



KEITH TOPHAM CPA (RET. REGISTER.)

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NH 24th November, 2006.
Committee Secretary,
House of Representatives Legal & Constitutional
Affairs Committee,
PO Box 6021, Parliament House, Canberra ACT 2600.

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BY: LACA

Dear Sir,

**Ref: Review of current legislative regimes addressing
the legal needs of older Australians.**

As a resident of a Queensland retirement village I desire to draw attention to the rather specific legal needs of older Australians residing in retirement villages.

I will do my best to summarise and emphasise some of the key issues affecting elderly retiree residents. **These points are not necessarily in the order of priority.**

(1) Advanced age is the dominant factor, greatly restricting the energy, power and will to create change. So as to correct impositions imposed by many operators of retirement villages. Funded legal assistance is required to bring injustices to the attention of appropriate authorities. Understandably sheer stress on the vulnerable and the high cost of law, is a direct cause of many issues being allowed to fester.

(2) There is a vast divergence between states as to how residents of retirement villages are protected from the worst of retirement village operators. Many of these operators are in the retirement village industry solely for the purpose of "screwing" the elderly for every last penny. To achieve better and more uniform consumer protection it would be better for state governments to depart from the scene and hand the reins to a federal authority, introducing controls similar to that applied to hostels and nursing homes. Of the states NSW appears to possess the strongest consumer protection legislation and appears to have the will to see that legislation is enforced. In Queensland while we have over the past six years seen numerous Tribunal decisions go against village operators there has never been an attempt to bring a prosecution for breaches of the weak legislation that exists. There has simply been no will by the Office of Fair Trading a government department that behaves as though it was an extension of Aged Care Queensland, the developers lobby.

(3) There is a big gap between legal need and the ability of the elderly to access legal solutions, frailty, the fear of reprisal from managements and cost are the greatest deterrents to bringing bullies to heel.

It is a fact of life that widows and widowers living alone make up probably 55% of a villages occupancy. In this particular village the average age of residents exceeds 80 years of age with elderly women exceeding that of men by a ratio of 4 to 1

There is a great need for an adequately funded Aged & Disability Advocacy Service **that does not exclude residents of retirement villages**

The Association of Residents of Queensland Retirement Villages whose executives themselves are approaching 80 years of age can point troubled residents in the right direction but this association does not have the financial resources to mount legal challengers against the developer lobby.

(4) One other obstacle is the lack of transparency & openness in the manner operators present annual financial statements to residents.

Some operators are transparent, the majority are not. As a retired CPA I do have expertise in this area. Although market prices of retirement village units have roughly the equivalent cost to similar freehold dwellings the vast majority of contracts between operators and residents are either leasehold or loan/licence agreements, undertaken presumably for the operator to exercise as much control as possible over residents. Annual financial reports usually come in the form of **Special Purpose Financial Reports** rather than General Purpose Financial Reports. If this action were carried out in the corporate sector we would have numerous company directors & executives behind bars.

These **Special Purpose Financial Statements** do not meet Australian Accounting Standards and provide nothing more than statement of general service and maintenance reserve fund fees collected and costs related to these fees. Even though residents collectively have an equity in the village in which they live that is probably seven times greater than that of the developer, they are denied the right to learn the financial viability of the village in which they live and how their funding is being managed and protected.

It is a mockery of justice when we see that a shareholder having a \$5000 investment in FKP Limited receives more information on the management of his investment, than a resident in a FKP village having \$250.000 in equity who is denied similar information.

Hopefully you can be of assistance.

Yours sincerely,

J.K. Topham.