

██████████ met with residents at the ██████████ at their request to discuss how they could provide input into the review into the *Retirement Village Act 1986*. We provided residents with a questionnaire to gather their input. We were provided with 35 completed responses that have formulated the responses provided below.

Entering a retirement village (Part 3)

Consideration and cooling-off periods

- 6. Are the current 21 day 'consideration' period and the 3 day 'cooling-off period' under the RV Act effective in achieving their aims? If not, what other or additional measures would be effective and fair?**

The Victorian Government should consider aligning to the New South Wales Retirement Villages Act 1999 the 'settling in' period to give residents time to assess whether they have chosen the right village, including whether it has lived up to promises or expectations, and to make allowance for such eventualities as a sudden deterioration in health. Residents who terminate during this period must pay the fair market rent for any occupation period, the cost of any repairs for damage to their unit in that time, the reasonable cost of any alterations requested by the resident and a reasonable administration fee but are not required to pay any other fee or charge, including any maintenance charge or departure fee.

Disclosure obligations

- 7. When advertising the 'price' of a retirement village unit, should there be a requirement to include a reference to any deferred management fees and other departure fees and charges?**

From the residents surveyed at the ██████████, there seems to be a consistent view that costings can be ambiguous and should be upfront so that the prospective tenant is fully aware of the monetary costs involved with living and departing from the village.

- 8. Has the provision of a Factsheet and Disclosure Statement to prospective residents led to an improved understanding of the financial and contractual arrangements relevant to living in a retirement village enabling prospective residents to make an informed decision?**

It would appear that many of the residents consulted appeared concerned that after a change in ownership of the retirement village many changes are being implemented that impact on their original contracts.

- 9. What, if any, further improvements could be made to improve prospective residents' understanding of the potential financial and contractual arrangements relevant to living in a retirement village?**

It would be useful for the residents to have access to an independent adviser who could answer their questions in a manner that made sense to them as many clearly appear to be struggling with the jargon used within their contracts and have expressed concern that the contract favours the retirement village owner.

10. Are the current timeframes for provision of a Factsheet and Disclosure Statement to prospective residents appropriate?

It might be beneficial to ensure that families of the residents are also aware of the disclosure statement so that there is no confusion around financial arrangements.

Contracts – form and complexity

11. Have the form and content requirements for retirement village contracts introduced in 2014 improved residents' understanding of the contractual arrangements they have entered into?

Many of the residents that have contributed to this response would have signed their agreement prior to the 2014 changes. There appears to be concern however over the new owners of the retirement village implementing financial changes that were not previously in the contract that they had signed.

12. To what extent do retirement village contracts remain unnecessarily complex?

Residents have expressed that the length of the document and the legal terminology can provide some confusion for residents. They have also expressed concern that the contracts favour the retirement village owner. It would appear that many residents are not confident enough to ask for more information or seek clarification.

13. What further improvements could be made to contractual requirements under the RV Act?

Concerns have been raised that RV Act does not align with the Residential Tenancies Act. Is there a provision for change of ownership that protects the original contract that the resident has entered into?

Financial models and the deferred management fee

14. Should retirement village operators be required to disclose ingoing prices for entering a retirement village both with and without deferred management fees? If so, what form should this take? If not, why not?

All fees should be fully explained so that residents have all of the information required to make informed financial decisions. A resident advised that during the sales pitch, he was given information relating to the fees and charges seemed to be fair and reasonable. However, most of the information was provided verbally from sales people, he then found the contracts were to be full of legal speak and convoluted. He expressed that they seem to have been designed to confuse the new resident.

15. Should deferred management fees be calculated on a pro rata basis? If so, why? If not, why not?

16. When should retirement village operators be required to provide a resident with an estimate of their departure fees and what are your reasons?

The residents survey have expressed concern at the variance in departure fees and the costs associated with moving out of a unit in the retirement village.

Residents are curious as to what formula is used to aggregate the amount payable for the exit fee.

A resident provided an example of two differing exit amounts provided for the same property but based on the new and the previous owner.

[REDACTED] – market value \$445,000		[REDACTED] – market value \$445,000	
Ingoing contribution	\$289,000	Ingoing contribution	\$289,000
Plus Capital Gain Share	\$115,000	Plus Capital Gain Share	\$161,000
Less exit fee	\$119,180	Less cost of reinstatement	\$50,000
Less Cost of Works	\$16,000	Admin Fee (2.5%)	\$11,000
Less Marketing Costs	\$4,000	Less exit payment 3%	\$133,000
Less unpaid ongoing charges	\$TBA	Less advert/sales capped at 1%	\$4,450.00
Exit Amount	\$264,593.97	Exit Amount	\$245,925.00

Maintenance and maintenance charges

33. To what extent should the RV Act further address issues of ‘responsibility’ and ‘timeliness’ for repairs and maintenance in retirement villages?

This would be something that would be considered worthwhile by residents as several respondents have reported issues with getting repairs fixed and also whose responsibility when there is a grey area.

Reports have included sagging ceilings, doors not shutting, waterlogged windows, broken windows, jammed doors – residents have reported waiting several years for their requests to be actioned.

- *We have structural problems with our villa – it has been advised that it would be fixed, however, we have been waiting 9-10 years and we still do not know if this is going to be charged to us when leaving.*

35. To what extent can or should the RV Act regulate what constitutes maintenance and capital items and to what extent should these issues be left to voluntary codes or guidelines?

A large number of responses have indicated around grey areas of maintenance and capital items.

An alarming concern was that residents believe the dwellings were not built up to Australian Standard and they not the owner of the village have been required to pay to make amendments such as waterproofing, replacing plaster and pipes.

Maintenance and capital replacement funds and plans

36. Should all retirement villages be required to have maintenance and/or capital replacement plans and/or funds?

There seems to be confusion of maintenance and replacement within the village so it would be beneficial to provide residents with a plan that outlines what will be done and when.

Leaving a retirement village (Part 5)

Selling/re-leasing a retirement village unit

42. Does the RV Act strike the right balance between the interests of residents and operators in the sale or re-leasing of a retirement village unit, including the appropriateness of the process whereby the prescribed terms are inserted into non-owner residence contracts?

A number of serious concerns have been raised relating to this question with the consensus being that the conditions are more favourable to the operators of the retirement village.

- *There needs to be an extension on the vacation of villas when selling from 7 to 30 days. Families are only given 7 days to remove belongings or risk being locked into another contract.*
- *Past owner ████████ made it almost impossible to have outgoing residents or estate being able to resale villa privately. Owner controls sale price so villa could remain empty for extended period while waiting for funds return.*
- *Everything is in favour of the operator of the village. We desperately need an ombudsman to clarify any problems that arise.*

Reinstatement and refurbishment of retirement village units

43. Does the RV Act strike the right balance between the interests of departing residents and operators? If not, what improvements could be made to ensure the right balance?

From the responses received, it would appear that the residents at this particular retirement village perceive that there is no balance of interest in their favour and that everything is to the benefit of the operator.

Residents have expressed the lack of concern shown to grieving families when they are dealing with residents who have passed away, they are required to resolve.

- *From observations all has to be completed in such a rush while families are still grieving.*
- *Time frame between if resident dies or has to go into care for family to let owner know of intention to sell is only 5 days.*

Also in relation to refurbishment, there were many opinions that seemed to express concerns over what they perceive to be excessive upgrades required by the new operator of their retirement village. Residents have expressed concern that high-end appliances and fittings are being used unnecessarily and do not benefit the residents in terms of them receiving a greater return of profit to the operator.

There is also concern around the period of the works taking time for which they have to keep paying and not being privy to the invoices relating to the refurbishment undertaken.

Residents were interested to see how the money was being spent and whether they may have incurred some costs that should have been borne by the operator.

- *This is a potential minefield – it appears the owners hold all the cards and use corporate bullying on families who are in many instances in a vulnerable state. Corporate greed at its best. We signed to reinstatement to original not refurbishing to a new owners standard. If they want these upgrades, it should be at their own expense.*
- *I believed that when my villa was to be sold I would only need to do basic refurbishment i.e. painting, new carpet, new drapes however [REDACTED] are demanding almost that they gut the villa and do a major refurbishment at the residents expenses which is not in my contract.*
- *Very concerned about the refurbishment costs when we vacate the unit. Our contract states the unit be bought back to the condition when we purchased. These costs have escalated recently around \$70,000 as the upgrade is above the original standard of the unit when we purchased. Previously the costs were about \$30,000 we feel the owners of our village should pay for the extra of this costing.*
- *A departing resident should not have to pay for any “gold-plating’ renovations undertaken by owner/operator e.g.- stone benchtops, floating floorboards.*

Ongoing charges after a resident leaves a retirement village and capital gains

44. In relation to the regulation of ongoing charges when a resident leaves a village, does the RV Act strike the right balance reconciling the interests and needs of departing residents, remaining residents and the retirement village operator? If not, what changes should be considered?

Residents raised concerns about having to pay maintenance charges and owners corporation fees until their unit has sold as they have stated that the sale of their unit is at the mercy of the operator. Concerns that they were not able to engage their own real estate agent to sell.

- *There should be a choice as to how the unit can be sold, rather than being obligated to rely on the operator to sell.*
- *When a resident wants to move, the resident has to move out before they are informed of any or all costs. They should know the cost before they move out.*

45. Should the RV Act regulate the way in which any capital gains (and losses) are treated when a retirement village unit is sold or re-leased? If so, how should it be regulated?

There needs to be more equity for the residents of the retirement village and their families.

Dispute resolution (Part 6)

Internal dispute resolution

46. What are your views on the reform proposals identified by the review of internal dispute resolution procedures in retirement villages outlined in this Paper?

While these changes are not without their practicality, they were not necessarily raised as top priorities for our local residents.

External dispute resolution

47. Should a party to a retirement village dispute seeking access to the Victorian Civil and Administrative Tribunal (VCAT) or the Courts be first required to have followed/exhausted the internal dispute resolution procedure?

It would need to be made clear to residents what the internal dispute resolution process is and have a clear timeframe for it to be adhered to.

48. Should mediation of a dispute through Dispute Resolution Centre of Victoria (DSCV) be a pre-condition of access to VCAT or the courts?

No because there may be some unforeseeable issues that arise that could be impeded by this condition.