



Retirement Village Residents Association Inc

Newsletter

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How to Contact Us ...

Secretariat

Telephone: 1300 787 213

Email: admin@rvra.org.au

Postal Address:

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

PLEASE NOTE

NEW

RVRA

**POSTAL
ADDRESS**

PO Box 3349,

Asquith, NSW 2077

From The President

The struggle continues . . .

If you ascribe to the theory that the definition of news is what's going wrong in the world, not all that's well, then here is the news . . .

A letter was recently sent, on behalf of the Premier of NSW, to Andrew Burgess, Chairman of The Landings Resident's Committee. It was undated, and was signed by Ray Williams MP, Member for Castle Hill, as Parliamentary Secretary to the Premier for Western Sydney.

It reads as follows:

"Dear Mr Burgess

The Premier has asked me to reply on his behalf in regards to your letter to him dated 7 December 2015.

I understand your desire to protect vulnerable elderly retirement village residents. I can assure you that the NSW Government is committed to ensuring the protection of vulnerable members of the community, and ensuring that all businesses provide fair, safe and equitable services.

To make the transition to retirement villages easier and less stressful for retirees and their families, the Government introduced a new standardised contract and disclosure documents for retirement villages in 2013. In addition, the Retirement Villages Act 1999 extensively regulates the rights and responsibilities of retirement village operators and residents, with the Act being used as a model by other jurisdictions.

I am advised that the number of disputes in relation to retirement villages is not significant, and that existing avenues for dealing with such issues are appropriate. As such, the Government does not support the establishment of a Parliamentary Inquiry and the appointment of an ombudsman at this time.

I understand that you recently met with representatives from the office of the Minister for Innovation and Better

From The President continued ...

Regulation and NSW Fair Trading, and that the Government will look into your concerns regarding non-compliance with NSW Civil and Administrative Tribunal orders and possible Australian Consumer Law matters. I trust this will assist in addressing your concerns.

Yours sincerely

Ray Williams MP

Parliamentary Secretary to the Premier.”

It is blatantly obvious that some public servant, probably a policy person, totally out of touch with the real world environment of retirement village legislation wrote the letter and is looking backwards for answers.

Yes, you can look at the NCAT numbers and draw lots of conclusions. The latest published information (December quarter) shows that there were eight (8) retirement village matters lodged. On a year-to-date comparison there were 19 matters compared to 29 matters previously. My conclusion is that residents have lost faith in the NCAT process. End of story.

It is my understanding that Governments in Western Australia, South Australia, Victoria and the Australian Capital Territory have, or are looking at, their respective Acts. I know for a fact that there is serious debate in South Australia over certain parts of their new legislation.

And another thing . . . I suggested/requested of the Regulators that correspondence be sent to all Operators reminding them of their obligations under the Act in relation to budgets and the material to be supplied to Residents' Committees. I do not know if this happened, but I would be more than disappointed if it did not occur.

I am heartened by the fact that there is now serious interest being shown by residents' committees in relation to budgets. Anecdotal evidence suggests

that more than one village has sought the assistance of experts in this area.

Whilst still on budgets, there is an article in this edition titled "Annual Budgets—Under the Magnifying Glass". It is well worth a read.

Onto other things

Three months into another year, and still the same issues/problems keep cropping up.

It is amazing how our regulators are not prepared to 'nip in the bud' festering sores, especially when it comes to budget issues.

Some legislative changes happened in January, one of these relating to real estate transactions. It is going to be interesting to see how some operators interpret these changes. A headline in The Sydney Morning Herald on December 26-27 reads "How much for the house? Laws put onus on agents".

In the story they talk about:

- No more 'offers over',
- A maximum 10% price range,
- Advertising kept up to date,
- Conversation record,
- Easier to police, and
- Harsher fines.

Considering that Retirement Villages now fall under the Real Estate and Property area of Fair Trading, it will be more than interesting to see what, if any, changes are made in the way retirement village properties are traded.

I also read that a number of real estate agents have been warned/prosecuted over breaching the new laws.

Whilst still on this theme, a headline in the Sun Herald caught my eye.

"Building report scheme should cut buyers' costs", it trumpeted. The third paragraph reads: "*However, relief may be in sight. NSW Minister for Better Regulation Victor Dominello plans to*

establish a scheme in which one report is done for each property, which potential purchasers can share.”

Does that mean that residents buying into a retirement village will be provided with the same level of detail? The rhetorical question is: if not, why not?

We know from talking to members that buying into an older village sometimes comes with maintenance issues. Any reasonable person would have to think that a full set of reports forming part of the contract would be a good idea. I am sure it would solve a lot of grief at a later date.

Whilst on the subject of property transactions now might be the time to get some ‘friction in the market’ as they say in how properties in retirement are sold.

On a personal note, I am yet to be convinced that selling through the village is economically advantageous to the vendor.

Let’s see what happens here . . .

Methinks this is another one of those “watch this space” areas.

Legal Costs of Buying into a Village

Currently the retirement industry is populated by ‘not-for-profit’ and ‘for profit’ operators.

I would have thought that the social compact with the Australian public as a whole, which not-for-profit groups have established over the years, was too important to tarnish.

Unfortunately, this seems not to be the case. RSL Life Care Ltd is the protagonist here.

The Retirement Villages Act puts a \$200 cap on the amount of legal costs operators can pass on to residents for the preparation of the retirement village contract. Operators are commonly splitting retirement village contracts into

separate residence, service, and loan contracts to try and get around the cap. This practice has been rejected by the NSW Commercial and Administrative Tribunal, once on a hearing and now on the NCAT appeal. *RSL Life Care Ltd v Lamb* [2015] NSWCATAP.

The Tribunal said:

"We are therefore of the view that the legal expenses incurred by the appellant in connection with the preparation of the sublease, **included** the legal expenses incurred by the appellant for the preparation of the loan agreement."

All operators who charge separately for a loan contract, are doing so without justification. In some circumstances they can be asked to refund the charges which they have improperly collected.

The Retirement Villages Act says that the cap on the recovery of legal costs applies to costs "in connection with the preparation of a village contract". On the basis of the first NCAT decision, one operator is now taking the view that this only means of preparing the document and it charges additional costs for "exchanging the loan agreement, arranging execution of the documents by the operator, providing a direction to pay, effecting settlement, arranging registration of the lease, and returning the registered lease". This approach shows how silly operators look when they do not accept the clear wording of the Act, and use artificial devices to pass on their costs to residents.

In this case we see an operator yet again seeking to appeal an unfavourable decision, where they have lost twice, and choosing to put Mr and Mrs Lamb, who are pensioners, to the cost of defending the appeal on behalf of residents throughout the state.

Maybe we need to refer to some of these operators as ‘not-for-loss’ organisations.

From The President continued ...

Legal Support Fund

As you know, the Association has a legal support fund that has, from time to time, supported legal defence in matters that impact on all residents of retirement villages. This overcharging by RSL Life Care is a case in point.

RSL Life Care, after losing twice in NCAT, has chosen to appeal to the Supreme Court this latest decision. Because of the implications and ramifications of the outcome of this appeal, the Association has decided to support financially Mr and Mrs Lamb in defending this action.

Gary Pritchard and Warwick Van Ede of Emil Ford Lawyers are providing legal advice to the Lambs.

Consumer Directed Care (CDC).

Karen Martin has an informative article in this Newsletter, on Consumer Directed Care (CDC). I urge you to read it and comprehend its content.

As somebody once said to me “. . . *growing old is not for sissies . . .*”

I read in the press that there are around 231,000 Australians in permanent residential aged-care facilities, and more than 800,000 Australians access home care services. Whilst we were all bullet-proof at 21, when the years start to multiply, each and every one of us may need some sort of assistance at some time. Best we are aware of what services are being offered to the community, as a whole, rather than try to navigate the complex web under pressure.

Have this discussion now with your loved ones or those that are instrumental in your continued health and well-being.

Peter Hill Seminars in 2016

Now for some good news.

Peter Hill is conducting his seminar series again in 2016 with some sessions already taken place.

Entitled “**When Nursing Home Care Is Needed: Issues for You and Your Family to Consider**” it provides a snapshot of the processes involved if and when we have to face the inevitable.

I urge you to support this endeavour. Last year Peter spoke and answered questions at 48 villages. To assist villages that cannot be visited in regional areas the Association will be producing a DVD of the programme. Pre-production work is already underway. It is our aim to have this available as soon as possible.

In Conclusion, and to finish on a lighter note . . .

Blessed are the managers who listen, for they shall hear good things about themselves.

Blessed are the operators who follow the Law, for they shall reap residents.

Blessed are the residents who review budgets, for they shall keep operators on the straight and narrow path

Blessed are the legislators who give preference to residents, for they shall receive votes.

Tom Gait

RVRA President

For your diary:

Next AGM of the RVRA

The next AGM will be held on
29th September 2016

At

Sydney Mechanics School of Arts
280 Pitt St
Sydney.

DISTURBING CHAIN OF EVENTS at NCAT

The following was submitted by a Retirement Village resident. I have checked the veracity of the encounter. It adds further fuel to the proposition that NCAT is designed to fail those it was designed to protect.

“An 83 year old resident living in a NSW retirement village attended a NSW Civil & Administrative Tribunal (NCAT) Directions Hearing recently seeking a credit of about \$500 which the village management kept unfairly charging to his account in spite of many requests for it to either substantiate the charge or remove it.

The resident had paid his \$47 to NCAT to file his application under S69 of the Retirement Villages Act 1999 and Regulation 2009 to have the matter heard.

The resident expected the village management would appear to represent the village operator on this accounting matter. Not so. Instead, a senior lawyer (and partner) of a very well-known legal firm attended. The NCAT Member gave leave that the lawyer could represent the operator and offered the resident the same option of having legal representation (which of course was impractical at that late stage as the hearing was underway). The resident’s objections to leave being granted allowing this legal appearance went unheeded.

The lawyer, representing the management and village operator, proceeded to then present the matter as a legal issue rather than acknowledging it to be an accounting matter which in reality could have been easily resolved, and then went on to quite forcefully state that if the resident was to proceed further then his client would pursue the resident personally to recover all legal costs thereafter incurred by the operator. The Member then invited the resident to consider the ramifications of this before proceeding further.

The choice before the resident was obvious: either proceed with an application seeking his credit of approximately \$500 or face a possible future legal claim by the operator for perhaps twenty times that amount if the matter was carried forward to a hearing in this supposedly “people’s court”. Under that threat, the resident stated he had no sensible choice other than to withdraw his application, which he did.”

Statistics of REQUESTS FROM MEMBERS

These figures are for November and December 2015, and January 2016.

ACAT Assessments _____	2
Budget/fees _____	15
General information _____	20
Internal/External/Facilities & Maintenance _____	12
Legal / Contract Queries _____	3
Management issues _____	9
Moving into a Retirement Village _____	6
Moving into Care _____	1
Residents Committees _____	5
RV Act _____	3
RVRA visit to village _____	2
Smoking _____	1

Total of 79 calls (31 were from non-members)

A VIEW FROM THE HILL



Peter Hill kindly provides pro-bono advice to the RVRA Management Committee.

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

I hope you all had a relaxing and peaceful Christmas and New Year.

I thought it would be sensible to kick off with an important topic that seemed to increasingly raise its head at the seminars which Hill & Co Lawyers ran in conjunction with the RVRA last year.

This topic relates to the complexities of nursing homes and all of the issues that arise, when a resident is not able to live independently in their village any more.

I have set out below some information regarding some of the common questions that arise in this context, and hope that this helps highlight the areas to be aware of.

I Can No longer Live Independently in the Village - What Does this Mean?

These days most residents naturally wish to stay in their own home as long as they can, and should think about buying in support, as required, to maintain their quality of life. However, there may come a time when this is not possible, and the health and mobility challenges simply become too great to live independently.

Now most resident contracts allow an operator to trigger a medical process, if required, and ultimately terminate the lease, if the safety concerns to the resident and others become too significant. This tends to be the exception rather than the rule across the industry,

and mostly, the resident, with family support, comes to the realisation that assisted care is necessary. The important issues to bear in mind here are that often times you need to have formally appointed a close relative or friend, if they are able, to have the formal authority to assist. This can be achieved through a combination of:

- **power of attorney** (financial and legal), and
- **guardianship** (health and lifestyle)

who usually assist with logistics and organising the co-ordination of relevant services and searching out a suitable nursing home.

Often the first step in this process is facilitating an ACAT Assessment. This assessment is undertaken through the authority of the Department of Human Services. It assesses eligibility to elder care services and accommodation options for assisted care. It is quite comprehensive and looks at the health, mobility and accommodation needs of an elderly person, to determine the most suitable next step in their care. It is usually undertaken at the tail end of a hospital stay, or in one's home following a major health scare or other incident.

One of the issues that needs to be considered in this process, as you are being assisted with the necessary access to services and the like, is what protections are there to ensure that the people supporting you are acting in your best interests. In the healthcare system there is an Australian Charter of Health Care Rights that all of the States have signed up to. Ultimately if you are unhappy with care in hospital you can complain to the Health Complaints Commission in NSW.

Significantly, with elderly persons, communication and participation in decision-making is vitally important because they are more vulnerable in the health situation they may face at that time of their life. The Charter requires that they receive open, timely and appropriate communication about their healthcare, and join in making decisions and choices about their care and health planning. Increasingly, we are also seeing our elderly clients insisting on protections being incorporated into their powers of attorney and guardianship to ensure that these types of appointments are only operative where independent medical certification has been obtained in respect of their incapacity. The rise of private 'patient advocates' being appointed by elderly persons is also more common in hospitals these days than a decade ago.

Costs When Departing the Village

It should not be forgotten that when a resident is considering the next step after the village, they and their support person or close family (or attorney and guardian, if formally appointed) need to understand their financial situation arising from a departure from the village. The quickest and easiest way to initially acquire a broad sense of this is to review your original disclosure statement, when you first moved to the village, and request that the operator produce a refund estimate. As we all know, exit fees are a feature of the industry so usually you will pay a departure amount from the sale proceeds and possibly have to give the operator some of the capital gain. There will also be sale costs and potentially an ongoing liability for recurrent charges for a time. Usually you will not obtain your money back from the village until your dwelling is sold as a registered interest holder and this issue becomes important if you have to fund

future care in a nursing home.

So understanding what you have on departure by way of finances is pretty important in determining what you are able to pay for at the next stage of your life in assisted living.

Nursing Home Issues

So often do I hear about the confusion that surrounds the choice of a nursing home, and what costs arise. As a starting point there is a very helpful government web site that contains a lot of useful information that compares services and facilities across nursing homes by location. This site is at www.myagedcare.gov.au. Usually these days, most nursing homes also publish a schedule of their fees on their web sites.

So what are the broad fees? Well from 1 July 2014, persons enter nursing homes under a new regime of costs and charges. In short, the amount you pay will vary depending on your assets/income and the type of facilities and services you will be offered or require. There is quite significant variability, so you need to shop around. Fundamentally, each nursing home requires a **refundable accommodation payment**, known as a **RAD**, as well as a **daily accommodation payment (DAP)**. There are other fees depending on your assets and income, and services required. RADs can vary widely depending on location and quality of accommodation, and can be anywhere between \$150k and \$550K. It is capped at \$550,000 and the nursing home must seek specific Government authority to charge a RAD beyond this amount. You can pay a higher RAD and lower daily fee, or vice versa, depending on your financial situation, and this is generally negotiated with the nursing home operator. These fees are documented in the nursing homes resident agreement, which is nearly

A VIEW FROM THE HILL cont...

always a licence for you to occupy your room, and access the other common facilities.

What is clear to me in this transition is that you need to seek financial advice about your options, and you do need to have a good support person to navigate their way through the various fees and options. Obviously for those elderly people that cannot pay, the Government steps in and subsidises their care.

Conclusion

The key messages in this article are:

- to understand your finances when departing the village,
- investigate the options and what the next steps will cost, and
- make sure you have some support and preferably, have formally appointed a guardian and attorney. Such appointments can also include protections that this authority will only be used when absolutely necessary.

Peter Hill/RVRA Seminars in 2016

The subject matter of this newsletter will be the basis of the joint Hill & Co Lawyers/RVRA seminar series in 2016.

Shortly I will be writing to Village resident committees across NSW, to see if they are interested in organising a free seminar on these important issues. For remote locations that we are unable to visit, a DVD will be produced by the RVRA.

Thank you for your support, and I look forward to continuing to assist members and village residents in 2016.

Peter Hill

Solicitor & Practice Manager
Hill & Co Lawyers

Phone: 4365 2239 (Erina Office)

VILLAGE CONTACTS - THEIR IMPORTANCE

There is a very important group of volunteers, who work for the benefit of the RVRA: the **Village Contacts**.

They are the people who:

- keep contact with the Village residents,
- explain the role the RVRA is playing in retirement village life,
- encourage and help residents to become a member, or renew their membership, and
- often collect the fees and send these on to our Administration Office.

We all know how important it is to try and increase our membership. The more members we have, the greater our voice and influence when the management committee negotiates with Government and relevant organizations.

We are most appreciative of the work our Contacts are doing. In the past we have not had much interaction with them, but this is about to change. In the next few months we hope to phone or email you to “catch up” and update our information.

For example we might ask you:

- the name and phone number of the Secretary of your Residents’ Committee, or
- if you would be willing to give a hand when seminars are arranged for several villages in your area etc.

We look forward to a closer liaison with you.

If you think you would like to help in this way, please get in touch with Tony McAndrew through either:

Phone: 1300-787-213 or

Email: admin@rvra.org.au

Keep up the good work!

ANNUAL BUDGETS – under the magnifying glass

It's that time of the year again when operators are preparing and distributing the proposed annual budget to village residents.

What should residents be looking for in review of the proposed budget, and which questions should be asked of the operator before granting consent?

Residents should consider how the Village's budget has been prepared. This includes exercising your rights under *the Retirement Villages Act* to understand the assumptions the operator has used to develop the budget. This includes the operator's method of identifying and applying relevant variables and key assumptions, and disclosing this to the residents in a transparent and timely manner.

Two areas of interest to residents relate to:

- repairs and maintenance expenditure and
- administration cost allocation.

Operators with a documented asset management and maintenance framework can ordinarily provide details of asset maintenance schedules, and explain expenditure fluctuations between financial years. There is also the opportunity for more meaningful 'budget vs actual' expense analysis between years to provide greater understanding and transparency to residents.

Administration cost allocation should receive greater scrutiny by residents. In particular, shared costs borne by villages where the operator manages more than one village (e.g. regional management costs, corporate head-office expenses, salaries & wages etc.). Residents should be provided with an understanding of these costs and the manner in which they are allocated.

Of further importance are centrally-negotiated expenses (for example, insurance policies and the coverage, excesses etc.). Residents should inquire into the manner in which these have been negotiated and allocated. Also residents should consider when these were last 'market-tested' by the operator, to ensure value-for-money for residents and facilitating a redirection of funds to more meaningful pursuits.

We note many operators have overtly exercised the "CPI variation" clauses in the RV Act, and applied this to a variety of expenses in the budget. We recommend that residents inquire into the items to which this variation has been applied. In particular, we do not consider the application of CPI-related increases appropriate to items including insurance, electricity, cleaning and administration-related expenses – these expenses, ordinarily, are based on other variables and assumptions and are unrelated to CPI. Residents should inquire of their operator the assumptions and variables applied to these expenses and undertake their own due diligence.

Residents may take comfort that provisions in the RV Act facilitate meaningful dialogue between the residents and operator. Residents should feel secure knowing that their consent to the budget can be refused if the operator does not respond to reasonable requests for information relating to the budget.

***Bishop Collins Group** is a dynamic professional services firm specialising in the not-for-profit and aged-care sectors. David McClelland and Martin Le Marchant are directors of Bishop Collins Audit, providing audit and assurance services. David has provided expert witness advice and accounting services for use in matters referred to the NSW Civil and Administrative Tribunal (NCAT). Martin has provided specialist accounting advice encompassing budget overhead allocation methodologies and best practice recommendations.*

THE ESSENTIALS of CONSUMER DIRECTED CARE (CDC) - by Karen Martin

When people hear the words “aged care” they often think of an aged care facility. These used to be called hostel or nursing home. Times have changed.

Most people now access aged care while staying in their own home, either their family home or in a retirement community. In 2013-14, about one million people in Australia received aged care services, and about 80% of these received that care in their own home.

Changes to Australia’s funded home and community care services came into effect on July 1, 2015. They significantly change the way in which in-home care services are provided, both:

- in terms of the **cost** of such services to consumers, and
- in the **control** that consumers have over the services that are delivered to them.

Before July 2015, consumers were allocated to the approved provider in their area, and were provided with a set of services based on what the provider could provide. Home care recipients weren’t always able to get the support they wanted. Understanding that everyone’s situation and level of family support is different, it was felt that a more individualised approach was required. The model of care, therefore for in-home services, has been moved from one of provider-led to consumer directed care. This is referred to as Consumer Directed Care (CDC).

CDC puts the consumer in control of the funding (also called ‘the subsidy’) that providers of home based care services receive from the government. Within this new framework, consumers are able to tell providers what they require as opposed to being asked to select from what is offered. This is a huge operational and cultural shift for providers, and many are still working out just how to implement CDC.

CDC doesn’t mean you will get every service you want. Your funding (subsidy) allocation remains limited to the daily amount determined by your level of care. As a guide, someone with basic to low care needs, can expect to receive government funding of around \$21.70 to \$39.50 per day, while someone with intermediate to high care can expect around \$86.84 to \$132.01 per day (as at 20 September 2015).

This new system also involves a new fee for in-home community care consumers, called the Income Tested Fee (ITF), which is based on your income earning capacity. The My Aged Care Website has an Income Tested Fee calculator (<http://www.myagedcare.gov.au/financial-and-legal/home-care-package-income-tested-care-fee>) which will help to determine if you will need to pay this fee.

It is important to remember that while your service provider will collect the fee, it does not add to the overall monies available for your care package. It is used to reduce the amount of funding the government provides. For example, if you are receiving funding of \$39.50 per day, and you are assessed as having to pay an ITF of \$1.50 per day, then the government funding is reduced to \$38.00 which, together with your ITF of \$1.50, brings you back to your original \$39.50 rate per day.

This shows that you really need understand your financial situation, and use tools such as the calculator to help you work out whether you are impacted by this additional fee. A good aged care financial planner can assist you to ensure that you will pay the right amount for your care.

To get the most out of this new system, the key really is:

- understanding your personal situation, and
- being honest about where you are up to and what you want.

People with very high and complex care needs are able to be supported in their own homes for as long as they choose, as long as the right supports are put in place. Most people can manage to help out for a short time, but maintaining high levels of support over a couple of years is seldom sustainable for your family or friends, as they have their own life demands. This is exactly where the power of CDC lies. You can craft a support package that is sustainable long term and helps you to live the life you want to live.

Start the CDC process by sitting down with your partner, your children or the significant people in your life, and discussing where you are at, and what you want to achieve. Some fundamental questions are:

- Where do I want to live?
- What is important to me?
- What is currently holding me back physically from being able to live the way I want to live?
- What things would make my life easier and would help me achieve my goals for my future?

Write these down, and have all agree that this is your starting point for a discussion with any provider, or anyone who may be assessing you, to determine your needs.

Community package approvals are assigned as follows

Level 1 - for someone with very basic support needs;

Level 2 - for someone with low level support needs;

Level 3 - for someone with intermediate support needs;

Level 4 - for someone with high or complex support needs.

Let's assume that you moved into a retirement village a few years ago, and now need some care to remain living there. Check if the village manager can assist you to access a care package, and whether the village has any rules regarding receiving care in the village.

To start the process, make appointments with a number of community services providers who operate in your area. You can choose who you wish to receive your services from. Present your wish list to each provider, and ask them if they could provide these services, what they would look like and what they would cost. It will become obvious which providers are serious about consumer directed care, and who just want you to sign on the dotted line.

Ask for their proposal in writing, which should detail how the funding will be spent. This includes the cost of case management, administration or miscellaneous handling charges, as well as service delivery, broken down by day and by hours.

Provider chargers can be as much as 50% of the total value of your package, so it pays to shop around to get the best value. Request a copy of the care services agreements that you would be asked to sign, once a provider is confirmed.

While they will all be fairly similar, you should be aware of what their requirements might be for a break of service, such as while you are on holidays, or for cancelling part or all of your service.

The Essentials of Consumer Directed Care continued

Many providers will have specific requirements or terms of trade, so make sure you know what these are and decide whether these are acceptable to you.

Service costs are usually higher over the weekend. Think very carefully about when services might be needed, and what could be managed by the family to supplement your budget. Knowing what you want and what the non-negotiables are, and what family and friends can help with, will definitely help you get the most from the funding you have been allocated.

Periodically you should review your service agreement together with your case manager to make sure it is still meeting your needs. If it isn't working, change it or change providers, which you are entitled to do at any time. Always carefully check your monthly statement. It should give you a full breakdown of what is being funded out of your allocation.

The essence of getting CDC right is in doing your homework and making sure you have a clear vision of what you want, prior to any discussion. While you might not get everything you want, and you might have to make some adjustments to your program in the early days, this is a good system for ensuring that your care matches your needs.

A quick recap:

1. Consumer Directed Care (CDC) is a personalised approach to service delivery that allows care consumers to have control of their funding budget, to determine what services they receive, and when.
2. The first step to receiving a CDC in-home package is by obtaining an aged care assessment, via your local Aged Care Assessment Team (ACAT). To make a booking for an assessment call My Aged Care on 1800 200 422.
3. Care consumers are able to choose their preferred service provider, and should meet with several to determine the offer that best suits their needs.
4. The type of support available can vary from social support, to transport, to personal care, to medication management, to gardening, to home modifications and beyond.
5. Funding under CDC can be used to purchase walking frames, pressure relieving mattresses etc, provided they are specified under your care plan.
6. Funding is linked to care need and this sets the budget for what can be provided to an individual.
7. All care consumers can be asked to make a contribution to the cost of their care by way of the basic daily fee and the income tested fee (ITF), if it applies.
8. Care consumers can elect to make additional 'top up' payments to purchase additional services from providers, over and above their allocated budget.
9. Being in control of your in-home care means understanding what you want and how you want it.

Karen Martin is CEO of Y&W, a small not-for-profit organisation working to encourage everyone to take control of their own futures through good planning and self-education. For more information, or to request a guest speaker for your village, please email: info@youandwidowhood.org.au

A New Book by John Cooper (a former long term RVRA Committee member)

Title: The Village: (Don't mess with old people.)

This is a story about a 'David and Goliath' battle between a group of elderly residents of a retirement village, who were mainly aged pensioners, against one of Australia's largest companies. It will never be a best seller because it does not have any romance, sex, violence or foul language.

The book is based on transcripts of hearings, and decisions of the Consumer Trader and Tenancy Tribunal (CTTT), submissions, summary and decision of the District Court, and minutes of meetings, and other records of the Retirement Village Residents Association and another retirement village associated with the case.

The information in the story may be of assistance to residents of a retirement village who have to respond to a tribunal application brought by a village operator, or who may be anticipating taking their operator to the tribunal.

The names of some of the Characters have been changed to avoid embarrassment to any person or organisation, and the number of characters has been reduced to simplify the story.

The book is written as a novel. The story commences with the residents committee being unable to reach an agreement with the village operator in respect of the FY2011 village budget. Basically the village operator was not forthcoming with detailed information regarding two line items, namely Insurance and Head Office management fees.

After the village residents rejected the budget, the matter was taken to the CTTT by both parties. Over several months the residents prepared a case for submission and presentation to the Tribunal. The CTTT found in favour of the residents to the extent that some \$51,000 was to be removed from the 2010-11 budget.

The Operator lodged an appeal on the matter to the District Court in the week prior to Christmas 2010.

Residents prepared their case with the aid of a Solicitor from a small regional practice. The operator had both a Solicitor and a Barrister from large city law firms.

The matter was heard by the District Court in March and April 2011, and the Judge upheld the decision of the CTTT.

Throughout the story the various documents required by the CTTT and the District Court are quoted in detail, with a full transcript of the CTTT hearing and the District Court Judge's decision. Most names have been changed by the Author to prevent litigation, in case he may have offended any person, but the details of the case are factual.

The book is available through Amazon for \$US14.50, which is about \$21.00AU plus postage and can be ordered at:

http://www.amazon.com/gp/product/1522720391/sr=8-2/qid=1450408113/ref=olp_product_details?ie=UTF8&me=&qid=1450408113&sr=8-2

It is also available in Kindle digital format for \$US4.50, which is about \$AU6.25, and can be ordered at:

<http://www.amazon.com/dp/B019D8DPYM>

AN ACTUARIAL ANALYSIS OF RETIREMENT VILLAGE CONTRACTS

By Dr Tim Kyng, Lecturer in Actuarial Science, Macquarie University.

This article is the outcome of 12 months research and interviews, and follows interviews with about 50 RV residents.

It discusses the similarities between retirement village contracts and insurance contracts, along with several metrics for comparing different RV contracts.

A typical retirement village contract involves the following features

The resident pays an ingoing fee, and in return has the right to reside in one of the apartments in the village for a period of time. The right to reside terminates when the resident dies or becomes incapable of living independently, and needs to find alternative accommodation. In this respect the contract provides a “life interest” in a property. In Australia and many other countries a “life interest” can be valued by computing the economic value of the rent that the property would fetch in the market, using a life annuity computed from the national life tables published by the country’s national statistical bureau. In Australia this is the Australian Bureau of Statistics (ABS) and the life table is the “Australian Life Table”

The resident has to pay ongoing maintenance fees to the RV village operator to cover the cost of maintaining the RV and facilities offered in the RV. These fees can be increased at the rate of CPI inflation without the RV operator obtaining the consent of the residents. This is a negative income stream from the consumer’s perspective and is part of the cost of living in the RV. Failure to pay it can result in termination of residency.

After exit from the village, the resident receives a repayment of the ingoing fee less what is known as a deferred management fee (DMF). This DMF may be based on the ingoing fee or it may be based on the resale value of the apartment. It typically is computed as x% of the ingoing fee (or resale value) for each year of residency up to a maximum of n years. For instance it could be 6% per year for a maximum of 5 years. This payout is like an insurance benefit for a complex form of death and disability insurance policy, with a sum insured that varies with the timing of exit.

In addition, for some contracts the resident may get a share of the capital gain on resale of the apartment. This can be thought of as a type of “real estate option”, what is known in the financial markets as an “at the money call option” albeit one with a random “exercise date”, that coincides with termination of RV residency. This is a complex hybrid insurance / financial contract also known as a “derivative” contract.

Comparing RV contracts with each other:

The ingoing fee, deferred management fee, sharing of capital gain and maintenance fees vary substantially across retirement villages and across time. This makes it difficult for consumers to assess whether one RV contract is better than another. The contracts are relatively complex and there are some features that impose risks on the consumer. This includes the possibility of having to wait for many months to receive payment on exit and having to continue to pay maintenance fees for some period of time after leaving the RV.

Using actuarial methods, we can compute the economic value of the components of the cost and the benefits of the RV contract for the consumer. These costs and benefits vary according to the age and the gender of the consumer and the assumed health status. We assume average population mortality rates and we assume that the level of disability required for the termination of RV residency is “profound or severe”, as defined by the ABS survey conducted in 2012. The costs and benefits depend on the uncertain time till the end of the resident’s healthy lifespan, modelled via what we call a “survival function”.

In what follows, we are analysing the contract from the perspective of the consumer of the RV, not from the perspective of the supplier / operator.

The economic value of the costs of the RV contract, at the time of entry to the RV is:

- the entry fee (EF), plus
- the upfront value of the future maintenance fees payable, V (MF)

The economic value of the benefits of the RV contract, at the time of entry to the RV is:

- the value of the “life interest”, denoted by V(LI) **plus**
- the value of the death & disability insurance policy V(INS) **plus**
- the value of the real estate call option (capital gain share) V(CG)

The combination of the entry fee and the maintenance fees fund the benefits from the RV contract.

Mathematically we express this via the following equation:

$$EF + V(MF) = V(LI) + V(INS) + V(CG)$$

Rearranging the equation we get

$$\frac{V(LI)}{EF} = 1 + \frac{V(MF)}{EF} - \frac{V(INS)}{EF} - \frac{V(CG)}{EF}$$

Metrics for comparing different RV contracts:

The equivalent rent payable per month over the term of residency is $ER = \frac{V(LI)}{a(x)}$ where $a(x)$ is an indexed life annuity factor for someone aged x (the age at entry to the RV), with payments made monthly over the rest of the term of residency. This calculation converts the value of the life interest to an equivalent monthly rent payable over the term of residency. This equivalent rent metric allows consumers to compare one RV contract with another on a financial basis.

The above equations shows some of the trade-offs that may be involved in RV contracts. For a person who is younger or healthier, the expected term of the residency is longer and the equivalent monthly rent metric will be lower. Increasing the share of the capital gain received by the resident has the effect of decreasing the equivalent rent. Increasing the DMF has the effect of reducing the value of the insurance so increasing the equivalent rent.

The ratios in the formula above are also metrics of interest and they measure the following things:

AN ACTUARIAL ANALYSIS OF RETIREMENT VILLAGE CONTRACTS *continued*

- $\frac{V(LI)}{EF}$ is the ratio of the value of the right to live in the RV to the amount of the entry fee, i.e. what proportion of the entry fee pays for the right to reside. But note that the benefits are funded by both the entry fee and the maintenance fees.
- $\frac{V(MF)}{EF}$ is the ratio of the economic value of the maintenance fees to the entry fee
- $\frac{V(INS)}{EF}$ is the ratio of the value of the insurance policy to the entry fee
- $\frac{V(OPT)}{EF}$ is the ratio of the value of the real estate option (capital gain share) to the entry fee

These ratios provide information about how much of the entry fee was used to buy the “insurance”, how much of it was for the “option” and how much was for the “life interest” part of the benefits. In some cases we find that the “insurance” part of the benefits of the RV contract is more than 50% of the entry fee.

From an actuarial / financial perspective the RV benefits are a combination of complex “insurance type” financial contracts: a death and disability insurance with a decreasing sum insured, a real estate call option and an indexed life annuity for the term of the healthy lifespan. Only part of the cost is for the right to live in the village. A substantial part of the cost is for these complex “insurance” type benefits.

Numerical examples of the metrics for comparing RV deals

These will be shown in the next edition of the RVRA newsletter.

Dr Tim Kyng

Lecturer in Actuarial Science, Macquarie University

Help us to help you.

Support this State wide

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by encouraging your

fellow residents to become

members of RVRA