

## **ROD STOWE COMMISSIONER FOR FAIR TRADING**

### **VIDEO ADDRESS TO RVRA AGM 1 OCTOBER 2015**

#### **Introduction**

It is with pleasure that I greet you all on the occasion of the Retirement Village Residents Association's Annual General Meeting.

I am truly sorry I can't be there to talk to you in person.

I received Dorothy's kind invitation to the AGM quite some time ago and had been looking forward to attending today.

However, other pressing matters have arisen which mean that I cannot get away from Sydney today.

#### **A close relationship**

Fair Trading has enjoyed a close relationship with the Association for many years and acknowledges the important work it does for village residents across NSW.

The Association is recognised as a key stakeholder in Fair Trading's work as a regulator, and has been represented on the Minister's Retirement Villages Advisory Council.

On a personal note, I want to pay tribute and respect to two former leaders of the Association, the late Malcolm McKenzie and Jan Pritchett, whose sad passing recently touched me and many other Fair Trading officers.

Jan and Malcolm were not only our professional contacts in this area, they were also our close collaborators and indeed friends of the Fair Trading family.

Jan and Malcom's important roles included membership of the Minister's Advisory Council, serving on the expert committee that developed the standard contract in 2013, as well as acting tirelessly as advocates for residents at Tribunal hearings, across the desk from me as Commissioner, and in other forums.

They are both greatly missed by Fair Trading.

However, as I'm sure you know, I have been getting to know your new committee leaders, particularly Dorothy Swanton and Tom Gait, and I look forward to further consolidating that relationship.

## **New Ministerial portfolio; new Fair Trading division**

As you will have heard, following the State election in March, the NSW Government has absorbed the remit of the former Minister for Fair Trading into a new portfolio named Innovation and Better Regulation, with Victor Dominello, as Minister.

The new portfolio is still being shaped, however in these first six months, it has been clear to me that Minister Dominello will keep a sharp eye on consumer protection across all his responsibilities.

And of course, we still have a Commissioner for Fair Trading and an identifiable agency named NSW Fair Trading that regulates retirement villages.

A major 'better regulation' initiative, we've embarked upon is to consolidate all real estate and property regulation into a single division of Fair Trading, with a dedicated Assistant Commissioner in charge.

Andrew Gavrielatos is the new division head, and he is accountable for Fair Trading's role in regulating the 640 registered retirement villages in NSW, which accommodate over 48,000 residents.

Our vision is for the new division to tackle regulation in an 'end to end' way, encompassing complaint handling, stakeholder relations, compliance, professional standards and policy development.

There are three touchstones of Andrew's brief:

- facilitating relationships with industry and consumer groups. In this regard you will get to know our Director, Market Relations, Matt Whitton
- checking industry compliance through both random and targeted audits, with our Director, Industry and Support leading the charge; and
- raising professional standards across real estate and property business activities, and we'll have a Director – Professional Standards in place shortly.

I'm confident that the establishment of the new Real Estate and Property Division, led by a dedicated Assistant Commissioner, is a step in the right direction in servicing the needs of this important sector.

I know that quite a few of you are concerned about aspects of some of the businesses models that exist in the industry, particularly the fees and costs associated with departure from a village.

It is worth noting here that these business models pre-date the Retirement Village legislation.

The aim of the legislation was to provide a framework which could accommodate these different models rather than preclude one or the other.

Any departure from this approach would need the sanction of the Government.

That, of course, does not mean that we at Fair Trading can't do more to provide greater transparency for residents in some of these areas.

It has been pointed out that while Fair Trading offers a lot of information for those contemplating moving into a village and ultimately living there, this is not so much the case when it comes to the many issues that arise on departure.

For this reason, we are now developing a guide that will cover some of the complex matters that residents must deal with when it comes to leaving a village.

You may be assured that we will be consulting with the RVRA during this process.

While the development of the standard retirement village contract — an early initiative of the current government — has done much to improve transparency and comparability over the contractual requirements that apply within each village, we think there is more to be done in this area.

Something we are currently thinking about is the possibility of undertaking research on the feasibility of introducing a comparison rate for retirement village fees.

Comparison rates already exist in the financial services sector where the consumer credit legislation provides a formula which must be used when credit providers advertise interest rates.

This formula requires the various fees that each provider charges to be bundled up into a single interest rate, so that the consumer has visibility over the true cost of credit and can compare "apples with apples".

We are still in the early stages of contemplating this work but we will certainly keep the Association informed of progress.

As I said, the standard retirement village contract was a high priority for the Government in coming to office.

In recent times, the Government has asked us to turn our attention to legislative reform in several of the other important areas Fair Trading is responsible for.

We are currently working our way through that ambitious reform agenda and expect to see several bills make their way through the Parliament before the end of the year.

This will include the strata title reforms which will be applicable to those villages that operate as Strata schemes.

The reform bills will introduce over 90 changes to provide an enhanced and modernised regulatory framework to support the management and governance of strata scenes now and into the future.

We expect the new legislation to commence in mid-2016 and you can find all the details on the Fair Trading website.

While review of the principle retirement village legislation is not currently on our agenda, a review of the all-important regulation certainly is.

### **Review of the Retirement Villages Regulation**

The Regulation is the major legal instrument that provides the detail to support the operation of the Retirement Villages Act, and includes such important provisions as the standard contract, the definition of capital maintenance and replacement, and sets out who should pay for payroll tax and budget deficits.

The Regulation was due to be re-made this year, we have deferred its completion until 2016, to allow more time to thoroughly examine the issues and develop options for reform.

Fair Trading officers have held preliminary meetings about the review of the Regulation with all major representative groups, including the Property Council of Australia and, of course, your own Association.

The review process is in its early stages, with reform options being explored in conjunction with feedback received from stakeholders.

The review will look at ways to improve protections and confidence for retirement village residents, while reducing red tape and unnecessary administrative burden on industry.

Consumer protection will be a key focus of this review but we recognise the importance of providing a simple, efficient and measured regulatory framework that contributes to a vibrant and prosperous retirement village industry.

We welcome the contribution of RVRA members to the review process and you can expect to be hearing a lot more on this topic in the months ahead.

### **Conclusion**

The NSW Government is concerned to ensure that a holistic approach is being taken in the way it responds to the needs of older Australians.

To this end, it has established an Inter-departmental Committee on Ageing and I represent Fair Trading at this forum.

One of the challenges that the Committee has identified is that in just 15 years' time, the number of people over the age of 65 is projected to increase by about one million in New South Wales alone.

How these older citizens are accommodated in the future will be a key issue for future strategies and retirement villages will be an important part of this mix.

Clearly, collaboration between citizens, businesses and Government is the key to ensuring a better future for the people of NSW who reside in retirement villages.

We look to the RVRA to provide invaluable insight into the way things work and options for improving existing regulatory frameworks.

The Government is committed to forging strong relationships with all those involved in this sector to ensure NSW is a better place to live and do business.

I wish you well in your deliberations at today's AGM.

Fair Trading looks forward to continuing to work with the Association for the benefit of retirement village residents.

**END**