

MEDIA RELEASE

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Significant legal victory as James Hardie ordered to pay for mesothelioma sufferer's choice to spend final months living in the community

A Sydney man suffering terminal asbestos cancer mesothelioma has won a significant legal victory after arguing that asbestos producer James Hardie should pay for his medical care in the community, rather than forcing him to spend his final months living in a nursing home.

The Dust Diseases Tribunal of NSW on Friday awarded Ron Phillips, 84, from Cronulla in Sydney's south, \$664,393.03 plus costs, including a significant allowance for future care in the community.

Mr Phillips was diagnosed with the aggressive and incurable lung cancer mesothelioma late last year, with his health rapidly deteriorating since then, requiring 24 hour nursing care.

The mesothelioma cancer was contracted as a result of exposure to James Hardie asbestos building products while helping a friend with a home renovation in the Sutherland Shire in the late 1970s.

Mr Phillips had remained healthy and active, continuing to work until 2014, until developing symptoms of mesothelioma last year.

Segelov Taylor Lawyers commenced a claim on behalf of Mr Phillips against James Hardie & Coy Pty Ltd (now Amaca Pty Ltd) just before Christmas.

Lawyers for James Hardie argued that the company should only be required to pay for the lower-cost option of Mr Phillips being cared for in a nursing home, however Mr Phillips insisted he be given the choice to spend his final months living in the community, with James Hardie compensating him for the cost of care by his family and professional nurses.

In a significant judgment that will help victims of asbestos disease, Judge Wendy Strathdee accepted Mr Phillips' argument, finding that: *"he deserves to be comfortable and to the extent that he might find some comfort looking out from the balcony to see his beloved beach and boardwalk, it is reasonable for that to be provided to him."*

Mr Phillips' lawyer, Segelov Taylor Lawyers principal Tanya Segelov, said the decision opened the door for other sufferers of asbestos diseases to choose to receive care at home.

"This is a significant decision that not only provides peace of mind to Mr Phillips during this terrible time, but will allow his family to respect his wishes to not be put in a nursing home during the final months of his life," Ms Segelov said.

"This decision is important for the hundreds of Australians who are diagnosed with mesothelioma every year, which is a painful and debilitating cancer that kills people often within a year of diagnosis.

"Family's can be reassured that they will be compensated for commercial help in their home, and that the burden of caring for a love one and keep them at home will not fall on the loved one alone."

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