

REQUEST FOR EXIT ENTITLEMENT ORDERS

Retirement Villages Act 1999 (the Act) section 182AF



13 32 20 fairtrading.nsw.gov.au

This form is for a former occupant of residential premises in a retirement village* to apply to the Commissioner for Fair Trading (**the Commissioner**) for an exit entitlement order. A former occupant may be eligible for an exit entitlement order if their former premises remains unsold at the end of the prescribed period** and the operator of the retirement village is unable to satisfy the Commissioner that the operator has not unreasonably delayed the sale.

This form is the form approved by the Commissioner for the purposes of section 182AB(7) of the Act.

Privacy Statement

The personal information contained in this application form and any attached documents will be collected and held by the Department of Customer Service (McKell Building, 2-24 Rawson Place, Haymarket NSW 2000) (**the Department**) for the purpose of determining your application under section 182AB the Act for an exit entitlement order and for directly related purposes. The consequence of not providing the information requested in this application form is that your application for an exit entitlement order may not be able to be determined.

The Department will store and manage your personal information in accordance with the provisions of the *Privacy and Personal Information Protection Act 1998*. You may apply to the Department to access your personal information held by the Department or to amend any of your personal information held by the Department that is inaccurate, incomplete, not relevant or out of date. To access or amend your personal information, applications should be made in writing to the Privacy Coordinator, Department of Customer Service, 2-24 Rawson Place, Haymarket NSW 2000.

The Department may make enquiries and exchange information, including personal information, with other NSW government agencies, other State, Territory or Commonwealth agencies, or relevant non-government entities for the purpose of determining your application.

SECTION A

1. Resident details

Title	Given name	Family/Surname		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
Address		Suburb	State	Postcode
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
Telephone number		Mobile number		
<input type="text"/>		<input type="text"/>		
Email address				
<input type="text"/>				

1. Resident details *continued*

If form is being filled out on behalf of a resident, the name and relationship of that person.

Title	Given name	Family/Surname
<input type="text"/>	<input type="text"/>	<input type="text"/>
Relationship to resident		
<input type="text"/>		

2. Retirement village details

Name of retirement village			
<input type="text"/>			
Retirement village operator			
<input type="text"/>			
Address of retirement village	Suburb	State	Postcode
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Phone number for village operator			
<input type="text"/>			
Email address for the village operator			
<input type="text"/>			

3. Property details

What is the address of the premises that remains unsold?

Address	Suburb	State	Postcode
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

What date was property put on market?

<input type="text"/>	/	<input type="text"/>	/	<input type="text"/>
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Are you a current resident of the above retirement village premises? ☐ Yes ☐ No

a. If Yes, will you remain in the premises until it is sold? ☐ Yes ☐ No

b. If Yes, how long have you occupied the residential premise?

<input type="text"/>	days	<input type="text"/>	months	<input type="text"/>	years
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► Go to Section B

If you are **NOT** a current resident, what date did you permanently vacate the premise?

Note: *Permanent vacation occurs when the former resident permanently leaves the premises, takes all their possessions, and returns the key to the operator.*

<input type="text"/>	/	<input type="text"/>	/	<input type="text"/>
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How long did you occupy the former residential premises?

<input type="text"/>	days	<input type="text"/>	months	<input type="text"/>	years
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SECTION B

4. Eligibility criteria to apply for an order

Is or was your residence contract in respect of the premises in the form of a registered long-term lease that entitles you to at least 50% of any capital gain?

☐

Yes

☐

No

Note: If your contract is not in this form, you cannot apply for an exit entitlement order.

Have you been paid any part of the exit entitlement as an accommodation payment to an aged care facility (pursuant to section 182AG of the Act)?

☐

Yes

☐

No

Which Local Government Area is/was your retirement village located in?

a. If your unit is in a [Metropolitan Local Government Area](#):

i. is your unit unsold after 6 months on the market?

☐

Yes

☐

No

ii. have you previously applied for an exit entitlement order to be made for the same residential address in the last 6 months?

☐

Yes

☐

No

b. If your unit is NOT in a [Metropolitan Local Government Area](#):

i. is your unit unsold after 12 months on the market?

☐

Yes

☐

No

ii. Have you previously applied for an exit entitlement order to be made for the same residential address in the last 12 months?

☐

Yes

☐

No

Note: For the purposes of this question, the period of time a property is considered to be "on the market" begins 40 days after the date the property is first advertised for sale, the date the former occupant permanently vacates the premises, or the date written notice of occupancy while the property is for sale is given to the operator (whichever occurs first).

Was the agreed valuation for the exit entitlement calculated at least 30 days before making this application?

☐

Yes

☐

No

What are your reasons for applying for the order? (Please include all matters you wish to be considered in deciding whether or not to make the order.)

Note: Additional pages may be attached if required.

SECTION C

5. Financial details

What was the total amount of your ingoing contribution paid to the operator of the retirement village, as per your village contract?

\$

Note: Please attach a copy of the financial sheet received from the operator setting out the financial arrangements.

What is/was the departure fee payable to the operator, including lump sums or instalments?

\$

What percentage of capital gain is shared with the operator?

%

What percentage (if any) of capital loss is shared with the operator?

%

Have you and the operator agreed on the appointment of an independent property valuer to determine the calculated sale price of the premise?

☐ Yes ☐ No

a. Does the operator agree to the value?

☐ Yes ☐ No

b. Has the property valuer provided their calculated sale price in writing to you and the operator which includes their method of calculation?

☐ Yes ☐ No

6. Unreasonable delay

The Commissioner must not make an exit entitlement order if satisfied that the retirement village operator has not unreasonably delayed the sale of the premises. The onus is on the operator to prove this to the Commissioner's satisfaction. However, you are entitled to make submissions about whether you consider the operator to have unreasonably delayed the sale. Accordingly, please provide any further information or documents you wish the Commissioner to take into account when determining whether or not the operator has unreasonably delayed the sale.

Note: The matters the Commissioner is required to consider when determining whether or not an operator of a retirement village has unreasonably delayed the sale of a former occupant's residential premises include whether the operator has taken reasonable steps to facilitate the sale, including in relation to the carrying out of inspections and the refurbishment of the premises, and the time in which those steps were taken. Please refer to clause 33D of the [Retirement Villages Regulation 2017](#) for a list of all the matters the Commissioner is required to take into account.

7. Declarations

Do you declare that this application, including all statements you have made and all information you have provided in relation to the application, and any documents you have provided in support of the application, is/are not false or misleading?

☐

Yes

☐

No

Note: Making a false or misleading application, or providing false or misleading information or documents, is a serious offence under Part 5A of the Crimes Act 1900 (NSW), carrying a maximum penalty of imprisonment for 2 years or a fine of \$22,000 (or both).

Do you declare that you have read and understood the Privacy Statement?

☐

Yes

☐

No

If you are making this application on behalf of another person, do you declare that the person has authorised you to make the application on their behalf, including by providing their personal information to the Department?

☐

Yes

☐

No

Do you consent to the Department making enquiries and exchanging information, including any personal information, with other NSW government agencies, or other States, Territories and/or the Commonwealth for the purpose of determining this application?

☐

Yes

☐

No

Full name

Signature

Date (DD/MM/YYYY)

 / /

8. Documentation checklist

Please attach all below documents in the checklist to this form.

☐

Copy of any agreements or contracts relevant to the order.

☐

Copies of any relevant correspondence between you and the other party.

☐

Copy of calculated sales price and method of calculation provided by property valuer.

☐

Copy of a statement from the operator setting out the following and showing how the amounts were calculated:

- (a) the departure fee, if any, payable by the former occupant,
- (b) accrued or outstanding recurrent charges, if any, payable by the former occupant,
- (c) any amount payable by the former occupant in relation to the sale of the residential premises concerned,
- (d) any other amount payable by the former occupant under a village contract,
- (e) the amount of any ingoing contribution paid when the former occupant first entered the village, the agreed sale price of the premises, or the agreed value of the premises as provided by the independent valuer, and the amount of any capital gain or loss.
- (f) the total amount of the payment to the former occupant, including the amount of the capital gain, expressed as a separate amount.

☐

Copy of any further submission you wish to make in support of your application.

☐

Copy of power of attorney or equivalent (if you are a third party applying on behalf of the resident).

Please DO NOT send ORIGINAL documents, if they are required Fair Trading will request them. If you have not provided all documents on the checklist your application will be declined.

How to lodge this form

This form may be uploaded together with attachments via the Fair Trading complaint handling portal.

Post to: NSW Fair Trading, PO Box 972, Parramatta 2124
Or lodge in person at your nearest Service NSW.

Enquiries: call NSW Fair Trading on 13 32 20

There is NO FEE to complete this form and lodge the application.

Important information

- **An exit entitlement order may be unconditional or subject to conditions.**
- **The Secretary may decline to issue an order and, if so, will provide reasons for this decision.**

*A **former occupant of residential premises in a retirement village** is a resident, or a former resident, of the village:

- (a) who has permanently vacated the residential premises concerned; and
- (b) whose residence contract in respect of the residential premises concerned has been terminated; and
- (c) whose residence contract was in the form of a registered long-term lease that includes a provision that entitles the person to at least 50% of any capital gain; and
- (d) who continues to have rights or liabilities under a village contract relating to the village but does not include the executor or administrator of the estate of such a person (unless the former occupant died before the whole of the exit entitlement could be paid to them).

** The **prescribed period** commences 40 days after the following, whichever occurs first:

- (a) the date the former occupant's premises are first advertised for sale; or
- (b) the date the former occupant permanently vacates the premises, including by returning to the operator of the retirement village all keys to the premises; or
- (c) if the former occupant does not intend to move out of the premises while the premises are for sale – the date the former occupant gives written notice to the operator of the retirement village of that fact.

The length of the prescribed period is:

- (a) **6 months** in the case of a retirement village located in one of the following local government areas: Bayside, City of Blacktown, City of Blue Mountains, Burwood, Camden, City of Campbelltown, Canada Bay, Canterbury-Bankstown, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, City of Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Wollondilly, City of Wollongong, Woollahra; or
- (b) **12 months** in any other case.