

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Subcommittee

Inquiry into the retirement housing sector

Melbourne — 29 November 2016

Members

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Participating Members

Ms Colleen Hartland

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Ms Margaret Scott Simmons.

The CHAIR — Good afternoon, Ms Simmons. While you are getting yourself organised, I will just go through the procedural things I need to do, which are to welcome you here today and to caution you that all evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege.

I note you have provided a submission to this inquiry. Thank you very much for that. We have allowed about half an hour for today. At your convenience, I invite you to make some opening remarks, and thereafter the committee will have questions. I am not sure if it is appropriate, but the secretary has advised me that you have a significant milestone in the near future, so congratulations. I would invite you to make some remarks, and we will go from there.

Ms SIMMONS — Thank you for this time to speak to the submission of Residents of Harrison UnitingCare. This independent group from five villages discussed our many common problems. We regret the recent passing of Mr Norman Elliman of Chapel Court, who contributed considerable input and had also lived in a Stockland village. Some RHUC residents are members of RRVV, HAAG and COTA and have attended many workshops, conferences et cetera of all three. We valued the knowledge we have gathered. RHUC's main aim is to appeal for new and expanded legislation for the Retirement Villages Act 1986. The expansion of the industry makes it desirable, and residents need protection.

How many in early and middle age give thought to how ageing into the 80s and 90s may affect them? We grew up in a culture where respect for our seniors was natural. We acknowledge today's financial scene is a totally new era, with very low interest rates for retirees. A significant cross-section of Residents of Retirement Villages Victoria concur that we are treated like schoolchildren. Other submissions have included the necessity to train owners/managers and staff in this sector. Staff must all understand that residents are not less than the dust beneath their chariot wheels. The basic problem lies with the lack of skill and patience in accepting and dealing with the wide range of personalities among residents. We have to deal with theirs. Mutual respect is vital.

The core work of UnitingCare Harrison (UCH) is homelessness. As a not-for-profit group, we believe we are disadvantaged because UCH is able to use surplus funds from the villages for their extensive charitable work. Does this fact give rise to our budget deficits? It is a salient question.

Exemptions. The Attorney-General granted UCH exemptions from parts of the act in February 1989. RHUC omitted in the submission to highlight condition (b), which is:

The obligation to repay a refundable ingoing contribution falls upon the owner of the property.

Currently there is an asset test in three categories for entry into UCH villages. At Gardiner Lodge the lowest category is for those with assets less than \$150 000. The ingoing loan for them is \$130 000, but in the asset test for that category 15 per cent per annum is deducted 'until consumed'. Thus between six and seven years \$130 000 has gone. And figures for three of the villages are attached to this talk. With the passage of time since 1989 and changes of CEO, general manager housing — that is, GMH — and other staff, has UCH lost sight of this condition? Over a period of time the financial gain is significant. Originally residents viewed the refund of the loan as the basis for entry to an aged-care facility if required. Who knows how many worry about the future? Some have no family to support them.

Rebates for statutory charges. RHUC queries consumer affairs' support of the UCH decision to retain the rebates to reduce the deficits and was considering a formal complaint to the Department of Health and Human Services, but has not done so to date. This is a matter needing urgent legislation to protect all residents in retirement villages.

Deferred management fee. Other terms have come into use for this item; it is a very grey area. At a RHUC meeting with the UCH's CEO and GMH, and our lawyer supporting RHUC, the GMH claimed, 'The act says the DMF is ours'. The DMF is not in the act. It must be clearly defined, together with the sinking fund and capital works, and how does the responsibility for these fit in? Comprehensive legislation would settle the matter. I might mention that the friends in the corporate villages do not understand our situation, because we have no information from other than the Retirement Villages Act.

Residents committee. Is it possible to expand section 36 of the act to rule that the committee members are elected to serve the residents, not to rule the village and not to discriminate between those they favour and those they do not? It is a very sensitive point. Committee duties should be clear to all.

Dispute resolution. May we emphasise the personal stories of disputes in the submission attachments. The two ladies involved had a very torrid time. Mediation by UCH leaves a lot to be desired of late. There is not enough impartiality. Does the UCH give any thought to the damage that has been done to the health of many residents in dispute with UCH or another resident? Sections 38E and 38F of the RV act must be honoured.

Service charge income and definitions. This document was an attachment in the submission. It is the same for all UCH villages and is to be read as it applies to each village set-up. Is every item our responsibility? We were amazed at the mention of screws in the property maintenance service costs. It left us seriously considering further the validity of some of the other charges. Share of warehouse rental costs is nothing to do with us. What guarantee is there that charges do not overlap? Are there guidelines for owners, of which we have no knowledge, such as an industry code? The first cost in the budget is 'Administration — UnitingCare Harrison'. That is attached also. RHUC asked for a breakdown of this in figures, not in percentages or graphs. The acting CEO replied that it would be too costly. UCH knows we are unhappy with the budgets. Why not dissipate those doubts and settle the matter once and for all? Are our worries founded or unfounded?

Contracts. There are few lawyers well versed in retirement village contracts. There are many residents who are dismayed when the reality of some of the clauses hits them after settling in the village.

Ombudsman. There are two sides to each complaint. A person skilled in even-handed judgment is essential. Will the ombudsman have enforcement powers? The Uniting Church agency Uniting AgeWell is in the retirement village scene. The Harrison retirement villages are operated by an agency that deals in homelessness and other charitable areas. Should we be cared for by Uniting AgeWell? Many of our residents are not ageing well, so residents of the not-for-profit retirement villages are pleading for justice.

The CHAIR — Thank you, Ms Simmons, for your presentation and for your points that you have made very clearly and articulately. It is interesting, the similar issue you have raised, about lawyer training and the ombudsman and that it is again being presented by you. I just want to explore one issue further. You opened with talking about respect for residents and training for staff. Would you like to expand any further on the quality of staff or how their skill sets could be improved?

Ms SIMMONS — It is hard to speak about it in the short term. For instance, when we ask a question — and this was some time ago now, because the CEO has changed — 'We don't have to tell you that. You can have gardening if there's any money', but gardening is in the budget. In our budget, which we have just received for the new year, gardening was up \$4000 above the budget because, we were told, it had something to do with the painting of the village and the gardeners had to clear all the posts and pillars for the painters to do that. But it could not have cost more than a thousand, because they were not there for long, unless they had huge salaries. One of the things that is most irritating, I think, is the fact that you make a statement and nothing is done about it. You ask questions; you do not get an answer — and it is getting worse.

Ms HARTLAND — We have heard a lot of evidence during this inquiry, and I think everybody is talking about similar remedies. I find it interesting that you live in a not-for-profit run by a church, and it does not sound like the basic issues around dignity and respect for people are any different than in some of the corporate villages. Would you like to comment on that?

Ms SIMMONS — Well, I think they just look on us as a bunch of old fuddy-duddies, and a lot of the people have a pension, but they are what I like to call concession card holders because they are not all on the age pension; we have blind people and we have others, like the repatriation ladies, war widows. Some of these people that we have had in the village have been quite educated and were working in a very, very top environment. We had a professor of town planning at one stage, but that was before we were handed over illegally to Harrison. That breached our contract. The way that we are ignored in what we have to say really is a slap in the face.

Ms HARTLAND — Can you talk a little bit more about what you just said about the illegal handing over to Harrison? Do you mean you were under the Uniting Church and then you were handed over to a separate entity?

Ms SIMMONS — No. There was a company called Gardiner Retirement Lodge Ltd, and it was made up of people from the Gardiner Uniting Church and the St George's Anglican Church, Malvern. Gardiner church had land and St George's had money, so they put the two together and they built the village. In the contract from the company, of which I got a copy, they said that the board of directors was not to part with Gardiner Lodge under any circumstances; it was to be only to allow an incoming resident to lease a unit. They are two-bedroom units in a very good part of Glen Iris, half a block from the tram.

There were changes, of course, in the members of the board over the first 10 years I was there, and then at the annual meeting with the board in 2005 we were advised that the board was handing over their day-to-day management of the village to UnitingCare Harrison but the board would still be functioning. One reason that was given was very good, because it was that they were volunteers and there were a lot of laws coming into the community and really volunteers just could not cope with all that. That was a valid reason. They also told us that they could not get any more members of the board; they both had gaps in the membership of the board. That was a fib and a lie, because we know they could have, and if not, we could have suggested people. But the thing was we were not told at that time that, although Harrison was to run the place, the board would be winding up the company. They said they would still be functioning.

I think it is rather significant. I have to say that I am biased because I have lived 10 years in a very happy village. We had a happy hour once a quarter with the members of the board, and they were our friends. But then at this meeting, when the CEO of Harrison had spoken, one of the residents said, 'But Shannon will stay, won't she?'. Shannon is our on-site supervisor. We are the only village in the group that has an on-site supervisor. I will never forget Shannon's face when the CEO said he could not guarantee it, because Shannon was and still is the lifeblood of that village. She has the opportunity to sort out a lot of things in the village without them going to Harrison, and that is much better.

When the officials left that night there was just uproar — absolute uproar — in the common room. It was a terrible blow. We had not been consulted, and our contract said that a board of directors, appointed by the — of course, that is a word I can never remember — company, will manage Gardiner Lodge for the term of this agreement, and I have been there 21½ years and I have still got that in my contract. But the point, I think the whole point, of our problem is that the management does just exactly what it wants to do, and this matter of taking the deferred management fee until consumed, I think, is an appalling thing.

I mentioned Norman Elliman. He went into Chapel Court in 2010, and he told me that he paid \$80 000 to go in. It was a one-bedroom, very small place, apparently. He passed away just recently, so he had been there six years, and all he had left of his ingoing loan was \$8000. Of course some of it will be taken up in adjustments. Until they get someone else to put in the village in his place, his estate will be paying the six-month service fee. When what you hear from everybody is the fact that the residents are just ignored, it is a very sad situation, because I am a dear old lady when I am asleep.

Ms HARTLAND — Well, you have been very impressive today.

Ms SIMMONS — Thank you.

The CHAIR — Thank you, Ms Simmons.

Ms HARTLAND — Thank you.

Ms SIMMONS — I do hope you will give some thought to that matter of the conditions of the exemptions, because that is going into aged care, if you have to.

The CHAIR — We will, and thank you very much for your evidence today, Ms Simmons.

Witness withdrew.