*Estimates 2023 - QTON No. 158

LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON ESTIMATES 2023-2024
Mr Mark Parton MLA (Chair), Ms Jo Clay MLA (Deputy Chair),
Mr Michael Pettersson MLA

ANSWER TO QUESTION TAKEN ON NOTICE DURING PUBLIC HEARINGS

Asked by Mr Parton on 26 July 2023: Mr Barr took on notice the following question(s):

[Ref: Uncorrected Hansard Transcript 26 July 2023 [PAGE 39]]

In relation to:

THE CHAIR: Can I ask, regarding LVC, what happens if LVC is not paid on time? Are there penalties levelled, and are there any large amounts of LVC payable that the ACT government is struggling to collect?

Mr Barr: Sure. So, as I indicated in response to an earlier question, it is often tied to the issuance of certificate of occupancy, so the developer would not be issued with a certificate of occupancy and would then not be able to have anyone move in and effectively settle with the new private owners until the LVC is pad.

So, that is a mechanism that significantly reduces the risk of LVC not being paid.

THE CHAIR: It is a penalty but not a financial penalty. I mean ultimately it would end up being a financial penalty.

Mr Barr: Yes, Certainly they would not be able to realise any of the revenue associated with selling the additional residences that they would have created through the lease variation.

THE CHAIR: So, are there any, irrespective of that,—

Mr Barr: I will take that on notice as to whether there are. The Revenue Commission is unable to be here for personal reasons.

THE CHAIR: Mr Miners, I note that you are nodding.

Mr Miners: Sorry. Stephen Miners, Deputy Under Treasurer. No, I am nodding. We need to take that on notice. Unfortunately the Revenue Commissioner cannot be here today. I can say this, the certificate of occupancy is not granted if any of those outstanding LVC payments have not been made. But unfortunately it is question of the Revenue Commissioner who is unable to be here today.

THE CHAIR: And, you know, this is probably something you will have to take on notice too, is how much has been spent in the last five years on LVC disputes? And I am talking about lawyers and public servants. I am talking about both lawyers and public servants.

Mr Barr: I would have to take that on notice

Treasurer: The answer to the Member's question is as follows: –

Where a lease variation charge (LVC) is payable, a lease cannot be varied unless the LVC is either paid in full or the leaseholder enters into a deferral arrangement with the Commissioner for ACT Revenue.

Should an LVC deferral application be approved, a statutory charge is placed on the property. This ensures full payment of the LVC prior to a lessee selling the property or finalising the development. If an LVC deferral application is approved, the lessee must pay the LVC by the earlier of:

- The date a certificate of occupancy and use is issued for part, or all of, the building work for the development to which the LVC relates, or
- The end of a four-year period commencing from the date of the lease variation, or
- The settlement date should the property or part thereof be sold.

Until a LVC is paid, the statutory charge over the property will not be lifted. This hinders the lessee from selling the property or finalising the development unless the LVC has been paid in full, to ensure payment to the Territory.

Interest is charged on deferral arrangements from the date of execution of the lease variation until payment is made in full. The current interest rate is 5.7 per cent per annum.

Penalty tax can be imposed under provisions contained in the *Taxation Administration Act 1999*. These provisions take effect should the lessee not pay the LVC on time, once one of the above trigger events have occurred, i.e. the lessee defaults on their payment obligations.

The ACT Revenue Office does not track the amount specifically spent on LVC disputes.

Approved for circulation to the Select Committee on Estimates 2023-2024

Signature: [signature] Date: 11.8.23

By the Treasurer, Mr Barr MLA