

# It's not your home -- it belongs to a developer now

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Have we learnt nothing from [The Castle](#)?

Work hard, save, and one day you can buy a little slice of the Australian dream. Obey the law, pay what you owe and it will be a home to call your own, to do with as you please, for as long as you like.

A person's home is their castle, tradition and English common law hold.

Unless you live in an apartment in NSW. In that case, your home may stay your castle only until a developer decides to force you out.

Sounds impossible, inconceivable, or just down right unfair? Not if the state government and the property industry get their way.

A fortnight ago, the Fair Trading Minister, Anthony Roberts, released a [discussion paper](#) that foreshadows an unprecedented shake-up in the laws governing -and protecting - strata title properties.

Like these kinds of government documents, it's long on lofty ideas in soothing language but short on detail and remarkably - but strategically - naive about consequences.

The paper outlines a growing problem with ageing apartment buildings and the need to reform the "restrictive" and "difficult" laws that require all owners to agree to terminate a strata scheme to permit redevelopment.

"Unless procedures are in place to deal with strata buildings as they age, the community will continue to bear the cost of unproductive developments," it says, noting that only one hold-out owner can spoil plans for everyone.

"When this happens the general community also misses out on the benefits of replacing a tired, run-down scheme with a modern building that can accommodate more people."

Sounds noble, right?

There are also plenty of buzz words such as "urban renewal", "energy efficient", "community living", "cutting red tape", "good governance", and the hope of creating a "simpler and fairer system" thrown in for good measure.

The paper goes on to provide a description of several termination procedures used in Britain, North America and Singapore which, of course, are presented without reference to any problems experienced or lessons learnt in those jurisdictions.

Without proposing any definitive system, the paper states the need for some kind of termination system that would allow a vote of 75-90 per cent of lot owners to sell or redevelop a building. Some kind of oversight mechanism is referred to vaguely.

The emphasis on dealing with the issue of ageing buildings is astute as it dovetails nicely with the preferred default "solution" of creating an easier way to push people out of their homes in favour of new developments. Is there no other way to deal with this?

It is, quite plainly, a solution in search of a problem.

And since the government and industry lobbyists have no interest in playing devil's advocate . . .

One of the most intrusive powers held by a democratic government, at least on property rights, is the power of compulsory acquisition (also known as eminent domain).

Permitting this legal change would, in effect, grant the same kind of power to developers, who could buy a substantial enough stake in a building - or just back enough lot owners - to acquire the authority to expel a law-abiding, taxpaying citizen from their own home.

In times of low rental yields and lacklustre capital growth, how attractive would it be for investors simply to band together to sell the building to a developer? What of the rights of tenants and owners who don't want to leave?

Moves to increase the density in our growing cities are laudable, although it's clear this proposal would be heavily weighted - if not clearly stated - in favour of the wealthy and powerful.

For example, those "unsightly" older apartment complexes that clutter up pricey suburbs with middle-class residents could be redeveloped into a smaller number of flash, premium "residences". They could even be torn down and turned into a new mansion.

The proposal is quite laughable considering the inherent revulsion of the property industry and politicians towards interfering in the operation of "the market".

Regulate the way price quotes are used? Compel the public disclosure of sale prices? No, those would be unnecessary interferences in the free market.

But force unit owners out of their home and compensate them according to a valuation rather than the competition of an open sale? Sure, that's fair.

(One wonders how fast these proposals would have been snuffed out if they had included provisions that allowed developers to force the sale of traditional homes to make way for unit developments. Say, for example, if a developer owned two homes on a block but wanted a third to build a larger apartment complex).

A few months ago, I attended a debate on the future of Australia's cities and whether the constant development of new housing estates on the fringes should or could continue.

"The Australian dream is dead," one participant stated flatly, arguing that the future was Parisian-style three- and six-storey walk-up apartment buildings.

Getting Australians to forgo the quarter-acre suburban block in favour of medium- and high-density living is a tough enough ask as it is.

A big part of that will be convincing them that an apartment can be their castle just like a traditional house.

"Reforming" the system so that cashed-up developers can, in effect, squeeze people out their apartments - their homes - is not just and fair.

Buying into an apartment block means becoming part of a community - a body corporate or owners corporation - that shares financial responsibility for the health of the complex. But the exercise of those powers stop at the edge of common property.

In other words, stay the hell out of our homes.

*Public consultation on the discussion paper, which also covers many other issues relating to strata title properties, closes on November 15. Have [your say](#).*

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