



RETIREMENT VILLAGE RESIDENTS ASSOCIATION INC

ALL COMMUNICATIONS, TO THE SECRETARY, Jan Pritchett, NORTH TURRAMURRA, NSW 2074

19th March, 2011

Productivity Commission

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BY EMAIL: agedcare@pc.gov.au

CC: The Australian Retirement Village Residents' Association
The Association of Residents of Queensland Retirement (Inc), Queensland
Residents of Retirement Villages of Victoria (Inc)
Western Australian Retirement Complexes Residents Association (Inc)
South Australian Retirement Village Residents Association (Inc)

Dear Commissioner

Caring for Older Australians Draft Inquiry Report January 2011 ("Draft Report")

I am writing on behalf of the *Retirement Village Residents Association Inc, in NSW (RVRA)*.

The RVRA wishes to make a submission, especially in relation to Chapter 10 of the Draft Report.

About the RVRA

The RVRA represents residents of retirement villages in New South Wales, and currently has approximately 5100 members across NSW in approximately 300 villages. It is the largest resident advocacy organisation in NSW.

The Association was formed in 1989 and offers information and support to assist residents in Retirement Villages. We are a volunteer group of residents who live in different types of Retirement Villages around NSW.

In the following comments the RVRA wishes to provide an opinion as residents of Retirement Villages regarding the Draft Recommendations 7.1 – the Aged Care Equity Scheme, and those in section 10 specifically targeting Retirement Village living.

Draft Recommendation 7.1

The Australian Government should establish a government-backed Aged Care Equity Release scheme which would enable individuals to draw down on the equity in their home to contribute to the costs of their aged care and support.

The RVRA feels this recommendation should be extended to include residents in Retirement Villages. Because the majority of residents are on long term leases, they are regarded by financial organisations as not having equity in their home on which they can draw. This is in spite of the fact that usually all the proceeds from the sale of their family home is diverted to paying their entry fees into a village – a considerable amount of money in all cases. When they have to move into further care they often have little control over the sale of their dwelling as the operator of the village influences the prices and deals with the marketing of it. Many people and families endure great hardship because they have no access to any of this money tied up in their dwelling, often for a very prolonged period of time.

Draft Recommendations 10.1 to 10.3

The RVRA agrees with the recommendations made.

Draft Recommendations 10.4

The regulation of retirement villages and other retirement specific living options should remain the responsibility of state and territory governments, and should not be aligned with the regulation of aged care.

The RVRA was disappointed that the report did not recommend that Retirement Village Legislation becomes uniformly Federal. While we understand the reasoning behind this recommendation, and that it would be very difficult to administer, we feel the uniformity would assist in the transition of Retirement Village residents into further care when required. This process at the moment is a difficult transition with many financial and relocation problems.

Draft Recommendation 10.5

“State and territory governments should pursue nationally consistent retirement village legislation under the aegis of the Council of Australian Governments. Changes to state and territory government legislation under this process should:

- be informed by research jointly commissioned by the industry and government***
- have regard to the industry’s accreditation process.”***

The RVRA accepts the need for nationally consistent legislation and supports this recommendation to that extent.

One point we would like to make is in regard to the reference on page 337 regarding a village becoming bankrupt, thereby forcing its residents ‘out on the street!’ It is our contention that if there was a requirement that each village had its own trust account, and not intermingled with the operators trading accounts, it would be unlikely that the village residents’ funds would be in jeopardy. This would cause a little more administrative work, but more security for the residents.

The RVRA was also disappointed that the format of uniform contracts was not recommended although mentioned as a possible improvement. While such a move would only assist future residents, with the number of ‘baby-boomers’ expected to seek smaller-sized housing options, the present complex legal lease

agreements which vary from one year to the next, presently become a nightmare for intending residents, who are offered 'resort' style living, but don't understand the conditions under which that lifestyle operates.

The RVRA is extremely concerned about the final two aspects of this recommendation, and the corresponding sections of the Draft Report.

“research jointly commissioned by the industry and government”

The premise on which this recommendation is based, namely the perception that there is insufficient evidence of problems in the industry (Draft Report, p339) surprises the RVRA and other Resident groups in Australia. All state resident's organisations could provide a large deal of evidence that a great number of problems of unfair treatment of residents exists across the whole spectrum of Retirement Villages. These are hidden problems because of the vulnerability of the residents – their age, health problems, their disposition to give in to intimidation rather than insist on their rights, their nervousness about the consequences if they do stand up to the management.

The existence of large, resident-funded advocacy groups in most states show that there are problems in the industry. If there were no problems, there would be no impetus for residents to form such associations. There are more than 20,000 residents belonging to these groups throughout Australia.

We assert that any such research must have input from residents who have experience of the situations existing in a large number of villages – therefore, the Associations which support residents – to have any credibility and validity at all.

Previous research commissioned by “*the industry*”, such as that commissioned by the RVA (and referred to in the Draft Report on p338) lacks independence in the eyes of residents and their representatives, given the potential for it to be biased towards the interests of the RVA's members who are all village operators.

This research must include a member from, and be overseen by, an independent body and include informed residents as well as operators of Retirement Villages.

The Draft Report assumes that the appropriate evidence to be gathered is related to satisfaction rates among *existing* residents (p338). This should be sought, of course, but also in conjunction with *past* residents and their families. Many dissatisfied residents leave their village but, many remaining ones are easily intimidated and may be disinclined to answer survey questions openly and honestly for fear of repercussions, particularly when their own village manager is often involved in taking the surveys.

The extent of this fear was confirmed in research conducted by the University of South Australia and the then South Australian MLC, Ian Gilfillan. The report was based upon interviews with residents from six retirement villages across South Australia and found, inter alia, that “*residents are frightened of complaining to their managers for fear of retribution*”. (See Knowles, K & Gilfillan, I, 2000, *Consumer protection what's that--?: an assessment of consumer protection in retirement villages in South Australia : a report*).

Another reason to survey past residents or their families is that many of the current problems in the industry arise at the point of exit from a village. There are countless examples of cases where the costs of sales of dwellings far surpass the expected costs from reading a contract, and the time for which many residents have to continue paying recurrent fees can cause incredible hardship for residents who have moved into care or for families of deceased residents.

“Changes to state and territory government legislation under this process should ... have regard to the industry's accreditation process.”

This aspect of the Draft Recommendation is drawn from the discussion on p399 of the Draft Report regarding certain submissions from industry groups that “*the industry's self regulation accreditation system was a credible alternative to deal with any problems*” and that “*an industry led accreditation scheme [w]as*

the best regulatory option to provide consumer assurance, facilitate government oversight and drive public accountability”.

The Australian Retirement Village Accreditation (ARVA) Scheme is an Industry-developed, two stage process developed to identify Villages that conform to a set of standards produced by the Retirement Village Association (RVA). The Standards aim to “be realistic, fair and transparent”, and are designed to ensure the protection of residents”. Stage 1, the self-assessment phase, is conducted by the Village Operator and purports to confirm that the Village conforms to all of the 27 standards. (Fail One, No accreditation). Stage 2, an on-site survey conducted by an “independent” team drawn from the RVA membership, seeks to confirm this achievement.

To coin a colloquial phrase – “This is like putting Dracula in charge of the blood bank!”

As with the research being done, the accreditation system should be carried out by an independent body and include informed residents as well as operators of Retirement Villages.

The RVRA knows of many cases where a village is “accredited” and the operator of this village has been found by the CTTT to be in breach of the Retirement Village Act. Surely, this should be a reason for a village to lose their accreditation which most only use as a marketing tool.

The RVRA oppose strongly the premise that the retirement village industry is in any way capable of effective self-regulation.

The very basis of the RV industry makes effective self-regulation highly unlikely.

Under normal market forces a dissatisfied consumer can just go elsewhere. This is not the case with a Retirement Village. Once a resident is in a village the costs of leaving often mean they would have to move a long way from where their family, and friends reside, and away from familiar medical practitioners and surroundings. For example, many residents who buy into a village in Sydney would need to move away from Sydney to an outlying area where real estate was not as expensive, because of the costs involved in exiting their village situation.

A retirement village operator only profits (via the exit fees or DMF) when the residents leave or die. So, if residents are unhappy and want to leave because of the way in which they are being treated, the operator is the one who profits – not the consumer.

The RVRA does not oppose exit fees, and believes that they are an essential part of any viable village business model. However, the whole basis of this business model is fundamentally inconsistent with industry self-regulation.

The current self-regulating Accreditation Scheme promulgated by the RVA, does not take into account the large number of ‘Not for Profit’ (NfP) villages which operate, in many cases, with a much smaller number of independent living units (ILU’S), and often have a more caring and conciliatory manner of operation. In the main, they are operated by churches and benevolent societies, and come under the banner of ACSA. They also must be considered under any accreditation scheme for retirement villages and as the RVA are the main promoter of this at present, this should necessitate a move to a State Government, or independently operated system.

The evolution over the past fifteen years, to the whole Retirement Village Industry being dominated by Charitable organizations, to now being “big business” ventures (including the latter), has changed the whole face of the industry. Instead of the caring environments which existed in the past, there is now an emphasis on the “bottom line” and maximizing the amount of money made from elderly vulnerable residents and their living arrangements.

One submission referred to in the Draft Report (p340) claimed that “*the increase in regulation over the last 15 years has delivered no measurable improvement in outcomes*”.

Increase in regulation over that time may not have “improved outcomes” but it certainly will have prevented a sharp decline in the quality of outcomes for residents.

Over the past 10 years, the industry has only increased its market penetration from 3.5 per cent to about 5.0 per cent (Draft Report, p330). We believe this is an indication of the degree of skepticism and distrust in the community about the way villages are run and the financial aspects which are definitely a negative for many retirees, as the stories become more prevalent with the larger number of “big business “ villages operating. This could well prevent a further take up of possible places in villages, which then impacts on the residents and their chance of selling their leases or dwellings when they need to leave for further care, or for the families who are left with a deceased estate which is causing them difficulties and expense.

If the industry is to keep its present level of viability or increase it, there will need to be an increase in consumer confidence and a better perception of the RV industry in the eyes of the general public.

Thank you for the opportunity to provide these submissions in relation to the Draft Report.

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RVRA Secretary