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From: Inquiry into the Retirement Housing Sector POV eSubmission Form
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Sent: Monday, 13 June 2016 12:09 PM
To: LSIC
Subject: New Submission to Inquiry into the Retirement Housing Sector

Inquiry Name: Inquiry into the Retirement Housing Sector

Mr Brian Kerrigan
[REDACTED]

[REDACTED]

SUBMISSION CONTENT:

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I am 78 years old and live with my wife at [REDACTED] retirement apartments. We have lived here for almost 4 years.

My concerns stem from our own experiences and are that Owner/Managers of such retirement facilities are able to unreasonably and unfairly take advantage of the Residents to achieve their own goals (financial or otherwise).

Residents in these facilities are generally at the older end of the retired persons age group - the average age in the facility we live in is 84 years.

Hence, a significant portion of these retired people have reached the stage of their life where, although they live independently, find it difficult to understand some matters that are of importance to them (eg. the village budget). Others, understandably, have simply reached the age where they don't care about such matters.

As a result these Residents can be, and sometimes are, led by the Owner/Manager into 'going along' with whatever it is the Owner/Manager desires. Unfortunately, in retirement living facilities, such Residents frequently carry the majority of the voting numbers and the Owner/Manager achieves whatever it is they desire irrespective of whether it is reasonable and fair to the Residents.

Residents who do understand and care about such matters and who may have an opposing view to that of the Owner/Manager are simply voted down and they have no, or limited (generally very expensive), avenues of appeal.

An Ombudsman is required to appropriately administer these matters of dispute to ensure the fairness and honesty of the Owner/Manager's treatment of the Residents.

Submission to :- The Secretary, Legal and Social Issues Committee, Parliament House,^{RHS SUBMISSION 204}
Spring Street, East Melbourne, Vic. 3002.

From :- Mr. Brian Kerrigan

[REDACTED]
[REDACTED]

I am 78 years old and live with my wife in [REDACTED] retirement apartments.
We have lived here for almost 4 years.

I am sure you will receive many submissions regarding the unfairness of some municipal rates (duplicate payment for some services, payment for services not used etc.)

My submission however is related to Council (in our case Bayside Council) for the first time this year applying rates directly to our Residents for the apartments they reside in, and the unintended (I hope) ramifications of this action on the Residents.

Budget Problem with Owner / Manager (Council Rates).

Until this year Council directly billed the Owner for the rates and the Residents were then charged by the Owner for their share. This share was approximately 50% of the total rates charge in accordance with the approximate 50 : 50 split between residential to communal areas within the property. The remaining 50% (for communal areas) was paid by the Owner /Manager from the 'Village Budget' which is funded by the Resident's Service Fees.

As the Council now claim that under the Local Government Act they have to rate and bill each apartment separately, residents have paid rates that that are around three times higher than those applicable previously . The valuations placed on the apartments were such that the Residents were billed for approximately 85% of the total rates for the property, leaving 15% billed to the Owner for the communal areas; nothing like the actual 50 : 50 split.

This might not normally be considered a problem seeing that the Residents ultimately pay all the rates, either by direct billing from the Council or from their service fee financed Village Budget. However, in this case, because of a special agreement between the Owners and the Residents (brought about by the Owners withdrawing part of the property from the Residents) the Owners make an "Owner's Contribution" each year to make up any expenditure overrun in the Village Budget. A significant Owners Contribution has been applied every year since inception of the special agreement and would normally be expected to continue.

This year however, and even though most expenditures and the total expenditure provided for in the Village Budget are similar to previous years, the rates provision in the budget for communal areas of the village has been reduced from approximately 50% of the total rates bill as previous, to around 15%. A dollar reduction of around \$30,000 to \$40,000 and thus enabling the Owner to avoid, or minimise, the 'Owner's Contribution. This is a windfall gain for the Owner / Manager and comes at a very

significant expense to the Residents; they being directly charged rates equalling around 85% of the total rates bill rather than 50%.

This situation is not clearly understood by most Residents (and perhaps even the Facility Management).

The Council, in seeking assistance in determining the property valuations applicable for rates, claim to have consulted extensively with the Owner /Manager. It would appear a misunderstanding of the proportion of residential area to communal area has resulted. Attempts to have Owner / Management clarify information provided to Council have been fruitless.

We need help. Access to an Ombudsman would be ideal to assist resolution.

Rates Problem with Council.

The Council has been formally (in writing) questioned why rates should be applicable to people who are NOT property owners in the municipal area.

No formal answer has been received, and a phone call to confirm the letter had been received, ensured it had, and led to verbal comment that the Local Government Act required Council to rate the apartments separately, and if we wished to challenge the valuation of the apartment on which the rates are established we had very limited time remaining to do so. Nothing has been heard since and my letter was dated 28 April 2016.

We question the Council's verbal interpretation of the Government's requirements.

We do NOT own the apartment in which we reside. We have a Loan and Licence agreement with the Owner (in our case Lend Lease) under which, for the loan of a substantial sum to the Owner, we can purchase for a nominal sum a licence to reside in the apartment.

We expect the Owner to be billed the rates. We don't have a title and cannot use it as collateral to borrow funds. We share facilities with other Residents. We have to pay a very significant monthly service fee (in our case \$857 / month). We pay a substantial deferred management fee plus all costs to refurbish the apartment on departure.

If it is a legal requirement that the apartments are to be rated separately, the above encumbrances would need serious consideration in determining the capital improved value of the apartments used to establish the applicable rates. The values would require review to align with the value assigned to the communal areas of the facility.

An Ombudsman available to assist / advise / direct resolution on these matters would be a great relief for elderly people living in retirement apartments / villages.

Brian Kerrigan

