

We The People  
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We the People 270 The Model Litigant



Good Day to you. It's been over 5 years now since I began writing and broadcasting 'We The People' on 4CRB. In that time I have met many remarkable citizens seeking justice on all manner of things. It's the part of democracy that appeals to me and yet the rights of the average person are constantly under threat by a self indulgent and dystopian system. In my travels I caught up with a group of good folk representing over 300 businesses and residents of Surfers Paradise who call themselves "Save Surfers Paradise" and they impress me with their pluck and dedication. Their catalyst is the Council's dictatorial move to sell the Bruce Bishop car park and the Neil Shannon public park owned by the people. The group has a strong argument and are taking the matter to court as they claim the Gold Coast Council are acting improperly and are obstructionist in not providing information which should be available to the public. When such an action occurs the parties are known as *litigants* and from Deborah Kelly of Save Surfers Paradise I learned about the long established rules and policies which apply in litigation when dealing with the State or Commonwealth and this includes the local Council as a quasi-arm of the State government. These rules and guidelines are long established in common law as the *Model Litigant Rules* to ensure the average person is not overrun by the size of government and its unlimited resources. I also suspect that the bureaucrats and politicians despise the *model litigant* rules because they attempt to create a level playing field and that's the last thing their imprudent institutions want. In a political and judicial sense we are trapped in a paradigm of 19th century languid rhythms and exposed to a truncated veneer-thin news cycle all breeding in a cesspool of misinformation.

So the *model litigant* rules are based on ideas of fairness and natural justice and recognize the imbalance of power between state and citizen. Their purpose is to promote the order and social cohesion essential for a functioning and effective democracy. Chief Justice Griffith described the Crown's obligation in simple terms as *'the old-fashioned, traditional and almost instinctive standard of fair play to be observed by the Crown in dealing with subjects, which I learned a very long time ago to regard as elementary'*. In other words the power of the State is to be used for the public good and in the public interest and not as a means of oppression or hindrance, even in litigation. The *model litigant* rules require honesty, consistency and fairness in handling disputes. They require an efficient and speedy resolution and not resting on technicalities to frustrate the matter. The rules require that the scope and extent of legal proceedings do not take advantage of a citizen who lacks the resources of government. In fact it appears to me the *model litigant* rules are a list of common-sense goals meant to aid democracy and the rights of people along with an equitable justice system. To this end I see a chasm between the often strong-arm tactics of Gold Coast City Council and the ratepayers. This appears far more prevalent with this current Council and especially when one considers their sometimes curious and deviant ethic base.

In the case of the sale of the Bruce Bishop carpark complex the mayor will not meet with this business group and discuss the matter. The CEO refuses to provide basic detail and documents which should be available to the public and so their actions appear to be levelled at frustrating a reasonable process and to dominate and frustrate the average citizen. I have experienced this myself in relentlessly trying to seek a very simple answer to the question of how much has been spent on the Council's ERP computer system. With an initial budget of \$21 million an expert in the field believes this project is so flawed they have now exceeded \$250 million of ratepayer's money. The Council's CEO and the mayor will simply not answer this simple question yet I claim we have a right to know what public money has been spent. Now I routinely meet good people who are frustrated by this Council and its apparent culture of secrecy and self interest which has even attracted the focus of the ABC's flagship Four Corners program and rightly so. Government must be conducted openly and transparently, in the interest of the people and justice must be accessible. Let's watch the progress of the Save Surfers Paradise group and the *model litigant* rules and see whether or not the Councillors care at all.

**Until next time this is Kent Bayley**