



Barry Berih v State of Victoria & Ors Summary Statement

Who is Barry and what is Barry's case about?

1. Barry is a public housing tenant living in the Alfred St Tower. He has lived there for approximately 25 years. He is well-regarded by his neighbours in the Alfred St Tower and by his Eritrean community. Case: S ECI 2024 00280
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2. Barry has mild cerebral palsy and is cared for by his mother. He has all the medical support he needs close by. His mosque is nearby. His Eritrean community surrounds him, as do his friends and wider family. In shorter words, the Alfred St Tower is his 'home'.
3. In October 2023 he was told that the government has decided to demolish his home. He was not told about this beforehand, and he was not provided with the opportunity to tell the government how this would affect him, his home, and his community.

Barry is commencing a 'group proceeding' – what is a group proceeding, and what is his role?

4. A group proceeding (also known as a 'class action') is brought by a lead plaintiff on their own behalf and on behalf of others who have claims against a defendant that arise out of similar circumstances (known as 'group members')
5. Barry is the 'lead plaintiff' and is commencing this proceeding on behalf of the following 'group members' - all public housing tenants holding rental agreements that entitle them to occupy an apartment within one of the towers located at: 33 Alfred Street, North Melbourne; 120 Racecourse Road, Flemington; and 12 Holland Court, Flemington. According to the terms of the government's decision, the tenants in these three towers are to have their homes demolished first (with 41 other towers throughout Melbourne to be demolished at a later time).
6. The defendants to the proceeding are the State of Victoria, the Minister for Housing, and Homes Victoria (Barry's landlord).
7. Barry's role is to represent the group members and provide instructions to his lawyers to conduct the case. He may also give evidence that the Court will assess to consider questions of fact and/or questions of law that are common to all group members.

What is Barry claiming

8. Barry says he has human rights that are enshrined in a law known as the *Charter of Human Rights and Responsibilities Act 2006* (Vic). He says that the way the government made this decision was not action in a way that was compatible with his human rights. He also says that the government failed to properly consider his human rights.
9. Barry also says that the government did not have power to make the decision in the way they did. The government made the decision through its Cabinet. Barry says that it should have made the

decision through a decision making process that involved Homes Victoria and the Minister for Housing consulting him and his Alfred St Tower community.

10. Barry says that if he had the opportunity to consult and contribute to the decision, he would have been able to tell them about how it was to affect him, his home and his community. He would have been able to put forward alternative ideas to demolishing his home – like renovating the Alfred St Tower. He would have had the opportunity to obtain assurances about the future of his home and the protection of his human rights, even if the government nonetheless decided to demolish.
11. Barry says that the group members have these human rights, too – namely, the right to be free from arbitrary or unlawful interference with their homes and with their families, the right to have their families protected, the right to have the best interests of children to be protected, property rights, and the right to security. Barry says group members' human rights have been affected in the same way as his own.
12. Barry is therefore asking the Court to declare that the government's decision was unlawful and to make an order that removes its legal effect.

Which lawyers are helping Barry and how do legal costs work?

13. Barry's lawyers are Inner Melbourne Community Legal (IMCL), a community legal centre that is close to Barry's home. IMCL have engaged a barrister to also help Barry. IMCL and the barrister are acting 'pro-bono', which means that they will not charge any legal fees to Barry or the group members. Therefore, there is no one funding Barry's case.
14. If Barry wins his case, he has asked the court to make a costs order which will enable IMCL and the barrister to recover some of their costs from the government (but not from Barry himself, and not from any of the group members). If Barry loses his case, a costs order might be made against him (but not made against any of the group members).

Are there any other similar group proceedings? What if I do not want to be a group member?

15. No. As at the date of this statement, Barry is going it alone. If you are group member and you do not wish to participate in the group proceeding, there will be an opportunity for you to opt out in due course.

Where can I find further information?

16. Further information – including the documents Barry has filed in the Court – will be uploaded to the Supreme Court of Victoria website (www.supremecourt.vic.gov.au). If you need any more information, you can contact Barry's lawyers, IMCL, at no cost to you. IMCL can be contacted at (03) 9328 1885 or by email at louisa.bassini@imcl.org.au.

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