

Regulatory Policy, Better Regulation Division  
Dept. of Customer Service  
2 – 24 Rawson Place  
HAYMARKET NSW 2000

Dear sir or madam,

Submission to Retirement Village Exit Entitlements Discussion Paper

Thank you for the opportunity of responding to the discussion paper, as attached in the following pages.

Best wishes,

~~GARY HERRETT~~

**GARY HERRETT – SUBMISSION TO RETIREMENT VILLAGE EXIT ENTITLEMENTS**  
**DISCUSSION PAPER**

**1. Reform to ensure payments of exit entitlements within set timeframes**

- **Is the description of Sydney metropolitan area appropriate?**

Not appropriate & may discriminate against certain areas. For example it extends west to Lithgow & north to the Central Coast. With 7% of overall NSW villages – the Newcastle and Lake Macquarie should at least be included

- **Calculating fair property values**

2. appoint valuer to determine value necessary or appropriate?

Appropriate should disagreement between developers & residents occur re exit values

3. should valuation be done by someone independent?

Yes, if any disputes occur. Costs to be shares equally irrespective of proportion of capital gain to either party

4. do provisions adequately manage potential or actual conflicts of interest?

Provisions would be adequately managed this way. If disputes remain, always the option for all parties to refer to Tribunal for resolution

5. information operator to provide to residents when exit entitlement determined?

Methods and process for promoting and advertising residence to be agreed on. Accurate list of financial costs given to residents. No hidden charges or fees

- **Opt out provisions**

6. under what circumstances should residents be able to opt in or out of exit provisions?

When not satisfied with what efforts are made by operator to sell residence or when personal circumstances change

7. at what point should residents be able to exercise these rights?

At any time

8. former residents' change of mind and opt back in?

Yes, if residents' circumstances change making the option of "back in" more attractive

- **NSW Civil & Administrative Tribunal – exit entitlements**

9. what issues to take into account when considering whether or not operator has done everything in power to enable sale?

Documentary and verbal evidence from operator plus evidence from affected residents

10. Additional circumstances for Tribunal to consider re Operator hardship application

- \* evidence of number of un-sold residences – state of market?
- \* duration of sales/advertising methods in each case
- \* evidence of affects of overall finances of entire village or complex

- \* access to property for potential buyers
- \* initial profit margin for operator
- \* proportion of exit fees to be deducted from sale price & returned to operator

- **Trigger points**

11. other factors affecting trigger point?

Formal recognition of estate Executors; those with Power of Attorney.; those with Testamentary Trust power; Declaration of probate of Will

12. triggers listed suitable to start 6 & 12 month periods?

Cannot think of any others

- **Other timings for consideration for transfer of payments**

13. any Victorian or SA of benefit to NSW retirement village residents?

In the event of re-location to aged care facility and financial hardship – the early release by the operator of funds to assist with DAPS & RAP entry fees

14. would it benefit if provisions apply to registered & non-registered interest holders?

Certain sections of current regulations discriminate against Registered Interest Holders re timing of cessation of deduction of recurrent fees & date of payment of nett exit fees. There should be consistency to both groups in that respect – notably those which apply to non-registered interest holders

- **Potential impacts of reform**

15. benefits or costs of reform?

Many benefits to residents and their estates. This review was initiated by *current residents*, their families and their representatives, certainly NOT by operators who obviously seek no change as they continue to profit from senior, aged and ill residents.

At the same time certain operators, knowing they have guaranteed on-going income from residents or their families, are arguably not making a significant effort to sell vacant residences. The retrospective implementation of the reforms would counter this

16 are listed costs and benefits accurate?

With on-going variations & increases, those statistics as listed should be used as a guide only

## **2. A reform to limit recurrent charges**

17. As with non-registered interest, should trigger to commence 42 day period when resident permanently vacates?

Yes, this would remove inconsistency between both groups and provide residents or their families with some financial certainty