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28 June 2016

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

Dear Chairman and Committee Members

Re Inquiry into the Retirement Housing Sector

Thank you for the opportunity to provide feedback to the Committee's Inquiry into the Retirement Housing Sector.

Baptcare's submission to this inquiry is brief as it finds the existing legislation adequately assists to protect the rights of persons who live in, or wish to live in, retirement villages. However we support any efforts to simplify the legislation and any associated management standards, regulations etc. to make it easier for consumers to understand and exercise their rights.

By way of background, for over 70 years Baptcare has been committed to meeting community needs, caring for the elderly, families, youth, people with disabilities, financially disadvantaged people, people from culturally diverse communities and asylum seekers. We provide a range of services in home, community and residential settings within Victoria and Tasmania.

Baptcare currently operates six retirement living communities: five in Victoria (*Hedley Sutton Community* in Camberwell, *Templestowe Orchards Community* in Doncaster East, *Westhaven Community* in Footscray, *Karana Community* in Kew and *Strathalan Community* in Macleod) and one in Tasmania (*Karingal Community* in Devonport). The number of retirement living units and apartments is currently 294 which will more than triple over the next 6 years.

This submission is made in the context of our experience in providing retirement living which we see as an integral component of our support for seniors in their retirement years. In addition it reflects on experience gained in providing services to the aged for over 70 years. The services we provide through our villages reflect a continuum of care. Many people enter retirement living with little or no need for actual care but value the socialisation and housing options available to them. However they also recognise potential future need and value collocated care services should one or both partners require access to health and aged care options which may include residential aged care and home care packages. Many new entrants chose to move to our retirement living facilities because we offer this continuum of care.



Consumer Protections

Consumers who are residents of retirement villages are independent citizens and have a range of consumer protections that protect their rights. In addition there are additional provisions within the Retirement Villages Act that prescribes how villages should operate to provide further protection of resident rights. These provisions provide residents of retirement villages much greater protection than residents / owners of other property types. In fact retirement villages are the most regulated sector of the Australian property market.

We are concerned that any additional legislated provisions may place undue burden on retirement village operators, the cost of which will be passed onto residents, without providing any additional protection.

It is also important to note that residents whose care needs increase will often be eligible for aged care services delivered in the home and administered under the Aged Care Act which has additional consumer protections including access to formal advocacy support and complaint resolution mechanisms.

Resident Contracts

We believe that changes should be made to the mandatory wording within the resident contract as these are contradictory and cause unnecessary confusion. To assist residents we have been required to add an additional schedule to explain the mandatory clauses. For example, the schedule before Clause 1 does not indicate whether the contract is for a purchase or a lease, nor allow inclusion of the agreed purchase price/lease amount; an obvious omission.

We believe the language in the contracts needs to be simplified so that it is easy to understand and accessible to residents from a variety of backgrounds.

Our recommendation is that mandatory standards replace the mandatory clauses. This will then allow retirement village operators to develop contracts that are more suited to their village and resident needs.

Contracts and Legal Advice

Many of the complaints we receive regarding contracts are from family members following the death of a resident or the transfer of a resident into Residential Aged Care due to declining cognitive function (such as due to Alzheimer's Disease).

In these cases families complain that the arrangements are unfair despite our policy of strongly advising prospective residents to seek independent financial advice and to discuss decisions with their family.



We recommend that Consumer Affairs Victoria provide further information for consumers that strongly encourages seeking legal advice and financial advice much in the same manner as Solicitors are used for conveyancing.

We would also support the development of a training program that would enable Solicitors and Financial Advisors to specialise in retirement housing.

Dispute Resolution and the Appointment of an Ombudsman

Baptcare receives very few complaints from residents in our villages, and of the complaints received they have been resolved internally without the need to escalate to Consumer Affairs Victoria, the Victorian Civil and Administrative Tribunal or engaging a mediator.

In reviewing the statistics of complaints received by our Community Managers we are of the opinion that the nature and frequency of complaints does not warrant the appointment of an Ombudsman. Similarly we believe the cost of establishing and maintaining an Ombudsman is an unnecessary expense that will be passed on to residents for no additional benefit.

As the growth in the sector continues we also support ensuring Consumer Affairs Victoria is adequately resourced to manage any increase in complaints volume over time. Similarly we support ongoing analysis of complaints and disputes (i.e. type, frequency etc.) to identify any emerging industry issues that may need the focused attention of Consumer Affairs Victoria.

However we do appreciate that the experience of residents can vary and we would be supportive of an advocacy service to assist consumers in protecting their rights. We recommend implementing a government funded advocacy service similar to South Australian Retirement Village Advocacy Program which includes a Retirement Village Advocate.

Exit Entitlement Payments

Under current legislation, Retirement Village operators are required to pay out any due funds to residents leaving to enter Residential Aged Care within 6 months on request when the resident has agreed to an Accommodation Payment – regardless of whether the operator has been able to sell the property to an incoming resident. This places an unfair financial burden on the operator. In addition it also creates a potential for dispute where there is a profit sharing arrangement as there is a need to find an agreed price.

We recommend that operators instead be required to continue to pay interest on request until such time as the property is sold.



Local Government Rating on Retirement Housing

In April 2013, the State Government released new Ministerial Guidelines for the use of differential rates by Victorian Councils. A revised definition of what types and classes of land categories should be considered for differential rate purposes was a key reform contained in the Guidelines, which included a Retirement Village Land category. We strongly support the adoption of the Retirement Village Land category because we believe residents are being unfairly burdened with rates for services which they do not access. For example, within Baptcare Retirement Villages waste is not collected by council services. In addition all roads, communal lighting and gardens are maintained by Baptcare and residents pay for these services through their maintenance fee.

Property Council of Australia – Victorian Chapter

Baptcare has been made aware of the content of the Property Council of Australia – Victorian Chapter's submission to the inquiry. We are fully supportive of its recommendations.

In conclusion, Baptcare once again thanks the Chairman and Committee Members for the opportunity to respond to this inquiry. We support an industry that protects the rights of residents and owner / operators, that is fair, and which result in a commercially sustainable affordable housing alternative for seniors as they age.

We welcome any contact by members of the Inquiry should they wish to clarify any points or pursue further discussion on any topics raised.

Yours sincerely

Graham Dangerfield
Chief Executive