

The Association of Residents of Queensland Retirement Villages Inc.

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No. 91

NEWSLETTER

August 2014

Editorial

This issue starts with some good news – quite a lot, actually! At our July Committee meeting, two new Association members attended as observers, and were invited to be involved in the discussions. Before the meeting was over, each had agreed to join the Committee and we warmly welcome Judy Mayfield, from Beachmere Sands, and Helen Gundersen from Noosa Domain. It is already evident that the Committee – and therefore the Association – will benefit from their contributions to the work of the Committee.

More good news: Newsletter No. 90 brought some interesting and welcome outcomes! In response to our article on insurance, four Association members, each with relevant backgrounds, have volunteered to serve on our Insurance sub-committee. We are most grateful to those members and look forward to their input in this very complex, and important subject. That sub-committee has had its inaugural meeting to develop Terms of Reference, which will be published in a subsequent Newsletter.

Similarly, an offer of assistance was received from another Association member, on the procedure for seeking government funding for the ARQRV to engage an Administrative Officer.

Still more good news: the Association received a donation of \$50 from “*the anonymous Aussie battler*”. He, or she, wrote a letter, requesting that it be published in our next Newsletter, presenting other members with a challenge – see page 3.

Update on Caxton Legal Centre’s PAVIL

In our last issue we wrote about a grant from the Queensland Government to Caxton Legal Centre in

Brisbane, for their Park and Village Information Link service, to provide “*free legal advice for park and retirement village residents*”. It is emerging, now, that the service offered is not free legal advice but is merely free advice on how residents may achieve self-resolution of problems. Significantly, and, rather disappointingly, it is only in exceptional circumstances that the PAVIL service will provide guidance and assistance for representation at QCAT. Further, if that self-resolution attempt fails, residents are advised to seek legal advice!! How about that for a contradiction? More importantly, because the majority of legal practitioners likely to be recommended by PAVIL are often advisers to Operators, it may be difficult to obtain an independent assessment, from the resident’s perspective.

Most residents in retirement villages have received a letter from the Minister for Housing and Public Works advising of the PAVIL service. Careful reading of that letter confirms that the free service is quite limited. In fact, the ARQRV has received a number of requests for assistance from members who have attempted to use the PAVIL service and have been advised merely to “seek legal advice”.

It is unfortunate that the announcement of this “free legal service”, not only via letters to retirement village residents but also through extensive promotion via MPs and the QCAT web site, may cost our Association some memberships. However, it is to be hoped that it won’t be long before most of those residents realise that the ARQRV does indeed offer much, much more than PAVIL does, way beyond assistance to members encountering difficulties with their operators and merely suggesting that they “seek legal advice”.

Sign-in and Password for Website

The new ARQRV Website will “go live” around the time of the AGM, on 22nd September 2014. There will be a section which is open to the general public: no one will need a password to access this public area.

However, the Members’ section will have lots of important information that is available to members only. Members can access that information, using a “log-in” that is your surname followed by your unit or villa number.

For example, I am Steve Murray and my unit number is 157 so my “log-in” is “murray157”. Notice that all letters are in lower case. **The default password is “arqrv1234”.** Once again, all letters are in lower case. You will be asked to change this default password to a password that only you know and can remember. (Please do not let non-members have your password.)

The default password will be removed after a period of time – so please ensure that if you wish to access the website you do so in the next few months and change the default password to your own password.

If you have any difficulty in accessing the website, please contact Steve Murray on 5448 9217.

The Committee hopes members enjoy the new website. The content will be extended over the coming months, with information about breaking news and events of interest to residents in Queensland Retirement Villages.

Retirement Villages Act Review – Further progress ...?

Although our Association continues to be involved extensively in the Review of the Retirement Villages Act, we remain concerned that the Review has lost impetus and may be gently sliding onto the back burner. To address our concerns, the Association will attend a special meeting with Ministerial staff on 29th August aimed at expediting the required legislative changes.

Report No. 13 of the Transport, Housing & Local Government Committee, entitled “*Review of the Retirement Villages Act 1999, dated November 2012*”, contained 37 recommendations intended to ensure the welfare of retirement village residents and the continued viability of the retirement village industry. These recommendations ranged from straightforward initiatives such as publishing fact sheets, through to significant amendments to the Act.

A measured and consultative approach to implementing the recommendations was acknowledged. The Government supported twelve of these recommendations, to be progressed as a priority following consultation with stakeholders. The intent of a further six recommendations was supported, but each required further consideration regarding the means of implementation. The remaining nineteen recommendations each required further investigation and consultation with stakeholders; plus the completion of Regulatory Impact Statements assessment.

On 17th June 2014, three ARQRV Committee members attended a Retirement Village Information Forum at Allora Gardens, Maroochydore, where the Hon. Tim Mander, Minister for Housing and Public Works, spoke about the Review of the Retirement Villages Act. In a brief discussion with Mr. Mander beforehand, the ARQRV representatives mentioned the Committee’s disappointment as to how the Review was proceeding, having observed many of the important consumer protection recommendations initially advanced by the Parliamentary Working Party, being watered down, deferred, or ignored, under pressure from some Operators who were strongly opposed to such changes, and quoting as a reason for their resistance that many of the recommendations were merely “red tape”, which would add to operating costs. Following the Allora Gardens Forum, the Minister tasked the ARQRV to prepare, as a priority, a further submission covering our major points of concern. Subsequently, over three days a sub-committee prepared an extensive report listing ambiguities in the Act, and proposing alternative wording which would clarify the meaning. Because the Act is so poorly drafted, many disputes arise between residents and Operators through their different interpretations of the same section of the legislation. The ARQRV also stressed that a number of the important recommendations that had been grouped into one conglomerate Regulatory Impact Statement needed to be treated individually, each on its own merits. That additional submission will be the major agenda item for discussion with the Minister’s staff at the 29th August meeting. An interesting aside was that the Minister’s staff also confirmed that a number of individual complaints had been received from residents about the unsatisfactory progress with the Review. Our thanks to those complainants, for demonstrating that it pays to complain at the highest level, if you feel strongly enough.

July 10 / 2014

Letter to the President,
ARQRV,
Buddina Qld.

I am an age pensioner so have no "feathers" with which to "fly". I have been a financial member of the ARQRV for some years and very much appreciate the work you and your fellow officers choose to do on behalf of ALL village residents.

Knowing that legal fees / service / advice can cost hundreds of dollars PER HOUR ! I enclose herewith \$50.00 to add to my annual membership fee. This brings my contribution to a little over \$1.00 PER WEEK ! - what a pittance ! Goodness me - I hope I don't starve !!

On your behalf I now issue a CHALLENGE to every member of Our association to show some "true-blue" Australian sincerity, generosity, and a wish for "a FAIR GO" to VOLUNTARILY pay an annual membership fee of ONE DOLLAR PER WEEK for the safety net you provide. Where else could anyone get free legal advice for a dollar a week ??

Signed: A fellow Aussie battler.



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With Compliments

TO: Our Fellow Aussie Battler ... YOU KNOW WHO YOU ARE!

Thank you for your \$50 donation and your support for our Association.

Joanne Wheeler

Signed

.....

Date . 1st August 2014

Have you put your house in order?

This may sound like a gloomy subject, but it is nonetheless important, and an issue that all should address, to ensure that, when the time comes that we are unable to deal with our own affairs, whoever is left to manage those affairs is able to do so without too many difficulties, and, to the extent that is possible, respecting our wishes.

Giving your **Enduring Power of Attorney** to someone you trust to handle your affairs – financial or personal, or both – may be of vital importance. The Queensland Government website gives a lot of information about this, including that “you can complete an Enduring Power of Attorney (EPA) yourself but you may wish to first consider talking to your solicitor”. First, type in justice.qld.gov.au and select that site: in the search box in the top right-hand corner, type Enduring Power of Attorney and click on ‘GO’; then, from the Search Results list, select Enduring Power of Attorney.

You may have certain requirements in the event that you become terminally ill, regarding being kept on life support. These requirements can be included in an **Advance Health Directive**, or “Living Will”. Again, the Queensland Government website has helpful information on this document.

To enable your Executor to effectively administer your Estate in accordance with your wishes, you will require a valid **Will**. You should also be sure that your Executor know that you have made a Will, and where that document can be located. You can prepare a Will yourself, by purchasing a form from a legal stationer; or you can engage a solicitor to prepare the Will. Additionally, the Public Trustee’s Office can prepare a Will for you, at no cost and, frequently, that Office is then appointed as Executor. However, in the event that a Dispute arises concerning the Former Resident’s Exit Entitlement (i.e. affecting the quantum of the Estate for disbursement amongst Beneficiaries), these Beneficiaries would be unable to personally process the Dispute Application because the appointment of the **Public Trustee** as the Executor of the Will creates that Office as the “personal representative of the former resident” and thus requires that Office to be the Applicant in the Dispute. However, as prescribed in RV Act s21, a Retirement Village dispute is an issue between a Resident and an Operator about the parties’ respective rights and obligations under the Residence Contract or the Act. Recent experience with a regional Public Trustee was that the Office would not process Dispute Applications without first obtaining legal advice and,

in this instance, was reluctant to do so because of the cost to the Estate.

Whoever is the Executor (including the Public Trustee) may need to seek legal advice with regard to all aspects of obtaining **your Exit Entitlement**, and they should seek it from someone well versed in the Queensland Retirement Villages Act. The ARQRV’s Solicitor is best placed to do that, being a specialist in that legislation. He will advise as to the costs involved: for ARQRV members, his rates are very reasonable.

Above all, remember that for as long as you remain a **financial member of the ARQRV**, advice and assistance is available to you, or to your Executor or Beneficiaries, up to four months after your Exit Entitlement has been received. There are a number of potential pitfalls along the way to achieving that, and it is **MOST IMPORTANT** that you **let your family, or your Executor, know that you are a member, and that this assistance is available to them on your behalf.**

Need for a Further Fee Increase

Members will know that, for many years, the fees for the Association’s services have been extremely low, but may not be aware that, in the same period, the Association’s workload has increased considerably. One reason for the increased workload is the more aggressive approach by some Operators and the Property Council of Australia towards increased profitability and their reluctance to negotiate early solutions to seemingly minor problems. The ARQRV Committee, comprising eleven volunteers, attempts to provide a fully comprehensive service, including: representing members when dealing with Scheme Operators; advising members on a multitude of different queries and pursuing formal Disputes, as well as representing all retirement village residents in negotiations with the Queensland Government particularly on amendments to the Retirement Villages Act. This multi-faceted role has become a greater challenge, given the increasing resistance from some Scheme Operators to consumer protection.

Residents need the ARQRV to protect their interests, to the greatest extent possible. Unfortunately, to perform these functions, the Association needs more income than the present fees structure provides.

The Membership Fees sub-committee, established in July 2014, has recommended an increase in membership fees. That recommendation, which will be put to members for approval at the AGM on 9th October, follows:

“Effective from 1 January 2015, ARQRV membership fees will be:

\$30 for annual membership, plus a \$20 joining fee for new memberships; and a \$20 rejoining fee will apply for members who have become unfinancial; or, \$200 for life membership, with no joining fee.”

Question: when does a resident cease to be a member of the ARQRV? There are two arisings which determine cessation of membership:

- 1) when a member becomes unfinancial, i.e. on 1 January of the new calendar year, although there is a three-month period of grace before that unfinancial member is removed from the list; or,
- 2) within four calendar months after the date of receiving an Exit Entitlement.

Annual General Meeting

The attendance at last year’s AGM was disappointing. Hopefully, this year will see a better attendance, to show support for the work that your Committee does for all Association members – and, indeed, for all residents in registered retirement villages in Queensland. After last year’s disappointment, we did talk of holding this year’s AGM somewhere closer to our southern members, but, were reluctant to do so because of the considerable cost increase in hiring and equipping an appropriate venue. So, once again, the Annual General Meeting will be held in Maroochydore, at the Community Centre in Millwell Road, very handily placed next to the Sunshine Plaza car park and there is also parking opposite the Centre.

As per the Agendas on page 7 and as mentioned on page 8, in the article entitled “Application for Registration as a Charity”, an Extraordinary General Meeting will immediately precede the AGM, to approve, by Special Resolution, two amendments to the Constitution.

Nominations for Committee portfolios are called for, as per the Nomination Form below. You can nominate any member of the ARQRV. Attendance at monthly Committee meetings is expected of committee members and, if elected, that member will be required to take on some tasks.

If you are unable to attend the AGM, you could give your proxy to another member. A Proxy Form is on the reverse of the Nomination form.

Carbon Tax Repeal Bill

The Federal Government announced recently the repeal of the Carbon Tax Bill, and forecast that a number of savings would arise and that those savings would be passed on to consumers.

The savings which are expected to arise from power consumption and, in particular, the percentage of electricity rates that is attributable to carbon tax, can vary for a number of reasons, including location of the consumer, the tariff and the quantity of power consumed. These savings apply to all consumers, including those in retirement villages.

Click Energy, a major power provider for consumers on the East Coast, has announced that their energy tariff will decrease by approximately 8.8%.

Residents should be aware that similar savings will be available from all power providers. The ARQRV recommends therefore that residents individually, or through their Residents’ Committee, should pursue this reduction with their Operator.

Email requests for advice or assistance

Most requests for advice or assistance generate a written reply and may lead to protracted discussions and meetings. The Association’s initial response will generally be to speak directly to the contact, to verify the circumstances. Therefore, please provide a telephone contact number with every enquiry.



NOMINATION FORM

**Complete and return this nomination form by the 25th September 2014 to
The ARQRV Secretary – PO Box 1361 BUDDINA Qld. 4575**

I, _____ of _____ Village

Nominate _____ of _____ Village

To be: President / Vice-President / Secretary / Treasurer/ Committee Member (circle one)

Signed _____ (nominator) _____ (seconder)

Accepted by: _____ (nominee)

Responsibility for Reinstatement Costs in Leasehold & Loan/Licence Villages

In response to requests from Residents and Scheme Operators, the Association has prepared the following tabular summary of RV Act Section 62 (as at 27 May 2008) (assuming no “accelerated wear” or “deliberate damage”)

Table A. s62(2) - Residence Contract before 15 March 2006:

Date of residence contract	If residence contract specifies party responsible	If residence contract does not specify party responsible
Before 1 July 2000 ("existing residence contract")	Costs paid by party specified in contract	Costs shared by resident and scheme operator in same proportion as they share <i>sale price</i>
From 1 July 2000 to 14 March 2006	Costs paid by party specified in contract	Costs paid by scheme operator

Table B s62(3) - Residence Contract on or after 15 March 2006:

Date of residence contract	If resident shares in capital gain on exit	If resident does not share capital gain
On or after 15 March 2006-	Costs shared by resident and scheme operator in same proportion as they share <i>capital gain</i>	Scheme operator

Note: The definition of "reinstatement works" in the Act does not operate to limit the work an operator can do when a resident departs, HOWEVER it does limit the costs that can be recovered from the resident (if the resident has any responsibility for those costs according to the summary above). If an operator performs a more substantial renovation that goes beyond the definition of "reinstatement works", they can only recover the costs that would have been necessary for a mere reinstatement (and then only to the extent that the resident has responsibility for those costs according to the summary above). Where a more substantial renovation is proposed, a resident should request that a hypothetical quote for a mere reinstatement be obtained first, so it can be used for calculating the resident's contribution. Refer also to RV Act s58, which prescribes the need for the former resident and the Scheme Operator to negotiate on the reinstatement work to be done.



APPOINTMENT OF PROXY

Complete and return to The ARQRV Secretary by 8th October 2014

I, _____ of _____ Village

Appoint _____ of _____ Village

To be my proxy at the 2014 Annual General Meeting.

Signed _____ (Member giving proxy)

The Association of Residents of Queensland Retirement Villages Inc.

AGENDA FOR EXTRAORDINARY GENERAL MEETING

To be held on Thursday, 9th October 2014 at 10:00 a.m.

At Millwell Road East Community Centre, Maroochydore

1. Opening and welcome
2. Apologies
3. Attendance (as per sign-in sheet) including Proxy votes
4. Special Resolution Motions:

Moved Phil Phillips, seconded Stephen Irving, that Clause 8.1 of the Association's Constitution be amended to delete the word 'Extraordinary'; thus allowing for amendments to the Association's Constitution to be approved by Special Resolution at a General Meeting, rather than an Extraordinary General Meeting.

Moved Ernie Hatton, seconded Joanne Wheeler that Clause 8.2 of the Association's Constitution be amended to include the text in the article titled "Application for Registration as a Charity" on page 8 of Newsletter No. 91, which revises Voluntary Winding-up of the Association.

5. Closure of meeting

AGENDA FOR ANNUAL GENERAL MEETING

To be held immediately following the Extraordinary General Meeting

1. Opening and welcome
2. Apologies
3. Attendance (as per sign-in sheet) including Proxy votes
4. Minutes of 2013 AGM
5. Business arising from Minutes
6. Correspondence and enquiry statistics
7. Reports:
 - (a) President
 - (b) Treasurer
8. Appointment of Auditor
9. Ordinary Motion:

Moved Helen Gundersen, seconded Mike Fairbairn that, effective from 1 January 2015, ARQRV membership fees will be: \$30 for annual membership, plus a \$20 joining fee for new memberships; and a \$20 rejoining fee will apply for members who have become unfinancial; or, \$200 for life membership, with no joining fee.

10. General Business
11. Election of Incoming Committee
12. Closure of Meeting

Joanne Wheeler

ARQRV Secretary

22nd August 2014

ARQRV Committee Members' Contact Details

President: Les Armstrong
Ph: 0424 251 646
pres.arqrv@gmail.com

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Vice-President: Eric Stadhams
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Secretary: Joanne Wheeler
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A/Treasurer: Marie Milner
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Membership: Marie Milner
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Web site: Stephen Irving
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Liaison; IT project: Steve Murray
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comm10arqrv@gmail.com

Database: Ann Murray
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Mike Fairbairn – Ph. 5440 5683
comm6arqrv@gmail.com

Judy Mayfield – Ph. 5433 9380
comm9arqrv@gmail.com

Helen Gundersen – Ph. 5449 0276
comm5arqrv@gmail.com

Other contacts

**Co-opted Chairman, Village
Constitutions sub-committee:
Ernie Hatton – Ph. 5412 1686**
easy@flexinet.com.au

Application for Registration as a Charity

The Association has applied to the Australian Charities and Not-for-profits Commission (ACNC) for registration as a Charity, and has received the “green light”, subject to an amendment to the Winding-up clause of our Constitution. If this amendment is passed, the ARQRV will then be exempt from Income Tax and GST, among other benefits.

The Application also sought endorsement by the ATO for the ARQRV to be a Deductible Gift Recipient. The ACNC has advised that this endorsement would require a Revocation clause in the Constitution.

Both amendments will be put to members for approval at an Extraordinary General Meeting to be held immediately before the Annual General Meeting on 9th October 2014 (see page 5) The proposed amendments follow. Both are under Clause 8.2 Winding up (the word ‘Voluntary’ is to be deleted). Sub-clause 8.2 a) is not changed. Sub-clause 8.2 b) is amended and sub-clause 8.2 c) is new:

8.2. WINDING-UP

b) Distribution of Assets & Funds

In the event of The Association being dissolved, voluntarily or otherwise, in accordance with the provisions of The Associations Incorporation Act, 1981, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes and which has rules prohibiting the distribution of its assets and income to its members. No property or funds shall be distributed amongst the members of the Association

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c) Revocation

If the Association is registered as a deductible gift recipient and is wound up or its endorsement as a deductible gift recipient is revoked, (whichever occurs first), any surplus of the following assets will be transferred to another charitable organisation to which income tax deductible gifts can be made:

- i. gifts of money or property for the principal purpose of the Association;*
- ii. contributions made in relation to an eligible fundraising event held for the principal purpose of the Association;*
- iii. money received by the Association because of such gifts and contributions.*

EVERY MEMBER GET A MEMBER!

**ARQRV Legal Advisor:
David Wise: Ph: 0412 254 080**
dtwise@gmail.com