

FAX TRANSMISSION

**TO: Disability Discrimination Act Inquiry
Productivity Commission**

FROM: Brian O'Hart

RE: Parent of an intellectually disabled (36 yr old) daughter

SUBMISSION

Please find attached a 'brief resume' as presented to Senator Chris Ellison, Minister for Justice and Customs of the difficulties we have and are experiencing in caring for our 36-year old intellectually handicapped daughter.

Embodied in this resume and our experience is discrimination against the intellectually (legally) disabled and their parents or guardians.

On reading this resume the discrimination is obvious by State and Commonwealth Governments.

Why should the intellectually (legally) disabled pensioners and their guardians be victimised above conditions set for normal pensioners.

Thank you for your consideration.

Brian O'Hart
(Parent)

Issue for your consideration

BRIEF RESUME

[name withheld] Date of Birth [withheld] 1966

Medical Condition: Cerebral Palsy resulting in right sided spasticity,
Temporal Lobe epilepsy and intellectual impairment.

Allowances: Handicapped Childs Allowance – granted 1975
Disability Pension since [withheld] 1982
[withheld]

Parents: Brian O’Hart DOB [withheld] 1938 aged 64 years
[name withheld] DOB [withheld] 1941 aged 61
years

PROBLEM OUTLINED

- [name withheld] is legally disabled
- We purchased a duplex in 1988, in our names, at a cost of \$83,000 at 18%, for [name withheld] to live in independently. The address of this duplex is:
[withheld]
- To avoid [name withheld] being exploited or manipulated, Lawyers, Birman & Ride, recommended we leave the property to her in our will for ‘Life Estate’. This we did.
- [name withheld] currently shares the house with another female person also on a disability pension.
- The cost, so far to my wife and I for providing an independent home for [name withheld], is approximately \$198,000.

CONSEQUENCES OF THE ABOVE ACTION

As the property is not in a **TRUST** we are denied rebates or concessions on:

- Local Government (Council Rates) -\$1048
- Water Rates -\$ 772
- Land Tax -\$ 713

This is denied under Clause 29, 1c of the Rates and Rebates Deferment Act – 1992. I have made considerable representation to the Commissioners – State Revenue Department and to Mr E Ripper, MLA, Deputy Premier, for consideration and legislative changes, but to no avail.

Ms McHale, MLA, Disability Services, has expressed her empathy with the problem.

I have estimated the current cost of forming a **TRUST**, would be approximately \$29,000, as a result of the incurred Stamp Duty, legal fees and Capital Gains Tax.

I have requested for Stamp Duty on the property be waived if placed in a **TRUST**.

I will also be seeking the waiving of Capital Gains Tax from the Commonwealth.

MAJOR IMPACT ON AGE PENSION ELIGIBILITY

I am now approaching 65 years of age and with this property jointly in my wife and my name we hold an asset of approximately \$250,000. If I form a **TRUST** and transfer this property to [name withheld], under **Centrelink's Gifting Rules to a Trust**, this will deny me access to the Age Pension until I am at least 70 years of age.

CONCLUSION/OUTCOME

After 36 years of caring, nurturing and protecting our intellectually (legally disabled) daughter and endeavouring to remain independent and not be a burden on the State, the obvious conclusion that one reaches from the foregoing scenario is that parents in these circumstances, are rewarded by:

- not being awarded rebates/concessions on property in which their adult disabled child resides;
- being denied the AGE PENSION [part or full) because they have provided, at great expense, accommodation for their disabled child.

This is an **INJUSTICE** that must be addressed.

Parents: Brian and [name withheld] O'Hart
Address: [details withheld]
Phone/Fax: [details withheld]
Email: [details withheld]