

APPLEWOOD RESIDENTS' COMMITTEE

[REDACTED]

5th December 2019

Retirement Villages Act Review,
Consumer Affairs Victoria,
Online
www.engage.vic.gov.au/retirementvillagesact

Dear Minister,

SUBMISSION ON CAV ISSUES PAPER

[REDACTED] Retirement Village consists of [REDACTED] residents. Applewood Residents Committee (ARC) is constituted under the Retirement Villages Act and consists of 9 elected Applewood residents.

ARC is interested in the review of the Act and members are indebted to the time and thought put into the submission by residents John and Sandra Sheedy (copy attached).

ARC has applied for an extension of time to prepare our own consultative submission however we have had no reply so must assume that the 6 December deadline stands.

After consideration, the majority of committee members endorse the Sheedys' comments and commend them to you.

Yours faithfully,

[REDACTED]
Dr Don Chandler
Chair
Applewood Residents' Committee

John Sheedy



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Dear Minister,

SUBMISSION ON CAV ISSUES PAPER

The CAV Issues Paper invites views and comments in response to the Issues Paper which poses a series of questions.

I have not repeated the questions, but simply quote the question number with my comments below.

The responses provided are based on my personal experience of living in a retirement village for over 7 years, together with information gleaned from speaking to other village residents and my time as a Resident Liaison Officer for Residents of Retirement Villages Victoria (RRVV).

The Regulatory & Policy Framework

Question 1

No. The payment of an ongoing contribution is only one of the factors that should be used to define a retirement village.

The RV Act should apply, to the extent relevant, to residents with a strata title (where the Owners Corporation Act applies), which should be provided for and clarified in the definition of "retirement village".

Question 2

No. The definition of a retirement village should embrace the essential elements of a retirement village, being –

- a community where the majority are retirees
- aged over 55 years of age
- seeking a relaxed lifestyle among peers
- a safe, secure environment
- opportunity to have a say in village operations
- receive and pay for accommodation and services (other than residential care services)
- wanting future financial obligations to be predictable
- able to live independently and with assurances of 'ageing in place' provisions available and encouraged.
- understanding exit/sales costs on eventual departure

A vital requirement for any retirement community is to have a broad age range of residents with a variety of backgrounds, who have the necessary skills, experience, fitness and energy to undertake voluntary positions on social/sporting clubs and resident committees and to provide leadership roles.

It is important that any village not meeting the definition of retirement village, but where the village is being passed off as serving a similar function, do not escape the disciplines and resident protections provided by the RV Act.

I would have to leave it to others to show how this can be achieved in legislation.

Question 3

- **Differential rates for retirement villages**

Retirement village residents are seriously disadvantaged compared to other ratepayers, which is neither fair nor equitable.

While council services are provided to the boundary of all other residential properties, they stop at the village gate and do not extend to the boundary of individually rated village properties. The cost of providing and maintaining these services is met by village residents, who effectively pay twice.

Firstly, in the payment of full council rates (which contain an embedded amount to cover the cost of providing council services) and secondly, by paying for village infrastructure services not provided by council.

In 2013 Ministerial Guidelines were introduced to promote good practice and provide greater conformity in the application of differential rates, in expectation of wide adoption by Councils, but regrettably this has not proven to be the case. Councils must have reference to the Guidelines but are not obliged to adopt them as part of their rating strategy.

The Government has previously argued that it did not want to interfere with finances of Councils, but with the recent decision to introduce a rate cap, this argument is no longer valid.

I strongly recommend that the Ministerial Guidelines be made mandatory so that a differential rate is applied to all retirement village properties, which could be a range of say 20-25%.

- **Voting Rights of Residents**

Voting rights and procedures are often a confusing to residents with differences between the RV Act and Owners Corporation Act.

The RV Act provides for voting at annual meetings to be on the basis on one vote per residence, not one vote per resident. This creates problems when residents are asked to vote at such meetings, because mostly it is done via "show of hands" which is in contravention of the RV Act.

The Parliamentary Inquiry recommendation 5, provides that the Government investigate measures to ensure that all retirement village units hold the same owners corporation voting rights.

We support this recommendation and ask that the RV Act be amended to allow voting at annual meetings by a "show of hands", that is one vote per resident.

- **Independent Legal Advice**

A significant issue for most prospective residents is how to find qualified, experience legal advice to review the extensive documents involved with the purchase of a retirement village property. These include fact sheet and disclosure documents, the long, complex Agreement to Grant a Residence and Management contract, Residence and Management contract and notification of electricity supply just to name of few examples.

It is fair to say that most suburban solicitors have little or no experience in dealing with retirement village purchases or the RV Act, the convoluted fee structure (including DMF) or the complex documentation required for village purchases. An additional problem is that most large legal firms, who do have lawyers experienced in this specialist field, already act for or provide advice to village owners/ managers, creating conflict of interest issues if engaged by prospective residents.

The Parliamentary Inquiry recommendation 4 states "that the Law Institute of Victoria's Elder Law Committee develop professional accreditation for specialists in retirement housing and also provide training to general practitioners to improve their understanding of this area of law.

We strongly support this important recommendation, but it should go further to provide a list, available to the wider public, of all lawyers dealing in this specialist area quoting details of their qualifications and

experience, so there is a proper choice of who to use.

- **Retrospectivity**

Whatever changes are made to legislation following this review, it will not be made retrospective meaning that all existing residents remain locked into a variety of long, complex, even unfair contracts.

A solution would be to provide in legislation that all existing contracts be reviewed if older than say 7/8 years and replaced with new contracts under the new legislation having regard to the financial terms of the original contract.

Yours faithfully,

[REDACTED]

(15 PAGES IN ALL)