



Speech by

## Mr BRUCE LAMING

### MEMBER FOR MOOLOOLAH

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Hansard 30 November 1999

#### RETIREMENT VILLAGES BILL

**Mr LAMING** (Mooloolah—LP) (8.30 p.m.): There is probably only a handful of Bills which come to the House each year which could be described as significant. The Retirement Villages Bill is significant from three perspectives: firstly, the improvements it can make to the situation facing many existing residents in retirement villages; secondly, the improvement in the operation of villages in the future; and, thirdly, the time it has taken to get to the House.

I do not believe it does the Minister credit to be critical of the former Government for not getting a Bill into the House. Firstly, the problems and the undertakings go back a lot further than that and, secondly, a lot of progress was made during the term of the coalition Government from which the Minister was able to benefit. In fact I requested, and was provided with, a briefing by the Minister's staff after the election at which I apprised them of what I believed were the most significant issues. I did this in a spirit of bipartisan approach to a problem that should not be used as a political football.

Retirement villages are, of course, a relatively new concept and are essential for our senior citizens so that they can enjoy their retirement with others of similar age without many of the stresses of running a home which, in many cases, is larger than they require. This is even more the case these days with fewer seniors living with their adult children because, in many cases, both younger adults are in the work force.

There is, of course, a point of view that it is cheaper for seniors and the community at large to provide a level of assistance to seniors in their own homes to allow them to remain longer with their neighbours and familiar surroundings. This must be balanced with another view that suggests that seniors—particularly married couples—adapt to retirement village life better if they make that move in their 50s or 60s. I believe that it is really a matter of choice, taking into consideration all the relevant factors. This is why it is important that it must remain possible for retirement village operators to provide a range of options.

One of the roles of this legislation must therefore be to allow for options—not to be over-prescriptive but ensure that all the relevant information is easily comparable from one prospective village to the next. I suspect that if as much time and attention was taken and good legal advice sought and followed when moving into a village as is the case when a couple in their 30s or 40s are buying a house, we would not hear of so many disappointments.

For a number of reasons this is not the case. That is why I believe that we, as legislators, must acknowledge the unique circumstances that may apply when elderly citizens and their families are considering retirement village living. That is why I also believe strongly that the documentation, including the public information document, should be designed for maximum compatibility, clarity and caution and be in the most reader-friendly format. What is wrong with insisting that a minimum type size be used to assist older citizens?

While on the subject of legal advice, I have been disappointed to hear that many prospective residents have not sought legal advice on what, in many cases, would amount to the second most significant—perhaps the most significant—purchase of their lives. Perhaps a section can be included which recommends strongly that the prospective resident seek legal advice. This action must be acknowledged prior to the document being enforceable. Also, it would appear that much legal advice tendered in the past was just that—legal advice. Surely, with the growth of this industry, there is an

opportunity to enable solicitors to do a training course to equip them to specialise in this area. It would be lucrative for them and provide an enhanced service to intending residents.

Members of Parliament, of course, as with any other field of endeavour, mainly hear the failure stories rather than the success stories. It should be recognised that the vast majority of village residents are, in my opinion, very happy with their situation. As with any other situation, some people make a decision which was either unwise at the time or later becomes less satisfying to their circumstances. The legislation must recognise this and protect their interests and allow for readjustment.

Obviously, the issue of the resale of units and the ongoing maintenance fees is one of the most vexing issues, and the two are intertwined. However, I do not share the Minister's rather sanguine approach that fixing one will fix the other. The Bill does not go far enough in this regard and I foreshadow an amendment which would provide the minimum protection to which outgoing residents should be entitled.

Perhaps in her summing-up, the Minister might like to advise the House as to why real estate agents are reportedly reluctant to be involved in the resale of units and whether consideration had been given to this when the Bill was framed. As I said earlier in relation to solicitors, perhaps there is a role for Government to play in training interested real estate agents to become specialists in the sale and resale of retirement village units. The Minister might like to respond to that.

There are a number of issues in the resale area which need to be addressed in the clauses. I know the Minister has been asked about the problem of residents not being able to market units until they vacate them. This seems to me to be an area that could and should be addressed. The Minister might like to comment on that.

Maintenance within villages has been an ongoing issue in some situations. The definition of capital replacement, as opposed to maintenance, is an area which could be improved, perhaps by the provision of a schedule which makes this clear. I suspect that there may be some villages whose residents will find it onerous to get their capital maintenance funds up to par even within 10 years. This would be particularly the case where a village was run down. Will the Minister make special provision for villages in this situation and direct officers from her department to sit down with operators and resident representatives from such villages with a view to assisting them through such difficulties? On the other hand, residents, too, must accept that the level of maintenance and service within a village is tied to the level of fees and their efficient expenditure. I hope that the requirement of a special resolution to approve an increase in the general services charge will protect the interests of pensioners and others who are not well off. As retirement villages are not just a group of similar houses, but represent a community, the rules for meetings and operator accountability are of great importance. I believe that the Bill can be improved in this area, and I will revisit this during discussion of the clauses.

I refer the Minister to correspondence that she has received from the Immanuel Gardens Independent Living Unit Residents Group. They asked whether the legislation could require that financial results be made available to residents not less than 21 days prior to their annual general meeting. Is it possible to have this provision included in the Bill? They also ask that, where a village includes a hostel and nursing home, representation from each type of accommodation be included on the board of management. I would appreciate the Minister's comments on this request.

I would now like to refer to some of the questions raised by the management advisory board of Buderim Garden Village. These issues were raised in a recent letter to the Minister and were based on a study of recent New South Wales legislation. I would like to ask the following question: is it not true that the New South Wales legislation applies equally to existing contracts and new contracts? This appears not to be the case in this Bill. I am advised that the New South Wales legislation requires that a retirement village is reasonably secure. Is there provision in the Queensland Bill for that? I do not believe there is.

I am also advised that the New South Wales Act requires the operator to supply residents with a statement itemising the way in which the operator proposes to expend the money expected to be received by way of recurrent charges during a particular financial year prior to the commencement of the year. Is that to be provided for in this Bill? Once again, I do not believe it is. Similarly, I am advised that the New South Wales Act prohibits monetary penalties imposed on an operator, or legal costs incurred by an operator, from being charged to the operating costs of the village. What is the case in this Bill?

Some doubt has been expressed to me in relation to the enforceability of decisions of a dispute resolution tribunal. Could the Minister outline to the House whether or not such orders from a tribunal are enforceable on both parties?

In conclusion, I must express relief that this Bill is finally before the House. It is not a perfect Bill; it has some fundamental flaws which could have been and still can be addressed. Anything that we can do to make the lot of our senior citizens—particularly in this special year—less stressful must be pursued. I have asked a number of questions and I hope that the Minister can respond to them in her

summing-up. There are some issues that I, together with the shadow Minister, intend to address during the Committee stage.

Let us hope that we can wind up this parliamentary session for 1999 secure in the knowledge that we have done everything reasonably possible for our senior citizens' retirement living expectations.

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