” And that has filtered then through to the rates and everything else.

I have only seen it in passing and thought, “What?” And that started a whole investigation process to find a why. What was the basis of the tripling? How did the bills come about? I have basically become a historian to find out what the heck has gone on.

**THE CHAIR:** The block of land which is the easement, which is block—

**Ms Paxton:** Block 44.

**THE CHAIR:** Block 44 has suddenly had a big increase in value.

**Ms Paxton:** 305 per cent.

**THE CHAIR:** And is that also translated into the—

**Ms Paxton:** The rates. It is starting to feel—

**THE CHAIR:** No, sorry. Has it also translated into the other block that you own as part of the parcel?

**Ms Paxton:** No. Next door, where our main unit plan is, has not changed over the past couple of years.

**THE CHAIR:** So you have an anomalous block that you own but cannot use much.

**Ms Paxton:** Cannot do anything with, yes. Can I just make a quick analogy?

**THE CHAIR:** Yes.

**Ms Paxton:** I thought of it like: if you have a street and say everybody owned their house and government owned the driveway and then the government decided they did not want the driveways anymore and they amalgamated it into their house except for yours. And then every year, you get rates for your house and for your driveway. And it did not affect anybody else. That is the situation that I am in. They have separated off my driveway and they are charging for it.

**THE CHAIR:** Mr Molloy, what are your circumstances?

**Mr Molloy:** Can I give you a handout?

**THE CHAIR:** Yes, by all means.

**Mr Molloy:** I currently own a half-share in a commercial property company in Fyshwick, where we sell and lease commercial property. We have been there for just over nine years. Do you mind if I read my statement?

**THE CHAIR:** That is all right.

**Mr Molloy:** I have been following the inquiry and note that a great deal of it has been

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in relation to increased unimproved values of properties in areas such as Northbourne Avenue, Braddon, Phillip, Fyshwick et cetera, the way rates are assessed and the effect it has had on commercial owners' rates. While this is definitely a serious issue, in my case and that of many other small businesses, and retirees, our concern lies in the fact that we own commercial properties where the improved values have actually been decreasing, not increasing, yet our rates are continuing to rise at a dramatic rate.

In the handout that I have given you there, you will see from example 3 that our commercial rates have risen by 83 per cent in the past four years. We are paying over 10 times more than I do for my residential property, which actually has an unimproved value greater than the commercial property. I think \$3,000 and \$32,000 is the difference between my residential rates and the commercial rates that we pay for the block. This is a block in Hume.

The ACT Chief Minister and Treasurer, Andrew Barr, in his submission to the inquiry, has attempted to justify these charges by asking the inquiry to take into account the full picture of commercial taxation in the ACT. However, according to Mr Barr's statement in 2016 on lifting the payroll tax threshold to \$2 million, he stated that these changes would mean 150 to 200 local businesses would no longer be liable for payroll tax.

The example he has provided in his submission shows the benefits to these 200 businesses. However, as the Australian Bureau of Statistics has estimated, the ACT has over 27,000 businesses, so this only represents less than one per cent. The other 99 per cent are actually far worse off if they own a commercial property in the ACT. Most of the small business owners and retirees who currently own commercial property are not subject to payroll tax and do not benefit from the abolition of stamp duty under \$1.5 million because they already own the property.

As you will see from example 1 in my handout, this particular small business owner that I know in Hume is over \$100,000 worse off over the next 10 years than he would be if his business relocated to Queanbeyan, without taking into account the ACT government's target average annual increase of six per cent to the commercial rates.

Mr Barr has spent a lot of time in the media recently telling us how outraged he is by the oil companies' price gouging ACT residents by up to 20c a litre, or 20 per cent higher than our New South Wales neighbours. The ACT government, and Mr Barr as its Treasurer, are by far the worst case we have seen of price gouging in the ACT. What they are doing to their residents, mum and dad small businesses, and retirees, is far worse than what the oil companies are doing to us. Oil companies are gouging us only up to 20 per cent more than our New South Wales neighbours, while the ACT government is doing it to the tune of over 300 per cent. As I have just said, that is truly something that Mr Barr should be outraged over.

**THE CHAIR:** Mr Molloy, do you own commercial premises in Fyshwick?

**Mr Molloy:** Yes, we do own a unit in Fyshwick. The business owns a unit.

**THE CHAIR:** The business owns the unit?

**Mr Molloy:** Yes, the business.

**THE CHAIR:** So you are here on behalf of your business?

**Mr Molloy:** I am here on behalf of my business and also on behalf of the properties that I own in Hume, which is where the values are actually going down. The government released some land about four or five years ago, and we bought a block in there that was originally sold englobo to the Walker group from Sydney. They developed the land and sold it off to us. We bought a block in there. I think we paid \$490,000 for that block.

**THE CHAIR:** How big was the block?

**Mr Molloy:** Two thousand square metres. We developed that block. When we finished developing that block, in between when we tried to do the next one, the ACT government released their own land out at Hume. They undercut the Walker group, therefore the prices dropped. When we bought that first block, for instance, for \$490,000 we actually took an option on the block next door, which was another 10,000-square-metre block, at \$460,000. Because the sales did not go that well, we walked away from that and lost that \$10,000. A couple of years later, that block was still for sale, because the ACT government had produced cheaper land, and we finished up buying that block from the Walker group for \$360,000. In the end it was great that we did not take up the option because we paid less for it.

That is the effect that that land had on Hume—the ACT government producing that land. Our values have gone down, and that \$470,000 block, which was rated at \$470,000 when we bought it, is now rated at \$420,000. We developed that into seven units.

**THE CHAIR:** The UCV has gone down?

**Mr Molloy:** Yes, the UCV has gone down. I understand that the UV is an average of three years, and the UCV is the other one. I think the UCV is \$420,000.

**THE CHAIR:** And the rolling average is—

**Mr Molloy:** One is 430 and one is 420.

**THE CHAIR:** Either way, it is less than what you paid—

**Mr Molloy:** What it was five years ago.

**THE CHAIR:** But your rates have still gone up because the rating—

**Mr Molloy:** Yes. We developed that block and built seven units on that block—little 120-square-metre warehouses. Five of those units were sold to owner-occupiers who have their own businesses in there. All of those businesses have between one and eight staff in them, so they are all under the payroll tax ceiling. They do not have payroll tax. We are all paying 4½ thousand, roughly, each per year on those little



120-square-metre units.

**THE CHAIR:** They are unit—

**Mr Molloy:** They are unit titled. We are paying just under \$33,000 on a block that is worth \$420,000. I have a 1,600 square metre block in Mawson. At that time it was about the same price, \$470,000; it is now about \$540,000, and my rates have now gone from \$2,200 to \$3,300, whereas these have gone from \$18,000 to \$33,000. My residential block is worth more than my commercial block, yet I am paying one-eleventh of the rates that I am paying on the commercial property.

As owners, we understand that it is commercial property. We understand that we should be paying more rates than for a residential property, but surely not 11 times. In New South Wales, my understanding is that you pay double what residential is, which is one per cent. On that block there, if you do the numbers, we are paying \$33,000 and the block is worth \$420,000. We are paying to the ACT government seven per cent of the value of that block every year. We are paying worse than stamp duty every year for that block.

It upsets all of the owners there, and all of the other owners I have spoken to, that Mr Barr keeps talking about how he has abolished stamp duty under \$1.5 million when he has increased stamp duty above \$1.5 million to five per cent. So he is actually no worse off. He is probably making more money now than he was before, but he is saying, “We’ve given you this benefit. We’ve got the payroll tax up to a \$2 million threshold.”

He has actually quoted in his submission the wrong figure. He has \$750,000 and it is actually \$850,000 in New South Wales now. But the majority of businesses that I deal with every day do not have that payroll tax. Barry probably does not have that payroll tax.

**Mr Faux:** I have not paid payroll tax in 40 years. With respect to Mr Barr’s submission, that is not the only fault. There are serious faults throughout the submission. Will I have a chance to present on that?

**THE CHAIR:** You will, yes.

**Mr Molloy:** His justification, when you look at his submission, is to whack a payroll tax in there, which is anywhere from \$50,000 to \$70,000; then, all of a sudden, it looks like the ACT is on par with New South Wales. For the majority of small business owners, they do not have that cost; so they are hurting.

**THE CHAIR:** With the businesses in this example—the Hume block that you developed, which is individual units—what sort of businesses are they?

**Mr Molloy:** There is a company called the Groove Warehouse. Gary France is the former head of the ANU School of Music; he has a percussion business. He teaches kids how to play drums and stuff like that, and sells bits and pieces. There is a glass company that does shopfront glass. He has his two boys working for him. There is a young couple. Jason is on his own. He does interiors, sunroofs and things like that for

cars. Wordstation do a lot of the sound for Floriade and things like that. There is an IT company called GoHosting, which manages and hosts our IT business. There is our commercial property company, with me and my business partner in it.

**THE CHAIR:** They are all relatively small operations?

**Mr Molloy:** Yes.

**THE CHAIR:** And they have reasonable turnover and stuff like that?

**Mr Molloy:** That is right.

**THE CHAIR:** They do not have a large staff or anything like that?

**Mr Molloy:** No. We are doing another one around the corner, which has 14 units, and they are bigger units. We have sold nine of those units to owner-occupiers. We have two plumbers, a landscaper, a waterproofer, a builder, a window supplier, another IT company, a retailer that is going to store his stuff there between fitting out his shops, and a landscaper. They are all the same. I have asked that question of them. They all fall under that \$850,000 threshold. We would all rather pay five per cent stamp duty when we buy a property and have our rates at one per cent, like all the other states. We would be so much better off if we did that.

**THE CHAIR:** You were talking about the block that you bought and have developed in Hume. You said you did that about five years ago. Did you pay stamp duty then?

**Mr Molloy:** Yes.

**THE CHAIR:** Did you pay stamp duty on the one that you are currently developing?

**Mr Molloy:** I would have to check. We may have paid 50 per cent, because there were two stages with that so it would be 50 per cent for the first year and then zero last year. I think we bought that in November 2017. It takes about 12 months to get the process through planning and get everything done before you can actually start, so they are really two-year projects. I have a feeling that we may have paid 50 per cent stamp duty.

**THE CHAIR:** Could you verify that and come back to the committee?

**Mr Molloy:** Yes.

**THE CHAIR:** Mr Faux and Ms Paxton, you have both owned for quite some time and you paid stamp duty when you developed?

**Mr Faux:** Yes.

**THE CHAIR:** Mr Faux, you said that you developed the block. You bought a vacant block and built?

**Mr Faux:** Built a building on it for my business.

**THE CHAIR:** When did you do that?

**Mr Faux:** It was 2008, I think, from memory. I knew you were going to ask me that as soon as I did not know it.

**THE CHAIR:** You used to be in Braddon and then you were in Kingston.

**Mr Faux:** Yes. I bought Kingston and developed that, and then moved to Fyshwick. I piggybacked from the development in Kingston, which was good, to Fyshwick, which was bad. But that is my decision.

**THE CHAIR:** You take those risks.

**Mr Faux:** Yes.

**THE CHAIR:** You have paid stamp duty. Are you seeing, like Mr Molloy, that the actual rating value, the unimproved value or the rolling average has decreased over the last little while, or has it increased or what?

**Mr Faux:** I only looked at the bottom-line figure of what I am paying. I believe it has increased. As a side issue to that, I was talking to somebody recently who estimated that the value of my building has gone down by \$500,000 because of these huge rating increases.

**THE CHAIR:** Is that the overall value?

**Mr Faux:** Overall value, yes.

**THE CHAIR:** The land and the building that is on it?

**Mr Faux:** The land and the building, yes. The building is worth considerably less than what I bought it for. There are three factors in that. No 1, I spent too much building it. No 2 was the number of buildings that were released onto the market afterwards. And now there is the huge amount of rates, which is detrimental.

Fyshwick leasing prices now are cheaper than Mitchell because of the huge vacancy rate. In the middle of last year, there were 60 empty buildings vacant for sale or to let. At Christmas time there were 75. This is all in my submission.

I have been trying to retire for five years. I probably made a mistake about three years ago in not accepting \$3.2 million for my building, because it is probably now worth \$2.8, I would think. I am there for the long haul. I could retire and live except for the fact that I am paying the ACT government such a massive amount each year.

The ACT government has taken the land tax component out, which means that if I left my building empty, what I would have to pay to let that building stand there empty would be far less than what I have got to pay now when that land tax has been eliminated and it is fully rated. With all those 75 buildings in Fyshwick now, the owners are suffering, paying the full rates on those because the land tax has been

combined with the rates. In the old system they would get a bit of a reprieve until they could get a tenant or sell the building.

**THE CHAIR:** If you did not have a tenant, you were not paying the land tax component?

**Mr Faux:** Sorry?

**THE CHAIR:** What you are saying is that if you did not have a tenant under the old system, you were not paying land tax for the period that you did not have a tenant?

**Mr Faux:** That is correct, yes.

**THE CHAIR:** The Chief Minister said to the committee the other day that everyone wanted to pay one figure and, in the consultation to set up the new tax system, the commercial people said, “We just want to pay one figure.” And so it was all rolled into one.

**Mr Faux:** With all due respect, I think the Chief Minister says a lot of things that most people disagree with. That is part of my submission that is coming up.

**Mr Molloy:** We are happy to pay one figure; we just want it to be a fair figure, not 11 times.

**Ms Paxton:** And I do not remember being asked.

**MS CHEYNE:** We have had quite a bit of feedback about the rates notices themselves and, in terms of transparency and projections, that the rates notices have changed. They used to show what the rates were in previous years; now they just give you the figure that you need to pay this year. And there is really a lack of information there about how you might want to go about appealing it or getting in touch with the revenue office to say, “No, I cannot afford to pay this. I want a different payment plan.”

We have been hearing from industry and representatives that the rates notices are not good enough at the moment. As businesses, I am keen to hear your perspective. I would be interested to hear from each of you

**Mr Molloy:** The only good thing about Mr Barr’s submission was that I got to find out how rates were calculated. To put that information out would be fantastic. It allowed me to work out what the rates would be on our next development. We have had to just guess that figure. With the rates going all over the place, it is very hard. In a sales contract off a plan, I am supposed to tell a buyer how much their outgoings are going to be. We were just guessing before. Mr Barr’s submission said there is a \$2,463 standard charge; then there is a percentage that is charged; and then there is the fire and emergency services levy.

Something like that would be great. I do not know why they cannot put that on there to show where that money is going and how it is calculated. It is only three lines. It made everything very simple to me and I was able to understand it then.

**Ms Paxton:** Just looking at the rates assessment notice, it says: “Please pay now,” “Full amount,” “Total to pay by 27 August,” “What you need to know,” “Please pay your rates now using the following information: your date, your amount.” It tells you where your rates go.

**MS CHEYNE:** And then on the back it gives you—

**Ms Paxton:** It is only over the page that it talks about instalments. So you get a heart attack on the first page and then—

**MS CHEYNE:** This is what we have heard with residential ones as well.

**Ms Paxton:** If you get to the second one—

**Mr Molloy:** Yes, I have had people tell me, as well.

**MS CHEYNE:** I think feedback has been heard loud and clear.

**Mr Molloy:** I suppose it is hard. Because of what Andrew Barr keeps saying in the media and everything, he is playing a shell game. He is like a con man on the side street, like a spruiker. He spruiks all these wonderful things—

**THE CHAIR:** Can we wind that back.

**Mr Molloy:** Yes, okay. Sorry.

**THE CHAIR:** This is essentially the Assembly. We could not use those words, that sort of language, in the Assembly.

**Mr Molloy:** He is just spruiking that, and then on the other side, he is hitting us from over here. When we get something like that, we see that, and we wonder how many people like my mother, who is 70-odd years old, would get something like that and pay the full amount. She just sees the big amount in writing; she does not see the other side where it is in smaller writing. She would not know that she could pay it quarterly. That is like a trick to me. That is not very nice. It is not a very nice way to conduct business. Put this big figure on the front page: that is what you have to pay. Then in smaller print, in a colour that is harder to read, put that you can pay it quarterly. I just do not think that is—

**Mr Faux:** That is exactly what my bank does.

**MS LAWDER:** I was about to ask that question.

**Mr Molloy:** Exactly.

**MS CODY:** I am pretty sure there are other bills that are like that.

**Mr Molloy:** Exactly, and we know what has happened to the banks.

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**MS CHEYNE:** Mr Faux, did you have any comments on the rates notices?

**Mr Faux:** No, the value of the notice. I look at it and I have no problem with it. The amount that is on it is what I have a problem with.

**MS LAWDER:** I will start with Mr Molloy's submission. In the beginning you said, "small business owners and retirees, who this regime disadvantages dramatically". Could you spell out for me why you feel this disadvantages small business owners and retirees dramatically?

**Mr Molloy:** Most of the small business owners are retirees who currently own commercial properties. One, they are not subject to the payroll tax; and, two, they do not benefit from the abolition of stamp duty under \$1.5 million, because they already own the property. So they are two massive amounts in Mr Barr's submission that they are not benefiting from.

Mum and dad small businesses have purchased their own commercial property for their business to operate out of and they are sacrificing their current lifestyle to enable them to pay this property off before they retire. This is so they will have some income to live off in their retirement. They are making this financial sacrifice now so that they can have a better lifestyle in their retirement and so they will not become a burden on the government. And in return they are being gouged by the ACT government with excessive rate charges.

Their accountants are saying to them, "Look, your business is going okay. Instead of paying dead money in rent, you should buy your own property in your family trust or in your personal names. Your business pays the rent on it and you pay it off over 10 to 15 years." As we know, to pay something off over 10 to 15 years, you have got to make a sacrifice. You are paying more money than you should be. But the idea is that at the end of that 15 or 10 years they have got that property and they can get the rental income, so when they retire they have income coming in.

Most small business owners, like me, do not have a lot of super. We do not put a lot of money into super because we do not have the money to put in. We put it into our business to grow our business. They are trying not to be a burden and not to need a pension from the government by doing this and sacrificing their lifestyle. And all that they are getting in return is the government hitting them with these higher rates. Instead of being able to do it in 10 years, it might take them 15 or 20. That is how they are disadvantaged.

**THE CHAIR:** You say in that example, that one of the five or six people who have purchased from you in Mitchell—

**MS LAWDER:** Hume.

**THE CHAIR:** Sorry. If they were renting, what would they be paying in rent for a unit like that? What would their projected income be if they were retired?

**Mr Molloy:** They would be paying a rent similar to what they would be paying in interest payments, rates, body corporate fees and everything like that. They would be

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paying an amount similar to what they would be paying if they were renting. The difference is that they are trying to pay that \$300,000-odd off over 10 or 15 years. If it is, say, \$300,000 that they have to pay off in 15 years, on top of the interest and rates and everything, they are putting in a further \$20,000 of their after-tax income to clear the debt so that they are better off financially and they are not a burden.

**THE CHAIR:** But then they have an asset which is worth \$300,000 or \$400,000. What sort of return would an owner get if they were a landlord and not an occupier, if they were renting it out?

**Mr Molloy:** If they were renting it out as a commercial owner—if someone wanted to buy a commercial property from me they would want about a seven per cent net return. After rates and everything was paid, they would want seven per cent. This is the real worry. I am in the commercial property game, so it is a negative thing for me to talk about this. The unit that we own in Fyshwick—my business partner is buying me out of the business at the end of the month and he is keeping the unit—we bought that unit seven or eight years ago for \$210,000. It is just a little office unit. In our settlement agreement, he is buying it from me for \$228,000. We have made \$18,000 in seven years on that investment, so the returns are not great. The only thing that is keeping property values high at the moment—and Barry's property is worth \$2.8 million and not \$2 million—is that inflation is so low. If you have \$200,000, you can have it in the bank and you will get 2½ per cent if you are lucky. Therefore shares are a bit shaky, therefore if you can get a seven per cent return you buy a commercial property—that is what people do all around Australia; or less; they might get five per cent.

**MS LAWDER:** Going back to small business and retirees, you talked about how, possibly on the advice of their accountant, or it does not really matter where that comes from, they decide instead of paying rent to pay off what should become an asset. I think you touched on it, but could you clarify this for me? As a small business owner, you might sacrifice what you might otherwise have put into superannuation to pay off that loan more quickly; is that what you—

**Mr Molloy:** Yes, I suppose so. You might sacrifice putting it into super. You might take three holidays a year or two holidays or go overseas, or you might spend that on your child's education and—

**MS LAWDER:** Yes, it is the choice you make.

**Mr Molloy:** That is right. But even if you put it into superannuation, it is a lifestyle sacrifice.

**MS LAWDER:** I have heard others say that they do not put it into super because they think the property is going to become their superannuation, in effect, in their—

**Mr Molloy:** That is what I am doing personally. Because I do not have a lot of super, we are doing these developments. I am trying to get the bank to lend me the money to keep one, and then I will try to pay it off so that when it is left I have that income to come in.

**MS LAWDER:** You talked about not being a burden on society, not drawing a pension from the government. Presumably by owning that property you would be ineligible for the pension, potentially, because it is an asset.

**Mr Molloy:** Yes, I am not sure what the asset in place is, but you would hope—

**MS LAWDER:** I am not positive either, but—

**Mr Molloy:** that that is the case: that you have enough that you do not qualify for a pension and that you can support yourself. My entire investment is in property. I have two properties. I look forward to being able to retire on those. If I bought into shares or superannuation or whatever, I would not have experienced this unannounced massive increase of taxation on my superannuation investment that the rates have imposed on my retirement plan. These huge increases are the reason why I cannot retire. Had I bought shares or bought into a super fund, I would not have this taxation.

Why is a small section of society who have planned for their retirement and have helped build a society, helped build the net worth of Canberra, being taxed unfairly? I just do not think this law was thought through very clearly. On top of that, I was advised yesterday that the retrospective changes to the taxation of my retirement investment breach a fundamental principle of Australian law.

**THE CHAIR:** But how do you—

**Mr Faux:** I do not—that is what I was told yesterday. I was told it by an academic. What I believe it means is this. I have made a commitment. I have \$1.1 million worth of property, according to the valuation of the ACT government. I have bought that. I have had a clear set of guidelines, as I would if I bought a retirement plan. And now the government has turned around and increased the taxation on that. I have not had time to research it. I believe that it is true. The person who told me this is a very senior academic. I think it needs to be investigated by the committee.

If nothing else happens in this rates investigation, there should be some way that people who have planned for their retirement and worked hard for their retirement—I am 69 years old. I lifted a container of furniture last week. We are not a burden on society, so why when we try to retire—I paid all my staff 17.5 per cent leave loading every year for 40 years. I go to retire and the ACT government puts up the tax on my retirement plans. It just does not seem equitable.

**MS LAWDER:** Ms Paxton, in terms of retirement, people buying assets like that for their retirement, do you have anything you would like to add?

**Ms Paxton:** My commercial building is my retirement; so I am looking at doing that in the near future. I am looking to sell my building so that I can get funds out of it to go and buy somewhere to live and release the property for somebody else. But all mine is tied up the same. You sacrifice left, right and centre to try to get this beast off your back—what you owe the banks et cetera—and you do everything within your power that you can scrape together, you pay it off so that you get rid of the interest burden, and then you sell it, release the funds and go and buy somewhere to live.



**THE CHAIR:** In your circumstances, though, you have a problem with this anomalous block of land. In addition to the issues around the increase in the rate at which commercial rates are paid, you have this issue of this anomalous block of land. What would you like to see happen? What would be your solution to this?

**Ms Paxton:** Ideally I would like to see that block considered to be part of my unit and not rated. I would like to see the rates that I have paid that nobody else has paid back in my pocket, because I have been unfairly taxed during a period where nobody else has been taxed.

**THE CHAIR:** So what you are saying is that this block 44 is rated on top of your sort of principal block, your unit. Can you quantify that, or are you able to quantify that, over the period?

**Ms Paxton:** I think I did some rough calculations, and it was about 30 grand or something over I cannot tell you what period. I will have to check it. But it was something like that, which I would think would be better off in my pocket. If I do go and buy somewhere else, that is my stamp duty that I can pay when I sell my building. That is my stamp duty. It is quite a significant amount over time.

To give you an example, a few years ago—I had been there for about three years, I think—I got the ActewAGL statement. And when I sat and thought about it—and that is rare, when you are in business, to actually have time to sit and think about it—I thought, “It’s a block of land. Why am I getting charged sewerage, water and electricity when it does not have any sewerage, water and electricity?”

I approached ACTEW and they said, “No, it has water and electricity and stuff, or even if it does not, because we can provide it to you, we will charge you for it.” Which did my head in a little, and I said, “You can’t have it both ways. It has got to be one or the other. Could you please just check on your diagrams to see if it does have these services?” “Of course it would,” they said. They found out it did not.

I then went back and said, “Really, what am I being charged for?” They have then refunded the years of paying for services that I did not have to this anomalous block of land.

**THE CHAIR:** How long have you owned this block of land?

**Ms Paxton:** I have owned the building and the block of land together since 2006—because you can only buy them together—for 13 years. And I was thinking about it the other day, and I thought, “Why didn’t I think about rates at the time?” But you just do not think that this is going to be something.

**THE CHAIR:** All the time that you have owned it, from 2006 you have had two rates notices?

**Ms Paxton:** No, I have had rates notices every single year.

**THE CHAIR:** No, two per year?

**Ms Paxton:** For each block, yes, I have a separate rates notice for each block.

**MS CODY:** I have got a couple of follow-up questions first, a couple of supplementaries. I cannot remember whether it was Mr Faux or Mr Molloy—sorry about that. You were talking about the government submission to this inquiry giving you an idea about how rates were calculated.

**Mr Molloy:** That was me.

**THE CHAIR:** Mr Molloy.

**MS CODY:** Would you be interested to know that there is actually a page on the ACT revenue website that does that for you? You can click buttons and put your stuff in and—

**Mr Molloy:** Yes, that would be good. Yes, I do.

**MS CODY:** It is actually there. That is what I am saying.

**Mr Molloy:** Yes. I do get lost on those websites trying to find stuff. It might be because of my age or whatever. It just seems when you go into those sites and you want something specific it is the only thing you cannot find. And you have got all these millions of other things that are there, and I know you have to put a lot of things on there, but—

**MS CODY:** It is pretty easy. It is under “calculating rates”.

**Mr Molloy:** Okay, yes.

**MS CODY:** So it is very easy to find.

**Mr Molloy:** Okay, that is great.

**MS CODY:** That is a really handy sort of tool.

**Mr Molloy:** Yes.

**MS CODY:** I just thought that I might bring it to your attention.

**Mr Molloy:** Yes. As I said, it is great that I have got that information now. Yes, I should have looked better. I should have had a harder look.

**MS CODY:** You know it is there now. You know how to work it out.

**Mr Molloy:** Yes, absolutely.

**MS CODY:** It is always handy to know things, I reckon.

**Mr Molloy:** Yes.

**MS CODY:** My questions are: are any of you members of political parties or are you—

**THE CHAIR:** I am going to rule that question out of order.

**MS CODY:** Under standing order 264A I—

**MS LAWDER:** Why did you not ask the last person that?

**THE CHAIR:** We will suspend. Can I ask the witnesses to make themselves comfortable, have a cup of tea.

**Mr Molloy:** Would it be easier if we declined to answer?

**THE CHAIR:** No. I am sorry, we must do it.

**MS CHEYNE:** Under the standing orders, we now must meet.

**THE CHAIR:** Yes. Can we turn the Hansard sound off, please? We will be as quick as we can.

**Hearing suspended from 3.17 to 3.28 pm.**

**THE CHAIR:** I apologise for that break. We will pass over the question that Ms Cody asked about people's political affiliations and political donations. Ms Cody, do you have any other questions?

**MS CODY:** Absolutely. I have a small business background myself, as does my father. I know the pitfalls and the rises of being a small business. There is great joy and there are also some interesting moments. Are there other ways that you considered putting aside for your retirement that were not property related? I know we spoke about BT funds and superannuation, but what about residential property or any other forms of investment?

**Mr Molloy:** My wife and I have bought a residential unit now, but it is more for when we get a bit older and we cannot live in the house we are living in, so that we can move into a unit. We bought it just before those new taxes came out on units, so we are going to get stiffed there as well. It is hard. It is hard to know.

**THE CHAIR:** We have reported on that as well.

**Mr Molloy:** Yes. To buy a house, it is a very big expense, a much bigger expense than buying a unit. At the moment, my personal opinion is that I do not see any growth in unit prices. But then I do not see much growth in commercial prices at the moment. And the big worry about commercial prices, as with Barry's property, is that every thousand dollars of extra expenses on a commercial property drops your net return by a thousand dollars. Based on a seven per cent yield, which all investors want on a commercial property, every thousand dollars less in income you have means that your property drops by \$15,000 in value. So it has a major effect. With those rate increases, if you put the rates up by \$2,000 you have just dropped the value of that

property by \$30,000 like that.

**THE CHAIR:** That is the sale price of the property, not a theoretical thing about the value of the land.

**Mr Molloy:** The sale price if you sell it. The real worry is that the only thing that is holding commercial property in the ACT together at the moment is that the inflation rate is so low and you can only get 2½ per cent in the bank. If the inflation rate goes up and you can get bank interest at five per cent, no-one is going to want to buy commercial property and get seven per cent because there is too much risk. They will then want 10 per cent return on their money.

If we use one of the units at Hume and just round it off and say it is worth \$300,000 and it is returning \$20,000 a year, it is worth \$300,000 on a seven per cent yield. If inflation goes up and interest rates go up, investors will want 10 per cent, so that property that is returning \$20,000 will not be worth \$300,000 anymore; it will be worth \$200,000. So it will drop by 50 per cent in value for a three per cent rise in inflation and interest rates.

That is extremely scary for commercial property. Commercial property values are all based on return. Residential properties are not based on the return as much: it is an emotional thing; it is a lifestyle thing. But commercial is all about numbers and how they stack up.

**MS CODY:** And it depends what you invest in.

**Mr Faux:** Can I expand on some numbers a bit to the side of that. In my business submission, I pointed out that I asked my bank manager to come and give me some advice, and banks are currently lending on the information for New South Wales: all loans in the ACT are being currently lent on the New South Wales statistics. I asked what would happen if they dropped the New South Wales statistics and put the ACT rates in. I will read it out: “Banks currently combine ACT property loans with New South Wales loans and using the same guidelines. With the recent banking royal commission, banks will have to become more diligent lending to ACT properties. In a recent discussion with ANZ financial they were surprised to learn that there is such a huge rates disparity between ACT and New South Wales. A quick comparison of a loan on an unimproved block value of 1 million in the ACT and New South Wales with the capitalisation of 8 per cent in the ACT and New South Wales, the current levels of the loan in New South Wales would be 600,000 and in the ACT 240,000.”

If there is any recession in the ACT, this is all going to steamroll into disaster. That is because, in real estate terms, they look at the net figure. The banks will look at the net figure. Because the rates in the ACT are so much higher, they will look at that, and that is the calculation that she gave me: the difference if they separate the ACT from New South Wales, which they must do following the due diligence that they now need to do following the banking royal commission.

It is going to be disastrous for Canberra. You can borrow a million dollars in New South Wales for the block—not the building component. In New South Wales you can borrow 600, in Canberra 240.

**MS CODY:** Do any of you have commercial properties in other states and territories, in other jurisdictions?

**Mr Molloy:** My mother does.

**THE CHAIR:** She is an individual in her own right.

**Mr Molloy:** I am from Young in New South Wales, from the cherry capital. She has little sheds that are rented out for \$700 a month. I have commercial land in Young that I own, but I have not developed it as yet. With the rates there, the one we are doing at the moment is an 8,000 square metre block. While we are developing it over the two years, we have to pay rates on that 8,000 square metre block. The rates are \$65,000 a year. I have a 32,000 square metre block in Young. Admittedly, it is not worth as much as the block here, but my rates are \$800 a quarter: 3,200 compared to 65,000.

**MS CODY:** But you would imagine your return on investment here would be slightly better?

**Mr Faux:** No, not necessarily. I think that is very leading.

**Mr Molloy:** And the problem is the return on investment. As I say to people when they are buying commercial property, if you want to buy a commercial property you need to know what you want. Do you want income to live off or do you want appreciation? If you want appreciation, you probably should buy residential as a rule, as the years have shown.

Commercial is going nowhere at the moment. I know that when we are talking about properties going from 300,000 to 200,000 you can say, "Well, that is the risk you take in commercial property." But what normally fixes that problem, if inflation goes up, is that we are actually not paying 300 times in rates; therefore our returns are going up each year because we have three per cent increases that the tenant has to pay each year. We are getting that three per cent, and inflation might be two per cent, so we are actually getting it better and therefore the return is getting bigger.

When the rates are going up—Mr Barr has projected rate increases of six per cent a year for commercial property—how can you justify six per cent when the inflation rate is there? I know he said in the *Canberra Times* that he is limited to the amount of money that he can raise in raising revenue and that if he does not raise that revenue he will have to cut spending on education, transport, hospitals and all that sort of stuff.

**THE CHAIR:** Whatever, yes.

**Mr Molloy:** But why is he spending \$1.7 billion on light rail? As a family, there are lots of things I would like to buy and to build that would make us a lot better off, but if we cannot afford it and we cannot justify it, we do not do it. I do not understand why the ACT government cannot do that. If he had \$1.7 billion, he could split that four ways into education and hospitals—

**Mr Faux:** Have a children's hospital.

**Mr Molloy:** Instead he has done light rail. He cannot afford the light rail.

**MS CODY:** Many people would disagree with what you are saying.

**Mr Molloy:** He can afford it, because he is hitting commercial property owners for rates.

**Mr Faux:** Many people will disagree with it, but there is not one Canberran who has voted for light rail—I call it a tram—for \$1.7 billion. They were sold a pup. They voted for light rail for \$600 million, not 1.7 billion. That is a billion dollars we could put into hospitals. It is terrible.

**MS CODY:** I am sure we all have an opinion.

**THE CHAIR:** We will have to wind up because we are running over time. You have canvassed the issues in relation to your own circumstances, generally. I think I asked Ms Paxton this and I am not sure that I got an answer, but what would be the solution for your particular thorny problem?

**Ms Paxton:** I would like, as I said, block 44 to be considered part of my unit, like all the other land is, and not be rated. I would like the money that I have paid to date, those funds, to come back to me, as happened with ActewAGL. There is no justification. If things were fair and equitable, that should not have happened. It was a solution that was foisted on the people who bought the block. The history of the block has been lost; it has been unfairly targeted, in my view, to raise revenue for no reason.

**THE CHAIR:** Are you currently in dispute with the ACT—

**Ms Paxton:** I have lodged an objection. I wanted to let you know about the process of going through an objection.

**THE CHAIR:** Yes, just briefly.

**Ms Paxton:** I wrote to them and objected. I also put in an FOI request. In my case I involved the Ombudsman. I will show you, just so that you know about the sort of information. This was one of the attachments that I got back.

**THE CHAIR:** For the benefit of Hansard, that is 2½ pages blanked out—

**MS LAWDER:** Completely redacted.

**THE CHAIR:** except for one line.

**Ms Paxton:** Yes, and that would be my two properties. This was the second attachment that I got. It was very hard to work out what on earth was going on, so I elevated it to the Ombudsman. With the first decision by the Ombudsman this year, in my case they found no underlying justification or rationale. I wanted to know why my land had tripled in value. I assumed there would be a rationale or valuation, but from 2016 to 2017 it did not exist. To quote the Ombudsman, at paragraph 27, “There is no

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relevant valuation information in existence.” I do not know how they came up with my increase in valuation, because there is no paperwork.

One of the other issues is that there is a very small, two-month window when you are allowed to object. When I first found out, I was outside the two-month window, so I was forced to wait for another 12 months. They told me I could object then, which I did. I was told that, on their side, they would “endeavour to finalise your objection within six months”. So they would take six or more months to get back to me, but I only had a two-month window to object.

I then asked if I could provide additional information, which they very kindly said yes to. To save myself time, I did the FOI request. I got the black pieces of paper, but in their covering email they gave me two pieces of information which I found very interesting—that they could not give me any information because it was contrary to public interest to disclose that under FOI, which I found very interesting because in the 2008 inquiry, at paragraph 2.3, it said that the committee considered that it is a subject of public interest. So I was able to get rid of that argument.

The other one, which I found very interesting, being a former public servant, was “the information is prohibited by a secrecy provision of the law as it contains taxpayer information relating to other taxpayers”. I failed to see how land valuation was secret and revealed taxpayer information that would not already have been in the public domain.

**THE CHAIR:** You will probably find it on Allhomes.

**Ms Paxton:** This was in direct contrast to the ACT commissioner’s statement to that 2008 inquiry by the Standing Committee on Public Accounts, at paragraph 5.23, which says:

If you want to raise a query about your land valuation with the Revenue Office, the Revenue Office will provide you with a method of calculation for the valuations and it would also provide the level of information that you need to understand what properties have been used and how that fed into the process, and also information on how to access what unimproved values are, as well as helping you through the process.

That was not my experience. The onus is on you as a taxpayer to object and to provide reasons, but you cannot find out how they worked it out, so you cannot counter anything they have done; you can only come up with your own facts, and this is where it becomes interesting, because it took me six months and nine ACT agencies to put together the whole picture of my land.

The more I investigated, the more I found to investigate. Over six months I chased down every single lead back to documents from 1987, and I involved nine ACT government agencies: ACT leasing; ACT land titles; ACT planning; ACT revenue and revenue objections; ACT Ombudsman; Access Canberra, the building file area; the FOI from CMTEDD; and the FOI area from EPSDD; not counting the valuer, town planner, solicitor, and real estate agent I spoke to.

I have to say that 90 per cent of those agencies were absolutely fantastic and helpful. I

think they were amused by my trying to follow up and find out about this. After I spoke to all of those parties, I then put my additional information to ACT revenue objections, which included 27 individual reasons that the block should not be valued separately and should just be considered part of my easement.

I was then told that it would take them more than six months to get back to me, that once a taxpayer has provided their grounds in support of the objection, a decision would be made without further consultation, and that my next step was ACAT. So even though I had been provided with this information, and I had put in the email that it would be lovely to hear back, “We understand, Ms Paxton, that you would like to hear back, but we don’t have to do that.” And your next step, when you get a decision, is to appeal through ACAT.

**MS CHEYNE:** How much time have you spent on this, Ms Paxton?

**Ms Paxton:** Six months so far. If you ignore the previous year, about the valuation, I got it on 30 July, according to the paperwork; on 22 August I sent stuff to them. It has taken six months and all of those parties to get the information. I now call my block of land the “sitting duck” block of land because it is just a sitting duck.

**MS CHEYNE:** Do you have a ballpark figure of how many hours you have spent on this?

**Ms Paxton:** Hours?

**MS CHEYNE:** I am interested in what the cost has been to you, if you think it could be quantified, notwithstanding the stress and confusion.

**Ms Paxton:** The 27 arguments—they are 12 and 14-page documents that I am putting back, and I feel like I am repeating the same stuff. I would get redacted documents. I cannot put together the number of hours. This is the folder. These are all the responses, and they do not even include half the emails that I have sent and received or the phone conversations of which I take a note.

As I said, it goes back 30 years to 1987 when they decided to sell it. The feature of my lovely block of land is that it is landlocked. It has no street frontage. It is 67 metres from the road. It is a dirt car park. The photos are in the submission. It is a long, narrow block. It is a mere 6.7 metres wide and 38 metres long. So it is like a T-junction. You go down the driveway, I have an easement which is 2.75 metres wide—the photos were taken this morning—and the land that you have to go over to get to it belongs to somebody else, the units plan.

If you think, “That’s okay, she’s part of that units plan,” when I first got there I was not welcomed with, “Hi Karen, welcome to the neighbourhood. It’s really good to have you here.” It was like, “That’s a landlocked block. If you don’t allow us to use it, we’ll stop your access to it.” That was my welcome to the neighbourhood, which I found very interesting.

In 1994 it presented a headache to the government, and with all the other land they insisted—these are their own words—on it being amalgamated. I have internal



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minutes that I can give you. In mine they had to create a separate block, and it was probably a good practical solution at the time but, in 2016, as I said, I think somebody has just gone, “Wait a minute, there’s a block of land that’s 290 square metres. That must be worth a fair bit. Let’s whack it up 305 per cent.”

A few days ago, I got unredacted information, which is really hard to come by, and it—

**THE CHAIR:** Welcome to my world!

**Ms Paxton:** In 1987, apparently, it was worth \$20,000. This is if it was industrial land that everybody else was going to have. So it went from a railway easement to industrial land, which is an improvement in value. Mine actually went from a railway easement to parking and storage.

Roll on seven years, we assume 20 grand and it goes up a little bit. They stripped it of any usefulness and eventually they sold it for three grand, so that is 10 per cent, pretty much, of its price. If I did a reverse calculation today and took what they value it at now and treated that as 10 per cent, my block of land, which is one-tenth of the unit plan decided in land value, would be worth pretty much the same as that block of land.

Nothing really makes any sense to me. The AVO should have all these. One of my criticisms is: why don’t they have all of this documentation in the one spot, so that the valuers can look at it and understand what is going on?

How do I know other railway easements are not going up? Because in 2016-17, of the 19 properties that have railway easements in their blocks, only three went up: 14 per cent, 21 per cent, and mine at 305 per cent. It has nothing to do with a railway easement—my land going up. To me, it looked like my land was being singled out just for existing.

**THE CHAIR:** Thank you very much for your participation today. A copy of the proof transcript will go to each of you. If there is anything that you feel that you need to clarify, you can take that up with the committee secretary, Dr Lloyd. You can table your three pages of blacked-out documents. Thank you very much for your personal insights today.

**Mr Faux:** Can I refer back to my inquiry earlier, as to whether I would have time to respond to Mr Barr’s submission, which I have serious misgivings about? I think they need to be aired.

**THE CHAIR:** With the indulgence of the committee, Mr Faux, could you be brief because we have gone over time.

**Mr Faux:** I understand that. I will make it very quick. Briefly, I will hand this over.

**THE CHAIR:** Do you have it in writing?

**Mr Faux:** I have it in writing. I have emailed it to you but I think it also needs to be articulated. These are very serious accusations. In response to the submission by the

Chief Minister, Mr Barr, by Barry Faux—

**THE CHAIR:** Just before you start, Mr Faux, can I say that while you have privilege, the privilege comes with responsibilities and it is unparliamentary to accuse someone of misleading the Assembly, and this committee is part of the Assembly. We have received this. You may speak to it briefly but can I ask you to keep that in mind?

**Mr Faux:** Yes. I have had these claims, the information, reviewed by an accountant, a leading academic. Mr Barr's submission says that, with the New South Wales tax threshold, the figure quoted is wrong. The stamp duty rates are wrong. The New South Wales payroll tax stated in example 2 is wrong.

The economic modelling is completely unrealistic and misleading. The economic modelling used in the minister's submission uses a wages ratio of 74.8 per cent. This percentage is the same for all three examples. This modelling is a total fantasy and not representative of the real world. In my business the ratio is 7.7 per cent. The modelling used by the minister uses a ratio 10 times higher than my actual ratio. The suggested ratio to have a financially sound small business is the wages-income ratio of 15 to 30 per cent. Each example has an exact rate of 74.8 per cent. It is not factual.

The minister mentions two businesses in the economy with a turnover of one million. I would pay \$78,694; the other business would have to pay \$1.4 million or 42 per cent more than their total income. This business model does not exist in the real world. Statistics need to be used and an average of 74.8 per cent is an unsound economic model because of course some people would pay less, and another business would need to pay more than their total income.

**THE CHAIR:** The committee will have to digest this, Mr Faux, and work out what to do with it.

**Mr Faux:** Further on, the ABS says that 88.1 per cent of Australian business have zero to four employees. The three submissions have 15 employees, 20 employees and 40 employees. This means that at least 88 per cent of Australian small businesses are not represented. In fact, it probably means that 98 per cent are not represented.

**THE CHAIR:** Can I ask that we leave it there? We have spent a lot of time. We are over time. We have other witnesses. We will consider this document. Thank you very much to all of you for your attendance here today. I know that these are very important issues, and not just commercial issues but deeply personal issues. Thank you for sharing your lives with us today. Thank you very much for your attendance here today.

**LAGOS, MR ARTHUR**, Phillip Market Place  
**CVETANOSKI, MS SHARON**, Phillip Market Place

**THE CHAIR:** I welcome Arthur Lagos and Sharon Cvetanoski of the Phillip Market Place. I ask you to acknowledge that you have read the pink privilege statement.

**Mr Lagos:** Yes.

**THE CHAIR:** Mr Lagos, you approached the committee on a day that I was absent because I was ill. I apologise. You represent the Phillip Market Place.

**Mr Lagos:** Yes.

**THE CHAIR:** Could you expand on that for us, please.

**Mr Lagos:** Yes. Sharon and I are members of the executive committee. I am the executive chair of the owners corporation, units plan 2036, otherwise known as Phillip Market Place. It is a body corporate. There are private investors, mum and dad investors.

**THE CHAIR:** Where is it, exactly?

**Mr Lagos:** It is in Phillip. It is on the corner of Botany Street and Hindmarsh, with KFC, Dan Murphy's, Petbarn, the Salvation Army and a few smaller tenants there.

**Ms Cvetanoski:** There is a bike shop.

**Mr Lagos:** A bike tenancy, a real estate agency, Ali Baba, Wokitup!, Trek and Subway. It is a convenience centre. I own one of the units; Sharon owns one of the other units. We represent the owners corporation, which is struggling with what is happening.

**THE CHAIR:** Just for clarity, there are a number of owners.

**Mr Lagos:** There are about nine owners.

**THE CHAIR:** How many units are there?

**Mr Lagos:** Nine. It is strata titled. It is pretty much family owned investments, basically. There are corporate tenants, but they are tenants, not owners. For example, my tenant is Dan Murphy's, Woolworths. It is a corporate tenant, a great tenant. But they do not own the asset; they rent it from me. Similarly, Sharon owns the Trek bike shop, and Trek corporation are the tenant. A lot of them are franchisees. For example, Ali Baba is a franchisee, Subway is a franchisee and KFC is a franchisee. It is essentially a convenience centre.

**THE CHAIR:** What are the issues confronting you that are pertinent to this inquiry?

**Mr Lagos:** I have a statement that I would like to make.

**THE CHAIR:** Yes, absolutely.

**Mr Lagos:** It is quite emotional. I wanted to bring it up because this is a very emotional issue for us as landowners who have been affected by the rates hike. In March 2005, the then Labor minister Ted Quinlan told a Real Estate Institute forum that the ACT government would squeeze property owners until they bleed but not until they die.

**THE CHAIR:** He was famous for that one.

**Mr Lagos:** Yes, he is famous for that one. But he will be redeemed at the end. As a Canberran and a commercial property and residential property owner and investor, I say, “Job well done.” We property owners are not just bleeding; we are actually haemorrhaging.

This is not an assault on Mr Ted Quinlan. However, to me, it says a lot about the government’s current mindset and their policies and general approach to squeezing a sector of the market in what I consider a very unfair manner just to raise revenue. We do not have any problem in paying our fair share of rates and land taxes, but we do object when our rates increase by over 270 per cent over a three-year period.

This is the whole centre. It is approximately \$230,000 to a forecast in excess of \$600,000 per annum.

**THE CHAIR:** That is your rates.

**Mr Lagos:** Yes. They have gone up from \$230,000 to forecast in excess of \$600,000 per annum.

**Ms Cvetanoski:** That is for the whole centre.

**Mr Lagos:** That is for the whole centre. That is an extrapolation.

Our property income is linked to CPI. It might go up by five or six per cent over that two or three-year period. Property incomes—you have probably heard this theme—are linked to general market trends based on sales turnover or CPI and a little bit. It depends on the leases; the leases vary.

I have heard the government say, “This is good. We have revalued land. It is now more valuable.” What the ACT government does not realise is that for every dollar increase in costs the value of our assets decreases by \$15 to \$20. I will repeat that: for every dollar increase, our value decreases by \$15 to \$20.

Commercial property assets are generally valued on the basis of their ability to generate net rental income. Following the previous presenters, I am preaching, hopefully, to the converted now. This is a really important point. Increased land value does not necessarily translate to increased asset value, especially when the costs are going up at astronomical rates compared to the rental income.

There is a term used: capitalisation of rent or net rent. This might be five per cent or seven per cent. That is a term that is used in investor land. I will give you an example. To generate \$100,000 of net rent at five per cent return, you need a \$2 million capital base. That \$2 million at five per cent return gives you \$100,000 in net rent. If your costs go up by \$50,000, this translates directly to the asset value. It may not be a 50 per cent reduction; it might be a 20 or 30 per cent reduction. This is where it hurts. It hurts on two fronts. The value of our assets is going down and the cash flow impact is quite significant. Investors, banks and valuers look at the cash flow return, so it has a dramatic impact on our position.

I have heard the government say, “Just think of the payroll tax savings if there is some rebalancing.” Investors do not pay payroll tax. We do not employ; we own assets. So it does not have any impact.

I have also heard the government say, “Just think of the stamp duty savings.” That only applies to properties under, I think, \$1.5 to \$1.6 million. Mum and dad investors do not buy many properties. They buy one or two assets and they hang on to them for the long haul. These rate increases affect their capacity—and it is affecting our capacity—to spend money, how we reinvest those funds back into the ACT. I do, anyway.

I have also heard the government say, “Just sell your property.” It is easier said than done. If you sell it and you have held it for a long time, there is a huge capital gains tax bill to pay. If you roll that into another asset, like another property, there is stamp duty to pay. The federal taxation system—

**Ms Cvetanoski:** And with the increase in rates, the value of the property is not worth as much as it was three years ago.

**Mr Lagos:** Our tenants comprise Dan Murphy’s, Petbarn, the Salvation Army, et cetera. The government says, “Just pass on the increases to your tenants.” In some cases, you cannot do that because it is a gross lease and therefore the costs are absorbed by the investor. In the case where the costs are passed onto the tenants, the tenants cannot easily increase their goods and services. The Salvation Army cannot charge more for second-hand clothes. Dan Murphy’s cannot put an extra \$10 on a slab of VB; people will not buy it. There are competitive forces out there. A KFC is a KFC. A Subway is a Subway.

**THE CHAIR:** Those prices are fixed.

**Mr Lagos:** Those prices are fairly fixed. And they generally go up in line with market dynamics, in terms of the capacity for people to buy and spend and just inflation.

**Ms Cvetanoski:** Sorry to interject, but the amount by which you would have to increase a tenant’s rent would be approximately 30 to 50 per cent in order to cover the added cost of increased rates bills. That is taking the cost of a square metre in my property from, say, \$400 to \$600. I am not going to find a tenant at that level. We are the meat in the sandwich. We are having to pay the increased costs that we simply cannot pass on to a tenant because the existing tenant will leave and you will not find another one.

**THE CHAIR:** So what you are saying is that you are the price taker?

**Ms Cvetanoski:** Yes.

**Mr Lagos:** Yes, absolutely. Sharon has just summed it up: the tenants will either close up shop or just let a few staff go, or the investors will cop it. This problem in the retail sector—our centre there is a convenience centre—is further fuelled by the broader economic situation, the softening of the housing market, which is being felt at the checkouts of many Australian retailers. Woolworths is an example. Brad Banducci recently stated, “Shoppers feel less wealthy and are trying to make their dollars stretch further.” Annualised sales are growing in real terms of maybe one or two per cent per annum. I see that in my turnover. The sales are sluggish. Therefore the capacity for the rent to grow is hindered because of broader economic factors. We have a double whammy here. Investors are being hit by an increase in the rating formula from 2.4 per cent to 5.6 per cent, as well as a substantial increase in the value of the land.

I will talk about the value of the land, because this is what is driving it. Our unimproved value went from \$4.3 million in 2016 to \$13.3 million. That is a \$9 million increase, over 300 per cent in a few years. Our centre’s rates will have gone up by a projected \$400,000 per annum. If you apply a five per cent cap rate, that translates to an \$8 million devaluation. So the increase in the land value of \$8 million or \$9 million is offset by the decrease in the asset value and a substantial slug in the cash flow. So it is sort of a lose/lose for us. The government says, “Look, your land is worth more.” I will talk about my perspective on the ACT valuation office in a second.

There are negative flow-on effects of this. I have talked about the substantial cash flow pressure on tenants and others. For investors, equity is reduced substantially because of the devaluation in the asset. In some cases additional investor capital may be required by the banks, to make up the shortfall in value. That means that people may have to mortgage their homes to put into that if they do not have enough equity in the value. Borrowing costs can often increase as a result of the devaluation. The previous presenters talked about that. I will not labour that. There is increased lending pressure, with some interest-only loans being withdrawn. If you have got an interest-only loan and you have to start paying principal, that adds more pressure. At our centre we are looking at ways to reduce our outgoings in other areas that we control, such as maintenance and repairs. That has a further flow-on effect of devaluing the asset, because we are not repairing these things, because we cannot afford it. And, importantly, it creates investor uncertainty. Investors are thinking, “Hang on, why would I invest in this market when there are other markets out there that are much more stable?”

I cannot help thinking that the government is trying to fix something to repair a revenue shortfall or perceived revenue shortfall but then the flow-on effect has not been thought through.

**Ms Cvetanoski:** I think it has already been admitted that there was no modelling done as to the effect of it. I think that that was more probably with regard to residential rates but—

**THE CHAIR:** This committee, in various guises, has been looking at commercial rates through annual reports and things like that. The message from the government was there was no real modelling.

**Mr Lagos:** One of the differences between residential and commercial is that a vacant residential asset is worth something. If you have a house, whether there is a tenant in there or not, it is still worth the same, whether it is vacant or not. A commercial property if it is vacant is worth a lot less, because investors value this on the cash flow that it can generate, unless it is a strategic development site, which has a very different valuation of the dollar. You have to look at the inherent land value and its use.

So what options do we have as landowners? We are sort of being squeezed here. We are backed into a corner. ACAT is expensive. It can cost up to \$100,000 to see it through the full process, with no guarantee at the end. So the system that was meant to protect us has the opposite effect, because it is a huge barrier to fight. We have fought it but not through—we have gone through to mediation and have accepted a less than perfect outcome, but we could not afford to spend \$100,000 to fight a system that was—

**THE CHAIR:** So you went to ACAT but stopped at the mediation phase?

**Mr Lagos:** Yes. We got some concessions, only token concessions.

**Ms Cvetanoski:** We had to weigh up the cost of going further with ACAT versus the potential saving of coming to a mediation resolution. The mediation resolution did reduce the value of our property marginally, but that was all clawed back in the next year's increases, and then some additionally. So we are behind where we were when we first went to ACAT but probably not as badly as had we not gone to ACAT at all.

**Mr Lagos:** There was a sop basically to try to smooth us over. I do not want this to just be a whinge session, because we can whinge all day, because we are quite passionate about this. I believe that there are solutions here and I would like to present some solutions, because this is not just about whipping somebody; it is about trying to fix a system that, I believe, is fundamentally broken at its core.

There are two parts of this. The part that we have had most dealing with is what we perceive to be unfair valuation practices by the ACT valuation office. There are two really critical aspects, in my opinion, which Sharon shares. The ACT Valuation office lacks independence. It sits within treasury, and treasury is all about raising revenue. It is putting Dracula in charge of the blood bank. How can a valuation office be independent when the Treasurer is saying, "Squeeze: we need more. Squeeze, squeeze, squeeze."

The second is transparency. There is no transparency. We have submitted detailed valuation reports. These are commercial valuers that the banks rely on for valuations. They have industry standards. They are peer reviewed. And what we get back from the ACT valuation office is a one-pager, "Computer says no." ACAT—you just cannot speak to them. And even when we challenge this in mediation, it is a difficult process. It is like, "This is the way it is. If you don't like it, see you at the next level." So it is very frustrating, time consuming and costly.

**Ms Cvetanoski:** We certainly did get the impression in ACAT that the ACT valuer's office was happy to stonewall because they wanted to see how much money we had to spend on lawyers and valuers. They were not willing to listen to our side of the story, let alone justify their own position. In fact they did several things during the course of our ACAT meeting that were completely nonsensical, like revaluing a property midway through the year because the owner of that property had done some improvements. They decided to revalue it not as of January 1 but as of about June or July. That was sort of weird. Remember when they said they revalued the McGrath site?

**Mr Lagos:** Absolutely. What all this really stems from, what has triggered this for us was—John McGrath presented last time—he purchased what is now the Maserati dealership, which was the First Choice Liquor store on Melrose Drive, for, I think, \$8 million or \$9 million. I cannot remember exactly.

**Ms Cvetanoski:** I think it was \$9 million.

**Mr Lagos:** I have not heard this from him directly but rumour has it that he paid over the top. He paid what he paid for.

**Ms Cvetanoski:** Yes, the general consensus was that it was a heart buy.

**Mr Lagos:** Be that as it may, let us draw some parallels between a Maserati dealership and our site. This is what the valuation office have done. They have said, "Okay, that sold for \$9 million." They have this valuation methodology. They deem the value of that. They look at what the building is worth and they say, "About a mill and the rest of it is land value." Now, that building is worth a lot more to somebody who wants to redevelop it. It is probably worth \$3 million or \$4 million, because there is an existing structure there. John McGrath has done a great job in renovating that. To somebody else it may be worth a lot less, because they are going to demolish it. So it is a moot point.

**THE CHAIR:** Actually, that is something I had not realised. The one that was the liquor shop, First Choice, and is now a car dealership, that building was not knocked down?

**Mr Lagos:** No.

**THE CHAIR:** It was renovated.

**Mr Lagos:** It was renovated. He basically used the same shell. I use the term "pimped-up"; that is what my son says.

**THE CHAIR:** It has been upgraded.

**Mr Lagos:** It has been upgraded. A Maserati dealership sells cars that are worth \$300,000 or \$400,000. There is a lot more margin than, say, selling slabs of VB for 40 bucks or clothes to disadvantaged people, through the Salvation Army.



Also, this is a really important point: a car saleyard utilises most of the land. They have cars sitting on the land as their showroom, outside and inside. They have maybe 80 per cent or 90 per cent utilisation of the land. Our convenience centre utilises 30 per cent of the land. Less than 30 per cent of the land is retail. The rest of it is public space car parking, and free parking at that. It is a convenience aspect.

The ACT valuation office are comparing our site, the Phillip Market Place, to a recent sale, and that is the only sale they have got. They do not look at anything else. They say, “The land value is X, so we apply that to yours, and here’re your rates.”

**Ms Cvetanoski:** Yes, they come down to a per square metre value of the—

**THE CHAIR:** Does the lease purpose clause on your market place allow for car yards?

**Mr Lagos:** Yes, it does.

**Ms Cvetanoski:** Yes, it does. In fact this is the problem we had with the valuers office comparing a car yard with our convenience centre. Our crown lease does state that we could have used it for a car yard, and that has been deemed the highest and best purpose by the ACT valuers office; so that is what they have compared it to—sales of other car yards. Our site has never been, and will never be, a car yard. We thought it might be more logical to compare it to other, similar-use sites rather than what the crown lease says.

**THE CHAIR:** Is there a similar-use site? I cannot think of one.

**Mr Lagos:** There are. In order to try to claw our way out of this situation, the body corporate have decided to apply for a reduction in amenity. We have gone through—

**Ms Cvetanoski:** A change of purpose clause on—

**Mr Lagos:** A change of purpose clause. We have gone through a development approval, and we have had the DA approved to reduce the GFA, the gross floor area, by 50 per cent. The crown lease currently supports 11,000 square metres. We have about 3½ thousand square metres; so there is all of this unused, developable GFA which we really cannot develop because we cannot put—

**Ms Cvetanoski:** It is already a car park.

**Mr Lagos:** It is already a car park. We would have to put in a multistorey carpark. We have long-term tenants in there. It just does not work. We went back through a DA process and we have had approval to reduce the GFA by 50 per cent and remove the offending car sales clause. The DA process has been accepted. There is no lease variation charge. ACT have revalued the land and have offered a five per cent reduction. This case will go to ACAT.

**Ms Cvetanoski:** If you assume that the ACT valuers office will have erred on the high side, and our valuer may have erred on the low side, there is still a huge gap.

**Mr Lagos:** Our valuer came in at around \$8 million, based on evidentiary sales of around—

**Ms Cvetanoski:** Within the same radius—

**THE CHAIR:** Is that land value or—

**Mr Lagos:** Land value, and it is still sitting at around 11 or 12. I cannot remember the exact numbers. If we had gone the other way and said, “We want to double our GFA and add car sales,” I am sure that the ACT valuation office would say, “Yes, we can do that,” and the value has gone up by 100 per cent. When they want to give, they do not give anything; when they want to take, they take. We see that to be unfair for us, and it comes back to independence and transparency. None of it is open. It is so sided towards the government, the treasury, to generate revenue—

**Ms Cvetanoski:** That is certainly how it feels.

**Mr Lagos:** That is how it feels. That is where we see it. I believe that the ACT valuation office should sit outside treasury and there should be an independent land valuation methodology or system based on widely accepted industry standards that can be peer reviewed, as is done in other states. The basis of land valuation is hurting.

**Ms Cvetanoski:** It is hardly arms length, for an internal—

**Mr Lagos:** There is also the other part to it, part B, which is the rating formula, which has increased from 2.5 per cent. My understanding is that it has increased from 2.5 per cent of unimproved average value to 5.6 per cent in the offending years. That is basically double. The rate at which it is applied has gone up—doubled.

**Ms Cvetanoski:** It is a sliding scale which has all gone up.

**Mr Lagos:** It is a sliding scale, and the actual valuation methodology is skewed. So it is a double whammy. I would like to finish my statement. I know I have given Mr Quinlan a bit of an unfair kick.

**THE CHAIR:** He has big shoulders.

**Mr Lagos:** He has big shoulders. I understand that in June 2018, the former ACT Labor Treasurer, Ted Quinlan, said to a parliamentary committee hearing, “They’ve stuffed it,” referring to the rebalancing of the rates paid by units. I believe “stuffed it” they have. We are haemorrhaging, and I do not believe that this was the government’s intention. I would like to remind the government that they are accountable to us, the public, the people who elected them, and that we landowners vote. That is the end of my statement.

**MS CHEYNE:** Thank you for that. It is very helpful, and you have answered a number of questions. A bit of a theme coming through was about how the ACT government has been communicating with you. There have certainly been some shocks that you have had to absorb. It also sounds like things in ACAT have not been

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a walk in the park. If things were done differently, how would you be communicated with in terms of being advised about changes in valuations, being advised about changes in rates or rates calculations, in terms of receiving your rates notice? How would it be a better experience?

**Mr Lagos:** I do not think communication is the issue here, because we get the rates notice and—

**Ms Cvetanoski:** With regard to rates notices, the new format rates notices that have come out this year are anything but transparent. All the important information is either in tiny little print or missing. On the old rates notices, on the back of the rate notice, it had the formula by which rates were calculated. I could compare one year to the next—up to \$100,000, this many per cent. It had the calculation. That is now no longer available to me on my rates notice. If I want to know how my rates are calculated, I have to chase it.

**MS CHEYNE:** And even though it is available on the ACT government website, I think Ms Cody was pointing that out before—

**Ms Cvetanoski:** That is right. It is hardly—

**MS CHEYNE:** there is still no link on your rates notice to direct you where to go.

**Ms Cvetanoski:** Exactly.

**MS CHEYNE:** It just makes you feel that it does not exist.

**Ms Cvetanoski:** It is kind of amusing that on the top right-hand corner of the rates notice it says “pay now” but three or four lines lower down, in very small print, it says, “due by 15 March”. It is not very friendly; and, not only that, the address that the rates are related to is on the back of the rates notice in very small print.

It is really not a very friendly document. I think it is a retrograde step compared to the previous way rates notices were sent out. Let me also say that the magistrate at ACAT that we dealt with was very good. She was very good. We were incredibly frustrated by the representatives of the ACT VO who sat across the table from us, who were a little arrogant. It was not the actual ACAT process that was the problem; it was the adversarial nature of the people sitting across the table.

Communication is one issue. It might be nice to have a better complaint process. Maybe part of the rates notice should say, “Your property has been compared to sales of these properties.” It might be nice up front to have that information so that people do not need to try to get it under an FOI, which must be a waste of a lot of time and energy for government employees.

**MS CHEYNE:** We have also heard suggestions of having this intermediary mediation process before having to go to something like ACAT. Would that be something that you both support?

**Ms Cvetanoski:** I would see that as just another layer of red tape.

**Mr Lagos:** ACAT can come back and say, “We’ve hardly seen any rates objections; aren’t we doing a great job?” It does not get to that point because mum and dad investors cannot afford it or just do not have the energy. They just cop it sweet.

**MS CHEYNE:** You could think, “I’m going to pay \$100,000 and I still could end up having to pay the original amount,” so that you are paying double, maybe.

**Mr Lagos:** Or there is a little bit of a concession but they will then just put you on the blacklist and say, “We’ll remember these guys. They gave us a hard time. We’ll come back and get them.” We are dealing with a monopolistic—

**Ms Cvetanoski:** I do not know that that happens.

**Mr Lagos:** Possibly; I do not know. It is speculation.

**Ms Cvetanoski:** It feels like it does.

**Mr Lagos:** It feels like it does. We are businesspeople. If we need more revenue, we cannot just crank it up. The government have a monopoly on this. They control the land supply and they control the revenue source. They can just crank it up willy-nilly and we have to sit back and take it. Well, we are not.

**Ms Cvetanoski:** I think there will be a perfect storm in the ACT. We have already seen areas like Fyshwick, which have an extremely high vacancy rate at the moment for tenants. Anecdotally, I have heard of a lot of businesses that have moved across the border to Queanbeyan because costs are less over there. We are lucky that our centre is in a relatively desirable position and is fully tenanted, but I do not see that that will be the case going forward if property owners are forced out of the market, if they are forced to liquidate assets because they simply cannot afford to pay the outgoings, and in particular the rates bills associated with those assets.

If those properties are vacant then businesses have nowhere to be run because the cost of renting that property will be too high. If businesses cannot be run, people will not have jobs. If people do not have jobs, there is not going to be tax revenue. There will be a great big cascade effect which starts at the top.

**MS LAWDER:** Just very quickly to start off, how did you hear about the inquiry?

**Mr Lagos:** Through Guy Randell. I have known Guy for a number of years and, purely by chance—I was speaking to him about our issue—he said that he was presenting at the parliamentary inquiry. I said, “I would like to come along and listen. I need to express my concerns as a person affected by this.” That was just purely by chance. And I am grateful that I have had the opportunity to present and express my concerns.

**MS LAWDER:** Did you say nine units and nine owners?

**Mr Lagos:** Yes.

**MS LAWDER:** How would you, in general terms, categorise those owners? Are they small business owners, are they big investors, are they mum and dad investors?

**Mr Lagos:** They are individual investors.

**Ms Cvetanoski:** I am a mum and dad investor.

**Mr Lagos:** I am a mum and dad investor. That is my wife over there. We have owned that asset for a while. We know all the owners there. They are individuals. There is no corporate entity. This is not Westpac. They can just cop it.

**MS LAWDER:** You may speak for yourself and the others if you know their views. Are you looking for capital gains? Are you looking for income in your retirement? What is your motivation?

**Mr Lagos:** For me it is income; self-funded retirees. And this is how investors and retirees think. We pay our taxes. We do not want to rely on any government services, any pensions or anything. We use this. This is our superannuation fund.

**Ms Cvetanoski:** That is correct, absolutely correct; an income stream, a cash flow. My husband just turned 60. I have turned 56. We are getting towards the stage of our lives now where careers are winding down and we need to know that we will have the cash flow to support ourselves going forward. And every rates bill that comes out has just eaten away at that. It has put an incredible squeeze on our cash flow, on our personal cash flow, to the point where we are considering having to get rid of this property because we are better off putting whatever money we can get in a different form, like superannuation or something like that.

**MS CODY:** Do you have businesses as well as your commercial properties or are you just—

**Ms Cvetanoski:** No.

**Mr Lagos:** I am an investor.

**Ms Cvetanoski:** My husband and I used to be business owners, which we have now got out of. We do not have the business anymore but we just have the properties to back us up. So no.

**Mr Lagos:** I used to be a business owner in IT servicing government here. I am an investor. I invest in Canberra's economy through the film investments and also the Capital Angels and Canberra Innovation Network. I am a big supporter of the Canberra region. But now I am just a passive investor. I hope to still be a passive investor.

**MS CODY:** Ms Cvetanoski, did you say that you have other units, properties, commercial buildings?

**Ms Cvetanoski:** We have one residential investment. Over our 30 years of marriage we have done one commercial and one residential.

**MS CODY:** It is just so that we can get an understanding of the types of investors. It is really interesting listening to the information and I—

**THE CHAIR:** It is not Westfield, you know.

**Ms Cvetanoski:** It is not Westfield. That is exactly right.

**MS CODY:** Yes, absolutely. That is fine.

**Mr Lagos:** No, we are not Westfield.

**MS CODY:** Mr Lagos, I know you have just answered the question. That is fine. Do you have other investment properties in other jurisdictions?

**Mr Lagos:** No.

**MS CODY:** No other, commercial or other ones?

**Mr Lagos:** No. I was looking at one stage at buying some more investments in Canberra. I have decided against that because of all that is happening here. I am looking outside Canberra now. I am looking at New South Wales, because of the uncertainty as an investor. All I am seeing is the cost base go up and tenants are wanting to mitigate their risks. Sophisticated tenants want gross leases. They say “You handle the outgoings. We will just pay this much and a percentage of sales or some sort of CPI-based increase.”

**Ms Cvetanoski:** And you can push back to a certain extent. You can say, “Okay, you want a gross lease; then the rent might have to be a little bit more,” but you cannot add on all the outgoings to your rent. You are not going to find a tenant.

**Mr Lagos:** Dan Murphy’s work on a particular formula of X per cent of sales is what they can afford in rent, because that is what their formula is. They work on slim margins. Liquor sales is just one of those things; it is just not a big margin business. And they say, “This is all we can afford to pay. If you want us as a tenant we will pay this. We are happy to give you a long-term gross lease,” which is attractive for an investor, but then that gets eroded very quickly by cost increases. And that is what we are experiencing now.

**Ms Cvetanoski:** And the uncertainty lies in the years going forward. It is all very well to look at a possible investment this year and say, “Okay, that’s what the outgoings are.” But who knows where they are going to go. The particular rates on my property went from six to 40,000 in three years. Where is that going to end?

**MS CODY:** I remember the market place opening. I do frequent there. But was it in 2005, did you say, that you opened?

**Mr Lagos:** No. The centre has been around—

**Ms Cvetanoski:** No, more than that—2000.

**Mr Lagos:** Early 2000s, I think it was, yes.

**Ms Cvetanoski:** 2002, I think.

**MS CODY:** And have you both been there since the beginning?

**Ms Cvetanoski:** Yes, we have owned that property for at least 15 years; 15, 16 years.

**Mr Lagos:** Yes. We have owned that building how long? Probably, what, 15 years? Something like that. And our rates have gone up. Believe me, they have gone up. But they have generally—

**Ms Cvetanoski:** Incrementally.

**Mr Lagos:** Incrementally. They have generally been in line with CPI, four per cent.

**Ms Cvetanoski:** And you cannot argue with that. We do not argue with that.

**Mr Lagos:** And no-one is arguing with that. We are saying—

**Ms Cvetanoski:** When they go up 300 per cent, that was what caused me to—thank goodness I was sitting down—think, “My God, how does this value of this property, this chunk of land in Phillip, go from \$4 million to \$13 million in one year?”

**Mr Lagos:** If you look at the zoning of that—I think it is a CZ3 and Guy Randell explained this quite clearly—it is zoned for amenities, low-cost amenities. That is its particular zoning. If the government wants to zone it residential or something else, which long term maybe it will be—there are a lot of small businesses there that provide services, valuable services—where are they going to go?

Phillip is what it is. I do not think it will turn into a Braddon. Maybe that is the government’s long-term strategy, to turn it into Braddon, where there are just restaurants and apartments. But it is a long time away before that could happen, if it does happen at all.

**MS CODY:** I may have missed this bit, but you were talking about ACAT?

**Mr Lagos:** Yes.

**MS CODY:** Did you say you were going back to ACAT with the decision?

**Mr Lagos:** Yes, we are going back now. We are objecting—

**THE CHAIR:** Because of the lease variation?

**Mr Lagos:** Yes, the lease variation.

**Ms Cvetanoski:** Yes. We varied the lease in an effort to bring down the value of the land because we removed that highest and best use of “car yard” from our crown lease.

**Mr Lagos:** And GFA.

**Ms Cvetanoski:** And changed the GFA.

**Mr Lagos:** We got an offer of a five per cent reduction from the ACT valuation office. I cannot remember the exact numbers, but I think it went down to \$10½ million or something like that. Our valuer has provided a figure of \$8 million, I think.

**Ms Cvetanoski:** Yes, seven or eight.

**Mr Lagos:** Seven or eight. I cannot remember what it was. So there is a big gap. How do we bridge that gap? We have no choice but to go through an ACAT mediation process.

Also, adding to this, I know that there are a lot of rumours out there of class action. You have probably heard that. That is quite sad when the electorate are banding together and everyone has a similar story and says, “Look, we have had enough. We are going to pool our resources.” People are at wits’ end. They are suffering. This is not people who are just crying poor; it is real and it is happening now.

**Ms Cvetanoski:** The fact that we are sitting here today is indicative of the fact that we are in a position where we have decided that we have to do something. We cannot just sit and do nothing and blindly pay bills.

**Mr Lagos:** These increases are forever. That is it. It is not just a one-off where you say, “I’ll wear it. All right. That was a bad year.”

**Ms Cvetanoski:** It will go increase upon increase upon increase upon increase.

**THE CHAIR:** They compound.

**Mr Lagos:** Yes.

**Ms Cvetanoski:** Yes, indeed.

**THE CHAIR:** Are there any other questions?

**Mr Lagos:** I have a question for the committee. How do you propose to highlight the inadequacies in the current government’s policy, the inadequacies I see as a citizen of this great city? How do you propose to fix this? Can you fix it?

**MS CHEYNE:** No pre-empting, Mrs Dunne.

**THE CHAIR:** What the committee does is make recommendations to the government, to the Assembly, as a result of the evidence that we have heard. Without pre-empting discussion—which we have not had, because we are in the process of hearing evidence—I can say that we are hearing very consistent evidence and very consistent views in particular areas.



**MS CHEYNE:** Themes.

**THE CHAIR:** Themes. Those themes will be picked up and explored in the report.

**Mr Lagos:** What is the timing of this report?

**THE CHAIR:** We have to report by the last sitting day in April, which is 4 April.

**Mr Lagos:** That is 4 April of this year?

**THE CHAIR:** Yes. We are on a very tight time frame.

**Mr Lagos:** I am assuming that that report will be public? It will be made public?

**THE CHAIR:** Yes.

**MS CODY:** Once it is tabled in the Assembly.

**THE CHAIR:** Once it is tabled it is automatically published.

**Mr Lagos:** And the government will then review it and debate it, and I assume the opposition will debate it.

**MS CHEYNE:** The government have three months in which to respond, and they must make comment on each of the recommendations.

**Mr Lagos:** So you will put forward recommendations. With all due respect, will this be a toothless tiger or will this be a tiger that is going to bite and actually make some changes?

**THE CHAIR:** To some extent, that is really in the hands of the government. We advise the Assembly, but we are not the policymakers; we are collecting information. By way of indication, you might like to look at some of the stuff we have done before. For instance, we have done a recent inquiry into residential unit plans and the rates impact there. We made a series of recommendations to which the government has responded.

**Ms Cvetanoski:** What was their response?

**THE CHAIR:** It is available online. In my capacity as the chair of the committee, I am not here to make commentary on the government.

**Mr Lagos:** I appreciate that, yes.

**Ms Cvetanoski:** Of course not.

**THE CHAIR:** So I will direct you to that. Dr Lloyd can show you how to find it. You can look at the sorts of recommendations that came up and the government responses.

**Ms Cvetanoski:** We were trying to ascertain the chances of the government—

**MS CHEYNE:** We cannot answer that.

**THE CHAIR:** No, we cannot answer that.

**Ms Cvetanoski:** Of course not.

**Mr Lagos:** I appreciate that. It is many factors.

**THE CHAIR:** Part of me said, “You want to ask me a question. Actually we are here to ask you questions.” If a minister did that, I would say, “You are here to answer my questions,” but as a member of the public learning the process, I am very happy, but there is only so much that a bipartisan committee can say about what the government might do.

**Mr Lagos:** Yes, thank you.

**THE CHAIR:** Thank you for your attendance here today. You will both receive a proof of transcript in two or three days. You should review that. If there is anything that you feel you need to clarify, you can do that through Dr Lloyd.

**Mr Lagos:** Yes.

**THE CHAIR:** I do not think there was anything that we asked you that you said you would get back to us on.

**Mr Lagos:** No.

**THE CHAIR:** I do not think there was.

**Mr Lagos:** I am happy to provide more detailed information if you want exact numbers.

**THE CHAIR:** If you wish to do that. And you had a statement?

**Mr Lagos:** That was mingled in with that. I can give you exact numbers and exact dates.

**THE CHAIR:** And we would be able to treat that as a submission?

**Mr Lagos:** Yes.

**THE CHAIR:** Okay.

**Ms Cvetanoski:** Thank you for allowing us to speak here today.

**THE CHAIR:** That is all right; that is what you pay us for.

**Short suspension.**

**CLEWS, MR CLAYTON**, private citizen

**THE CHAIR:** Welcome, Mr Clews. You are our final witness on the fourth day of hearings in relation to the Public Accounts Committee inquiry into commercial rates. I understand that you have been made aware of the privilege statement. Could you indicate for us that you have read and understood it?

**Mr Clews:** I have read it and I do understand it in full.

**THE CHAIR:** Thank you. Do you have an opening statement to make, or shall we just go to questions?

**Mr Clews:** My opening statement is just that I am presenting today to give a bit of a case study of my personal experiences in owning commercial property in the ACT and some of the difficulties we have had. The focus here is on rates. I can certainly be focused on that and maybe I can contribute in some way to assisting this whole process. For me, personally, my only way out of my predicament is through the pathways that I have tried to establish and am establishing. They have proven to be very difficult through the processes that are in place.

**THE CHAIR:** You bring an interesting perspective because you are both a landlord and a tenant.

**Mr Clews:** Correct. I have one commercial property which I own as a landlord. I have owned that for 12 years but it has been vacant for about eight years. I have also owned another property as an owner-occupier for the same length of time, where I have operated a small business. The other component where I can come in is that I am also a tenant to a separate landlord. So I have three components in the commercial property sector. It is just a small office space, not a big commercial one.

**THE CHAIR:** You are a podiatrist. Do you employ other people?

**Mr Clews:** I am a podiatrist. I am also a podiatric surgeon. I also admit people to hospital and put them in for surgery. I have two practices. One I am an owner-occupier of in Greenway. That is my property, obviously. For the other one I am a tenant in Weston. The other property, which is mainly where my focus is, is my un-tenanted property, which is also in Greenway. In effect I am paying rates as an owner-occupier and as an investor, and you could argue that I am making up for the increase in rates as a tenant.

**THE CHAIR:** How long have you owned the properties in Greenway for?

**Mr Clews:** Getting on for 12 years.

**THE CHAIR:** So you would have paid stamp duty on both of those?

**Mr Clews:** I believe so. That was in place then, correct.

**THE CHAIR:** On the property that you occupy, were you paying property tax when

there was a separate property tax?

**Mr Clews:** I am uncertain. I brought the properties in about July 2007. I do not recall.

**THE CHAIR:** Okay.

**Mr Clews:** Do you want me to speak a bit freely about my concerns?

**THE CHAIR:** Yes, sure. You touched on the problems you had with the untenanted—

**Mr Clews:** Yes.

**THE CHAIR:** Can you talk us through that?

**Mr Clews:** In terms of being an owner-occupier, I am fairly satisfied, because I am generating revenue. I am able to offset a lot of expenses through revenue production. However, I agree with the previous people that you somehow have to make that up by increasing your fees for the services to the public. And I do not think that is always proportional. The increase in rates does not necessarily proportion itself through to what you charge people, because market forces determine what people are prepared to pay for a service. It is not to do with rates.

My concern has been that I have had this property and for about eight years it has been vacant. My holding costs for everything are about \$42,000 a year, so the accumulated costs for me have been absolutely enormous. So about two years ago I decided to sell my property, to put it on the market. I was very unfortunate, and I have been pretty unfortunate through this whole process. I had interest from two dentists, ironically enough, and in fact it is a great location for a dentist, but in order to achieve a sale I needed a lease variation, a change in the lease. In order to get that, I needed unopposed resolution from the body corporate.

This is the thing with rates. I have written a comment that rates may be the straw that broke the camel's back. As a small property investor I pay rates and body corporate. For my two properties I pay about \$16,000 a year or possibly more, maybe \$20,000 for rates, and a similar amount for body corporate. Then there are the interest charges. Every time you get a valuation done you are looking at \$1,500 to \$1,800. The application for me to go through the town planner to achieve my lease variation was \$5,500. I got to a point where I then had to seek unopposed resolution. My complex has 24 units in it. I believe there are about 12 or 13 owners. Of course it takes only one to say no. In fact I had two opponents initially.

I was looking at a sale of that property to a dentist about two years ago. It is now two years since that point and I have not achieved a sale. I have gone through the ACAT process. I tried to have meetings and so forth to understand why they opposed. My opponents asked for some information from me, which I provided. That information to address their concerns was provided by a town planner, Purdon Planning, and also through a valuer. I felt that once I provided that information it would address their concerns. But the issue was that they still said no without reason. It has then gone through the ACAT process. As was said by the two previous

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witnesses, the ACAT process is very expensive. So I have had my holding costs, which, as I have said, have amounted to \$42,000 a year, plus I needed to pay valuation fees, I had the town planning fee and then, to get through the ACAT process, I have employed the services of a legal firm. Should I win my case, which is due to be announced, hopefully, in the next couple of weeks, my legal fees will amount to about \$42,000 to \$45,000.

So this unit which initially cost me, I thought, \$490,000, it is possible it has cost me \$530,000. The outlay of loss is enormous compared to the cost of purchasing the unit. It has been an absolute, unmitigated disaster. The concern I have is that, should I then get the unopposed resolution overturned by ACAT, it then goes through to APLA. As part of the application I will pay another \$2,800 for them to look at it, and it can then go to a third-party review after that. In other words, the same people who expressed concern can express concern again.

The key with this is that I have had two dentists interested in my unit, without advertising specifically for them, and I have lost both of them. Even if I go through the APLA process and yes, I can change my lease variation, I do not have anyone who wants to buy it, because they have disappeared. It is possible that I could wait one, two, three, four years. I do not know. I am 50 now and I am thinking I might be lucky enough to sell my unit before I retire, because the time frames on this are so enormous. The irony of this is that my unit is about 100 metres from the Tuggeranong town centre. I have not bought in—

**THE CHAIR:** I am stalking you on Google Maps.

**Mr Clews:** I have not purchased in Timbuktu, yet I cannot find a tenant. Thank you for letting me talk about this, because, unfortunately, the ACAT process is more about process and is very, as you know, legally oriented and so forth, so it is nice to just talk to the committee regarding this. My concerns relate to paying rates for a unit that has remained empty and could remain empty indefinitely. The last two witnesses were talking about potential sales, and I was going to say to them, “Good luck. Put it on the market and see if you get a buyer.”

The other thing in terms of costs is that there are holding costs. There are costs involved in just owning commercial property, whether you pay lawyers, town planners, valuers, real estate agents and so forth. My unit is on the market and has been for two years at \$415,000. That is \$75,000 to \$100,000 less than the purchase price back in 2007.

I am a small business owner and I believe I am very successful as a small business owner. I have employed people throughout my entire career. I am 50 now. I worked in the government only once, when I was very young, for about three months, and then for about three months again in the ACT. The rest of the time I have employed people, dozens of people. Yet at the moment I feel very upset with my predicament. One of my concerns is that I think that I had the right to be able to sell my property without unnecessary red tape. That is the concern, I think, with ACT property law at the moment. It is riddled with red tape.

**THE CHAIR:** You run a podiatry practice from this building?

**Mr Clews:** From this building; correct.

**THE CHAIR:** The same building, but to have a dentist in there would require a change to the lease purpose clause. How is that the case?

**Mr Clews:** Thank you for asking the question. It is because the building is strata titled and each unit has its own purpose clause, if you like. It just happened to be that unit 10 does not have a health clause attached to it, and a dentist falls under that heading. I went through a town planner because I wanted to not have any things catch me out, so to speak. I had a dentist who wanted to buy it, so I thought, "I'm going to go through due process and a thorough process." I actually applied because I needed a lease variation, but he came back to me and said, "You now need an unopposed resolution," and that is where it all came undone.

**THE CHAIR:** How many tenants are there in this building?

**Mr Clews:** There are 24 units. Maybe there are 12 owners. Some own multiple units; others are individuals. I am not sure exactly. It could be a bit less. What I am trying to say is that commercial rates in themselves people can almost cope with, up to a point, but that is not their only cost. It is important for anyone looking at a commercial property to realise that there are multiple costs in owning a property, and it is the accumulated costs that can be potentially crippling for people.

The only reason I have been able to maintain my property is through my own business interest but as an investment it has been an absolute, unmitigated disaster. I will never invest in commercial property of that type in the ACT again, and I will also tell people not to bother, because there is too much red tape. It is too difficult; it is too complicated.

In the past two years I have been developing knowledge through my own reading and understanding, and building on my knowledge set—but not through my own ways. I have been talking to valuers and town planners, and going through the ACAT process and understanding how they do things. In other words I have been tapping into expert knowledge, my own reading and so forth.

I do feel aggrieved because I feel that, as a small business owner, I have been very dutiful in paying my rates. I am pretty much up-to-date; 8½ years of having no tenant, and I am pretty much up-to-date. But the body corporate is the same. It is the same amount as rates; then you have your interest. To even go through the application process costs thousands of dollars, and to go through to ACAT is almost prohibitive because it costs, say, \$500 an hour for legal time.

All I get out of it, if I win, is that I can change my lease. But I do not have a buyer. That was lost two years ago. So it does not change my life. With my luck, I will not get a person in health care; I will get someone else, so I will not need that particular lease variation, anyway.

The total costs are prohibitive. That is something to think about. As a small business owner, I have grievances; as a small-time investor, I have grievances about investing

in the ACT. I look at myself now and think I was a nut to invest in commercial property. But I was not, really, because there are a few things. The Unit Titles (Management) Act came in in 2011. It postdated the purchase of my property by four years. What has happened is that I have fallen between the cracks a little bit in this whole process.

**THE CHAIR:** I think you always needed an unopposed—

**Mr Clews:** Sorry?

**MS CHEYNE:** I think there were a lot of provisions in the unit titles—

**Mr Clews:** With the unopposed resolution, if I had the opportunity, I would tell anybody that in the circumstances of my request for a lease variation it is a silly law, because people can say no for the sake of saying no, and the maximum penalty the person has for saying no is \$1,000. That is eight days of my costs. In eight days I have covered their potential loss, in terms of what I have to pay out.

Unfortunately, I wish I could say that the process was transparent, clear and so on, but it was not. With the process of achieving where I got to, that is why I went to ACAT. I will give you an example. The strata manager represented my opponents at ACAT. He is the strata manager. He went in and represented them. That is not his role. His role is to be an administrator. He should have been bipartisan. I should have been able to ask him for advice and so forth. So he overstepped the mark, and that was not really covered properly through the ACAT process.

With respect to having an unopposed resolution, when you get, in my view, beyond a certain number of people—maybe half a dozen—there will always be someone who says no, and the reasons for saying no are up to their imagination, completely and utterly. It went to ACAT, and it is going through a process, as you know, of the issue of unreasonableness; whether they were unreasonable in that.

If we look at practical solutions, my view is that maybe it goes to a majority. Maybe things are taken case by case. I believe that rules are put in place for the common good. I honestly believe that, and I am a fair person. I do not want to affect someone's property rights at all, but this was nothing to do with me encroaching upon someone's property or whatever. The reasons given were open to their imagination.

I am trying to say that I have been caught, in a way, between a rock and a hard place. How do you end the pain, so to speak? I have kept up-to-date with my rates and they have kept increasing. I have been a small-time business owner providing employment, and revenue through my rates to the ACT government; yet I do not think I have got anything back from the ACT—nothing.

My way of ending this story is to divest my property at a loss and, because of the unnecessary red tape, I cannot even do that. I am looking at it and asking: when is this going to happen?

When I bought my two properties, I believe the vacancy rate—because I checked with a real estate agent—was around two per cent. It could be maybe five per cent or less,

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but I believe it was about two per cent. I believe it is in double figures now. I bought my property in Greenway, my two properties, and what has happened is that Greenway has continued to develop. There is more commercial property there now than there has ever been, and it is empty. But I continue to pay my rates.

This is why I am upset with the ACT government. I think that there is a lot of truth in the previous witnesses' statement. I am one of the people holding the fort. I am putting revenue into this system to enable the development of the city, whether that be light rail or whatever, but there is no relief. Maybe there could be some rulings whereby, if you are a small property investor—maybe have a monetary figure—you could even be provided with a reduction in your rates. People are probably very cynical about that, because once you lock rates in, the view is that they are not going to go down; they are only going to go up.

This is the thing I would say to any government, to any people in parliament: if you give someone a little bit, they will be very grateful for that. There could be a discount on rates or a period where you might do incremental things, or if you are vacant for two years, five years or 10 years, this could be done. I do know that there is enough flexibility in the system to look at things in a flexible way.

I am happy to answer any question about the ACAT process, about anything, because I feel that I have gone through a full cycle in this. I have almost been prepared to go to see Mick Gentleman. One of the things I will say in my observations is that I honestly believe that there is a disconnect between town planning and law around this in my area. I cannot say in regard to all property. There is a disconnect, and I use that word carefully.

What I have discovered in talking to all the different people is that the only common factor connecting all of these people is the owner: me. It means that I might talk to my lawyer, for example. I provided him with a lot of information. I have assisted and so forth, and he has with me. But he is focusing on his bill. It is the same with the valuer, the same with the town planner, the same with the body corporate, and the same with the strata manager. The only person connecting this, and the person who ultimately has to bear the consequences, which are financial, is the owner.

Even with the town planner, he said to me when they did lease variations 10 years ago—he was a witness at this hearing—that they would be kind of ad hoc. It was not a mathematical equation; it was very ad hoc. The ACT has developed enormously in the past 10 or so years, and it probably has a 20-year plan in development. It has changed a lot, certainly even since I bought my property. What he was really saying is that I have been bound by that lease variation, the laws attached to it, but they changed it. He said they ended up changing the way they administer or give out leases and how they do it. They took up maybe a better system.

I honestly believe that I did fall between the cracks, but I am hoping today maybe to just be an example that might be able to give something back; that is all.

**THE CHAIR:** With the properties that you own in Greenway, in addition to all the trouble that you have outlined, have you seen an increase in the rates over the period? You said you are paying about \$16,000 in rates for those two properties now.



**Mr Clews:** The answer to that is I know what they are now. From the commencement date, I cannot give you the percentage incremental increase. I think they have certainly changed in the past few years by quite a lot. It might be more than that. I have not put to memory those figures because I am just trying to put it into context. As I said, the rates are one component over an overall equation, and that is what I am really trying to say. The rates, for me, are a government tax, and people should pay their taxes. All I am saying is that I have been diligent in doing that, and no softening approach has been taken. It is a very hardline approach, and that is where the government has to work these things out.

**MS CHEYNE:** Rates notices have been a theme today.

**Mr Clews:** What I think of them when I get them?

**MS CHEYNE:** There has been a lot of commentary about the format that it is in, and the lack of information in it. Has that had any impact on you?

**Mr Clews:** I view my rates notices with scorn, but it is not because of the way the rates notices have been written. I do read about the rates being used to provide government services. I chuckle a little bit because I think, “Too right, my money is paying for those municipal services and other things.” But it is all in context. People should pay their taxes. We have hospitals to run, policing services and everything else. I feel that I have been caught between a rock and a hard place, and as a citizen I feel I have been taken advantage of.

Canberra has changed very rapidly. I have done some recent reading on it, and there is definitely a time frame whereby things are happening very fast. I think it is part of that. As the previous witnesses indicated, some things are being overrun a little bit. That is what we have to work out.

I wish to be impartial in my statements between Labor, Liberal, Greens and so forth. I looked up Wikipedia because Labor is currently in power, and it said, in Wikipedia, under “ACT Labor government”:

The current ACT Labor platforms notes that the objective of their party is social justice and the pursuit of a fair, just and equitable society.

Not in my experience, not going through the ACAT process, and not dealing with a strata manager that has interfered with due process, and having a system where my opponents have everything in their favour; they are armed with a battleship and I am armed with a rowing boat. That is what the law gave them.

**MS CHEYNE:** My question was about the rates notice.

**Mr Clews:** With the rates notice, I do not worry about it. All I am looking at is the amount that is owed, and I try to keep as up-to-date with it as I can. I do not find it an offensive bit of information or anything.

**MS CHEYNE:** Thank you; that is helpful.

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**THE CHAIR:** Thank you, Mr Clews. The secretary of the committee will send you a copy of the proof transcript for you to comment on. If there is anything that you feel you need to clarify, you can get back to us via the committee secretary. The proof transcript will come out in two or three days. The hearing is now adjourned.

**The committee adjourned at 5.09 pm.**