

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into the retirement housing sector

Ballarat — 19 October 2016

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Ms Julie Carter.

The CHAIR — Mrs Carter, thank you very much for joining us this afternoon. We have allowed approximately half an hour for our time today. Before I invite you to make your opening remarks, I will just caution that all evidence taken at this hearing is protected by parliamentary privilege; therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. I invite you to make some opening remarks, and thereafter the committee will have questions. Thanks for being with us.

Mrs CARTER — Thank you. My name is Julie Carter, and our submission is no. 237. I am delighted to have this opportunity to speak to the parliamentary inquiry. I firmly believe that Victoria does need an ombudsman in this area to assist in levelling the playing field between proprietors and residents. This would be in keeping with some other Australian states. My husband, Frank, and I retired to Port Fairy 11 years ago. Increasing health issues and the need to be closer to family support made a move mandatory. At this time the retirement village had a strong marketing strategy and its luxurious villas and surrounds were exposed nightly on television.

May I point out that at this stage of their lives the elderly have few choices. The house is too big; we are unable to manage the upkeep, especially physically; we need to be closer to family and the appropriate health services et cetera. It is also a very traumatic time: getting a home ready for sale, waiting for the inspections and then the sale, the home has to be cleaned out, friends and associations to be farewelled, and the uncertainty of the future.

We came to Ballarat and were given a very brief tour of the village. We did not see a completed villa, as some were in the process of being built and ours only had the slab poured. We were in a new section that was just being developed. We were assured that we would be extremely happy and very satisfied with our luxurious villa. Even the side of the villa bus pronounces ‘affordable and secure luxury living for the over-55s’. We signed up on that day and managed to sell our home and arrived on 5 November 2015 in the fragile state that is the norm when going into a retirement village.

We found the summer to be very hot and the air conditioner was a waste of space. It could freeze you if you were underneath it but otherwise it made no impact on the temperature of the open kitchen-living-dining room design. Reviews of the appliance on the internet were enough to cause despair. We employed a recommended electrician to provide and install fans and some required power points. Bartlett Blinds* is a frequent visitor to the village and we had three blinds installed in the front windows in an effort to make the unit more bearable. We are assessing if more are required — most probably.

At the back of our unit a small shed and concrete were put in at our cost to the specific demands and specification of the retirement village, particularly the colour. The back garden is our responsibility and it has been costly to have a garden, of which we are very proud and very happy with.

The gas heater is a shocker. It is only the lowest rating possible: three star. When it is turned on, it blows cold air for a considerable amount of time. As it gets to the set temperature, it turns off and shortly after we have to put up with the arctic blasts until the temperature comes up again — and this happens again and again. A gas service man inspected the unit and told us he would never put such a poor quality system into any home and that its longevity was very questionable. We do not know what we are going to do about the gas heater and the air conditioner, but we will need to address them in the future.

These are only a few imperfections of our villa. We believe it is likely that we will spend at least \$35 000 to \$40 000 on our unit. Many others have already spent far more than this. After five years and one day of occupation, the proprietors will be entitled to more than 36 per cent of the sale price of the villa, even to that part to which they have contributed nothing.

I would like to make mention of submission 314 of Mr Eric Butcher*. He comments on the unfairness and inequity of the deferred management fees. The drawdown at our retirement village is 6 per cent for those five years and one day, and this is even far greater than any of the scales that Mr Butcher has. This drawdown is on the final sale price. It is grossly unfair and is taking advantage of elderly folk with limited options. Moreover, the cost of refurbishment to whatever standard is set at that time is met entirely by the estate. However, if we are there longer than the five years and one day, CCV, the retirement village, will get 36 per cent — and that includes 36 per cent on appliances and additions that they have paid nothing for and also for the refurbishment.

Everything in the contract is heavily laden in favour of the proprietor. There are some examples that I have got of that, but perhaps I just need to say that we cannot win with it. For, example, the expenses related to the common areas and communal facilities are paid by the monthly fees of the residents and yet there is a clause which states that the owner may, in its absolute discretion, allow such facilities to be used by the local community. So we are paying the rates on it, we are paying for the electricity, we are paying for it to be cleaned — not me personally; it is through our fees — but the owner may, in its absolute discretion, allow such facilities to be used by the local community.

This is our story, but most if not all residents in our area have had multiple issues, and it is a long, protracted path to have them addressed. We had a stainless steel shower hose that was showing significant signs of rust. It was inspected and we were told there were cleaning issues involved. We were told it was guaranteed but we were responsible for its replacement. We stated that we did not know the cost or from where it was bought. This has since been replaced by the village, but everything is a long, arduous struggle to have matters dealt with.

Some of our friends have had horrible experiences in trying to have shortcomings addressed. They feel they are targeted and believe they are seen as troublemakers. Often a very poor and unacceptable solution occurs — for example, huge screws put in a wooden pelmet that the curtains were pulling off the wall; so unsightly and not in keeping with ‘luxurious’.

Since coming to the village we have seen family members more often, we have made good and lasting friendships and our social activities have increased. This has been very positive. However, there is a downside. It is causing some residents anxiety and even depression and some feel that they are being taken advantage of because we are elderly. It is a poor financial decision to move into our village, or any village, and this needs to be weighed against the positives. Had we received the villa in the state we expected, with the fittings we believed we were promised, I believe we may have even thought it was a reasonable financial decision.

The CHAIR — Thank you very much for your evidence, Mrs Carter. You described how you did a quick tour of the village, did not see a completed villa and then signed the contract that day.

Mrs CARTER — No. We put down our \$1000 deposit that day. When we went to see the solicitor he was more interested in telling us that we had worked hard all our lives and that we deserved this. Certainly the friendship that you get there is fantastic; the facilities are good. There certainly could be some improvement. But when we found out from RRVV that there are solicitors who understand the contract and could have taken us through it, I just wish we had known that. We would have had more capability of finding where we need to go. We probably still may have made the same decision, but we felt hamstrung.

I have sent many letters about our problems to management. I have never received one written reply. Now, whether that is because they are not on the actual form of the dispute resolution or not, I do not know. I thought a letter was a letter and it should be responded to.

The CHAIR — In New Zealand they have a model where people must get legal advice before signing. You obviously got legal advice.

Mrs CARTER — We did, but it was useless. In fact I think he told us we had a lovely time and he used to play football with Mr Gull.

The CHAIR — You got legal advice but not to the standard that you would want. Do you think a New Zealand-style model, where legal advice is mandatory prior to executing contracts, would be a good idea?

Mrs CARTER — It needs to be legal advice with a solicitor who understands the Retirement Villages Act and also the ensuing problems you can have and also the ensuing costs.

Ms SPRINGLE — I am keen to hear about your examples of where management has the upper hand over the resident. I am not quite sure — you mentioned you had examples. I do not know whether it was in relation to the contract or whether it was just in practice or — —

Mrs CARTER — It was in relation to a contract, and would you believe that when I was preparing for this I tried so hard to find these particular spots. I do know they are there. Do you think I could find them? I could not. But the words that are important are, ‘and this list is not exhaustive’, and in other areas, ‘that it may include other things’. So there is a changing base as to what you are responsible for et cetera.

Ms SPRINGLE — Can you give us specific examples in terms of practicality — what that has meant for you?

Mrs CARTER — Yes, it is what you are responsible for in your villa.

Ms SPRINGLE — Like?

Mrs CARTER — Like the fittings et cetera.

Ms SPRINGLE — I am trying to get some examples on the record about how that has adversely affected you. If there is a power imbalance in terms of the legal structure, how does that manifest in everyday life?

Mrs CARTER — You feel that it is not a level playing field — that management has the ability to change the goalposts, even though you have signed a contract. Even though we have signed that contract, another thing that is important is the refurbishment or returning it to its natural state. For example, some of our friends in the village have benches that have been dented during construction. They have complained about that, and they said, ‘Can’t really see it; it doesn’t matter’. But they know that once refurbishment happens that will be considered wear and tear — that sort of thing.

Ms SPRINGLE — Okay. Do you think most people feel that way — that they are at a disadvantage because of the way these contracts are interpreted?

Mrs CARTER — I would think that most would. The people that are moving into retirement villages now would probably be of a much higher education and more professional. I do believe that, by their force — I think we are just the start of it. I think that there will be rapid changes to ensure that the elderly are treated with respect, that their knowledge is appreciated and that they are just not a money-making machine for developers and providers.

Ms PATTEN — Thank you, Mrs Carter. With the unanswered letters, we heard from a previous witness, Mrs Menzies, that at the AGMs the disputes are supposedly listed within the AGM structure. Is this the same in your village, and have you seen disputes mentioned at the AGM?

Mrs CARTER — It was most unfortunate that we had a holiday planned when the AGM was on, so we did not actually attend, but I did read the minutes from it. I think there were two that were mentioned, and the conclusion was that they had been dealt with satisfactorily. I know that I was probably stupid, but I had not realised that there was a dispute resolution form available, and I wondered desperately, ‘What happened to all my letters?’. Obviously if you do not get them on the right form, forget about them.

Ms PATTEN — Yes, even the most unhelpful public servant will normally tell you that — that you need to fill in the right form. Are you aware of anyone who has filled in the right form and gone through the process and been satisfied with the result, or unsatisfied?

Mrs CARTER — I do know of one case, and there has been partial satisfaction in that area.

Ms PATTEN — Partial.

Mrs CARTER — At least it was addressed in some way.

Ms PATTEN — The fees that you are paying for the services — it does sound like a very happy village, and obviously you have got some great people there. Do you think that how those fees and costings are presented to you — are you happy with the transparency there?

Mrs CARTER — Absolutely not! I would have dearly loved to have been at that AGM. There was a carryover amount brought forward from last year of \$61 000-plus. The village is now completed in its entirety, and so its income was going to go up to an extra \$46 000 a year. That included an extra \$3 a month that we were targeted. That is not much, but when we had a balance coming forward of \$60 000 and there was going to be an extra \$40 000, why was there a need to put the fees up \$3? It is not much for each villa. But overall, when things are bad and there needs to be a hike in fees because something has to happen, that is when we could do with an increase. But when you have \$60 000 carried forward and you are getting an extra \$40 000, why would

you put your fees up another \$3 a month for each villa? I was not there, so I could not ask my questions, and that is what happens.

The retirement village is pretty happy, except it does have its downside. I think the easiest way to say it is that for many years it was a compact villa and we have many residents who are perhaps older than the new ones coming in, and they are used to their ways. They are used to working closely with management and feel that there is no need to create a fuss. In actual fact our residents committee was disbanded four months ago on the connivance and/or contrivance of the managers and these older people on the committee. So we had no residents committee for four months. We do have another one now. I have got to say I put my hand up and I am on it, because I just think that we can work to have a lovely village, and we just want that level playing field with our proprietor.

The CHAIR — Thank you, Mrs Carter, for your submission and your evidence today. As I said earlier, a draft version of the transcript will be with you in the next week.

Witness withdrew.