

From: [Inquiry into the Retirement Housing Sector POV eSubmission Form](#)
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Subject: New Submission to Inquiry into the Retirement Housing Sector
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Inquiry Name: Inquiry into the Retirement Housing Sector

Mr Steve Hyndes
[REDACTED]
[REDACTED]

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SUBMISSION CONTENT:

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Parliamentary Review: Submission re Retirement Villages
Prepared by Steve and Paula Hyndes on 22rd May 2016 (Phone: [REDACTED])
Summary: We chose [REDACTED] because it was in our local community and we believed that [REDACTED] could be trusted to run the village with fairness and to observe the requirements of the law. What followed was a stressful conflict about the fees and maintenance and the altered nature of the Village. With frequent changes of management personnel [REDACTED] proved to be difficult to negotiate with and most staff were totally ignorant of their legal and contractual obligations to residents. Eventually we sought help with CAV (Consumer Affairs Victoria) and then VCAT. It was an extremely stressful and time consuming process (from 2008 to 2015) which eventually exhausted us so that we decided to leave the Village. We are now in the private rental market. Even with a small settlement through VCAT we suffered significant financial disadvantage. An accessible resolution process, such as an Ombudsman, would have saved us from a great deal of stress and probably far less financial loss.
Background: Shortly after purchasing [REDACTED] in 2006, [REDACTED] produced a brochure which indicated that the Village was intended to reflect the [REDACTED] community and provide for local residents who wished to downsize but still wanted to live in the [REDACTED] area. The Manager at the time confirmed verbally to us that the criteria in the brochure were used to select residents. Copy of brochure attached.
The planning documents for the site indicated that it was to be used for an aged care facility with Residential Aged care of 51 beds and 12 Independent Living Units. In 2009, without informing or seeking consent from residents [REDACTED] negotiated with [REDACTED] to change the nature of the use of the Village site to include up to 49% for disability accommodation.
[REDACTED] did not significantly alter the profile of residents until the last 18 months of their ownership. The most significant changes occurred in July to September 2014 when [REDACTED] closed its community housing for people requiring assistance with activities of daily living. Many of these residents were previously homeless. [REDACTED] moved 21 of the residents of those houses into the Village. The majority of these new residents had behavioral issues resulting from, for example, acquired brain injury and conditions which had resulted in them being on community

treatment orders. This drastically altered the Village.

When █████ purchased the Village the grounds and buildings were in a good state of repair. █████ neglected the maintenance so that when they sold the village the gardens were in a disgraceful state and most buildings required substantial maintenance. Routine checks such as fire maintenance equipment, heaters and air conditioners etc in the Independent Living Units were neglected for years at a time in spite of repeated requests from residents. During the 8 years of its ownership of the Village █████ did not observe any of the requirements of the RVA (Retirement Villages Act Victoria 1986) and the related Regulations in regard to the setting of fees. As a result the Maintenance Fees were more than double what would have been permitted.

Failure of CAV to provide any protection to the residents

Although empowered by Section 41 of the RVA to provide protection for residents of Retirement Villages and even to impose fines, CAV only offers a Conciliation process. When we took our concerns to CAV, WMV did not keep the promises it made. When we sought further assistance from CAV we were advised to take the matters to VCAT.

Consultations run by CAV in the past few years have been dominated by legal representatives of the owners and developers. The stated purpose of the RVA is to "clarify and protect the rights of persons who live in, or who wish to live in retirement villages." CAV has created the impression that it is more interested in protecting the grazing rights of owners and developers than protecting residents. This regime has resulted in many thousands of frail aged Victorians suffering abuse and financial disadvantage.

CAV produced a booklet titled "Retirement Villages: good practice to address key issues." While it deals with many issues relating to the protection of the rights of residents its recommendations are unenforceable. When we raised these protocols with █████ in the course of our discussions the answer was that █████ was not obliged to observe any of the requirements of the protocols.

Failure of VCAT to provide accessible justice for residents: Originally VCAT was intended to provide an accessible justice system where legal representation was not required. This is no longer the case. Residents of retirement villages first face the barrier of significant costs. Then there are the drawn out proceedings with the possibility of ever increasing costs of multiple hearings.

When the owners and operators realize they are in the wrong their tactic is to expand and delay by legal arguments. What in the early days of VCAT might be a 2 day hearing can become with legal argument three and four weeks. This places enormous drains on the energy and financial resources of the elderly many of whom are on fixed incomes and have illnesses and age related frailty to contend with.

This means that there is no accessible justice for the residents of retirement villages.

While there are generous "pro bono" lawyers the system wears them down. The owners/operators simply increase the demand for detail and add to the legal disputation so that the real issues become submerged and the demand on the "pro bono" becomes unsustainable.

Bonds/ Ingoing Contributions: The matter of Bonds/Ingoing Contributions needs a serious review.

WMV stated that the income from the Bond was disposable income solely at the determination of █████. In the audited Annual Financial Reports for the █████ █████ stated that this income was used for maintenance and upgrading of the Village. When █████ eventually (a month after the sale of the Village was completed) produced documentation relating to the Maintenance Fees it became clear that residents were being charged twice for the same maintenance. The Regulations are vague in regard to the CPI increase in the value of Bonds. It is

solely at the discretion of the owner/operator what is put in the contract and what is paid to the resident when leaving a village.

Centrelink Rental Assistance is only available to residents if the Bond is below a certain amount (currently around \$135,000). In [REDACTED] there were 5 of the Units where a bond of over \$225,000 was charged and as a result these pensioners could not get rental assistance from Centrelink.

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File1:

File2:

File3: