

Alan Kohn



The Secretary
Legal and Social Issues Committee
Parliament House, Spring Street
East Melbourne VIC 3002

By email: LSIC@parliament.vic.gov.au

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Re. Inquiry into the Retirement Housing Sector

I welcome the opportunity to provide feedback to the inquiry into the Retirement Housing Sector.

I have been assisting the following two people who reside in [REDACTED] with numerous issues they have had with their respective village management, as a friend and advocate:

- [REDACTED] who owns a strata title apartment in [REDACTED]
- [REDACTED] who has a loan lease apartment in [REDACTED]

Both [REDACTED] and [REDACTED] have consented that I write to you.

I have assisted [REDACTED] since July 2010 with the following issues:

- Attempted eviction from her home (strata title property) by [REDACTED].
- Numerous trespassing and thefts from her apartment which were occurring over a two year period by an [REDACTED] staff member using a master key to her apartment.
- Overcharging of telephone account (embedded telephone PABX) of approximately \$5,000.00 by [REDACTED] management.
- Overcharging of electricity account (embedded electrical network) by approximately \$600.00 by [REDACTED] Management.
- Ongoing bullying, intimidation, harassment, and psychological abuse by [REDACTED] Management and staff.

[REDACTED] management initiated the eviction process in May 2010 and engaged [REDACTED] to assist them with the process to evict [REDACTED] as she was diagnosed

with dementia and was no longer suitable to reside in her apartment. A guardianship application was submitted to VCAT to help with the eviction process and as an outcome it was agreed by the parties that I be [REDACTED] advocate to identify what the real issues were between [REDACTED] and [REDACTED] which was to be reported back to VCAT. In summary, the outcome was that VCAT dismissed the application in February 2011, as [REDACTED] was misdiagnosed as having dementia and did not require a guardian to be appointed. [REDACTED] acted in a way to protect herself from the continuous intimidation, bullying, financial, and psychological abuse from [REDACTED] management and staff and at the same time to protect her property from being trespassed and thefts from her apartment. [REDACTED] management did not like her reactive behaviour and thought eviction would be most appropriate. [REDACTED] did not provide [REDACTED] a safe and secure environment and also appeared to have breached their duty of care. Before the VCAT hearing, I had a meeting with the [REDACTED] village manager to try and resolve the issues, the manager was not receptive. I submitted a formal complaint to [REDACTED] management which was also not acknowledged or addressed. Freedom of information documentation obtained from [REDACTED] clearly detailed the scheme planned for evicting [REDACTED] and it highlighted that the only mechanism available to them would be to apply for a guardianship order.

I assisted [REDACTED] in obtaining a security camera for her apartment to ascertain who was stealing from her over a 2 year period. Video footage revealed that an [REDACTED] staff member was using the master key to enter [REDACTED]'s apartment when she was either in the common lounge room or away from the village. [REDACTED] reported occurrences of theft from her apartment to [REDACTED] management, and freedom of information documentation obtained from [REDACTED] revealed that they dismissed it as she had dementia and was seen as a trouble maker. We took the matter to Victoria Police who were successful in obtaining a conviction against the Staff member through the Magistrates Court. At no time did [REDACTED] management provide any apology, support or assistance to [REDACTED] during her ordeal with the thefts by a staff member who they employed and were responsible for.

During the time of the attempted eviction and thefts, we sought support from Senior Rights Victoria and the Retirement Villages Association, however they signified that they were unable to provide any support and recommended that [REDACTED] seek legal advice.

At the time I reviewed [REDACTED] accounts and noted that she was being overcharged by [REDACTED] approximately \$5,000.00 for her telephone account over a four year period which [REDACTED] strongly denied. I sought assistance from Consumer Affairs Victoria (CAV), who firstly stated that they could not help me and referred me to the Telecommunications Industry Ombudsman who directed me back to CAV. The process for obtaining reimbursement took 12 months. At the time I had also asked CAV to address [REDACTED] management complaint process as it was not compliant with the Retirement Villages Act and Regulations. CAV to date has not provided any feedback of their findings. This matter, regarding the complaints process, is still ongoing since September 2010.

Medical reports obtained highlighted that [REDACTED] was wrongly diagnosed with dementia, and that the attempted eviction and thefts over a two year period have had a significant impact on [REDACTED]'s mental state including insomnia, significant levels of anxiety, depressive symptoms, and considerable frustration and overall have had a significant

adverse impact on her mental state for which she requires prolonged periods of counselling and support.

Last August 2015, I noticed that [REDACTED] was also incorrectly charged by [REDACTED] for electricity usage (embedded electrical network) which I again took up with CAV as [REDACTED] also strongly disputed this. Firstly CAV told me that they can't help me and to contact the Energy and Water Ombudsman Victoria who referred me straight back to CAV. It took over six months to resolve the issue and obtain the \$600 reimbursement. [REDACTED] stated that the billing error only effected [REDACTED], however, from documentation received from [REDACTED] regarding issues with electricity charges it is obvious other residents were also affected, but they did not receive any reimbursement.

I was informed by numerous people in the community that had I not stepped in and helped [REDACTED], she most probably would have been evicted from her home which she owns, lost approximately 25-40% value on the sale of her property to [REDACTED] as deferred management and refurbishment fees. She most probably would not have been able to retrieve \$5,000 for telephone account overcharging, and would not have been able to prove the thefts.

As [REDACTED] has submitted her own response to the inquiry, below is a summary of the issues I have assisted her with which are still ongoing since August 2015. These have been brought to the attention of Consumer Affairs Victoria to which they were unsuccessful in achieving a resolution:

- Complaint to [REDACTED] management regarding her contract with respect to council rates
- Unknown future of [REDACTED] and the potential tenancy and financial impacts it will have on the residents residing there. This has been ongoing for 12 months and [REDACTED] management have been providing conflicting information to residence regarding the future of the retirement village. [REDACTED] however, seem to be very keen on providing a buy back option of apartments to residence where they will loose approximately 40% of the value to [REDACTED] being deferred management fees. Residents taking up this option will also not receive any payment until one month of vacating the village. Usually when a house is sold a vendor receives payment when vacant possession is provided to the purchaser upon settlement. This has been a very stressful time for [REDACTED] not knowing what the future holds for her.
- [REDACTED] management not complying with a formal complaints process in accordance with the Retirement Villages Act and Owners Corporations Act.
- [REDACTED] management not providing her with a safe and secure environment as she and other residents are being continuously harassed by a fellow resident and fear for their safety and wellbeing.
- [REDACTED] is not meeting various requirements of the Retirement Villages Act and Owners Corporation Act with respect to annual resident meetings and annual owners corporation meetings.
- It was noted that all [REDACTED] villages in Victoria have the same documented management complaints process which does not meet the Retirement Villages Act which Consumer Affairs Victoria has acknowledged in writing to me, however nothing has changed since reporting the issue to CAV in 2010.
- [REDACTED] management and staff continuously intimidate and humiliate her which I witnessed during a meeting with her and various [REDACTED] Management.

Summary of issues experienced

The following is a summary of issues identified whilst assisting [REDACTED] and [REDACTED]:

- Fear of retribution when making complaints to retirement village management. Most times they made complaints, they were labelled as trouble makers by [REDACTED] Management, staff and some residents. They were also on numerous occasions intimidated and bullied by [REDACTED] managers and staff when they made complaints. I have documented evidence obtained through VCAT to substantiate an example of this.
- Retirement village management not taking the complaints process seriously.
- Consumer Affairs Victoria providing incorrect information and advice regarding the Retirement Villages Act, for which I have extensive documented communication with CAV.
- CAV has no jurisdiction to make binding orders, and hence, we now will be taking various issues to VCAT to seek binding orders as we have no other options available. This may become a lengthy, stressful and expensive process.
- The Retirement Villages Act states that its purpose is to protect the rights of the residents, however, from my experience this is not the case. To my knowledge CAV have to date not enforced the requirements of the Act.
- Engaging legal practitioners is very costly and not within their means in order to protect themselves and enforce their legal rights. We also could not access any specialist legal advice relating to retirement villages.
- Both ladies continue to suffer high levels of stress and anxiety due to their predicaments with [REDACTED].
- All [REDACTED] retirement villages are [REDACTED] Villages which is a program managed by the Retirement Living Council and BSI. In order to be accredited, Villages must meet the 26 life mark standards. The following are examples of standards which [REDACTED] are clearly in breach of:
 - That residents feel safe and secure within the village
 - That village rules and regulations are up to the required standard
 - That the village has a comprehensive policy to deal with complaints and disputes.

It appears that the [REDACTED] village accreditation program provides false and misleading information to residence and potential residence of retirement villages.

I had contacted the Retirement Living Council regarding the current issues being experienced with [REDACTED] however they did not follow up my concerns.

- Both [REDACTED] and [REDACTED] acknowledge that they have purchased into a so called retirement living lifestyle, however they are currently not able to enjoy their retirement in a safe, secure and friendly environment which they had purchased. Leaving is not an option, as both will lose too much money due to deferred management and refurbishment fees and will not be able to afford equivalent accommodation. They also both stated they currently do not have a quality of life at the retirement villages they reside in due to the ongoing issues they have with [REDACTED] Management.

Suggested recommendations

The following are recommendations to be taken into consideration to ensure a stable, safe and secure accommodation for older people:

- An Ombudsman be appointed who has the jurisdiction to make binding orders. This will provide residence easy access to free, fair and effective external dispute resolution.
- An advocacy organisation be established similar to the Office of the Public Advocate. Volunteer advocates to visit retirement housing / retirement villages on a periodic basis, unannounced, in order to independently ensure that residents are being fairly treated, respected, and are safe from abuse. Key findings from these visits to be reported on a periodic basis to the Ombudsman and to Parliament to ensure the safeguards continue to be effective to protect the rights of the elderly.
- Retirement village contracts to be fair and in plain simple English, and not be ambiguous, contradicting, confusing and misleading as is currently the case with contracts I have experienced.
- CAV to enforce the Retirement Villages Act on behalf of the Minister for CAV in accordance with the provisions in the Act and Regulations.

I have extensive documentation to substantiate my concerns and feedback, including communication with [REDACTED], VCAT, CAV, Victoria Police, Magistrates Court, and freedom of information documentation from [REDACTED]. This documentation can be made available if requested.

Please do not hesitate to contact me if you require any further information.

Yours sincerely

[REDACTED]

Alan Kohn