



RETIREMENT VILLAGE RESIDENTS ASSOCIATION INC

NEWSLETTER Number 103 - June 2014

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PRESIDENT'S REPORT

Political Change

Once again we have a new Minister for Fair Trading, The Hon. Matthew Mason-Cox MLC, who was appointed by the Premier, to replace The Hon. Stuart Ayres MP, in a cabinet reshuffle. The RVRA has already met with The Minister, and hopes to continue the excellent relationship that we had with the Minister's office over the past few years.



Good News Items

The Landings — The case against the residents of The Landings, brought by their Operator, Sakkara Holdings, first in the District Court, and then in the Supreme Court, was rejected by Justice Sackar, in the Supreme Court on 16th May. The Judge agreed with the residents' Lawyer, Peter Hill, that the application was made too late, and he also ruled that there were no legal grounds for these appeals in higher courts when the operator could have returned to the Tribunal to have the issue settled.

See <http://www.caselaw.nsw.gov.au/action/PJUDG?jgmtid=1715>

Thank you to all RVRA members who attended the Supreme Court to support the residents.

Tenambit - A possible buyer, who is an experienced, not-for-profit operator, has carried out due diligence inspections on the village. We hope for an excellent outcome for these residents in the near future.

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Committee Issues

Our Secretary and Advocacy Chairman, Malcolm McKenzie, has been very ill over the past three months. His absence has made us even more aware of the large work load he has been carrying for our Association. We hope he will soon be able to resume some of his duties.

Another of our Committee members, Greg Grennan, also has had health problems, and has resigned from the Committee to enable him to concentrate on his treatment.

We are fortunate that Jeff Kukura of Forresters Beach Village, has agreed to fill the casual vacancy on the Committee.

Committee Activities Month by Month

Our usual Committee work with our members, and with prospective village residents, includes answering over 200 calls and emails in the three month period. Below are some further activities involving RVRA Committee members.

In March, representatives of the Committee attended the following:

- A meeting with Rod Stowe, the Commissioner for Fair Trading, and his staff, at which we discussed:
 - * a possible cooperative venture with ARPRA (Affiliated Residential Parks Residents Association),
 - * issues relating to Tenambit, and The Woniora villages,
 - * WorkCover calculations in village budgets.
- A residents meeting at Glenhaven Gardens Retirement Village.

In April, RVRA representatives attended:

- A meeting at Tenambit with residents, the prospective buyers of the village and officers from Fair Trading,

- A meeting of RVAC (Retirement Villages Advisory Council) to finalise recommendations about the two priority areas for The Minister:
 - * the issue of Operators not complying with CTTT orders handed down in the residents' favour, and
 - * the provision of rental accommodation, and use of tenancy agreements in villages.
- A meeting with Rod Stowe, the Commissioner for Fair Trading, Philip Fogel, the Deputy Commissioner for Compliance, and Gary Martin, the NSW President of Affiliated Residential Park Residents Association (ARPRA), where the proposed cooperative initiative for the two Associations was discussed,
- A Focus Group with researchers from the Alzheimer's Association, who are looking at the care for residents in villages,
- A meeting with Forresters Beach Village residents,
- A meeting with TARS (The Aged Rights Service) and COTA (Council of the Ageing), and
- A residents meeting at Hammondville to assist in the formation of a Residents Committee.

In May

- A meeting with the NSW Committee representatives of the Retirement Living Council (RLC), where a number of important issues were discussed:
 - * The Property Council Academy Course for retirement living employees,
 - * The Statute Law Amendments Bills where RV Legislation wording is amended,
 - * Village budgets, and
 - * Hot water tempering when new hot water systems are installed.
- A meeting at Banora Point Village,
- A meeting at Bolton Point Village, and
- An Information Morning at Brentwood Village.

You can see that your RVRA Committee tries to represent our members in many different ways.

Advice From NSW Fair Trading

As mentioned in the last edition there has been change in the division of Fair Trading to which we direct our queries. This has resulted in problems with some of the

advice coming from this section regarding the Retirement Villages Act.

Following ongoing discussions between RVRA and Fair Trading, on a number of issues, the Special Services Unit has now decided that all queries are to be in writing and will be answered in writing.

Information is available from the Property Unit in the Specialist Complaints Branch of Fair Trading, on 9895 0297, or toll free on 1800 625 963 or

by email: ssu@finance.nsw.gov.au

Responses to the March Newsletter

A few members queried items in the last newsletter.

1. The CPI — RVRA wrote: The CPI figure used must always be for the same twelve month period each year.

This has been backed up by a recent NCAT decision, which stated: "The CPI figure used is to be the last quarterly published CPI figure."

If a village budget is issued at the same time each year there should be a full twelve month period between budgets and so the CPI figure should be for the same quarter each year.

The point being made is that an operator cannot pick and choose which CPI figure they wish to use.

2. A right to know — The RVRA wrote: All residents need to remember that it is residents' money which is being spent on budget items in the village. Residents have the right to ask management for details of where their money is going. We had some comment about this.

We know that:

- if the recurrent charge increase does not exceed the CPI, or
- if a village has a recurrent charge based on a fixed formula,

residents do not need to formally consent to the budget. However that does not deny residents the right to ask questions about the expenditure items. There should still be transparency with a village budget.

Thank you to those people who commented on the articles in the newsletter.

The AGM and the Committee

The AGM will be held on 25th September 2014, and a new Committee will take office.

If any member is interested in nominating for the Committee, please contact the RVRA for a nomination form, which must be returned by 25th July. This allows time for a Postal Ballot of members, if there are more nominees than required to form the Committee.

Regional members are especially welcome on the committee, to assist in our work around NSW. Expenses for travel to Sydney and for accommodation required are reimbursed by the RVRA.

Members of the RVRA Committee must have email and be willing to access this daily. Requirements for the Committee are in the By-Laws, and are available on the web site or by calling:

1300 787 213 to request a copy of the RVRA Constitution and By-Laws.

We invite **prospective Committee members** to attend a Committee meeting, before the end of the Committee year, to see if this is something that would interest them.

Please call the office for details.

The RVRA Village Contacts

Earlier this year the RVRA wrote to the Village Contacts asking for their suggestions to increase our membership.

Many contacts responded with very interesting ideas and suggestions which the Membership Committee will collate and use in future decisions.

Our Village Contacts are a very important part of the Association and it would be very difficult for us to function without these supporters.

Village Visits—As a result of the letter to contacts, we have been asked to visit quite a few villages to speak to residents. We find this an effective way to increase membership, and to educate people about our work and aims. Some non-members have the idea that the RVRA is a type of "union" to stir up unrest in villages. In reality, we work very hard to achieve cooperation between Management and residents. Call us if you would like to have a village meeting.

Jan Pritchett

LEGAL OPINION



*Peter Hill is Honorary
Solicitor for the
RVRA Committee*

I write to you in relation to two important matters:

- a case in the Supreme Court, and
- the importance of Wills, power of attorney, and guardianship appointments.

The Landings Supreme Court Case

On 16th May 2014, the Supreme Court of NSW dismissed the operator's (Sakkara) appeal. This was against an earlier hard won gain by residents in the CTTT. The operator had already been to the District Court, and then discontinued its proceedings. The operator was attempting to appeal aspects of the decision which required them to produce re-audited accounts for the 10/11 and 11/12 years and to hold discussions with residents over these accounts. Sakkara had spent residents' funds inappropriately, and the Tribunal had made rulings to give it back. These orders were directed at correcting the accounting baseline for future budgets. The operator had also filed the appeal 3 months out of time.

His Honour, Justice Sackar, dismissed Sakkara's application to extend the time to commence the proceedings, and awarded costs in favour of the residents. They did not have good enough reason for filing proceedings outside the three month time limit. The CTTT had earlier dealt with the matters in a sensible and practical way, allowing them an opportunity to return and raise any further issues with the budget. The budget years were also well over.

This case was definitely a win for common sense. It also highlights the courage and resolve of residents at this village, and is a lesson to be learned by operators who seek to run actions with little practical utility.

Residents had successfully won a lengthy CTTT process, fended off a District Court appeal and were faced with a Supreme Court action. They are continuing to seek justice, before the NCAT, for the operator to rectify building defects, many of which were previously ordered to be rectified.

A special thank you to the executive of the RVRA and all residents who attended the Court from other villages.

Wills— We all know the importance of a Will, and the cost and anxiety if one passes intestate. If you have a will, reflect on whether it needs updating. Ask yourself whether any changes in your life and family warrant this occurring, or are there gifts you would like to make that have become important to you. Are you content with your executor who will manage your estate? Are there differential gifts to your children or others, which may lead to issues later? I encourage you to reflect on these and seek advice, if necessary. A little time now may well save a lot of time and expense later.

Can I also add, it is not only about having a Will or a relevant one at the point you have reached in your life, but knowing where the original is kept. Keep it in a safe place. We are often faced with elderly clients who have relocated and they either cannot remember where it is kept, or alternatively it is located with a Firm that they have had little contact with for many years.

There is one final issue on this subject that arises in my experience with dealing with estate issues and often not reflected on sufficiently, or at all. Does your family or executor know who is going to assist them wind up your estate? Do they know where the original will is kept and do they understand what needs to be done, or what your wishes are in this respect? All important questions.

Power of Attorney & Guardianship

A Will comes into effect after you have died, A power of attorney, or an enduring power (it also operates when you lose mental capacity), allows a trusted person to deal with your financial and business affairs, if you become incapacitated when still alive.

An enduring guardianship (a separate appointment) similarly allows a trusted person to make decisions relating to such things as accommodation and health care when you cannot make these. They usually arise when in hospital and one is too sick to consent to medical treatment.

If our Firm can assist in any way, then please let us know.

PETER HILL- Solicitor & Practice
Manager, Hill & Co Lawyers

NOMINATION FOR LIFE MEMBERSHIP



This year, one of our long term committee members, Malcolm McKenzie, will be nominated by the Committee for a Life Membership of the Association.

Malcolm has served on the RVRA Committee since 2007, and has been an Office Bearer continuously since early 2008, serving as the Secretary, President and also the Advocacy Chairman.

The RVRA Constitution states:

A member who has been determined by the committee to have contributed significantly to the advancement of the objectives of the association may be appointed by the association as a life member of the association and shall enjoy the rights and privileges of an ordinary member.

Over the past few months the committee has become aware of the many residents who have stories about the way in which they have been assisted by Malcolm carrying out his RVRA duties. He also has won the respect of others in the industry. If you have an instance of this assistance, please share it with the Committee.

Members present at the Annual General Meeting will be asked to vote to consent to Malcolm being made a life member of the Association.

We hope many members who have had contact with Malcolm over the years will join us at the Annual General Meeting.

VOLUNTEERS

One pleasing feature of the past few months has been volunteers who have asked to assist the RVRA, without joining the Committee.

One member, **Dana Vale**, who is a retired lawyer and a retirement village resident, has offered to assist in carrying out **legal research** for the Committee. Her first foray into this work has been to look at issues arising in strata villages. This is a very complex area which has been of concern to the RVRA for some time.

Karen Martin, who was a manager with Catholic Aged Care, has offered to assist us with advice on **advocating for residents**. Her expertise will be invaluable to us.

Ed Boyle, who first became known to us through his involvement with Careways, has kept in touch. He recently assisted the Committee to produce a **Power Point presentation** for use at village meetings, to better explain our work. He has also provided ideas for increasing our membership, and ways to achieve sponsorship for the RVRA.

Long-term Volunteers

Our thanks must go to **Mike Calder**, a member of the RVRA, who is our Web master, and looks after the web site for us.

Our volunteer **newsletter packers** spend a day every three months helping to mail out the newsletters.

When I called some time ago for volunteers to **review the Act**, three members came forward. As they lived too far apart to meet to discuss the review, this was left in abeyance. At a recent meeting with the Commissioner for Fair Trading, he stated that because of some of the serious issues arising over the past year, it is being considered whether the RV Act review might be brought forward. Therefore we need to revisit the idea of setting up groups to do a full systematic review. Thus we will be prepared when submissions are called for.

Many people do not wish to join the Committee but have skills which could assist the Association. If you are interested, contact the President by email, or call 1300 787 213 and your call will be returned by a Committee member.

CAPITAL WORKS FUNDS

Recently, the RVRA has received a number of queries regarding Capital Works Funds.

We have developed a two page hand out on the CWF and its use, which might assist residents who are concerned that their fund is not being used correctly.

If you would like to receive a copy, please email or call the RVRA Administration on 1300 787 213.

Other Hand-outs available are:

- What if there is a Surplus,
- Recurrent Charges,
- Costs on Vacating,
- Rights and Responsibilities of Residents and Operators
- Capital Maintenance, Repair and Replacement

We can also assist with the Fact Sheets from Fair Trading on a number of topics.

MEMBERSHIP RENEWALS

It is membership renewal time.

Please assist the committee by writing "Membership" in the address on the envelope, if you are mailing your renewal.

We have thousands of letters arriving at this time of the year, and it is very helpful to be able to quickly sort the mail. If the word "Membership" is not on the envelope, the letter must be opened before being sent off to be updated in the data base, in case it is correspondence. This is very time consuming.

If you pay by **direct debit**, please **notify the office**. To have money arrive in the bank account without any identification is another item which takes a lot of time, and is often a fruitless search.

Can we also ask you to **please be patient in waiting for receipts**. We have almost 6000 members and to enter all the details and print off receipts takes a long time. Each year we have phone calls from people who are waiting for their receipts. Please allow us some leeway.

THE RVRA LEGAL SUPPORT FUND

The RVRA thanks all those who have contributed to the Legal Support Fund since our last appeal.

The Social Committee of Henry Kendall Gardens, and the Committee at Brentwood (BRAG), were extremely generous and donated \$1000 each to this important fund.

We also had many other donations from individuals, for which we are very grateful. All these amounts assist us to help residents in need, no matter how small their village, or their financial situation.

It has been gratifying to see that so many of our members are willing to consider the situation of residents in villages which may not be as fortunate as themselves.

For your DONATION to RVRA LEGAL SUPPORT FUND

Please photocopy this page or cut off this section, and send with your donation to:

The RVRA Legal Support Fund, PO Box 3176, North Turrumurra 2074

Please accept my donation of \$..... being for the 'The RVRA Legal Support Fund'

Name:

Village: Address:

.....

Email: Phone:

RVRA ANNUAL GENERAL MEETING 2014

Thursday, 25 September, 2014 at 10.30 am

At The Theatre of the Sydney Mechanics School of Arts, 280 Pitt Street Sydney

Located between Park and Bathurst, an easy walk from Town Hall Station

Morning tea will be provided at 10.00 am

BUSINESS:

1. Opening of Meeting
2. Apologies for Non-Attendance
3. **Address by Guest Speaker:** The Minister for Fair Trading, The Hon. Matthew Mason-Cox will attend.
4. Confirmation of Minutes of AGM held on 19 September , 2013
5. Comment on written report by President on Association's activities during 2013 -2014
6. Comment on written report by Secretary on current matters
7. Financial report by Treasurer
8. Election of President, Vice-President, Secretary, Treasurer and Eight Committee members
9. **Address by Peter Hill**, Honorary Solicitor for RVRA Committee
10. General Business
- 10.1 Nomination for Life Membership of the Association: Motion to be put to the meeting:
Malcolm McKenzie be made a Life Member of RVRA in recognition of his outstanding work and contribution to the Association, and to retirement village residents throughout NSW.
- 10.2. Question and Answer time for members to address committee members and Peter Hill about issues of interest.

Nominations for RVRA Committee

In accordance with the Association Constitution, **nominations** are invited from financial members of the Association for the positions listed in **Item 8** above.

Nomination forms are available on application to the Secretary, or by ringing 1300 787 213, and **must be returned** to PO Box 3176, North Turrumurra 2074, **by Friday, 25th July, 2014.**

If there are more nominations than required, a postal ballot will be held.

N.B. Nominations will only be accepted at the Annual General Meeting if there are unfilled positions when nominations close.

Issued on behalf of the committee by Jan Pritchett, RVRA President

RSVP by 9th September for the AGM (to assist with catering and seating)

RSVP by Email: admin@rvra.org.au

By Phone: 1300 787 213

Postal RSVP: The Secretary, PO Box 3176, North Turrumurra 2074

I / we will be attending the AGM of Thursday 25th September, 2014.

Name (s): _____ Phone: _____

Village: _____



**RETIREMENT VILLAGES
STUDY**

HAVE YOU RECENTLY MOVED INTO A RETIREMENT VILLAGE?

We would like you to share your experiences and opinions about this with us. Your participation will help us to understand:

- the reasons why seniors choose to live in a retirement village,
- what factors may influence their decisions,
- their perceptions of the social, health, and financial benefits and costs involved in moving into a retirement village.

After collecting and analysing the responses from you and others, we will publish our findings. The findings can then be used to inform the Retirement Village operators, the residents and the potential new residents of Retirement Villages.

Duration: The interview may take around 45 minutes (which will be recorded and later transcribed, but confidentiality will be ensured).

The location and time: Macquarie University or a quiet place mutually agreed to by the interviewee and the interviewer, at a mutually agreeable time.

If you are agreeable to being interviewed please contact us by phone or by email.

Principal Researcher's contact details:

Dr Tim Kyng PhD Dept of Applied Finance and Actuarial Studies,
Macquarie University

Phone: 02-98507289 Email: timothy.kyng@mq.edu.au

Dr Tim Kyng has already interviewed a number of the members of the RVRA.

He and his team have travelled around Sydney and also into regional areas to speak to those who have contacted him.

Although the advertisement asks for residents who have recently moved to a village, this is not a prerequisite to contributing to the research project.

If you feel you have had experiences through moving to, and living in a village, which you feel might provide some insight into the financial make-up of a village with your particular model of financing, please contact Dr Kyng.

It would be interesting for the team to interview people who are in a strata village, or company title village, as well those who are in the more common Loan/ Lease or Loan/ License village. A mix of "for profit" and "not-for-profit" villages would also be desirable.

HELP TO SUPPORT THIS STATE WIDE

RESIDENTS ASSOCIATION

BY ENCOURAGING OTHER RESIDENTS TO BECOME MEMBERS