



SUBMISSION TO TRANSPORT, HOUSING & LOCAL GOVERNMENT
COMMITTEE
BY
EAGLEMOUNT RETIREMENT VILLAGE RESIDENTS' COMMITTEE

The Residents' Committee wishes to make known its views in relation to the operation of the Retirement Villages Act 1999.

To assist Members, this submission sets out to address each of the questions raised in the Issues Paper of August 2012.

1. Do you think the RVA promotes consumer protection and fair trading practices?

Not sufficiently! There is a need to safeguard lifetime occupancy. There is also a need for stricter regulation of expenditure through GSF, MRF and CRF. The existing guidelines are inadequate, they allow too much leeway and need to be more specific.

2. Did you have all the information needed to make an informed decision. Easy to understand? What could have helped?

No! An independent fact sheet may have assisted. Public information documents(PIDs) should be easily read and understood. There also needs to be consistency between PIDs in the same village, i.e. one set of rules for all residents.

3. Does the PID include all relevant information to enable informed decisions to be made? Is there any other information required?

There needs to be guaranteed security of occupancy.

4. Have you had any experiences where you felt as though your rights as a consumer of services provided by a retirement village operator were not protected? This could include, for example, being misled or deceived, having false expectations set by an operator that were not met once you moved in to a village or being taken advantage of.

The right to know detail has not been protected. Potential residents are commonly given misleading information that causes them to infer that the monthly contribution fee is tied to CPI. Because of disproportionate increases in S107 items, monthly fees increase well beyond CPI. Prospective residents should be provided historical data showing fees for consecutive years on a historical basis as well as projections for future years.



- 5. Do you have any views about how the RVA compares with other legislation to provide consumer protection as well as business viability, for example, the Residential Tenancies and Rooming Accommodation Act 2008 or the Body Corporate and Community Management Act 1997?**

The body corporate model is preferred. This gets around the problem of Scheme Operators (SOs) charging 'Administration Fees' that are neither specific in detail nor accountable. The body corporate model is more consistent with residents' needs than is the existing system that is geared towards profit-making enterprises.

- 6. Is the exit fee an appropriate source of profit for a retirement village operator? What other approaches might encourage operators to invest in the retirement village model?**

SOs benefit from the sales of Independent Living Units (ILUs). Exit fees should be reasonably low. It should be remembered that most ILUs are leased, not freehold.

- 7. Do you believe that the current retirement village model 'locks' residents in to a village, and that this may affect how responsive operators to their requests?**

Yes! SOs have proved to be slow in responding and, at times, completely non-responsive.

- 8. Is there an appropriate balance of the burden of responsibility for vacated residences?**

There needs to be a reduction in time between vacancy and settlement. We know of residents waiting more than a year before receiving exit entitlements.

- 9. What is your experience of the affordability of retirement village living, with specific regard to the provisions described above?**

Problems have arisen with SOs shifting expenses from S106 to S107, thereby increasing budgets but keeping S106 items within CPI. This appears to be partly due to the nefarious nature of the guidelines for determining GSF, MRF and CRF expenditures. There needs to be much tighter regulation in this area.

- 10. Are you aware of any unnecessary restrictions or provisions which affect the affordability of living in a retirement village?**

No.

- 11. Is the governance of these funds appropriate?**

Management is a key issue here. Misleading and incorrect accounts have been identified. SOs seem to please themselves their level of contribution to CRF and not



follow Quantity Surveyor recommendations, whereas they try to insist that residents adhere to QS recommendations for MRF contributions. There is clearly a double standard here.

12. Should residents have to state that they are considering leaving the village in order to receive an estimate of their exit fee? Is there another way that residents can receive this information?

No. Residents should be entitled at all times to have access to this information.

13. If you are a resident of a retirement village, do you have certainty in your financial obligations with regard to living in the village? If not, what aspects remain uncertain? Do you have any recommendations about how this could be improved?

There is no certainty in regard to financial obligations. This could be addressed by specifying GSF, MRF and CRF items and not allowing sleight of hand by shifting some expenses from S106 to S107 to avoid failing the CPI test.

14. Currently, residents need to request financial information from operators of retirement villages. However, some operators provide this information as a matter of course without waiting to be asked. Does this represent 'best practice'? Do you feel comfortable asking for financial information? Should it be a requirement of the RVA that operators proactively provide quarterly and annual financial information to residents (or publish it somewhere it can be readily accessed), rather than waiting to be asked to provide it?

Best practice would be the monthly MRF, SRF and CRF financial reports on display and supply the entire Audit Report to each resident with the invitation to the Audit General Meeting. Budget proposals should be on display no later than 1 May with adjustments 1st week in July.

15. What is your experience of the exit fee, is it variable within your village, or a fixed percentage or amount? Do you believe the system is fair and transparent?

It is fair up to a total of 30%. Use of exit fee must be regulated.

16. The RVA provides that a resident who dies is liable to pay personal services charges for up to 28 days after the termination of their contract. As a resident has to give one month notice to terminate their contract, this may mean they, or their estate, continue to pay personal services charges for up to two months after they die. Is this reasonable?

No. Last full monthly fee payment to be paid is for the month of vacating. Logic dictates that a resident is usually not in the position to announce his or her demise one month in advance. This provision is clearly framed to benefit SOs, not residents or their estates.



17. Has the 2012 clarification of how to work out exit fees under section 53A of the Act provided improved certainty and about transparency in the financial obligations of residents of retirement villages?

Yes

18. Has there been litigation over exit fees that are not calculated on a daily basis, or an increase in fees being expressed as a deferred payment of a portion of the entry fee?

We believe there has been. The ARQRV has information in this regard.

19. Does the RVA provide sufficient certainty, accountability and transparency for residents in relation to their financial obligations in the event of their retirement village closing down?

None whatsoever.

20. Should the exit entitlement calculation be adjusted in the event that a retirement village is closing?

Yes

21. Are retirement village residents clear on how money in village funds, such as capital replacement or the like, are managed upon closure of a retirement village? Does the RVA need to be amended to provide increased clarity for residents and operators?

Residents have no idea. Yes, increased clarity is required.

22. Does the public information document and residence contract provide sufficient clarity of residents' rights and obligations when entering a retirement village?

No. User unfriendly document.

23. Is the RVA clear about the rights and obligations of retirement village scheme operators? If it is not, how could it be improved?

No. The RVA should place primary emphasis on protecting residents from any form of exploitation from SOs.

24. Is there sufficient clarity and certainty in relation to the rights and obligations of residents and operators to terminate a contract to reside in a retirement village, or to reinstate a unit after it is vacated or about resale obligations of a unit in a village after a resident leaves?

No. The Act is quite confusing.



25. How does the RVA currently encourage best practice in the operation of retirement villages, if at all?

It doesn't. There needs to be tighter regulation, policing and enforcement. There are currently too many loopholes for SOs.

26. How are residents assured quality service provision by the RVA, if at all? Should best practice in retirement villages be achieved through mandatory accreditation, or are there other ways to ensure best practice?

There is no assurance. Accreditation should be mandatory, not voluntary, and should be policed.

27. Do you think that mandatory accreditation or standards that retirement villages – or providers of services within retirement villages - have to follow would improve the standard of care provided across the sector?

Yes, but only if enforced.

28. What are the advantages and disadvantages of mandatory accreditation of the retirement villages industry?

There are advantages only if accreditation is carried out randomly and without advance notice.

29. How does the RVA support or limit expansion of the retirement village industry?

No comment.

30. Can you identify any requirements in the RVA that appear to be purely 'red tape' requirements, rather than essential provisions to regulate the industry?

No comment.

31. Does the RVA support innovation within the industry, or is this limited by the Act?

No comment.

32. What are some key factors that facilitate, or hinder, the viability of retirement villages?

No comment.

33. Is there enough flexibility under the current RVA for different models of retirement villages that cater for the varying needs and desires of retirees?



No comment.

34. Is there a difference in the viability of for-profit and not-for-profit retirement villages?

No comment.

35. Do all retirement villages have residents committees? For those that do, how effective are they in helping residents be involved in budgetary, and other, decisions?

Not every village has a committee. Effectiveness depends on background of members and the willingness and ability to agree or disagree.

36. Are there appropriate provisions in the RVA for residents to be involved in decisions that affect their financial obligations? If not, what change would you like to see?

Everything relating to GSF, MRF and exit fee related issues must be re-written in the Act.

37. Is the level of power provided to residents by the RVA appropriate relative to their level of financial and personal investment in the retirement village?

Residents currently have little power. There should not be any variation in levels of power according to the level of financial equity residents have in a village, i.e. all residents should be treated equally. We support the notion of one vote per ILU as currently exists.

38. Should resident participation be mandatory in retirement village 'decision-making Processes' for decisions that affect their financial obligations?

Yes. Decision making should be more along the lines of how a body corporate operates.

39. Other than residents committees, how are residents involved in budgetary and other decisions affecting their financial obligations?

They are not.

40. Did you receive adequate information about the dispute resolution process when you entered your retirement village?

No.

41. How effectively are disputes resolved in your retirement village, either as an operator or resident?



Not very effective.

42. Should the RVA require that all retirement villages have an internal dispute resolution process, in addition to that provided by the Act?

Yes, but it must be effective and not merely be a means of procrastination. Perhaps it could be subject to supervision from an advocate or Ombudsman.

43. Is the current dispute resolution process effective for the potentially vulnerable members of our community it is intended for, or are there more appropriate options that should be developed?

Not effective. A funded, professionally staffed residents' advocacy body would improve effectiveness.

44. Are residents of retirement villages aware of their right to complain? Should this be included in the RVA?

Yes, but it will not change their level of fear.

45. How are residents protected from being victimized when they complain or use the dispute resolution process, if at all?

An advocacy group, as recommended above, would help.

46. How often are disputes resolved through a residents committee, rather than the formal process?

Residents committees are only partly effective. The QCAT process is too protracted and fails to deliver results in a timely way.

47. Is QCAT effective in resolving disputes for residents of retirement villages?

We believe not. There are too many delays and procedures are cumbersome. Mediation is usually not an option because an impasse has usually been reached by the time a dispute is declared. Having legal representation for SOs is against the principle of fairness and equity for residents.

Yours sincerely

Val Webb

Val Webb

Secretary Residents Committee Eaglemount Retirement Resort



Residents Committee Eaglemount Retirement Resort

Managing Director
Retirement Living & Aged Care
Lend Lease

19th September 2012

Dear Mr Walsh,

Re: Future of Eaglemount Retirement Resort

The Residents Committee notes the following:

- There is a de-emphasis on 'retirement' and an increased emphasis on 'resort' in the upgraded signage for this village. The main sign at the entrance includes the words 'retirement village' in considerably smaller lettering and below the major lettering 'Eaglemount Resort'. Further, the village bus has been repainted and its signage completely omits the word 'retirement', so it looks like a bus from a holiday resort.
- In Lend Lease's submission to the Productivity Commission Inquiry for Older Australians (2011), the point was made that development returns of traditional residential developments are "much greater" than those from retirement developments. Lend Lease submitted, "thus the allocation of funding is to where the returns are greater".

As a consequence of these observations the Residents Committee wishes to know if Lend Lease intends at any time to have the registration of Eaglemount Retirement Resort cancelled.

We eagerly await your response.

Yours sincerely,

Val Webb

Val Webb
Secretary
Residents Committee

Cc: ARQRV