Bellarine Lakes Residents' Committee submission to the Legal and Social Issues Committee's inquiry into the operation and regulation of the retirement housing sector.

This submission is lodged on behalf of Bellarine Lakes Residents' Committee.

We note that the Retirement Villages Act (RVA) originally was enacted to avoid capital losses to residents by a level of land title protection and as the Retirement Industry has grown there have been several ad hoc expansions and amendments to the Act. This would be an appropriate time to carry out a full consolidation of statute to embody the changes we view to be necessary.

This industry has seen changes over the years both in the legal structures developed for retirement complexes and the major corporate involvement which has grown.

These changes generally function to the disadvantage of residents whether as individuals or as relatively small groups opposed to large corporations.

Our submission is directed to six specific areas.

1. Ombudsman
2. Municipal charges
3. Promotion of retirement facilities
4. Administration of retirement facilities
5. Exit imposts
6. Financial protection

1. <u>OMBUDSMAN</u>

We strongly support the widespread requests to have appointed a Retirement Villages Ombudsman. Such office could develop a sound understanding of the industry and be in a position to mediate on behalf of residents on many issues with owner operators without the cost and imbalance of VCAT Applications and possibility of a tribunal with little knowledge of the intricacies of the industry.

The very fact of an ombudsman's existence could be expected to have a moderating influence on the policies of the owner/operators as well as on their approach to individual situations, with a consequent lessening of the tensions which can arise from time to time.

2. MUNICIPAL RATES AND CHARGES

Standardisation through legislation is necessary.

Some municipalities have differential rating for Retirement Villages, varying in degree, but many do not, despite the fact that many major services are not provided such as –

drainage infrastructure and maintenance
road construction and maintenance
footpaths
street lighting
street cleaning

all of which are imposed on the owner/operator and thereby ultimately on the village residents.

3. PROMOTION OF FACILITIES

Advertisements display completed (artists impression?) complexes with a range of communal facilities when in reality those benefits are often delayed and in some cases do not materialise for many years (if at all in some cases).

Obligations should be put on owner/operators to provide specific time-lines for the construction and fitting out of facilities, if necessary tied to the staging of construction of residential units, and provide evidence of funding for them. Protection is needed for earlier residents who are, of course, disadvantaged by not having the benefit of facilities in the first years of developing a village despite having paid for them in effect. There needs to be a mechanism for investigation of questionable advertising such as “security” or “secure environment” when there is no 24 hour staffing and uncontrolled public access available 24/7.

4. <u>ADMINISTRATION</u>

The RVA gives residents no effective control over charges except to be able to challenge increases which exceed CPI but with no access to balance-sheets or other financial records as well as the sources of the initial budget figures residents are powerless. Also in the situation of a village being developed in stages there are issues of apportioning costs of services which become used in both the communal village activities and the operator’s capital expenditure in the expansion/construction zone. Owner/operators should not be able to pass off these costs as wholly village operating expenses.

5. <u>EXIT IMPOSTS</u>

Generally termed “deferred Management” these charges were legitimate in the early days of retirement villages where the owner/operator initially funded construction, but nowadays the incoming resident provides capital cost up front and any ‘management’ component is (or should be) incorporated in the capital cost of entry or the ongoing maintenance charge. In today’s scenario this impost is no more then an income stream for the owner and to that extent it may be excessive.

For example, this village will charge 6% for six years plus 2% deferred maintenance (acceptable as a sinking fund contribution) and then add on selling costs – refurbishment advertising and the owner’s legal costs. These percentages are not based on the resident’s ingoing capital amount but are to be calculated on the ultimate gross re-sale figure i.e. before allowing for the costs of sale and any residents' improvements.

Sample calculations provided by the operator suggest a resident might recover the original capital after ten years – but that is the capital minus ten years inflation value. The owner/operator would still be doing well if the deferred management charge was based on the resident's original ingoing cost and the selling costs would need to be investigated when there is often a waiting list of potential residents.

Yes, you can say the resident is aware of all this when signing the contract but that is not wholly true – anecdotally not all residents seem to understand their agreements – and are lulled by their need for comfort and security, and the imagined life-style, and the probability that the financial outcome is not their worry but their family's – but that does not justify excess.

6. FINANCIAL PROTECTION

The RVA gives a measure of security over title to the village site but needs to look further into the situation of residents in the event of financial failure of the owner/operator.

Residents of strata or body corporate style villages at least have a title, which cannot be said for loan/lease or site/rental based residents.

Presumably financiers have security other than the village site but village residents would need some level of support, guidance statutory mechanism to enable them to develop for themselves or to negotiate for continuation of their village.