

Combined Pensioners & Superannuants Association

OF NEW SOUTH WALES INC



Submission on the Draft Retirement Villages Amendment (Standard Contract) Regulation 2013

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Combined Pensioners & Superannuants Association of NSW Inc (CPSA)

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CPSA was founded in 1931 in response to pension cuts. CPSA is a non-profit, non-party-political membership association which serves pensioners of all ages, superannuants and low-income retirees. The aim of CPSA is to improve the standard of living and well-being of its members and constituents. CPSA has approximately 140 Branches and affiliated organisations with a combined membership of over 29,000 people living in all parts of NSW.

CPSA welcomes the opportunity to make comment on the draft Retirement Villages Amendment (Standard Contract) Regulation 2013.

CPSA welcomes the introduction of standard contracts for retirement villages as well as standardised general enquiry and product disclosure documents. Confusion surrounding retirement village contracts has been an area of great concern to retirement village residents, who often find out too late that the contract they signed was not what it seemed. Current contracts are unnecessarily complex for consumers and this leads to problems for residents who have not understood the terms and conditions of the contract, even after seeking legal advice before moving in.

Retirement villages are often a housing option examined by retirees looking to downsize or looking to move into more appropriate housing. However, these advantages are currently overshadowed by complex contracts, unfair fees and capital gains arrangements that favour operators. Standardised and more transparent disclosure statements and contracts will hopefully remove some of the complexity and the tendency for retirement village residents to feel tricked by contracts that don't spell out the financial arrangements.

CPSA hopes that the retirement village standard contract will result in greater transparency for residents and prospective retirement village residents. In particular the breakdown of financial matters including departure fees, how the sale of units takes place and the capital gain or loss structure of the village as well as a breakdown of the services included in regular fees are welcome additions to the Retirement Villages Act.

CPSA is, however, concerned that the standard form of retirement village contracts will not apply to residence contracts that are part of a community land scheme, company title scheme or strata scheme. CPSA has contacted the Department and a number of industry groups to ascertain how many retirement village places will be excluded from the benefits of a standard contract but has been told that there is no way to determine how many retirement village places will be affected by this exclusion. CPSA is also concerned that this could result in a move by operators to these forms of village structures for new retirement villages in order to evade adhering to providing new residents with all the information that must be provided in a standard disclosure statement and contract.

The NSW Consumer, Trader and Tenancy Tribunal (CTTT) received 86 applications about matters and disputes relating to retirement villages in 2011/12. This is almost double the 45

applications that were made in 2007/08. Matters dealt with included disputes about the terms of the retirement village contract, the legality of a village rule, recurrent charges, annual budgets and accounts, payment of money and compensation, termination and vacant possession, security and safety, and disputes about the sale or lease of a premises within the village.¹ Hopefully the new contract will alleviate some of these issues but it is of real concern that certain residents will be excluded.

CPSA understands that both the Retirement Villages Act 1999 and the Strata Schemes Management Act 1996 apply to strata retirement villages and that the Acts operate side by side with the owners corporation being responsible for the maintenance of the common property and residents being responsible for the capital items in their unit. As such this may influence certain aspects of a draft contract but as much as possible, potential residents of such villages should be able to reap the benefits of greater transparency and the ability to compare options.

CPSA notes that strata title regulation is currently under review. One proposed reform is to change the way strata schemes are terminated, which currently requires a unanimous decision by the owners of a strata scheme, but which is proposed to be changed to termination by a majority decision. CPSA strongly opposes any move to changes in strata law which removes the autonomy of individuals living in strata. CPSA suggests that should changes be made to strata title regulation, that these need to accommodate the radically different purpose of strata titled retirement villages.

¹ Consumer, Trader and Tenancy Tribunal Annual Report 2011 - 2012, available at: [http://www.cttt.nsw.gov.au/pdfs/About us/Corporate publications/Annual reports/Annual report 1112.pdf](http://www.cttt.nsw.gov.au/pdfs/About%20us/Corporate%20publications/Annual%20reports/Annual%20report%201112.pdf), p. 42.

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