

30 August 2012

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Member for Kawana
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Retirement Villages Act 1999 (Qld) – incorporating
Retirement Villages Amendment Act 2006

Dear Jarrod,

As you may recall we had a discussion prior to the Qld election as to my concerns with the current provisions of the aforementioned Act & the confusing interpretations arrived at in a number of the tribunal decisions. Also of concern was the lack of opportunity for many residents to have their say towards these tribunal decisions & any proposed changes to the Act.

It has come to my attention that:

- The management of Retirement Villages in Qld & the administration of the Act has been transferred from your Ministerial Portfolio to the Department of Housing & Public works;
- A review committee has been established to consider changes to the Act & a public briefing was held on the 28 August 2012; &
- Submissions by various interested organizations were to be submitting at the briefing.

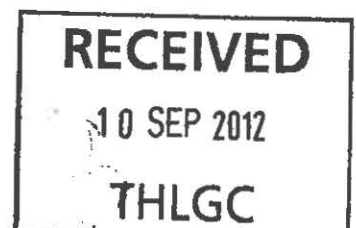
This is the same problem that has existed for years where vested interests can lodge all sorts of submissions & unless you are a member of these organizations, a retirement village resident has NO information provided to them & NO SAY. This is undemocratic.

My wife & I have lived in this retirement village for 6 years & we are both actively involved in many activities of the village. I have been a member of the committee for 5 ½ years & have been involved in all aspects of the village finances for all of that time. My past work experience is in Banking Risk Management & it is my view that the past administration of the Act has been poor.

The Retirement Villages ACT (as amended)

It is important that residents of retirement villages in Queensland are protected against unscrupulous scheme operators & there are a few (Our scheme operator, [REDACTED] is NOT one of the problems). At the same time residents need protection against unnecessary Tribunal actions by the few which are lodged:

(1) Without reference to the majority of the village residents;



- (2) Without the support of the majority of the village residents although many of the actions are on village community issues like the yearly budget & are not private matters; &
- (3) Without any reporting to residents on the status of the action.

This whole process is undemocratic. In simple terms, if section 106 expenses increase beyond CPI then the residents vote on individual expense budget items with 75% of those eligible to vote (usually one vote per unit) required to vote yes to pass the Budget. However, one person can then mount a Tribunal challenge although any later decision affects all who voted for the Budget.

My suggested changes to the Retirement Villages Act are as follows:

1. The problem with a 75% vote is that many residents do not attend the explanatory meetings or the vote. As a result I believe that many who provide proxies do not have a clear understanding of the issues. Schedule – Dictionary – Page 112 – Special Resolution should require 51% of eligible residents. 75% is undemocratic & open to abuse by the minority;
2. Any tribunal actions on major village community matters, particularly the BUDGET should be conditional on a Forum Meeting of Residents being informed in writing & being given the opportunity to vote on such action. If a special resolution vote is required on the Budget under section 106 of the act, at present 75% of eligible voters must pass the Budget by special resolution. So it is a natural extension that 75% should be able to vote to stop such actions (or 51% if this is changed as set out in 1. above). This would put all residents on notice & allow them a democratic say to stop unnecessary Tribunal actions;
3. Section 106 & 107 to be rewritten to account for a DEVELOPING village. For example any increase in CPI should be after allowing for any increase in village Apartment or Villas No's. If the size of the village increases during the year, it is nonsense to expect expenditure to only increase by CPI. As an example, say the last budget was based on 100 completed units. The next budget is based on increase in unit no's to 110. CPI is say 3%. Expense items increase should not exceed 113% of last year's budget. This is not a perfect system because you may have communal facilities completed & included in last year's budget. Also there are other Section 106 factors that increase expenses beyond CPI like the ever rising electricity costs. However on balance this is a much fairer system;
4. Section 106 to be rewritten to clearly reflect the Tribunal decision that expense items over CPI to be voted on separately if total increase exceeds CPI. A simple request to the government along these lines after our 2009/2010 Budget instead of a formal Tribunal action could have saved this village a lot of trauma;
5. Section 107 of the Act provides for no vote on any increase to the MAINTENANCE RESERVE FUND (MRF) contributions. I understand that as part of the Act review, a proposal has been put forward to change the MRF to a Section 106 item & therefore any increase over CPI would be subject to a vote. Many problems that have arisen in

the past were caused by underfunded sinking funds. The current MRF provisions under Section 97 through to Section 101 adequately provide for Quantity Surveyor involvement in setting adequate MRF contributions. We need an expert to tell us what level is required & not guesswork from residents. Residents tend to lean towards paying less & need to be protected against under providing for the future;

6. Tribunal actions involve at times negotiated settlements on terms which are NOT referred to the remainder of the village who are not party to the action. Any negotiated settlement deal should be ratified by a Forum Meeting by a special resolution; &
7. If a review of the Retirement Villages Act is under way, surely the actual residents of all of the villages in Queensland must be given the opportunity to comment on any proposed changes before they are set in stone. I am not a member of any QLD retirees association & like many other retirement village residents would like a democratic voice. The government department should write to every village setting out the proposed changes. A suitable timeframe should be afforded every retirement village resident, individually & collectively the opportunity to contest the proposed changes.

While I appreciate that this issue no longer falls within your Ministerial control, as my local member I would ask you to send these suggestions along to the relevant minister. Thank you for your assistance.

Best regards from

Douglas Hoggan

