

Monte Carlo Residents Association Inc.

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Submission to the Department of Housing and Public Works Review of the Residential Tenancies and Rooming Accommodation Act 2008



Alone we can do so little, together we can do so much.

(Helen Keller)

Overview

This submission is presented on behalf of the residents of the Monte Carlo Caravan Park, 1189 Wynnum Road, Cannon Hill QLD 4170 who genuinely believe that they have been let down by legislation that does little, if anything, to protect their security of tenancy. They are all home owners and most made a lifestyle choice many years ago to live at Monte Carlo for the rest of their days. We have residents who have been here for 30+ years.

We have approximately 20 manufactured home leases in place with the balance on RTRA leases. Of the remaining 123 RTRA sites, 80 have converted caravans with integrated hard annexes, the majority of which were in situ before the amendment of the MHRP Act 2003 in 2010. These are not moveable dwellings. **Refer Attachment 1 - photos showing examples of these homes**

The long term residents of the park began their tenancy secure in the knowledge that a Trust Deed was in place protecting their future tenancy. In 2014 the Govt. sold the park to a “not for profit” entity, Sundale. Residents who invested in a home in the park after that time did so secure in the knowledge that once again their tenancy was protected. The Government wrote to all residents assuring them their long term residency was secure as the future of the park was protected by a Caveat. One of the conditions of the Caveat was Covenant No. 71597349 requiring that the land should remain a caravan park.

On June 7 2021 Sundale sold Monte Carlo Caravan Park to Serenitas:

- Serenitas was established in 2017 with the objective of establishing a leading land lease community business;
- Serenitas is a joint venture between Tasman Capital Partners (originally a New Zealand company now Australian registered and focused) with funding from GIC (Singapore’s sovereign wealth fund);
- Becoming Australia’s 4th largest operator of Residential Parks, most of which would have been Caravan Parks originally with predominantly RTA residents; and
- They are Venture Capitalists who on sell making very large profits.

As demonstrated in residential parks all over Australia, there is no such thing as security of tenancy for RTRA residents when such an investment group takes over. A good example of this particular Group’s modus operandi was demonstrated within cooe of Monte Carlo at the Nestle Inn Residential Caravan Park which was purchased by Gateway Lifestyle, a Tasman Capital project approximately ten years ago. It is unlikely you will find more than a handful of the original residents left and certainly none on an RTRA lease. It is no longer a residential caravan park but an “over 50’s retirement land lease estate”.

It would appear that Tasman Capital Partners has sold the Gateway Lifestyle Portfolio to the American Group, Hometown, for \$685 million. This was after they made millions clearing the park and putting in Manufactured Homes. **Refer Attachment 2 – Australian Financial Review Hometown Group Media Release**

Residential Parks such as Nestle Inn and Monte Carlo have been an important stepping stone for low income people trying to save a deposit for a house and retirees with little superannuation available struggling with the rental market and looking to buy their own home. At these Parks, affordable housing has been available at prices ranging from \$30,000 to \$70,000. After these Parks are redeveloped, the new homes have been selling for upwards of \$350,000 to \$400,000. Way beyond the means of most people thereby placing a heavy burden on social housing

Additional urgent issue for consideration - Converted Caravans with an Integrated Hard Annex in Residential Caravan Parks:

Historical background

1. When the MHRP Act 2003 was amended in 2010 it did not offer any protection for this group of residents who purchased their dwelling after 2010. It was linked to the tenancy being pre-2010 rather than the age of the dwelling even though :
 - a. Their dwellings are not moveable.
 - b. The Park Owner can give them two months' notice to quit without reason (and take your home with you).
 - c. It is their only asset.
 - d. They live on low fixed incomes and do not have the financial means to move. This creates an additional burden on Social Housing.
 - e. They need access to affordable, safe and secure housing.
 - f. We have an ever growing list of single female residents who have come from difficult situations (domestic violence, abuse, nasty divorces, etc.); single men estranged from their families. Many of these suffer from depression, medical issues, and disabilities. All of these residents would suffer greatly and be returned to isolation should they lose their homes.
 - g. Due to the community spirit in older Parks such as ours, many of their social and supportive needs are met thereby enabling them to live independently with a positive impact on their health, safety and well-being.
2. Although a three year grandfather clause was in place for tenants in occupation prior to 2010 to apply for a MHRP Act 2003 Site Agreement, of the 92 residents who made an application or made enquiries of the Park Owner through the local managers, many received either letters or verbal responses stating "that as your dwelling was originally a caravan you are not eligible for a Manufactured Home Lease". Most accepted that at face value and did not pursue the matter further for many reasons:
 - a. Lack of understanding and fear of QCAT;
 - b. The whole scenario was overwhelming; and
 - c. They were fearful of retaliation and losing their residency.
3. As a result, Monte Carlo Caravan Park still has 80 fixed converted caravans with integrated hard annexes currently on RTA leases.
4. There was a great deal of misinformation, fear and misunderstanding related to their applications.
5. At the time, there was little knowledge within the park residents of legislation, legal rights, or the implications of the legislation changes. Experience has demonstrated the changes were heavily weighted in favour of Park Owners when it addressed the issue of converted caravans.

6. A number of those original residents were elderly and have passed away or moved into nursing homes. Although their homes have been sold post-2010, the newer residents have no avenue to address the issue of the type of lease and as a consequence all come under RTRA. Many of them are vulnerable and over the age of 65 having paid tens of thousands of dollars to buy their home. They live in constant fear of losing their homes and end up homeless or dependent on social housing.

Recommendation 1:

The RTRA Act 2008 Division 4 Mobile Dwellings Premises should be expanded to directly address pre-2010 converted caravans with integrated hard annexes regardless of the date of tenancy and based on the age of the dwelling.

- These homes were constructed with all the required permissions of the day and new legislation was applied retrospectively without adequate built in protections for this vulnerable group of Park Residents.
- The recommendations adopted from the review applicable to Mobile Dwellings should be included in Division 4.
- A definition of a Mobile Dwelling as being one with an integrated hard annex as opposed to a towable caravan with a soft annex would be helpful in this Division.
- A definition of a residential park would also be useful. The basis for a definition could be taken from the land tax exemption rule.
- Division 4 should also include reasons for terminating a **redefined** Mobile Dwelling tenancy agreement in a residential park as opposed to a towable caravan with a soft annex.
- Remove short and long term leases from Mobile Dwelling Lease agreements for Residential and Mixed Use Parks as this is more applicable to towable caravans.

Other Issues of concern to Monte Carlo Residents:

A. Security of Tenure

- The RTRA Division 4 Moveable Dwelling Premises provides this group of residents with little or no protection for either their tenancy or the protection of their asset.
- They have been continually overlooked in legislative changes for both the MHRP and RTRA Acts. Currently, they don't comfortably sit in either.
- Many have come from more stressful housing options such as the private rental market which they could not afford or a difficult family situation. We have a growing number of mid-life women who have moved into the Park in recent years. They find the lifestyle comfortable for them and they feel safe and secure.
- The residents are very vulnerable and unlikely to stand up for the few legal rights that they have. They are often governed by fear and insecurity as a result of bad experiences earlier in their life.
- Many suffer from underlying medical issues such as Cancer, MS etc. and/or have Mental Health issues, the most common being Depression.

Recommendation 2:

1. Remove the "Two months' notice to vacate the site without ground (which includes clear the site and remove your dwelling)". Adequate protection should be included to prevent

Park Owners using termination of tenancy to enable them to redevelop the site without paying compensation.

2. S223 of the RTA Act 2008 should be amended to include a provision similar to the MHRP Act 2003 Division 3 S40 Compensation Order where no alternate site is available within the Park and the tenant has to relocate his dwelling outside of the Park.

B. Risk of Rent Increases

- Most residents are on fixed Centrelink payments (aged and disability pensions) and have no other assets other than their home. Should rent rises be limited to the same percentage increase applied by the Government to pensions?
- The site rent is for the use of the land only and shared amenities. They own their dwellings and should therefore be considered in Division 4.
- Living at Monte Carlo, and similar parks, allows them to maintain their independence at an affordable cost thus improving their well-being and positive outlook on life.

Recommendation 3:

Limit increases to annual CPI rises only and remove market value.

We have noted that the current trend in the Industry is to:

- replace existing tenants with new tenants on a considerably higher site rent
- Due to the consolidation of parks under limited ownership this raises the median market value of a site. **Refer Attachment 2**
- include CPI + 2% on tenancy agreements
- add a regular market review

Residents on fixed Centrelink payments would quickly find themselves struggling to meet substantial rent increases. This is a certain pathway to stress, ill-health and an inability to provide basic necessities for themselves and eventually to homelessness or social housing.

C. Minor Modifications to their home

Residents are currently required to first obtain the Park Owners consent before making any changes which affect the external appearance of the home which they own.

- a. For example, residents currently require the Park Owners permission to paint their own home, even if they are maintaining the same colour scheme.
- b. Although maintenance of their home is usually a condition of lease, they are required to seek permission for just about everything, even replacing worn canvas awnings
- c. The Park Owner can refuse any works applications without grounds.
- d. They own their home and yet do not have autonomy over it.

Recommendation 4:

Adequate provision should be made in the RTRA reform under Division 4 to allow these residents to undertake painting, landscaping and make minor improvements to their site in accordance with Council recommendations without the Park Owners permission.

Note:

We have not put forward a recommendation in support of the Pet reform as more than half of our residents are opposed to this recommendation mainly for the following reasons:

- Small site areas some with little green space
- No fencing
- We live in close proximity to our neighbours
- Not all owners are responsible
- We have parkland on two sides of the park with a diverse range of wild life

However, it is generally accepted that there is a genuine need for pets for the general well-being of some residents, particularly those who live alone with medical and/or mental health challenges. The cost of an Assistance Dog is currently approximately \$10,000 with added costs every three years which residents cannot afford. A companion dog category could provide an acceptable solution for both the Park Owner and Residents of Residential Caravan Parks if the following guidelines or similar were adopted:

- Appropriate licensing
- A small house dog
- Recommended RSPCA conditions are met
- Training is undertaken to manage barking and socialisation with people and other animals. Perhaps this might mean ancillary legislation re “Companion Dogs”, as opposed to assistance Dogs for the Disabled
- They must be on a leash at all times outside of the home
- Weight and breed restrictions
- If the owner is unable to walk the dog on a regular basis, another resident is nominated to undertake same walks
- Supporting medical documentation from a Specialist and/or GP is provided with each application

Attachment 1 – Monte Carlo Caravan Park

Examples of Converted Caravans with Integrated Hard Annexes on RTA Moveable Dwelling Tenancy Agreements



Attachment 2

Extract from The Australian Financial Review article posted by the Property Editor 29 October 2019.

Hometown to sell portfolio of former Gateway accommodation parks

The Australian arm of budget accommodation giant Hometown is looking to divest a \$110 million group of housing estates carved out from the portfolio of Gateway Lifestyle, which the US player took over last year.

The \$685 million takeover of the listed Gateway platform last year made Hometown Australia Communities the country's largest owner and operator of residential land lease communities.

The housing model entails the development of factory-made dwellings for residents, typically budget-conscious retirees selling out of their family home, who pay a ground rent for their site in an estate.

A year after the takeover Hometown has marked out a number of Gateway assets as non-core. CBRE's Hotels Sydney director Andrew Jackson has been appointed to broker the properties.