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## Buying into a retirement village

### What are the financial and legal implications?

For many of us there comes a time when we wish to sell the family home and move into a retirement village. There are many advantages in such a move. For some of us it will mean “cashing up” so that we realise a capital sum being the difference between the sale price of our family home and the purchase price for a unit in a retirement village. Usually buying into retirement village will mean that our needs will be met as we get older.

Buying into a retirement village is different to buying a house.

Retirement Villages are governed by the Retirement Villages Act 2003. It is this Act which sets out the rights and obligations of the residents who live (or intend to live) in a village.

### What do I need to pay so I can live in a retirement village?

Although villages do vary usually the following payments will be expected of the residents:

#### A Capital sum

This is like a purchase amount when buying a house. The amount required will vary from village to village. Unlike a house where the purchaser usually buys a freehold title, a person buying into a retirement village will usually be purchasing a “licence to occupy” a unit. So, although you do not actually own the unit you do have a “right to occupy” the unit.

#### A Village fee

This is a fee payable throughout the year to the village. The fee will vary from village to village and it pays to check into this carefully. The fee is subject to change. This fee will cover such outgoings as building insurance, rates, gardening, maintenance and security.

#### Your utilities and other expenses

You will be required to pay for such things as your own electricity bill, telephone and contents insurance in addition to your day to day costs such as medical and food.

You may also be responsible to cover the costs of any interior redecorating and maintenance

#### Additional costs

Some retirement villages provide individual meals to the residents in their units and entertainment such as outings, usually these will be added on costs for the resident to pay.

## **What happens when I want to sell my unit?**

Usually the management of the retirement village will take care of selling your unit after you have left and you will not normally receive the proceeds of the sale until it has been sold. There are often considerable costs associated with the selling of a unit and it is common that a villager will not get back all their purchase price. Although villages differ typically the following deductions may be expected from the proceeds of sale:

### **A Deferred Management fee**

A deferred management fee is a percentage of the capital sum which was paid over a number of years. That percentage is usually four to five per cent over a five year period. The reason for such deduction is to cover the costs of such things as long term maintenance, management and upgrades to communal facilities; costs associated with selling the unit such as marketing and management; and costs of maintenance and repairs to the unit so that it is brought back to the same standard as it was in when you bought it.

If there has been a capital gain made on the sale of your unit to the new owner then usually you will not be entitled to any of that capital. However, if a loss has been made on the sale so that the village receives less than what you paid for it did not recover the costs associated with your moving out then you may be required to make up that loss. All this depends on the contract entered into with the village.

## **What do I need to do to buy into a retirement village?**

Some villages have very long waiting lists so it pays to get your name down on the list in advance of when you anticipate wishing to move in. Sometimes a prospective resident will be called on to move in quickly as a unit has become available. This can be a stressful time as it may mean the family home has to be sold quickly so as to be able to buy in straight away.

Once you have found a retirement village that suits your needs then the manager will give you an application form to complete. If a unit is available immediately then you will be free to purchase it provided you have the necessary funds. Note that there is a "cooling off" period in the application. This will mean that you will have a few days to think about proceeding to purchase into the village. You should discuss your proposed purchase with your family and friends.

Most importantly you should discuss your proposed purchase with your lawyer.

## **A disclosure statement**

The Village Management will provide you with a disclosure statement. This sets out such detail as:

- Who owns and manages the Village;
- The name and details of the statutory supervisor ( ie the person who acts on the residents behalf by monitoring the financial aspects of the village and ensures that the law is complied with.
- The nature of the legal title you would receive on purchasing a unit this will usually be a licence to occupy or in some cases it may be a unit title. Note that retirement villages do vary.
- What the process is when you leave your unit ie how the sale process works;
- What facilities are offered; and
- The charges associated with living in the unit.

## **An Occupation Right Agreement**

The Retirement Village is also required to provide you with an Occupation Right Agreement. This agreement must provide you with details of such things as:

- Your payment obligations;
- The Manager's duties;
- Meetings and Consultations that you have a right to be involved in;
- Complaints and disputes procedures;
- Rules around parking and redecorating your unit
- Your rights when it comes time to leaving the village

You will also be given a Code of Residents Rights which sets out the basic rights found in the Retirement Villages Act 2003.

Buying into a retirement village is an important step. It is essential you take the opportunity to get independent legal advice as there are financial and legal implications when making this decision. Graeme at Graeme Withers Law is experienced in advising people who wish to buy into a retirement village. Graeme will talk you through the documents, explain the legalities and ensure you understand the process. Contact Graeme on (04) 478 4888 for prompt, professional and personal service.

*This note is intended for general information only. It is not intended to be relied on as a substitute for legal advice which focusses on individual circumstances.*