Submission Cover Sheet

Inquiry into Home Buyer Concession Scheme Administration

Submission number: 006

Submitter: Nick W

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1)The effectiveness and appropriateness of the self-assessment process;

We believe self-assessment is appropriate but not effective in its current form.

In our situation, we handed complete control over to our solicitors, whom we engaged to mitigate the risk of incorrectly completing paperwork. Instead, they filled out the paperwork incorrectly, without our review.

A submission mechanism should be in place where home buyers are required to review the details before the paperwork is submitted. If this occurred, we would have looked at the questions being posed and would have undoubtably looked into whether we were eligible for the Home Buyer Concession Scheme.

Immediately upon being notified of the conditions of the Home Buyer Concession Scheme – 2 years post home purchase – I recognised we were not eligible and contacted ACT Revenue to arrange payment of the stamp duty amount. During a phone discussion with the Delegate of the Commissioner, [redacted], I explained our situation and circumstances. The Delegate of the Commissioner acknowledged that based on the information provided, we had likely done nothing wrong. While it was acknowledged we likely did nothing wrong, we were still forced to pay $26,785.17 in fees beyond the stamp duty amount.

2) The fairness, transparency and financial impacts of reassessments.

No fairness or flexibility in the legislation, the admin staff, or the decision maker.

"Reassessment" is not a reasonable reflection of what actually occurred. In my view, ACT Govt undertook no initial assessment, and so there was no "reassessment". I was advised the initial assessment was when the ACT Govt officer sees whether the stamp duty exemption box is ticked on the forms submitted. This is not an assessment – this is a superficial procedural review confirming which box is ticked.

If a reassessment is scheduled—such as in my case, two years after the home was purchased—why doesn't the ACT Govt conduct a proper assessment when the paperwork is initially submitted? This would allow ineligible applicants to be identified upfront, preventing financial hardship and resolving issues before they escalate.

The financial impacts for us were and are substantial and damaging. We were directed to pay $86,135 within 21 days or face interest accruing at 11.90% and if payment was not received then a statutory charge will be lodged on the title of the property.

At the time, 11.90% was a rate closer to what you would find from an unreputable loan shark than from the ACT Govt. When the amount for the statutory charge was not detailed, we were left in a position where we had no understanding of the quantum of cost. These factors left us feeling we had no choice but to borrow money from people to payoff ACT Govt – a loan that we are still paying off more than 12 months later.

While we certainly had no issues paying the stamp duty, we believe that the penalty taxes and interest charges imposed on us seem to be more oriented towards revenue raising rather than deterring non-compliance. $26,785.17 or ~45% more than the original stamp duty amount, two (2) years later, was excessive, especially when it was acknowledged this was unintentional.

Being asked to pay $86,135 within 3 weeks, with no payment plans available is unreasonable, even for those with high paying jobs.

While we understand that reassessment can be made within 5 years of the initial assessment, we find it unfair to be 'reassessed' 2 years after the initial paperwork was filed and for interest charges to be applied for the duration of the period prior to the reassessment. This left us in a situation where we were subject to interest charges of $11,947.67 – an interest amount far in excess of the market rate. Again, the term 'reassessment' appears disingenuous when it is not clear that there was an initial assessment – if there was, this situation would not have occurred, and the stamp duty would have been paid immediately.

In the 2 years since the house purchase, our financial circumstances and ability to address these charges significantly changed. Waiting for such a lengthy period before imposing these charges, disproportionately affects our current financial standing and our future financial planning. If it had taken the ACT Govt several more years to notify us of our non-compliance, it would very likely place us in financial peril and lead to us selling our home as a result.

The financial impact of these charges has shaped the way we see ACT Govt and the ACT as a whole. We committed to never buy another home in the ACT and long term we would be happier moving out of the Territory. The financial impacts have hurt our personal relationships with those we have borrowed and added significant emotional and financial stress to our young family.

3) The appropriateness and proportionality of penalties and interest charges;

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4) The scope and exercise of administrative discretion by the Commissioner for ACT Revenue, the Treasurer and Minister for Finance;

None of the decision makers appeared to show discretion.

I made attempts to meet with the responsible Minister and a host of other Labor Ministers but was rebuffed as the case was being considered by the ACT Govt.

I was able to meet with [redacted], who advised he had no power, and it was simply at the discretion of the Commissioner.

5) The adequacy of the objections and appeals process, including limitations on external review;

The objections process is absolutely pointless and a waste of time for us and the Government. While I objected, I also filed an FOI request to understand the extent of the problem and my chances of success. I was advised that in the period I sought information for (FY2022/23 through to the year to date) 73 cases had been formally contested with one being "successful or partially successful". With a success or partial success rate of less than 1.5%, it is clear that there is no point appealing. As a result, I would suggest in its current form it shouldn't even be in place. Instead direct the resources to confirming whether people are eligible for the concession in the first place.

The process was also a black box, with me providing details as requested but having no way of tracking where things were up to.

Some consideration should be given to track record and standing. We are long-time residents of the ACT and have always paid our rates on time and in full, as we do with all our debts. We have had no individual or joint taxation issues previously and believe all reasonable care was taken by us to comply with ACT Government tax obligations.

6) Potential legislative or policy reforms to improve the application and reassessment processes;

Make sure buyers are required to review the paperwork submitted by solicitors. We cannot be told we have ultimate responsibility if we have not seen it and have, in my view, rightly trusted the person with expertise. While we could sue the solicitor for negligence, it would cost us substantially more, when we don't have the money and we have no certainty of the outcome.

The penalty charges are excessive. If we were found to have done nothing knowingly wrong, then I don't understand why we should be paying charges anywhere near the $14,837.50 charged.

The interest charges provide incentive for the ACT Govt to "reassess" applications as close to the 5-year maximum as possible to maximise revenue. While this was likely not the intent, this is the kind of thing that breeds mistrust in Government and led to us having to pay $11,947.67 in interest charges.

There is little flexibility in the legislation for the Delegate or the responsible Minister to step in and limit the impact.

While I am all for deterrence, the legislation appears to have been put together with little thought for the person being impacted - in our case with no ill intent.

7) The reassessment process, including timeframes, and the use of Business Intelligence; and 8) any other relevant matter.

Every person I dealt with at ACT Govt, particularly [redacted], [redacted] was difficult.

The timeframes were extraordinarily slow unless it related to recovering the owed money. In which case the ACT Govt was ringing, texting and sending menacing emails.