Review of the *Retirement Villages Act 1986*
Submission by Les Scobie, retirement village resident since 2007

Before moving to examine the Victorian Retirement Villages Act 1986 it is important that all parties are aware of the following primary facts when it comes to Retirement Villages.

1. **72% of retirement villages are owned by 'for-profit' operators. The days of the 'benevolent' operator discounting the entry cost by the amount of the 'deferred fee' are well past.**

2. **74% of retirement village residents do not occupy their units on a freehold basis, merely granted a lease or licence to occupy.**

3. **Retirees often pay a price commensurate with an outright purchase price for a similar unit within the general community without ever gaining ownership.**

4. **Contracturally residents have all the financial responsibilities of 'property ownership' like maintenance costs, renovation costs, selling costs, administration costs.**

5. **Contracturally in the order of only 1 in 2 residents have the financial rewards of 'property ownership' such as capital gain. Where granted however the retiree may not be entitled to 100% of any capital gain, it may be shared with the operator. The retiree also becomes proportionally responsible for any capital loss.**

6. **Contracturally residents can lose up to 45% of their in-going payment in a so named 'deferred fee' without ever gaining ownership.**

This from the “Review of the Retirement Villages Act 1986 – Proposed Legislative Changes 2004”

“Possible negative consequences for residents and prospective residents are also increased because of the effects of age-related characteristics on their ability to make informed and knowledgeable decisions about retirement village services.

Secondary markets that respond to the complex information requirements of the retirement village market (solicitors, financial planners, accountants and the like) have not developed to a level which adequately responds to market need. Consequently, the the potential for consumer detriment is enhanced”

Has anything really changed? From one who has lived in a retirement village for 13 years I can assure legislators and civil servants the answer is NO!

The following statement by [redacted] sums up the retirement village industry. It amplifies the financial impact on the capital base of both the occupants and subsequently their families.

“Families need to be aware that what we are talking about here is the transfer of inter-generational wealth, not to families, but into the pockets of large multinationals. Shame about elderly people not having enough money for aged care”

My submission to the Financial Models and the Deferred Management Fee aspects of the Retirement Villages Act -

Les Scobie.

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The regulatory and policy framework (Part 2)
Application and scope of the *Retirement Villages Act 1986*

Financial models and the Deferred Management Fee

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

YES - The great deception of the retirement village industry to date has been that the 'actual' cost is not known until the retiree departs the village. The goal of any revision process should be to ensure that all the cost components are known to a prospective resident prior to the execution of a contract of occupancy.

Professor [redacted] described retirement village rorting as -

“The Greatest Untouched Consumer Issue of this Century”

He went on to say -

"These days we talk of vulnerable and disadvantaged consumers but the aged are possibly the most important category,"

Few loan/lease retirement village residents would actually understand that what they are actually purchasing. Although invited to 'buy' a unit in a retirement village they simply become an occupant by providing an interest free loan to operator. Best described by respected journalist [redacted] in an article showing the reality of 74% of the industry 'Retirement villages: how grandma and grandpa become corporate financiers'.

“It would be interesting to know just how many retirees know, when they finally alight upon a leafy retirement village to while away their twilight years, that they are using their nest eggs to make a large, unsecured, interest-free loan to a property developer.”

To enable a direct cost comparison with other non-ownership forms of residential accommodation it should be mandatory that all prospective residents be given an all inclusive monthly occupancy cost for 5, 10, 15 year periods. This all inclusive monthly cost to include the devaluation cost of any interest free loan to the operator, the deferred management fee, the refurbishment cost on departure, monthly maintenance fees, selling costs on departure, any other relevant fee but <u>excluding any potential capital gain or capital loss</u>.

Although there are shortcomings with the parameters that need reviewing NSW have introduced a Retirement Village Calculator and the mandatory provision of an Average Resident Comparison Figure.

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

YES – 74% of retirement village residents do not occupy their units on a 'freehold' basis merely a lease or licence to occupy. Once vacant possession is provided to the actual freehold owner of the property, all fees should cease on that date of vacant possession.

There is little to justify the differing treatments between a lessee/licensee in a retirement village and a lessee of general community residential accommodation, both have no ownership of the property they occupy. Unlike the original purpose of the deferred management fee, the days of benevolent retirement village operators discounting the entry price commensurate with the value of the deferred management fee are well gone.

The modern retirement village industry where 72% of villages are owned by commercial for-profit operators still sees a transfer of commercial risk back to the occupier of the property rather the owner of the property. This transfer of commercial risk is enshrined in legislation.

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

Most retirees see the entry cost of a retirement village as the price they will pay, few have a full understanding of the various components of the actual cost of living in a retirement village. The entry amount paid is not the cost of living in a retirement village. It is imperative the operators fully advise retirees/residents with an estimate of departure fees, costs whilst living in the village, and the projected refundable amount on departure.

Retirement villages are a consumer product where the actual full price of the product is not known until the product is fully consumed, much to the financial and social detriment of many Victorian retirees.

The village operator should give, prior to the execution of a contract of occupancy, an estimate of the full cost of living in the village over 5, 10 15, 20 years. This estimate should be updated for every resident every five years.

The estimate should include -

- Deferred Management Fee
- Maintenance and Administration Fees
- Refurbishment Costs
- Selling Costs
- Inflationary devaluation of the estimated refundable amount.

The estimate should exclude where entitled the share of any potential capital gain.

NSW have included any potential capital gain in attempts to give retirees a better picture of their future financial position. It fails because the methodology uses historic data and there is no guarantee that the performance of residential housing over the past 20 years will continue. The use of historic capital gain data would simply provide a future financial position for the retiree that is likely to bare no resemblance to the eventual reality.

Living in a retirement village costs and although capital gain over the last 20 years has protected some retirees from financial disaster 41% of the market place gains no access to any potential capital gain.

Table A on the following page shows three varying financial outcomes for a retiree based on whether they are granted access to any capital gain and if so what that capital gain may be. Should there be a long period of a relatively flat residential housing market, low % percentage share or no access to capital gain at all, the financial impact for many departing residents can be devastating.

The average industry occupancy period is relatively short in the order of 7 to 10 years.

Table A

[redacted]

[redacted]

Retirement village residents that are granted access to any capital gain are also proportionally responsible for any capital losses.

Table B shows falls in residential property prices immediately after the peak following a tightening of lending rules -

Table B

[redacted]

A retiree who entered a village in the period prior to the above period and then through circumstance had to depart the village would suffer, apart from all the other fees and charges, a capital loss in Melbourne of 10.8%.

Another example of commercial risk being transferred back from the 'for-profit' property owner to the retiree who has no ownership rights, simply a right by lease or licence to occupy.

Submission by -

Les Scobie,

[redacted]

[redacted]