

FORM 38

Rule 60(2)

FINDING INTO DEATH WITHOUT INQUEST

Section 67 of the Coroners Act 2008

Court reference: 5387/08

In the Coroners Court of Victoria at Melbourne

I, PARESA ANTONIADIS SPANOS, Coroner,

having investigated the death of:

Details of deceased:

Surname: LEUNG
First name: KWONG
Address: 1/139 Wanda Street, Mulgrave, Victoria 3170,

without holding an inquest:

find that the identity of the deceased was KWONG YEE LEUNG born on 24 January, 1949,

and that death occurred on the 2 December, 2008,

at 1/139 Wanda Street, Mulgrave, Victoria 3170

from: 1(a) SMOKE INHALATION

Pursuant to Section 67(2) of the **Coroners Act 2008**, an inquest into the death was not held and the deceased was not immediately before the person died, a person placed in custody or care; but there is a public interest to be served in making findings regarding the following circumstances:

INTRODUCTION

1. Mr Leung and his wife Ms Chimam Chan came to Melbourne from Hong Kong in November 2008 for their daughter's wedding. They stayed on to look after their daughter's home while she was on her honeymoon between 25 November and 2 December 2008. Mr Leung died from smoke inhalation in a house fire occurring at the unit in the early hours of 2 December 2008.

INVESTIGATION

2. This finding is based on the investigation of the fire conducted by Senior Constable Jason Kok from Glen Waverley Crime Investigation Unit who compiled the coronial brief of evidence. The brief incorporates a "Fire Investigation Report" from the Fire Investigation &

Analysis Unit of the Metropolitan Fire Brigade (the MFB report), as well as a statement from Mr George Xydias, Forensic Officer from the Victoria Police Forensic Services Centre.

3. On 1 December 2008, Ms Chan went to bed at about 10:00pm. Mr Leung stayed up reading the newspapers. At about 3:00am when both were in bed, Mr Leung woke Ms Chan who alerted her to a fire which had started in the main bedroom of the house. They both rushed outside through the front door, calling for help and banging the fence. No-one responded and they went back inside to try and extinguish the fire. They ferried some property out onto the driveway. Eventually both were overcome by smoke.

4. At some stage neighbours became aware of the fire and called emergency services. One of the neighbours, Mr John Dodd, saw Mr Leung standing outside the unit. As he approached the house he saw Mr Leung in the doorway but could not get closer to the unit due to the intensity of the fire. Officers from the Metropolitan Fire Brigade arrived and located Ms Chan collapsed in the kitchen. She was taken to Monash Medical Centre and treated for smoke inhalation. Mr Leung was located in a crouching position in the master bedroom, over three metres from the seat of the fire.

CAUSE OF DEATH

5. No autopsy was performed on Mr Leung as I allowed the family's objection to autopsy pursuant to section 29 of the *Coroners Act 1985*. However, Senior Forensic Pathologist Dr Michael Burke from the Victorian Institute of Forensic Medicine conducted an external examination in the mortuary, reviewed the circumstances as reported by the police, the results of postmortem toxicological analysis and postmortem CT scanning of the whole body and advised that a reasonable cause of death would be "*smoke inhalation*". Dr Burke found severe burning of the deceased's body. Commenting on the toxicology results, he stated that a carboxyhaemoglobin saturation (a measure of carbon monoxide in blood) of 21% indicated that Mr Leung was breathing at the time of the fire, while the finding of hydrogen cyanide ~1.0mg/L in blood was also consistent with a house fire as "*This toxic compound may be produced through the combustion of plastic products.*"

CONCLUSIONS

6. Detailed investigation of the scene revealed no evidence that the fire was deliberately lit and no suspicious circumstances. The MFB report concluded that "*the fire started from an unspecified electrical fault in an electric radio/CD player that was situated on the floor under the window near the east wall*"¹ of the master bedroom. The report writer classified the cause of the fire as electrical. Mr Xydias similarly concluded that "*ignition by accidental means is considered likely. The location and nature of the fire suggested a heightened possibility of an electrical appliance induced ignition of the nearby combustible materials. As such, the portable stereo/radio was probably involved with the initiation of the fire...While it is possible that the fire could have been initiated deliberately, such as by direct ignition with a match or cigarette*

¹ Page 54 of the coronial brief.

lighter, there was no evidence to substantiate such an alternative."²

7. Based on the totality of the material before me, I find that Mr Leung died from smoke inhalation in an accidental house fire which was initiated by an electrical fault in the master bedroom.

PREVENTION/PUBLIC HEALTH & SAFETY

8. The broader investigation revealed that neither Mr Leung nor Ms Chan spoke English and were at a further disadvantage as international visitors in not knowing about the availability of emergency services and/or how to contact them. The MFB report identified the following fire safety issues, which were also echoed by the Victoria Police investigator S/C Kok³ -

- the importance of ensuring that guests are made aware of fire escape plans pertinent to the premises and how to contact emergency services, and,
- the futility of loss of life in the course of retrieving personal possessions.

9. It is fair to assume that people ordinarily resident in Victoria (and in Australia generally) are aware that emergency services can be accessed by calling triple zero (000). For those who speak languages other than English, triple zero (000) operators follow a protocol that allows the call to be directed to the Translating and Interpreting Service (TIS National). The TIS National translator concurrently relays information to the required agency to enable the delivery of emergency services.⁴

10. The circumstances surrounding Mr Leung's death highlight the need to ensure that international visitors to Victoria are made aware of the availability of emergency services and how to access them. Research conducted by the Coroners Prevention Unit (CPU) ⁵ at my request indicates that while the number of international visitors coming to Australia is significant and is expected to continue to increase⁶, there is a dearth of emergency services information for international visitors. For instance -

- Information about the availability of emergency services via the triple zero (000) process is not currently provided to international tourists entering Australia through airports and ports, or at various stages of the visa application and approval process.

² Page 66 of the coronial brief.

³ Page 54 of the coronial brief and pages 1 & 3 of the summary at the commencement of the brief.

⁴ The digital mobile phone collary of "000" is the number "112". This is the international standard emergency number which can be dialled anywhere in the world on phones with 3G and GSM coverage. Calls to "112" are automatically translated and transferred to that country's emergency number.

⁵ CPU was established in 2008 to strengthen the prevention role of the coroner. CPU assists in formulating prevention recommendations and comments, and monitors and evaluates their effectiveness once published.

⁶ According to the Australian Bureau of Statistics (2010), there were 5.6 million international visitors to Australia in the year ending December 2009 and 2.35 million visitor arrivals in the five months to May 2010 which is a 3% increase over the same period in 2009. Tourism forecasts for 2010-18 predict a further 17.2 million international visitors.

- Australian tourism websites focus primarily on tourist attractions and Australian culture, and do not comprehensively inform international visitors of safety issues, or of the availability of emergency services via the triple zero (000) process.
- Australian and Chinese Consulate websites do not provide safety related information to international tourists intending to travel to Australia.
- While resources are available locally in languages other than English which explain the availability of emergency services via the triple zero (000) process, they are not necessarily accessible to international visitors, and do not promote the concept of family or friends educating international visitors on the use and purpose of triple zero (000).

11. The following comments and recommendation are made in light of all of the above, mindful of the restriction inherent in section 72(2) of the *Coroners Act 2008*, namely that recommendations can only be directed to a Victorian Minister, public statutory authorities or entities, whereas comments under section 67(3) can be at large.

RECOMMENDATION:

12. Pursuant to Section 72(2) of the **Coroners Act 2008**, I make the following recommendation connected with the death:

- (i) The Emergency Services Telecommunications Authority, Metropolitan Fire and Emergency Services Board and Country Fire Authority should incorporate messages emphasising the importance of educating international visitors on the availability of emergency services and access via the triple zero (000) process, into existing resources and programs which have been developed for culturally and linguistically diverse communities.

COMMENTS:

13. Pursuant to Section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the death:

- (i) The majority of tourism websites focused on international visitors intending to travel to Australia do not provide adequate information about emergency services in Australia, or their availability to the general public. Tourism Australia could contribute to the safety of international visitors by ensuring that the tourism website, www.australia.com, prominently displays emergency services information in languages other than English and emphasises the triple zero (000) process.
- (ii) The Department of Resources, Energy and Tourism could contribute to the safety of international visitors by encouraging the broader Australian tourism industry to promote awareness amongst international visitors of emergency services in Australia, their availability to the general public and accessibility via the triple zero (000) process. This could be accomplished through the development of specific safety-related messages on tourism operator and advertising websites.
- (iii) Currently, limited safety information highlighting the availability of emergency services in Australia is provided to international visitors throughout the visa application and approval process, or at incoming border control points. The

Department of Immigration and Citizenship, in association with the Department of Resources, Energy and Tourism and the Australian Customs and Border Protection Service, could contribute to the safety of international visitors by providing them with information about emergency services in Australia, their availability to the general public and accessibility via the triple zero (000) process. This could be accomplished through the development of a specific resource to be made available at the various border control points. Alternatively, international visitors could be provided with a safety resource, either electronically or in hard-copy, upon approval of an Australian tourist visa.

DISTRIBUTION OF FINDING

14. Apart from the family of Mr Leung and the investigator, I direct the Principal Registrar of the Coroners Court of Victoria to provide a copy of this finding to -

- Department of Justice

The Hon. Robert Hulls, Attorney General
Ms Penny Armytage, Secretary

- Emergency Services Telecommunications Authority (ESTA)

Mr Paul Baker, Chief Executive Officer

- Metropolitan Fire and Emergency Services Board (MFB)

Mr Graham Fountain, Chief Executive Officer
Mr Bruce Esplin, Emergency Services Commissioner

- Country Fire Authority (CFA)

Mr Mick Bourke, Chief Executive Officer

- Department of Resources, Energy and Tourism (DRET)

The Hon. Martin Ferguson AM MP, Minister for Tourism
Mr Drew Clarke, Secretary

- Department of Immigration and Citizenship (DIAC)

Senator Chris Bowen, Minister for Immigration and Citizenship
The Hon. Laurie Ferguson MP, Secretary, Multicultural Affairs and Settlement Services
Ms Kate Lundy, DIAC Secretary

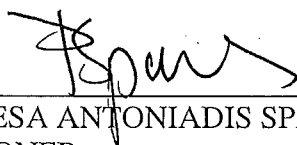
- Australian Customs and Border Protection Service

Mr Michael Carmody, Chief Executive Officer

- Australian Communications and Media Authority

Mr Chris Chapman, Chairman and Chief Executive Officer

Signature:



PARESA ANTONIADIS SPANOS
CORONER

Date: 27 September, 2010

