

The Secretary
Legal and Social Issues Committee
Parliament House, Spring Street
EAST MELBOURNE VIC 3002

26 June 2016

RE: INQUIRY INTO THE RETIREMENT HOUSING SECTOR

Thank you to the Standing Committee on Legal and Social Issues (Legislation and References) in relation to this very important inquiry on the operation and regulation of the retirement housing sector (including retirement villages, caravan parks, residential parks and independent living units) with the aim of identifying opportunities for improvement and reform.

As a current resident within Retirement Communities Australia Pty Ltd (RCA) [REDACTED] Victoria I would like to take the opportunity to make a written submission.

Please find attached my submission responding to the considerations outlined in the Terms of Reference but primarily (3) the experiences and views of residents of retirement housing.

I do not seek confidentiality on my submission and am available to provide further information should this be required.

I would also like to extend an invitation to members of the Standing Committee to visit me at home if you would like an opportunity to gain first hand some insight into the pros and cons of my retirement village living.

Yours sincerely

Carolyn Marshall

[REDACTED]

Submission to

INQUIRY INTO THE RETIREMENT HOUSING SECTOR

LEGAL AND SOCIAL ISSUES COMMITTEE



Submitted by

Carolyn Marshall

1. BACKGROUND

On nearing retirement I started looking for accommodation options. I had a mortgage on my home and as a single person was concerned that I would not be able to maintain mortgage payments when I retired, as I would be reliant on the Aged Pension. I looked at retirement housing options on the [REDACTED] [REDACTED] having worked in [REDACTED] [REDACTED] and preferred to be near family and friends. At 69 years I was cognizant that this could be my last move and looked at facilities that I could afford and could support my ageing at home.

The RCA complex was under construction and I placed reserve on a villa than was still in the planning stage. The sales information and disclosure statement I was given promoted that the Village would be constructed from Stage 1 to Stage 8 making a total of 186 villas. I completed the necessary contracts, sold my home and paid RCA \$355,000 for what is essentially a loan to lease villa 185, and moved in on 1 November 2012. At that time Stage 2 was under development and the Clubhouse and Bowling Green non-existent.

Subsequently I was elected Chairperson of the Interim Residents Committee by the residents and also initiated and chaired the Accreditation assessment team – both positions I eventually resigned from - essentially because my values as a resident were at odds with the values of RCA and the on-going conflict was very stressful. Whilst I have had significant experience and understanding of the operational management of the complex - my submission is wholly personal and individual – although I would expect other residents at [REDACTED] might similarly share my experiences.

2. ISSUES

2.1 Marketing and Sales

In retrospect it was evident that the 'show villas' were a marketing ploy. It has been an on-going problem between residents and RCA that the villa gardens, public gardens, walking paths, fencing etc. do not live up to expectations. The owners have prevaricated for years and ignore requests to bring the overall standard and equity of the village up to that promoted by the sales staff and glossy brochures.

At the time of purchase the village site plans and sales material gave no indication that there would be further development. Sales staff gave reassurance that the land around the village was classified as rural.

It was then a shock in December 2013 when RCA commenced construction of an additional 53 units on the northern boundary – with promises that the levy would be reduced, a promise that did not eventuate as the levy has actually increased each year.

In May 2015 residents became aware that RCA had also purchased the land on the eastern boundary and had applied to [REDACTED] [REDACTED] to amend the existing low density housing restriction to high density and that RCA would then build an additional 24 villas. Thankfully the MPSC Planning Review Panel did not approve the amendment and the high-density building has not gone ahead.

The action of RCA has left me uneasy about RCA plans for development on the purchased land. If I had known that the village was not going to be small and compact as marketed I would have reconsidered my decision to purchase.

Recommendation:

- That potential planning and development projections for the next 5 years be disclosed in marketing material.
- That sales promises be documented and included in Disclosure Statements.

2.2 Contracts

It is evident that the Disclosure Statement and Contract are drafted to enable RCA absolute authority over village development, operational and financial management.

The Contract essentially becomes the primary policy document. Current RCA Beleura Village policy documents are not workable reference documents. The policy is taken from an Aged Care Residential handbook and is irrelevant and inappropriate policy for a retirement village.

I sought legal review of the Contract prior to purchase and realise in hindsight that the understanding of Retirement Housing models is not well understood by the conveyancing fraternity. I have had a similar experience with a solicitor, in preparing my Will, considering the financial arrangement of my villa as that of an Aged Care bond – which it is not.

Recommendation:

- Consistent and regulated contracts are utilised across the sector.
- Consistent and regulated policy is utilised across the sector.

2.3 Building Issues

Issues that were present on taking occupancy:

- Sewerage back flow in toilet, laundry and front external caused by a tennis ball in the external waster pipe.
- No insulation in the villa ceiling; became evident months later.
- Ineffective kitchen range hood; RCA refused to replace – cost for replacement to be made by the resident.
- The incorrect placement of water pipes in the ceiling that are not appropriately lagged results in extremely hot water from cold water tap in kitchen: RCA have still not addressed.
- Unsealed access points enabled rats and mice into the villa framework resulting in significant damage – the rats chewed

through the dishwasher's electrical cables and water hoses making the unit not only defunct but also potentially very dangerous.

I am unsure if an Occupancy Certificate was ever obtained prior to my moving in. There are also a number of on-going building problems that are still unresolved – RCA and the building team are integrated and as a result any maintenance work is done if and when they choose to do it.

Recommendation:

- That the Occupancy Certificate - regulated and signed off by the local government authority is provided to the resident prior to occupation.
- That an independent authority - Retirement Housing Ombudsman – intervenes when building issue claims are disputed.
- That the regulation of building standards for retirement housing is governed by sections of disability standards. At a minimum ensuring:
 - Toilets and bathrooms are accessible for wheelchair and walking frame.
 - Showers are able to accommodate a shower chair.
 - Bathrooms and toilets are able to accommodate support rails.
 - Lighting is appropriate for low vision.
 - Power points are placed at accessible height.

2.4 Local Government

Local government has a complex relationship with the retirement housing sector – this includes town planning, coordination and provision of aged services and HACC services, building regulation, roads, rubbish and of course municipal rates.

██████████ ██████████ ██████████ ██████████ is one of the councils that unfortunately collect rates from residents in Retirement Villages. There is no discretionary reduction other than for those eligible for pensioner rebate. Residents pay for roads and lighting to RCA via the levy and again to the Shire via rates – essentially paying twice for a substandard service.

There are no footpaths and residents need to share roads with vehicle traffic. There is no road cleaning and the street lighting in the Village is inadequate and often out of order – any repairs again come out of the resident's pocket.

The argument is always one sided – 'that residents are using council facilities and services and therefore must pay rates' ignoring the very significant economic and volunteer input retired residents bring to the community.

Recommendation:

- That local governments apply a rate schedule that is relevant to a sector where consumers are essentially tenants not owners.

- That local government takes a front line in planning, building inspection etc. cognizant that those living in retirement housing are in an aged and sometimes disability cohort.

2.5 Occupational Health and Safety

- The Village roads are shared by vehicle traffic, pedestrians – a number of whom have limited mobility and may use wheelchairs or walking frames, dogs on leads, bicycles and the occasional snake. There are no footpaths in the sealed road area and the minor paths between villas and the 'walking path' are loose, uneven gravel. Management does not enforce the suggested speed limit of 20 km.
- Insulation and placement of cold water pipes in the ceiling of some villas is not correctly installed. In summer the cold water taps runs initially with very hot scalding water.
- The Village abuts open paddocks – now owned by RCA – there has been a considerable infestation of mice, rats and snakes. The resident levy contribution for Pest control only applies to the central Clubhouse
- The shower area is not easily accessible for residents with limited mobility and the glass shower door in my villa is poorly aligned, grating against the abutting glass panel on closing. I temporarily fixed a band aid (literally) to soften the impact – RCA thought that was fine and refused to take any further action.

2.6 Financial

2.6.1 Levy

The most significant impact of the monthly levy is the RCA descriptor of this account as a Residents Service and Maintenance Charge – in practice this then requires a GST applied on the total levy.

Number of units in village	239
Levy per week	\$ 99.58
Levy per month	\$ 392.29
GST	\$ 39.23
Total levy/GST per month	\$ 431.52

A CPI increase according to a RVA formula has been applied to the 2016 – 2017 - it was stated by RCA that this did not require resident approval.

The levy is applied per villa, not individual resident, and as such severely disadvantages the single occupier resident. As an aged pensioner myself the levy constitutes approximately 27% of my pension and I don't consider that I get value or indeed much service for my money. The unexpected GST of \$39.23 also has a big impact on my discretionary spending.

2.6.2 Goods and Services Tax

The expenditure is primarily on land and building assets owned by RCA – eg, ground maintenance, building insurance. The salary and oncost utilise

approximately 38% of the budget and to infer that GST should be applied is ludicrous considering;

- Maintenance staff is not permitted to undertake even minor maintenance tasks in a resident's unit.
- Gardening work is non-existent. When I requested similar planting to the villa gardens that were displayed I was informed that I would have to pay for them myself and – here is the Catch22 – if I did then gardening help would not be permitted. The majority of residents plant and maintain their own gardens as a result and contribute significantly to the maintenance of public spaces.

Recommendation:

- That an independent authority - Retirement Housing Ombudsman – or indeed the Standing Committee on Legal and Social Issues review the legitimacy of an application of a blanket GST to a resident levy.

2.6.3 Departure Payment

The calculation on the departure payment is calculated on the capital gain difference between the initial Loan and the Capital Gain. At year 1 this is at 5.5% and an additional 3% for each year after that.

The Capital Gain ignores the capital expenditure that the resident has contributed to the villa and this can include expensive landscaping, pergolas, heating etc.

Essentially the resident receives minimal capital improvement as their investment has remained stagnant. This makes it difficult, if not impossible, for the resident to enter the current housing market.

2.7 MANAGEMENT

Management and staff positions are funded via the resident levy – however employment, performance management, roles and responsibilities etc are determined and controlled by the owner (RCA) This results in a management style that supports the owner's status and not only creates frustration for residents but also places the manager in an ongoing conflict model – particularly when residents are also paying a GST for management service that is often unsupportive.

3.0 CONCLUSION

The current legislation is significantly inadequate to support the needs and expectations of a rapidly expanding consumer group. Retirement housing is a dynamic industry often currently driven by the value of corporate investment as against the value of human quality of life.

4.0 RECOMMENDATION TO THE INQUIRY STANDING COMMITTEE

Appoint a Retirement Housing Review Committee to build upon the Inquiry to establish a:

- Current mapping of the distribution and scope of retirement housing in Victoria: Business Plan: Action Plan: Terms of Reference
- Review current legislation utilising the current Inquiry Terms of Reference.
- Establish a database of relevant domestic and international research.
- Establish a funding base for the promotion of demonstration models for retirement living options – including combined private and public funded alternatives.
- Review current legislation to ensure relevant standards such as Ageing in Place; Disability Housing and Access Standards; Home and Community Care standards are also reflected in the development and governance of retirement housing types.

Carolyn Marshall

