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eCONNECT
January 2019

The Association of Residents of Queensland Retirement Villages is the voice of residents in the Queensland retirement village industry.

President's Ponderings

Welcome to our first eConnect for 2019. I do hope you all enjoyed the holiday break and best wishes for a Happy & Healthy New Year.

Membership Renewals

The ARQRV office closed over the Christmas break and Jan has since been busy processing all the membership renewals. Thank you to all members who have paid so promptly this year. If you have not yet paid your membership you are no longer a financial member of ARQRV and we will not provide you with any assistance until your fees are paid. If you have not paid your fees by 31 March you will have to re-join and pay \$50 to become a member. There are NO EXCEPTIONS to this. Many people have contacted us to complain but as an example, if you had not paid your car insurance premiums or your health insurance you would not expect to be covered in case of an accident or if you needed hospitalisation. It is exactly the same for ARQRV, if your fees are not paid by 31 March and you ask the question the answer will be *to get assistance you will need to re-join and pay \$50*.



Buy Back Provisions

This year expect to see some changes in the retirement village sector. The downturn in housing has meant that many retirees are not moving out of the family home because house prices have stalled and borrowing is becoming more difficult. This of course is going to reflect on sales in a village as accommodation units may become more difficult to sell and many vacant units in a village will not reflect well on the village. As you know the 18-month compulsory buy back will start to kick in this year and units on the market prior to 10 November 2017 will need to be bought by the Operator by 10 May 2019. We are still waiting for the buy back regulation on freehold units in a retirement village to be made mandatory, the Operators argued against this and we are awaiting the outcome from a Parliamentary Committee who are reviewing the Regulation.

Further Amendments to the Retirement Village Act 1999

Other Amendments to the Retirement Village Act come into force on 1 February. These will impact on people buying into a village but have no effect on current residents. The ARQRV website Fact Sheets will be updated in the next few weeks to reflect these changes, also check out the Right Where You Live website, there is a link from our website. These additional changes will be covered in village presentations and handouts. Remember if you would like a presentation done at your village please contact the office.

Village Visits

I will be visiting Townsville in early April and will contact all villages there in the next couple of weeks. Ray Jordan, Promotions Officer, will be visiting Hervey Bay (dates to be confirmed) to do a series of village visits so if you are in that area please contact the Office to arrange a visit.

I look forward to another busy and productive year for ARQRV.

Judy Mayfield
President

ARQRV regularly visits retirement villages to inform residents about recent changes to the *Retirement Village Act 1999*. We also inform residents about the benefits of belonging to our association. **If you would like ARQRV to visit your village**, please contact ARQRV on **0437 906 074** to arrange a suitable date and time.

Committee Catchup - January 2019



This section of the newsletter will provide a summary of what happened at the previous committee meeting. We invite feedback that is relevant to the items we discussed, if it adds to our considerations.

Please do not contact us if you want to criticise "*you only add to the problem if you are not part of the solution*"

Meeting held 21st January 2019

Welcome

Welcome back to Peter Smyth who has been travelling around Australia for 12 months and during that time continued to assist Jan with a number of IT and issues in the office.

Welcome to Sandra who has been employed as a part time casual to assist Jan with data processing of membership, this year we will not be waiting for months to have our data base current.

Membership Update

As at December 2018 - 12 new life memberships, 29 new annual memberships and 497 membership renewals for 2019, 9 membership renewals for 2020. Currently we have 7032 members. MSOs are still not always providing relevant information when banking money.

Financial Report

Financial Statements and reports were tabled and discussed.

As the BCC project will finish at the end of June it was agreed to review the project budget. We have been sending quarterly financial reports to the Dept. of Housing and will need to account for all monies at the end of June. No further funding is expected.

President's Report

Judy distributed and discussed the following information:

- Still awaiting information re clarification of buy back provisions within the RV Act
- Information re Fair Trading Act as applying to retirement villages - for publication in eConnect
- Amendments to the RV Act and accompanying forms that commence 1 Feb applying to new contracts - Pre-Contractual Disclosure; Access to Operational Documents; Reselling a right to reside; Reinstatement of Units
- Attended, along with Mike Fairbairn, the Retirement Living Summit, the national conference convened by the Property Council for Operators focusing on all aspects of retirement living including future trends, markets, innovation, and some political commentary. ARQRV along with representatives of the other State Associations invited to attend. Judy, and the President of NSW Residents Association were invited to speak briefly on *changes from a residents perspective*.

Mediation (Tabled in Confidence)

Both Mike Fairbairn's and Barbara Irving's mediation reports were tabled and discussed.

Website and Information Technology (IT)

The website continues to be upgraded and updated. We are currently negotiating to have a couple of videos incorporated on the site to give an overview of the work of ARQRV.

Newsletters

Design of eConnect has been updated to be inline with the website and print newsletter. Excellent feedback received about the first copy sent out in December.

MSO Update

Liaison Offices have been rebranded as Membership Support Officers

This is always a busy time for MSOs collecting membership renewals and sending the correct paperwork and banking to the office. We appreciate the work they do and it certainly assists Jan in her role.

3 MSO gatherings have already taken place, and 2 more are scheduled for later this year.

Building Consumer Confidence (BCC) Project

No meeting until 30 January 2019 - nothing to report.

General Business

Ernie Hatton resigned as the person involved in the review of Residents Constitutions. We thank him for his contributions over many years.

PAY YOUR MEMBERSHIP ONLINE !!

Did you know you can now pay your membership fees online on our website.

Simply visit the ARQRV website's membership renewal page at

www.arqrv.org.au/membership/renew-membership

LIFE MEMBERS - DO NOT NEED TO RENEW

IF YOU ARE UNSURE IF YOU ARE A LIFE MEMBER, PLEASE **PHONE THE ARQRV OFFICE**
TO CHECK, ON **0429 098 417 BEFORE PAYING**

The ARQRV Residents Committee Manual is almost complete.

It is in the final review stage and we hope to have it printed and posted before the end of **March 2019**.

So far 42 Resident's Committee representatives have sent a request for a free copy.

Order your free copy by sending an email to president@arqrv.org.au with the name and address of the authorised recipient for your retirement village.

(Note that all previous requests for the Manual have been recorded - do not send a second request).

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GPS Invest Pooled Fund (ARSN 149 257 410) is issued by GPS Investment Fund Limited. You should obtain a Product Disclosure Statement and read it prior to making a decision to invest.

In the recent November 2018 CONNECT print newsletter that was sent by post, we asked our members if they would like to receive the CONNECT newsletter by email rather than post. ARQRV has received 75 emailed requests so far from members wanting to receive the print newsletter 'CONNECT' by email. ARQRV has not responded individually to these requests, but rest assured, your request has been noted.



Fair Trading applying to Retirement Villages

Note: The following information is supplied by the Queensland Government Department of Housing and Public Works

Misleading or deceptive conduct

Residents and prospective residents of retirement villages are protected from misleading and deceptive conduct by the *Retirement Villages Act 1999* and the *Fair Trading Act 1989*. Operators providing documents that they know contain false or misleading information to a resident or prospective resident would be liable to prosecution action for breaching this prohibition.

If a resident faces loss because of a contravention of this law, the resident may apply to the Queensland Civil and Administrative Tribunal to have their residence contract set aside.

Misleading or deceptive conduct - misleading advertising

It is illegal for businesses to mislead consumers when advertising goods and services. A business may break the law if it creates a misleading overall impression among customers about the price, value or quality of goods or services. It is a business's actions and statements that matter - not its intentions. A business can mislead and deceive, without intending to.

Misleading or deceptive conduct - silence

A business is breaking the law if it fails to disclose relevant facts to you. Whether this silence may be misleading or deceptive will depend on the circumstances of each case.

Misleading or deceptive conduct - disclaimers and fine print

Businesses cannot rely on the fine print to advise consumers of important facts about goods or services. However, as a consumer you cannot just ignore disclaimers, because they are not illegal if they are prominently displayed and don't undermine the offer being made.

Misleading or deceptive conduct - predictions and opinions

A promise, opinion or prediction can be misleading or deceptive if the business knew it was false, did not care if it was true or not, or had no reasonable grounds for making it.

For example, the following advertising messages may be regarded as misleading:

- a mobile phone seller offering free weekend calls, but not stressing that the offer excludes calls to other mobile networks
- a business holding a 25% off all stock sale when they are excluding some items
- a business marketing reduced rates to entice customers, when only a limited number of items are actually available at that rate.

Unconscionable conduct

Generally, 'unconscionable conduct' is a statement or action so unreasonable it defies good conscience. A business must not act unconscionably when selling or supplying goods and services to a consumer. Examples of unconscionable conduct by a business might include:

- not properly explaining the conditions of a contract to a person they know does not speak English or has a learning disability
- not allowing sufficient time to read an agreement, ask questions or get advice
- using a friend or relative of the customer to influence the customer's decision
- inducing a person to sign a blank or one-sided contract
- failing to disclose key contractual terms
- using high pressure tactics, such as refusing to take 'no' for an answer.

Office of Fair Trading Department of Justice and Attorney-General

Government agency that administers the *Fair Trading Act 1989* including investigating complaints and alleged breaches of the Act

Lodge a complaint form online at: www.qld.gov.au/consumerrights

Telephone: 13 QGOV (13 74 68) Monday to Friday 8 am to 6 pm

Would you like a free ARQRV carry bag?

For a limited time, if you recruit a **new** ARQRV member, both you and the new member will receive a **free ARQRV carry bag**. Be sure to let us know the new membership was referred by you.



More than **40,000** Queenslanders live in **29,827** retirement units in **319** retirement villages in Queensland. *Source: Department of Housing and Public Works, September 2018*

HANDY LINKS:

Please click on the link below to take you directly to that page

[ARQRV Website](#)

[ARQRV Contacts](#)

[GPS Investment Fund Ltd](#)

[Retirement Village Act 1999](#)

[Department of Housing and Public Works](#)

Mike's Mediation

Operators 'double-dipping' on capital appreciation share?

In the last few months four members have, quite independently of each other, queried the way their share of their contractually entitled portion of the capital appreciation of the value of their unit will be applied at the end of their lease.

It is easier to understand the issue by using an example of how it is usual to calculate the actual share of the capital gain by most scheme operators. Not all contracts may follow this format, but I think that most will.

For the purpose of this exercise I will use the following figures.

Original unit ingoing contribution \$350,000

Intended new resident ingoing contribution \$500,000

Deferred Management Fee (DMF) 30%

Capital appreciation due to former resident 100%

It would be currently usual for the DMF to be applied to the whole new ingoing resident's contribution but in this process the former resident will pay a reduction of 30% of the 100% of the capital appreciation to which they are contractually entitled.

Doing the sums

Ignoring other costs such as reinstatement, legal costs, accrued fees and so on, the following calculation would apply:

\$500,000 less 30% DMF of \$150,000 leaves \$350,000 due to the former resident. This means that in fact the former resident only in fact receives 70% of the capital appreciation of the unit's value. (read also note on reinstatement cost distribution below).

My correspondents feel that they are entitled to receive the full 100% of the capital appreciation of the value of their unit meaning that, in their opinion, the following should apply:

\$350,000 less 30% leaves \$245,000 plus capital gain \$150,000 leaves \$395,000 due to the former resident.

Read your contract

I have pointed out that invariably the member's contract to reside sets out that all figures should be calculated using the new resident's ingoing contribution which, in this example, makes the scheme operator \$45,000 better off! Nicely done by whoever wrote the contract!

The *Retirement Villages Act 1999* provides (for post 15th March 2006 contracts) that the resident and the scheme operator are to share the cost



of reinstatement in the same proportion that they share the capital gain. Which could be a 70% former resident / 30% operator split or a 100% cost to the former resident depending how the agreement is read. Which do you believe would be applied in the above scenario? No prize is on offer and the arrangement may well be legal. **But would it pass the “pub test”?**

Mike Fairbairn

Bequest Request

The ARQRV is a recognised and respected **not-for-profit organisation**, operating on a **very small budget** and run by volunteers. Its sole source of income is from **modest fees** and small **donations**. Everyday costs continue to erode finances and there is a conscious effort to **keep membership fees low**.

To help the Association continue to survive and to assist members who need assistance now and in the future, as many of you have done in the past, you may **consider a bequest in your will**.

Remember the **benefits to your family** are there long after you are gone.

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