

# ARQRV CONNECT

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

## 2023/2024 ARQRV COMMITTEE



*From Left: Meg Scott, Roger Savage, Judy Mayfield, Brian McKay, Ray Jordan, Jan Sullivan, Les Ambor, Frank Tanti.*

*Merry Christmas to all our members and thank you for your support during the year.*



*From the ARQRV Committee and Staff*

## PRESIDENTS' PONDERINGS

Welcome to the final edition of our newsletter for the year. It seems hard to believe that 2023 is almost gone, how quickly the year has passed.

Thanks to all who attended our AGM in September, it was great to see so many of you there. We had just over a 100 members and guests and in a video link-up, a first for ARQRV, we connected with an insurance broker in Sydney who gave a short presentation on insurance issues currently impacting villages across Australia. He also had some good news, advising that they are working on an insurance contents policy designed specifically for retirement village residents and covering everything the operator does not cover in the accommodation unit. They are hoping to release the details of the policy before the end of the year and as soon as I have any information I will let you know. Judging by the number of calls I get, finding a contents insurance policy that fits in with village contracts can be quite difficult and expensive.

We were also most fortunate to have officers from the Department of Housing attend. I know that members appreciate hearing first-hand what government is doing to continue to improve resident's experiences in a retirement village and to having the opportunity to ask questions and chat individually with Department staff after the meeting. You will find a report on their presentation further on in this newsletter, you will also find a copy of the draft minutes (to be accepted in September 2024) and the Annual Report on our website. To access both of these, on the front page of the website click on the "About" tag and on the right side of the drop-down menu click "previous AGMs"

ARQRV has finally received the final consultation draft on the Regulations that will inform the Financial amendments to the Retirement Village Act. We were happy to put in a comprehensive review of the proposed changes and to also meet directly with relevant officers from the Department of Housing to provide feedback from the residents' perspective. We identified some positive changes we are happy to see included and highlighted the areas we felt are still not as clear as they could be. The Act was amended in 2017 and we have been waiting until now to see the changes that will ensure greater transparency in the financial reports available to residents. We are expecting that the new reporting requirements will start in the 2024/25 budget period, and we will let you know as soon as the approved Regulations are released.



As you will see from the photograph of the 2023/24 committee there has been little change to the committee this year. Russell Lewis did not renominate, and we thank him most sincerely for his input during the past year. We are pleased to welcome Frank Tanti to the committee and I look forward to his input in the year ahead.



Finally, I would like to take this opportunity to wish you and your family and friends a very Merry Christmas and may we finally see Peace on Earth in 2024.

*Judy Mayfield*

President ARQRV

# THE DEPARTMENT OF HOUSING IS IMPROVING RETIREMENT LIVING FOR RESIDENTS

At the Association's AGM in September there were two guest speakers from Regulatory Services and one from Strategic Policy and Legislation of the Queensland Government Department of Housing. They provided a range of information, and many interesting facts and figures, from major projects right down to their day-to-day operations. Let's start at the top and work our way down to the day-to-day?

- Current legislative reform projects reflect the action items in the Housing and Homelessness Action Plan 2021-2025.
- The Department of Housing is currently working on reforms relating to financial reporting, the regulation of residence contracts, the implementation of the independent panel's recommendations regarding timeframes for the payment of exit entitlements and mandatory buybacks, and dispute resolution across both retirement villages and residential parks.
- The Department will continue consulting with the ARQRV on policy proposals as they progress as a member of the Housing Legislation Consultative Group.

## The big picture

The Manager of Strategic Policy and Legislation provided a brief snapshot of retirement village reforms being considered by the Department of Housing, which are the broader action items in the Housing and Homelessness Action Plan 2021-2025, namely:

- improving transparency of financial reporting – the necessary provisions of the Retirement Villages Act are now in place providing a pathway for the inclusion, in the not-too-distant future, of the detailed requirements for village budgets and financial statements in the Retirement Villages Regulation.
- greater standardisation of residence contracts – it is expected that residence contracts will be much easier to understand by the format being standardised across the industry
- implementation of the independent panel's recommendations regarding timeframes for the payment of exit entitlements and mandatory buybacks – the report recommendations included that the timeframe be shortened to 12 months, but with the commencement of such timeframe being pushed back
- improved dispute resolution mechanisms across both retirement villages and residential parks – as part of this project various models are being explored and considered to make dispute resolution more relevant to and effective for retirement living.

## Working our way down

The Acting Principal Regulatory Officer gave an insight into what specific matters Regulatory Services have been considering and resolving over the past year.

### Improvements to village comparison documents

Regulatory Services are currently working on improvements to the village comparison document. It is seen that residents don't always fully understand their contract terms when they move into a village.

One issue raised relates to residents entering contracts where they are entitled to capital gain upon the sale of their unit when they leave.

Often residents do not fully understand they may lose a percentage of their capital gain because of the way their exit fee is calculated. Some capital gain contracts require that (for example) the 35% exit fee is

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calculated on the resale value of a resident's unit – including the capital gain. If a resident's contract entitles them to 50% capital gain, they may lose 35% of their capital gain as part of their exit fee, depending on how their residence contract is worded.

Often if a resident's contract entitles them to capital gain when their accommodation unit is sold, they may also be required to contribute towards renovation costs. A former resident in this situation would generally be required to pay a percentage of the renovation costs which is the same as the percentage of any capital gain they receive. That is, 50% capital gain = 50% of the renovation costs – even if a resident has lost 35% of the capital gain to the exit fee.

The amount of costs payable is dependent upon the wording of each individual residence contract.

Regulatory Services are in the process of trying to make this clearer in village comparison documents, and it is something they check for in new retirement village contracts, to make sure it is clear.

### Online village comparison document

Regulatory Services is working hard to get to know the retirement village industry better. They are currently improving the way they do business with village operators – for instance, making some of their commonly used forms, such as the village comparison document (VCD) – online digitised forms.

The VCD holds a lot of information about retirement villages across the state, including:

- what general service and MRF fees residents pay
- village vacancy rates
- how long units are taking to sell
- exit fee percentages
- buy in prices.



Once this form is digitised, Regulatory Services will be able to learn a lot more about villages in Qld and the information could be used to help identify industry trends or even where there might be problems.

### Regulatory Guidelines

Another focus for Regulatory Services has been the development of regulatory guidelines for operators and residents. Guidelines are produced to clarify areas of confusion or outline the department's compliance expectations. They are working to make it clear for everyone what is considered to be best practice and what the legislative requirements are.

There are currently four guidelines published on the [department's website](#), and there are plans for more.

Currently published:

- Calculation of proportionate costs
- Exit entitlement statements
- Insurance excess payments

Costs of sale.

### When is a resident no longer independent?

Regulatory Services is delving into this difficult issue as village operators and residents have expressed concerns around what independent living really means, and when a resident can be considered no longer suitable to remain in independent living. Many villages advertise accommodation units as independent



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living. The meaning of independent is changing with increasing aids and assistance available to residents to remain in their homes for longer (ageing in place). This is blurring the lines about what independence is within villages.

Operators experience difficulty at times where a resident may be suffering health decline or experiencing deteriorating mobility. Village managers face some difficult circumstances in trying to assist residents and their families towards the best solutions for a resident's circumstances. This can be particularly difficult where a resident and/or a resident's family does not wish to move on to higher care accommodation when they may no longer be considered suitable to remain in independent living.

### **Now to the detail**

So, what has the Regulatory Services Team been doing recently on a day-to-day basis?

This Team of 4 regulatory analysts and their team leader is responsible for administering the Retirement Villages Legislation by dealing directly with residents and scheme operators. Where practicable, regulatory analysts prefer to meet face to face with scheme operators and groups of residents to better assist their customers.

The Team Leader gave the following interesting facts and figures relating to a four-month period of this year, namely:

- provided face-to-face educational guidance to both residents and scheme operators at Hervey Bay, Cooloola and Childers about closure plans, operators compliance under the Retirement Villages Legislation, and village budgets and financial management
- made an additional 9 on-site visits with scheme operators, stakeholders, and residents
- received 222 new and updated VCDs
- actioned 137 requests for service ranging from basic questions to complex matters requiring further investigation
- actioned 13 complaints requiring contact with residents and the scheme operators (however, residents should always speak to the scheme operator prior to contacting the department for their intervention).
- registered 5 new retirement villages, and cancelled 1
- issued 23 new certificates for villages changing their scheme operator and reviewed corresponding village comparison documents
- recorded 3 statutory charges on the title to retirement village land
- dealt with 1 village land reconfiguration
- dealt with 1 village closure where residents voted for the closure (a small village close to the Brisbane CBD and to be sold to developers)
- dealt with 1 village where residents voted against the redevelopment plan as the land is being reconfigured, with the retirement village becoming a separate lot
- dealt with 2 redevelopment plans.

The Team is currently reviewing the issue of costs and responsibilities relating to village insurance.

### **A last word**

One thing that was very clear from all 3 speakers was that they are passionate about the industry they regulate and enjoy the challenges which arise.

# DOES YOUR VILLAGE HAVE AN EMERGENCY PLAN?

Read any Queensland headline and you will see the State is facing a bushfire crisis and there are predictions of “another black summer” on the horizon. With this in mind, it is imperative that our community is as prepared as they can be for what is sadly becoming the ‘new normal’. The significance of this is intensified when you consider the retirement village environment, which can be faced with unique challenges associated with older residents, who may have mobility issues and physical limitations preventing a speedy evacuation.



In Queensland, there is no specific legislation requiring retirement village operators to put an emergency plan in place. This is not the case in other jurisdictions, like New South Wales Retirement Villages and Queensland Manufactured Home Parks.

Judy Mayfield has signalled real concern that Villages may not have emergency management plans in place, and we are hearing this concern echoed by residents around the State – especially in northern Queensland, as the cyclone season looms closer.

DSL Law encourages Resident Committees and Operators to work together to create emergency plans that are specifically designed to meet the needs of their individual villages, and also to engage in ongoing communication and practice of those plans for the protection of residents.

We expect that Operators will embrace the opportunity to put this in place. We would make the following suggestions when embarking on a new plan:

- Remind your resident that this is an ideal way to comply with paragraph C4.1 of the Code of Conduct which requires:

*“Written policies and procedures concerning general safety and security, electrical safety, fire safety and emergency management”*

- Involve third parties, like your local SES and emergency services – this is what they do!
- Look to villages and Operators who are already operating at the peak of the market – we have heard The Residences at Newstead and Aveo Peregian Springs are both wonderful case examples.

If you would like to discuss an emergency plan, or any other aspect of Village life, please feel free to contact the specialist retirement living team at DSL Law (1300 DSL Law or [hello@dslaw.com.au](mailto:hello@dslaw.com.au)).

# DSL LAW

RETIREMENT + PROPERTY

## Selecting a lawyer who specialises in Retirement Village Law makes all the difference

We help residents and their families navigate the challenges of moving into, living in and leaving villages every day.

We offer efficient and expert services – and we provide a 10% discount to ARQRV members.

1300 DSL Law (1300 375 529)  
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# LOVE THY NEIGHBOUR...

## (and thy Qld Retirement Village Scheme Operator)

The following is the introduction to an article prepared by DSL Law of Benowa and Kelvin Grove (telephone 1300 375 529 or email [hello@dslaw.com.au](mailto:hello@dslaw.com.au)). The full article covering the following topics, is available from the [ARQRV website](#) or office:

- ⇒ What do Operators need to do?
- ⇒ What do Residents need to do?
- ⇒ When behaviour by a resident or the Operator is not OK
- ⇒ Can conduct in a retirement village really be serious?
- ⇒ Do the laws work – are they the answer?



The importance of '*loving your neighbour*' has long been instilled in us. Whether it's from the biblical heritage in the Book of Matthew, the television show by the same name that ran for eight seasons in the 1970s or just some good old fashioned values – there is no avoiding the reality that good neighbourly relations is not only *nice*, it is an ideal that will elevate us and, by extension, elevate our communities.

With this in mind, surely there would never be a dispute, a conflict or tension, and definitely never a need to have laws in place to regulate the conduct of residents and Operators. Right? Well... no. Conflicts, tensions and disputes can be a fact of any community life, including life in villages, and Queensland has had laws regulating behaviour for over 6 years.

The article explores the laws, which were introduced as amendments to the *Queensland Retirement Villages Act 1999* in 2017 to prescribe clear and enforceable behavioural standards for Operators, including their staff, and residents. Consequences of non-compliance with the laws will also be considered, with a view to understanding whether the legal measures are working and, more importantly, whether they are the answer.

### David Wise Solicitor

Discounted advice for ARQRV members

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## DID YOU KNOW?

### Regulatory Guidelines

The following regulatory guidelines, published by the Department of Housing, are available for download from the [department's website](#).

- ⇒ How to calculate the percentage of proportionate costs for selling a right to reside and sharing ongoing resident fees after termination
- ⇒ Insurance excess payments
- ⇒ Costs of sale
- ⇒ Exit entitlement statements.



Regulatory guidelines are designed to complement existing legislation and provide certainty for operators and residents but should not be relied upon as legal or financial advice.

### Draft Minutes of AGM and ARQRV Annual Report

The draft minutes of the September AGM and the Annual Report are available from the [ARQRV website](#).

## THANK YOU TO SPECIALIST VOLUNTEERS

Specialist advisors (**John Rae** – Palm Lake Resort Beachmere Sands, **Les Ambor** (ARQRV Treasurer) – Aveo Albany Creek and **Des Robinson** – The Village Yeronga) recently provided a substantial response to the draft Retirement Villages (Financial Documents) Amendment Regulation 2023, to the Department of Housing.

The response was developed on behalf of the ARQRV Committee in their capacity as member of the Housing Legislation Consultative Group.



The Regulation prescribes the proposed detailed financial reporting requirements following recent amendments to the *Retirement Villages Act 1999*. These changes will improve the transparency, accountability, and consistency of financial reporting for retirement villages.

All residents of Queensland villages will greatly benefit from your efforts.

*Thank you from the ARQRV Committee!*