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*ACPNS Legal Case Notes Series: 2021-9 Start Living Prize Homes Inc v Chief Executive for Liquor and Gaming.*

[Working Paper]

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# ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



## START LIVING PRIZE HOMES INC V CHIEF EXECUTIVE FOR LIQUOR AND GAMING [2021] QCAT 22

**Queensland Civil and Administrative Tribunal, Member Howe, 20 January 2021**

An appeal from the refusal to grant a gaming licence on failure to provide acceptable evidence of being able to financially deliver the prize in the event of low-ticket sales.

**Key words: Lottery, Queensland, Incorporated Association, Gaming Licence, Financial Capacity, House**

1. Start Living Prize Homes Inc (SL) is incorporated as an association with an object of operating raffles exclusively to non-homeowners offering the chance of winning a house. All profits were to be distributed to Australian charities or 'other disadvantaged groups within the community'.
2. SL sought a category 3 gaming licence under the *Charitable and Non-Profit Gaming Act 1999* (Qld) (the Act) from Office of Liquor and Gaming Regulation (OLGR) to conduct a 55,000 ticket lottery at \$20 per ticket for the prize of a house worth \$600,000.
3. The application for a licence was refused for various reasons, but the matter before the Tribunal was the failure of SL to provide acceptable financial evidence that the prizes proposed would be delivered if expected ticket sales failed to materialise.
4. SL was newly formed and could not provide financial records. OLGR suggested that SL provide a bank guarantee for the value of the prizes and expenses of the game, guaranteeing delivery of the prizes and payment of expenses regardless of the outcome of the game. However, SL declined.
5. SL was then given the alternative opportunity of supplying an undertaking signed by each management member guaranteeing delivery of the prizes and payment of expenses regardless of the outcome of the game. However, the credit worthiness of the members could not be properly determined.
6. The OLGR chief executive may have regard to any relevant matter including amongst other things the applicant or management member's character or business reputation and the applicant or management member's current financial position and financial background (s 46 of the Act).
7. The Tribunal concluded that (at[45]):

Whilst the legislation permits certain flexibility to game operators, public confidence in the probity and integrity of authorised games must be preserved and protected. There can be no reasonable assurance that SL is a suitable entity to hold a licence given the absence of evidence of financial resources available and adequate to ensure the financial viability of operations conducted under the licence.

8. The licence was refused.

## IMPLICATIONS



According to OLGR there are many other competing games which offer larger prizes at a cheaper cost per ticket. Whether the limited number of tickets would make SL's game more attractive to players was not established, and certainly there was no actuarial modelling made available in that regard.

## VIEW THE CASE



This case may be viewed at <http://www.austlii.edu.au/au/cases/qld/QCAT/2021/22.html>

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