



RETIREMENT VILLAGE RESIDENTS ASSOCIATION INC NEWSLETTER

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Secretariat:

Phone: 1300 787 213

Email: admin@rvra.org.au

All mail:

PO Box 3349
Asquith, NSW 2077

Subscriptions:

RVRA Membership
PO Box 3349,
Asquith, NSW 2077

Web site:

www.rvra.org.au

President:

Tom Gait

Email:

president@rvra.org.au

Secretary:

Dorothy Swanton

Email:

secretary@rvra.org.au

Newsletter Editor:

David Pritchett

PRESIDENT'S REPORT

This is the first time I have been able to communicate with you, the members of RVRA since accepting the role of President at the January Committee Meeting.

Thank you for this honour and responsibility. We have a lot of work to do together.

Now is an opportune time to thank and pay tribute to **Jeff Kukura** for the time and effort he devoted to the Association. Jeff held the position of Vice President until his resignation at the December 2014 meeting.

With the **New South Wales election** occurring in March, retirement village residents have the perfect storm of opportunity to let the sitting member and candidates know how they feel about issues affecting their lives.

Your Committee has compiled a list of hot-button issues affecting retirement village residents. These include:

- Appointment of a Retirement Village Ombudsman;
- Improvements to the Standard Contract by the inclusion of two (2) departure fee standard models in the Disclosure Statement;
- Adequate funding for Retirement Village Residents Association (RVRA);
- Enforceable undertakings in all orders issued by NCAT;
- Pensioner rebates and fare concessions maintained.

All I am asking you to do is **contact all candidates in your electorate** and talk to them about the issues contained in the article on page 6.

In this issue:

President's Report	Page 1
Secretary's Report	Page 3
View from the Hill	Page 4
Accreditation Costs	Page 5
NSW Election—RVRA Position.....	Page 6
RVRA Management Committee 2015	Page 7
Seniors United NSW— a new political party	Page 7
RVRA Submission to review of RV Regulations	Page 8



We only get this chance every four years, so grasp the nettle we must.

It's time we became activists again.

Our voice needs to be heard.

New communication technology allows your association to contact all candidates across the State, and seek their response to these issues.

Whilst on that subject, there is a story on **Seniors United Party (SUN)** on page 7 of this Newsletter. I feel sure that there is interest in their cause.

Another major talking point among residents is **village budgets**.

In this low-inflation environment it will be hard for Village Management to justify a CPI increase, however small the final number may be.

I am hearing stories of villages that have attacked soaring electricity charges by accessing various incentives on offer by local Councils and Government. One village I am aware of has shaved more than \$20,000 off its electricity charges.

All budgets need to be ruthlessly scrutinized and analysed.

Is it too much of a pipe-dream for operators to concentrate on the resident?

By so doing, this will lead to residents not being worried; feeling secure; not being lonely; feeling financially secure and being supported as they age.

Operators need to respect and respond to needs.

If I could use a metaphor: 'One year to an 80-year-old resident is equivalent to 20% of their future life.'

Peter Hill, Honorary Solicitor to the RVRA, is once again proposing to run a series of **seminars** in villages on the legal, financial and estate issues arising from the departure from a retirement village.

Last year, 2014, Peter ran upwards of 26 Estate Planning Seminars at villages across NSW. These were well attended and provided a good opportunity to expose the Association to newer residents and non-members. We need to wave the RVRA flag at every opportunity and increase our membership base.

Do not forget . . . the aim of the game is to double the membership by year's end.

Finally, a word on **the internet and social media**.

The Association's web site is soon to be redesigned and upgraded. Some new features will be added as well as a link to Facebook.

Did you know the Association has a Facebook page?

Unfortunately the last time I looked it only had eight (8) likes. How sad is that?

Did you know baby boomers are the fastest growing demographic on Facebook?

Facebook and other social networks have enabled seniors to get in touch with long-lost friends and relatives, as well as see pictures of grandchildren etc, but there is more to social media than a few family happy snaps.

Social networks can provide a powerful and accessible tool for highlighting and acting on issues and causes that interest and affect our membership. They can be used for organising events or to communicate and showcase issues, ideas and opinions.

Managing an online presence and being able to interact effectively is becoming an increasingly important skill.

Whether or not we can harness this technology to further inform our membership of all that is going on between the quarterly newsletter is up to you, the member.

Tom Gait

SECRETARY'S REPORT



I would like to thank our members for their patience over the past few months, as we have worked to overcome the enormous gaps left by the passing of both Malcolm McKenzie and Jan Pritchett. We are now able to commence the year with a new President, a full executive team and a committee dedicated to maintaining the RVRA as a force to be reckoned with.

As you know, the **Regulations** associated with the Retirement Villages Act (1999) are to be reviewed later this year. We have a sub-committee preparing an RVRA submission. A report on their work is included in this newsletter. We are also meeting with representatives of the operators to see if we can find concerns which are common to us all, as consensus is always more successful than disputation. Thank you to all those members who have submitted ideas and time, so that this submission can truly be representative of your concerns.

With the **NSW elections** only a few weeks away, we would encourage everyone to contact their local member and all the candidates for both Houses, about the concerns of village residents and retirees in general. We have developed a list of concerns, which we will be circulating from the Committee, and we encourage you to do the same. We have the numbers to make a difference – all we need is the will to make things happen.

Committee members have continued to answer your questions and concerns. We aim to return your calls as quickly as possible, but just occasionally the time lapse is longer than we would like, and we apologise for this. As volunteers, we are not always at home to take your calls.

Several village visits are being planned for the next few months, and these include both country and metropolitan villages. The

costs of these visits are being met from the Government grant that we receive through TARS, and without which we could not offer this service. If you would like a visit from the committee, whether it is to talk about the work of the RVRA or to address a specific issue within your village, please contact the Secretariat. The number of visits is, of course, limited each year, but we will do our best to meet the need.

Although the year has only just started, we have already made a booking for the **2015 AGM**. It will be held on Thursday September 24th at the Central Coast Leagues Club, Gosford. Coffee will be served from 10.30 and the meeting will start at 11am. Please put this date into your diary. As most of our members live in or near the Central Coast, we look forward to meeting as many as possible on the day.

The **Northwood Village in Tenambit** was finally purchased in January, by Anglican Care, and work has already commenced on providing the basic services which had been lacking for so long. Plans are in place to complete the village. Both Malcolm and Jan gave many hours to save this village, and we all deeply regret they were not able to see the final result.

Our Honorary Solicitor, Peter Hill, is planning another program of **information seminars** for 2015. He will be sending the details to the village contacts when they are available. The seminars in 2014 were very popular, and I would encourage early bookings.

I would like to thank two RVRA members for some **special work** they have done on our behalf.

David Pritchett has transferred Jan's RVRA files from her computer, together with those she had already transferred from Malcolm's, onto an external computer hard drive. We now have an amazing record of their work.

We are also extremely grateful to a former committee member, Hugh Bell, who, some years ago, scanned and saved all the RVRA Committee Minutes, from the inaugural meeting in July 1989, up until 2012. We have hard copy of the Minutes from then on, and we will now have to decide how this complete archive is to be preserved.

It is the whole history of the RVRA and it is a priceless asset.

Dorothy Swanton

A VIEW FROM THE HILL



I thought it timely in this edition to talk about some of the more dominant issues I saw arising in 2014, relating to retirement villages and the *Retirement Villages Act 1999* ("RV Act"). We continue to be surprised by some of the conduct of operators in the face of very clear legislative guidance on what should be done. I have set out some of the key issues below that seem to be re-occurring, and I believe need to be ventilated in any forthcoming review of the RV Act. I have put these in point form to assist the theme I am attempting to highlight. Some examples relate to simply ignoring the RV Act, and/or highlight a need for real change and better compliance.

- Instances of some operators seeking to carry forward deficits to the next year, or unilaterally taking money from the surplus without seeking resident consent. Deficits can only be carried forward in very limited instances, and a surplus cannot be reduced at an operators whim where the expenditure or proposal has not been properly approved;
- Requiring departing residents, who entered into their leases after 1 July 2000, to pay refurbishment costs where their occupation caused no more than fair wear and tear. These costs can be anywhere up to \$40,000 to \$50,000. This continues to be a large problem across the industry, even though the RV Act prohibits the practice. It presents a real issue for an estate who are seeking to realise their redemption monies from mum or dad's dwelling, often forced to concede the issue so as to avoid a protracted dispute;
- Some operators are charging new residents more than the maximum \$220 (GST inc) as legal fees to prepare the resident contract, breaking the documentation up into several types of agreements and charging separately to avoid the legislative limit;
- Where villages become insolvent, there is little in the way of protection for departing residents where the operator has no money to meet their exit entitlements. A fidelity fund is vital;
- There are seemingly wide powers and penalties under the RV Act for the OFT to investigate breaches. Investigations rarely proceed and the chorus of complaint is that residents are forced to run a case before NCAT against well resourced operators when regulatory intervention would have solved the problem quickly;
- The compliance regime for NCAT orders are ineffective. For awards of compensation, residents are forced to register their judgement through another convoluted process with the Local Court. For work orders, residents only have the option of filing a renewal application and seeking the same orders again particularly where compensation is not appropriate, in circumstances where they are seeking the operator to fix defects in their dwelling or village;
- Some older villages have emerging defects, which some operators will simply not address, or will seek to have residents pay for these through their recurrent charges. Defects significantly erode the quality of residential life, as well as the anxiety and frustration that they create;
- In some respects the industry is very marketing and sales gloss driven. More resources need to be put in to addressing real issues that seem to arise time and time follow the rules of fair play. The glitz and gloss tend to mask the real problems across the sector and ultimately, if not addressed, will erode prospective resident confidence in the model. Increasingly, we are seeing prospective residents looking much closer at the economics of staying in

A VIEW FROM THE HILL continued..

their own home and buying in help as they need it. This trend is likely to continue.

Finally the issue of exit fees is not well understood across the sector. Increasingly these are being loaded up in the first 5 years and are based on the sale price of the dwelling, not what the outgoing resident originally paid to buy in. Historically, they were partly designed to compensate the operator for capital replacement and management time and effort that could not be recovered. Now too often we see increasing disputes over operators baulking at capital replacement of ageing infrastructure in villages (notwithstanding the large exit fees), large head office charges in village budgets to purportedly compensate for management costs, and an absence of any explanation in resident contracts of how these exit fees are broken down or justified.

Can I say that the solution is for residents to continue to have a voice and there is a need for a strong one. Keep up your support of the RVRA because I believe that the industry is at a critical time. I look forward to continuing to help.

Congratulations to Tom Gait on becoming President. I have worked with Tom on the challenges he went through at the Woniora. A lot of its success can be credited to his leadership as Chairman. He has the energy and passion to serve you well. I have no doubt that he will undertake the task ably and with conviction.

Many thanks.

PETER W HILL

Solicitor & Practice Manager,
Hill & Co Lawyers

Peter Hill is Honorary Solicitor for the RVRA Committee

Peter Hill kindly provides advice to the RVRA Management Committee.

If individual members of the RVRA want to approach him for advice, that will need to be on a fee paying basis.

Any issues that affect residents generally, should be raised firstly with the Secretary.

RETIREMENT VILLAGE ACCREDITATION COSTS

RVRA has recently been notified that one major operator is attempting to charge residents for costs incurred whilst having their village accredited.

The accreditation scheme was devised by the Property Council (the operators' group), and is being promoted as a quality assurance and best practice programme.

It does not benefit residents in any way.

This particular village management is attempting to recoup the cost of over \$1,000 from recurrent charges. This is not appropriate and we asked Peter Hill for an opinion. His reply:

RE: Life Mark Accreditation

My strong view about this is that it is an accreditation scheme at the initiation of the operator to improve its business processes.

It does not constitute a real or direct service to residents that would require them to pay for it. It is indirect at best. Residents have no control over the programme, initiated by the Property Council to replace the earlier operator driven accreditation scheme. A line must be drawn with this type of charge, because in my view it is the thin edge of the wedge as to what other indirect costs they will load up the village in the future, all under the guise of resident benefit.

The other reality is that it helps their marketing initiatives to prospective residents and they are already handsomely paid through exit fees, which traditionally were designed to compensate management for costs that they could not otherwise claim against residents.

The operator should have canvassed this in the budget if they expected residents to pay for it and have it voted on accordingly.

Please resist this movement.

Peter Hill, Honorary Solicitor RVRA

RVRA NEW POSTAL ADDRESS

The RVRA postal address is now
PO Box 3349, Asquith, NSW 2077

Introduction

The Retirement Village Residents Association (Inc.), was founded in 1989 by the NSW Government and The Council for the Ageing (COTA). Our objectives are to:

- Assist residents to understand their rights and obligations;
- Defend and extend the rights of residents in Retirement Villages;
- Encourage residents to exercise their rights through participation in the decision making processes affecting their lives;
- Assist residents to develop an effective Residents Committee in every village;
- Offer information and advice to intending residents, residents and their families;
- Promote positive relationships between residents and management;
- Consult with government on issues affecting residents;
- Liaise with organizations involved in the development of services for the ageing population;
- Liaise with the village operators' organizations.

In the **NSW State Elections next month**, we will be asking politicians to support the RVRA and all retirement village residents by committing to the following:

- ◆ Retention of Pensioner rebates and fare concessions;
- ◆ Establishment of a Fidelity Fund for Retirement Villages to provide protection for vulnerable residents where a village owner/operator files for bankruptcy;
- ◆ Fidelity Fund registration for Retirement Village operators;
- ◆ Appointment of a Retirement Village Ombudsman with enforceable powers;
- ◆ Improved procedures to ensure enforcement of orders issued by NCAT, including penalties for non-compliance;
- ◆ Amend legislation to avoid unethical behaviour and practices related to calculations dealing with departure fees and guaranteed % share of capital gains;
- ◆ Clarification of those maintenance and replacement costs to be paid for by residents;
- ◆ Increased funding for the RVRA.

Almost 2.5 million people in NSW are aged 50 years and over, with 40,000 already living in retirement villages and an increasing number are considering the move. It is vital that the welfare and interests of this growing sector be maintained as a large percentage of village operators are well-resourced both financially and legally compared with village residents.

INFORMATION SEMINARS

A new series of information seminar series will be run in 2015 by Peter Hill and RVRA.

This year the topic will be:

Departing your Village: What to tell your family?

Peter will concentrate on liability for ongoing recurrent charges, exit fees and refurbishment costs, and some of the more practical things we all should tell our kids or relatives when we are leaving the village.

Invite a family member.

Coming to a village near you in 2015.

Contact with all residents committees will be made shortly.

THE RVRA MANAGEMENT COMMITTEE FOR 2015

Office Bearers:

President:	Tom Gait	The Woniora, Wahroonga
Vice-President:	John Mugford	Constitution Hill, Northmead
Secretary:	Dorothy Swanton	Warrigal Village, Bundanoon
Treasurer:	Max McGregor	Living Choice, Glenhaven

Committee Members:

Lorraine Beattie	Frank Vickery Village, Sylvania
Keith Clarke	The Grange, Berry
Ena Heddemma	The Woniora, Wahroonga
Jim Keleher	Tarragal Glen, Erina
Bill Leadbetter	Henry Kendall Gardens, Wyoming
Annette McAndrew	Settlers Ridge, Gillieston Heights
Tony McAndrew	Settlers Ridge, Gillieston Heights

Secretariat: Sharon Schweisfurth

Email: admin@rvra.org.au **Phone:** 1300 787 213

New RVRA postal address: PO Box 3349, Asquith, NSW 2077

SENIORS UNITED NSW— A NEW POLITICAL PARTY

After years of frustration with politicians, bureaucrats and tribunals, a group of residents in a Sydney retirement village decided that their interests would be better served by a political party formed specifically to address the concerns of our ageing population.

These unlikely "would-be politicians", embarked on the ambitious dream of starting the **Seniors United NSW Party**. The initial aim was to gain representation in the NSW Legislative Council (or Upper House), which is the "House of Review".

To register a Political Party in NSW, requires at least 750 members. While working towards this figure, they discovered that to register in the Federal sphere requires only 500 members.

As the fledgling party had already exceeded this number, they decided to apply for Federal registration, and seek State registration later.

Having satisfied the AEC's examination of Party membership to ensure legitimacy, registration is now imminent.

The Party is not asking people to change their established political outlook, or way of voting, other than to vote for this new Party in the Upper House of Parliament.

The basic aim of the Party is to ensure that the economic, social, political and fundamental rights of Senior Citizens, including those living in retirement villages, are considered when legislation is introduced or amended. This will be to ensure that Senior Citizens are not disadvantaged, exploited or marginalised in matters relating to their finances, safety, well being and dignity.

The Party aims to give Senior Citizens a voice, whether they live in Retirement Villages or not.

Currently, the majority of Party members are not from Retirement Villages.

A parallel Party has started in Queensland, and the parties have met to considering merging into a single national movement.

For more information visit the web site www.seniorsunited.com.au or

contact the Party Secretary:

Frank Fitzpatrick,

68 Sir Neville McNamara Drive, North Turrumurra NSW 2074

Email: frankfitzpatrick4@gmail.com

The RVRA is currently preparing a submission to an industry wide review of the **Retirement Village Regulation**, which complements the **Retirement Villages Act**.

The review presents a timely opportunity to simplify and standardise a rather complex mix of informal, as well as contractual and legislative rules and regulations.

The focus of the RVRA submission will be directed towards the protection and extension of resident rights including money matters, as well as quality of life issues.

At the same time the Retirement Living Council (RLC), the representative body for Owners and Operators, is working on a similar submission from their perspective. As some may say, diametrically opposed points of view.

At a meeting on 28 January 2015 between representatives of the RLC and the RVRA, principal points of the RVRA submission were discussed. Support for these issues by the RLC was canvassed.

At a return meeting on 5 March the RLC will respond and will present the principal points of their submission.

Principal topics of the RVRA submission included -

- Introduction of a universal Departure Settlement Model,
- Commencement of an industry Fidelity Fund,
- Appointment of an industry Ombudsman, and
- Enforceability of NSW Civil and Administrative Tribunal Orders (NCAT).

A universal Settlement Model would help clarify current conflicts of interpretation in relation to the calculation of capital gain entitlements, the operator/resident sharing of sales commission and funding responsibilities between operator and resident for villa and apartment refurbishment v reinstatement. A universal Departure Settlement Model would also be in keeping with the objectives of the recently introduced standard village contract.

A Fidelity Fund could provide the answer to financial problems which inevitably arise, such as where a village operator may be unable to meet resident departure settlement obligations.

The ongoing increase in both resident and retirement village numbers is accompanied by a growing number of operator and resident issues which may not justify NCAT determination, but which nevertheless require timely resolution. As residents and their village Committees tend to shy away from the perceived cost and angst of NCAT this widening gap in the protection of resident rights needs to be addressed. A possible solution could be the appointment of an industry representative with Ombudsman authority to provide on the spot resolution as appropriate.

A fourth topic relates to non-compliance with NCAT orders. All too frequently Orders which are favourable to the resident are either disregarded or appealed through a higher Court. Operators hold the money and usually residents simply do not have the resources to persist in these situations. The authority of an Ombudsman could perhaps reduce the number of NCAT hearings, but non-compliance is the principal concern.

As RVRA members reflect on these issues over the next few weeks, other instances where resident rights are not being properly protected may well come to mind. If so we would like to hear about them. So please drop us a line.

We will keep you informed of our progress up to submission and beyond via future editions of the Newsletter.

Jim Kelaher

Submission Convenor