

# RRVV

## NEWSLETTER

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Residents of Retirement Villages Victoria Inc.

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### PRESIDENT'S REPORT

Celebrations, pats on the back and congratulations to RRVV, CALC, HAAG and COTA for a huge win last February 24, 2016. A committee has been appointed to establish a Parliamentary inquiry into retirement housing. The inquiry will be heard by the Legal and Social Committee in the Victorian Legislative Council.

The support from Consumer Affairs Minister Jane Garret and the Minister for Ageing Martin Foley give this inquiry strength. Also the bi-partisan support from Shadow Minister Russell North and Member for Northern Metro Fiona Pattern.

Colleen Hartland and Ellen Sandell must be thanked and congratulated on the excellent presentation of this motion, also the backing of other speakers such as Cesar Melham, Jaclyn Symes, Inga Pelvich, Damian Drum and Shadow Minister Edward O'Donohue. Their speeches made in the Legislative Council are all promising and heartening and should be read on Hansard. (Google Hansard Vic 24 Feb 2016 and read pages 46 – 56).

The committee will be a bi-partisan one with 2 members from the Coalition, 2 from Labor, 1 Greens and 1 Sex Party. Shadow Minister Edward O'Donohue will be heading it. If you remember Edward O'Donohue was the Minister who tabled our huge Rate Justice Petition and he has personally asked for the anomaly of rates for retirement villages to be included in this inquiry. So I believe we are in safe hands. A pat on the back and a thank you to all of our members who lobbied their politicians in their areas asking them to support this motion. We did it!

This we hope is the lead up to the appointment of an Ombudsman for retirement housing. A culmination of 2 years work but now the next

stage begins, this will mean stepping forward and telling your stories of retirement living to the committee.

The NARI survey is out and available on our website for you to read, it has already been sent the Parliamentary inquiry committee along with our Access to Justice and the Consumer Property Act review submissions. The NARI Survey was the first independent survey on retirement villages in Australia. Thank you to all who bothered to send your forms in. The response was huge with almost 30% input. According to NARI this was a great success as they only expected 10%, which is the average. Thanks also go to Vice President Lawrie Roberts for putting together the two excellent submissions mentioned above.

The submissions for the Local Government Act review were submitted late last year and at the moment they are being collated. The outcome

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of these can be seen on the website:

[www.yourcouncilyourcommunity.vic.gov.au](http://www.yourcouncilyourcommunity.vic.gov.au)

Meetings will be held in different parts of the State for you to have your say. We urge you to attend and argue your case, the information about these meetings can be found on the above website as well as copies of all submissions.

You will notice a new contributor to our newsletter. His name is Robert Phillips, a lawyer who specializes in Retirement Villages. RRVV have engaged his services to provide to you a different legal issue for each newsletter. I have to point out that this is not a legal 'opinion' however it is an explanation of your rights and responsibilities in village life. If you need to seek legal advice from Robert his contact details can be found on our website. He is arguably one of the most experienced lawyers on this subject in Victoria who is not employed by the Owner Operators.

Best wishes,

*Lesley Menzies*



**BETTER  
LIFE  
MOBILE**

As indicated on page 7 our membership records system, which has been in use since 2009, is being replaced. Rather than adapt a proprietary product, the RRVV has been offered great assistance by the Managing Director of Better Life Mobile to have written for us a database program that will service our needs for the foreseeable future – at a tremendous saving of what a commercial enterprise would normally charge.

In our appreciation, the RRVV is promoting Better Life Mobile to its members. The use of mobile phones is increasing at an unprecedented rate – with many people now disconnecting their fixed line service. To make calls to a mobile phone can be very expensive. Better Life Mobile offers low cost plans to disadvantaged and low income Australians, and now extends their offer to Retirement Village residents.

If you hold a health card, the \$22 a month plan (an extra \$2 if you do not hold a health card), is generally adequate for most users. An unlimited plan is \$35 month (\$37 without a health card). These plans give both voice and data (the internet), and can be used with any make of mobile phone. This is what you get - no extra charge is made calling a mobile phone.

\$22 Month (\$24 without health card).

250 minutes of voice calls within Australia  
500 MB data\*. Free talk between 7PM – 7AM.

Free talk between Better Life customers at any time. Free unlimited SMS.

\$35 Month (\$37 without health card)

As above, but unlimited voice calls within Australia and 2.3 GB data\*.

There are no contracts, no bill shocks, no penalties. You can keep your existing mobile number.

Phone (03) 9018 5349 – order at [www.betterlifemobile.com.au](http://www.betterlifemobile.com.au) – or get further details from: [enquiries@betterlifemobile.com.au](mailto:enquiries@betterlifemobile.com.au). Better Life Mobile uses the Telstra mobile network.

Please mention the RRVV when making your enquiry.

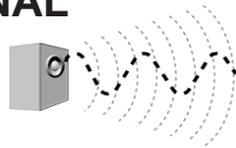
\* Increased data allowances are imminent

**FREE PUBLICITY  
FOR  
VILLAGE EVENTS**

If you would like to publicise events or activities in your village to a wider audience, please send us the details and we will put them on the RRVV website.

Just send an email to [rrvv.vic@gmail.com](mailto:rrvv.vic@gmail.com) with all the relevant details.

**ANOTHER PERSONAL PERSPECTIVE ...**



Noise can be:

- Thrilling - a beautiful piece of music
- Delightful - a baby’s chuckle
- Deafening - amplified heavy metal “music”
- Soothing - a Brahms lullaby
- Frightening - background music to a horror film
- Stirring - massed pipe bands playing
- Insidious - creeping, unwanted, into your head
- Infuriating - beyond your control
- Inevitable - when you live in a retirement village
- Stressful - the barking of dogs

I spent Christmas with my son who lives in a very small unit on the ground floor of a very old building in the very old suburb of Islington in London.

The first time my son turned on his TV while I was there, I immediately found myself monitoring its sound volume. My tension level rose when I felt the sound was too loud and I felt a strong urge to turn it down.

Then I realized I was not in my unit at The Beehive. I was in a unit where the walls were thick and where the intervening floors were made of concrete. In other words my son’s unit was virtually soundproof. He didn’t need to constantly monitor the level of noise he was making.

After living in The Beehive for 18 months I have become very sensitive to any noise I make which may disturb my neighbours who live beside and beneath my unit. I am equally sensitive to any noise that my neighbours may make as well.

One of the big adjustments demanded of anyone who moves from the classic suburban bungalow which stands alone on a largish block of land to any type of community living is the issue of noise.

Of course in the classic suburban dwelling there can still be noise problems – dogs, arguments, loud music, revving cars are a few examples. But somehow noise is different in a block of units or a retirement village of conjoined units. Somehow the noise is closer – is more personal. Maybe it is as a result of a heightened sense of loss of space and independence.

At The Beehive we can hear our neighbours’ footsteps, their vacuums, their voices, their music, their TV, their visitors, their showers, their washing machines, the opening and closing of their unit doors. These noises are very personal and very different to the usual noise of suburban living.

Frequently this noise of ordinary living is the source of deep conflict between residents.

I have come to the conclusion that nothing can physically be done to fix this problem of noise. All that is within my power is to adjust my thinking, my expectations, and my feelings about noise.

It is not easy for me to switch off the noise receptor in my brain and sometimes it depends on my existing stress level as to whether or not I can shut out the offending noise. However honing this skill can contribute to the quality of my life by my being:

- Calm
- In good relationships with my neighbours
- Relaxed in my retirement village living

Worth the effort.

**LOVE THY NEIGHBOUR DAY**

On the 27th March, Easter Sunday it is ‘Love Thy Neighbour Day’. When living in a retirement village we find it hard to ignore our neighbor. We do live very closely together and sometime just a wall separates us.

However sometimes we forget to check up on our single ladies and gents. Many villages apply a ‘buddy system’, this works when we have to observe on whether the blinds are raised or not or some other signal. If not, a phone call can be made just as a check up. It is always good if this is pre arranged of course as we don’t wish to be seen as nosy or interfering.

Perhaps you could use this day in your village to organize a buddy system. Caring for one and another in a retirement village is one of our best assets. No matter if we get along or not when the chips are down we are always there for each other.

*Lesley*



## HAVE WE THE MANAGERS WE DESERVE?

Have we the politicians we deserve? Some might say yes because we voted them in and we can vote them out if we are not satisfied with their performance.

Most residence contracts show the manager as a company. We do not vote our managers in or out in so in one sense we cannot blame ourselves if we get poor management. On the other hand, if we remain passive in the face of underperformance, we can hardly expect improvement.

Again, most residence contracts require the residents to contribute all the funds needed to run and maintain their village. Yes, most of our villages are self-funding. On top of paying for the operations and maintenance of our home, we also contribute funds (typically as a deferred management fee) to the management company, which uses the money solely for company purposes including distributing profits to its shareholders.

Village management companies lack normal commercial incentives to perform for their customers. The self-funded business model insulates the companies' profits from any inefficiency in their management of our villages. It is not surprising some managements become complacent. Residents, however, have a keen interest in management efficiency because the operators are spending our money. Moreover, even a small improvement in management can make a significant difference to resident satisfaction and sense of security. If we want improved performance from our managers, it is up to us to incentivise them?

The management company appoints the village manager and his or her staff. Residents typically have no formal say. Accordingly, we have to work with, and on sometimes on, the village manager the management company sends us.

Australians do not negotiate as much as the people from some other countries do. If we do not like the product, service or price, we are more likely to take our business elsewhere

than to try negotiation. However, when we feel cheated, we might appeal to an ombudsman if there is one.

When we do not like the way the manager manages our village, what can we do? Some of us do move out, but this is rarely the most financially efficient way of dealing with problems. Others grudgingly accept the situation. A hardy few refuse to accept getting less than full value for the money they pay for village operations and maintenance and set out to persuade the manager to change.

RRVV does not underestimate the difficulties residents face when the manager underperforms in one or more ways, and they seek improvement. Nevertheless, some brave souls do take on the system and succeed.

Of course, many villages are content with their manager. Residents can still make a significant contribution to the betterment of the community. Residents bring extensive skills and knowledge to the community developed over their years in the workforce and through running households. Residents also develop a deep understanding of their village. Properly applied (for example, through residents' committees) residents' skills and knowledge can add long-term value to village maintenance and operations.

Nevertheless, RRVV case studies suggest that there is likely to be considerable conflict when residents challenge a manager to do a better job. Where there is a battle, the contest is not as one-sided as might seem, at first, to be the case. As identified above, residents possess considerable skills and knowledge and, therefore, do have significant power.

Two hundred or so residents most with over fifty years of adult life experience and on average around four years as village sidewalk supervisors can be a formidable force. On the other hand, the age of typical village manager employed by the management company is somewhere around half the average age of residents, lacks relevant experience and is under-trained for the job. For example, few have the necessary detailed understanding of the Retirement Villages Act and in the case of owners corporation villages, the Owners

Corporation Act, and the relevant residence contracts. Few of them have the necessary commercial background. Similarly, few have training or experience in property maintenance. Very few have experience in managing catering operations (not relevant in all villages, but essential where residents pay to eat in). Above all, few understand the needs of older people.

Some village managers rely on bluff and get away with it for years if no one challenges them. If you do challenge village manager bluff, be prepared for a push back. Nevertheless, dealing with bluff head-on is usually worth the challenge.

What distinguishes those who successfully challenge the management company from those who do not achieve significant progress?

They:

1. Have mission beyond solving the immediate problem (e.g. to make a long-term difference)
2. Have a realistic objective that recognises the perspective of the other side
3. Have a working knowledge of the relevant Acts (Retirement Villages Act and in the case of villages with an Owners Corporation the Owners Corporation Act) and your residence contract
4. Have a strong sense of their rights as customers and see themselves as equals of the village manager rather than subordinates
5. Gather hard evidence and double check it (residents collectively can often assemble more local evidence than the manager)
6. Are assertive (as distinct from either aggressive or passive) in their approach, challenge underperformance and expose bluff for what it is - nonsense
7. Negotiate
8. Persist (even quite a simple problem can take from 6 to 12 months to resolve and major matters can take years)
9. Present a united front (it helps if your residents' committee leads)
10. Are willing to take their case to the top of the management organisation, if necessary. Going

over the head of the Village Manager is not as radical as it might seem, as the root causes of village problems are often beyond the control of local management.

If we want to, we can change management behaviour for the better. Yes, we can have something closer to the management we deserve.

*Lawrie Robertson*

P.S. You might ask why residents should have put on this much work to get good management. RRVV believes we should not, and is pressing Government to make changes to the Retirement Villages Act and its regulations ensure we get more of what deserve.

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## YOUR MAIL BOX

Over the years it has come to my attention during conversations with different members in a variety of villages that they are not allowed to place any notes or material in any other mailboxes in the villages as per the direction of the Village Manager.

This could be seen as a form of censorship of your mail. The only other scenario that this issue could be compared with is in a prison where the prisoners mail is censored.

Your mailbox contents whether they be received in a mail room or in a block at the end of your street or even in front of your unit is your property, just the same as if you lived on a street in a town or suburb. You have the final say as to just what mail you wish to receive. If you do not want to read the junk mail then it is your right to have a sticker on your box saying just that. It is not up to the Village Manager or the Owner/Operators to control your mail or to say what you can or cannot read. This is a form of repression and control and should not be tolerated. I am sure it not written in your contracts or village law.



*Lesley Menzies*

**MAINTENANCE**



They say that there are two things that are certain: death and taxes. The other thing that is certain for retirement village residents is maintenance of their unit and of the retirement village complex.

The purpose of this article is to provide information about who is responsible to pay for this maintenance.

The need for maintenance obviously increases with the age of a village. And it is in the interests of both village owners and residents that the village is maintained and in some circumstances developed. The interests of the village owner is obvious, the interest of the resident relates to the ability to sell the unit and get the best price possible.

The obligations of owners and residents are determined by the relevant legislation and the resident agreement.

For residents who occupy their unit under a licence or leasehold arrangement, the relevant legislation is the Retirement Villages Act 1986 (RVA). For residents who own their unit where the village is strata titled, the Owners Corporation Act 2006 (OCA) also applies.

This is important, because the RVA is silent when it comes to who is responsible for maintenance issues. In contrast, the OCA specifically deals with maintenance of common property and certain aspects of the unit.

**Maintenance of the unit**

The responsibility for maintenance of the unit is usually set out in the resident agreement under a heading called “resident obligations” or “resident covenants”. Obviously each agreement will be written slightly differently, however the thrust of these clauses usually includes an obligation to keep the unit and the chattels contained in the unit clean, tidy and in good repair. This may include repairing damage caused by guests, keeping the unit free from rubbish and vermin,

painting and redecorating the interior of the unit in a proper and workmanlike manner etc

As already stated, the RVA does not deal with maintenance of a resident’s unit. However the OCA imposes on a resident or lot owner an obligation to maintain “in a state of good and serviceable repair” any part of the lot that affects “the outward appearance of the lot”. This could include for example maintaining the tiles of an external balcony that was attached to a unit.

**Refurbishment of the unit**

When a resident leaves – the question may arise as to who is responsible for refurbishing the unit. Again this is not covered by the RVA and it is the resident agreement that will usually include a clause requiring residents to pay the reasonable costs of cleaning and refurbishing the unit. This refurbishment could include repainting, re-carpeting, and renovating bathroom and kitchen. In some cases the agreement will not refer to reasonable costs but may specify that after a period of time, certain items such as carpet and chattels must be replaced at the cost of the resident. Each agreement will be drafted slightly differently so residents would be well advised to check their particular agreement so they are forewarned about the approach that will most likely be taken by the owner.

**Maintenance of common areas**

Again, the RVA does not impose obligations in relation to maintenance of common property or common areas. The resident agreement will usually set out various services that are to be provided by the owner. In some agreements these are referred to as “general services”. Included in these general services is usually a paragraph requiring the owner to maintain, repair and renovate the retirement village including items such as roads and plant and equipment.

The agreement will then usually state that these general services are to be paid for from the service/maintenance fees paid by residents.

An issue arises when the total service/maintenance fees are greater or less than the

cost of general services. Some agreements may state that if there is a deficit/shortfall, ie the cost of general services is more than the service/maintenance fees, then this deficit is rolled over to the next financial year or the agreement may allow for a special levy being raised (see section 38(6) of the RVA). Another alternative is that the owner can seek to increase the service fees in accordance with section 38 of the RVA. This section in effect allows the statutory increase to service/maintenance fees to be varied in certain circumstances eg where this is approved by resolution of a majority of residents. Residents should be aware that if any increase to the service/maintenance fee is not agreed to and the manager has acted reasonably and there is a deficit, a manager may withdraw services without risk of breaching the resident agreement.

If there is a surplus, the agreement may say that this amount is rolled over to the next financial year, or is applied to a fund such as a "capital replacement fund". The capital replacement fund is usually defined in the agreement as a fund that is used for replacement of capital items. In some villages the contribution to this fund is separate to the service/maintenance fee and is set out specifically in the agreement.

In the case of a strata titled retirement village, the OCA deals specifically with maintenance of common property. The owners corporation has the obligation to repair and maintain common property. In villages of more than 100 lots or annual fees exceeding \$200,000, a maintenance plan and maintenance fund must be established.

### **Conclusion**

As stated earlier, it is in the interests of residents and retirement villages owners to maintain the village and units. Resident's rights and obligations will vary depending on the terms of their agreement. However if all parties act in a reasonable manner then issues of maintenance costs and responsibility for those costs should be able to be resolved without significant conflict.

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## **BACK OFFICE NEWS**

The RRVV's most important assets are its members; considerable attention and resources are given to maintain accurate, up to date secure records of all our members so that we can keep in touch and provide support when needed. Last year your committee reviewed the current membership records system, based on a personal computer, and concluded that it was no longer adequate for this purpose.

Consequently the RRVV committee has decided to replace the current membership records system with a secure, online system which will be more reliable and easier to manage and use. We are being helped in this project by the Managing Director of Better Life Mobile who is kindly providing the necessary programming skills at concessionary rates.

When finished, the new system will be hosted on a professionally managed, secure server in a 24 hour data centre. The conversion project has only just begun and is expected to take several weeks.

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## **CALLING ALL RLO'S**

To all our Resident Liaison Officers (RLO's) who help in so many ways their fellow residents and the committee of RRVV.

I feel we don't have as much contact with you as we might or we should. If you have any ideas or suggestions that the RRVV committee could do to make your job easier to assist our members please contact me.

Also don't hesitate to let me know if you need more newsletters or enrolment forms if you should wish to do a membership drive.

Our RLO's luncheon will be held again later this year at the same venue (date to be advised), it is our way of saying thank you and of course getting to meet up with you all again, we had a great day last year, lets hope more can make it this year.

Very important is notification of any changes to RLO's and alternative RLO's.

Many thanks,  
*Owen Menzies*

## **MAJOR INQUIRY INTO RETIREMENT HOUSING SECTOR**

The Victorian Parliament's Legal and Social Issues Committee has commenced a comprehensive inquiry into the operation and regulation of the retirement housing sector.

Retirement villages, caravan parks, residential parks and independent living units are all included in the scope of the inquiry.

"Our aim is to identify opportunities for improvement and reform," said Committee Chair Edward O'Donohue.

"We invite the Victorian community to have a say. In particular, we welcome the views of residents in retirement housing, their families and retirement housing owners and managers," he said.

The Committee will be examining the existing legislation to ensure it reflects the diversity of retirement housing types.

Under the inquiry's terms of reference, the Committee will be seeking to ensure there are proper consumer protections in place, adequate dispute resolution procedures, fair pricing and consistent, simplified management standards and regulations across the sector.

"This inquiry is an important opportunity to hear the community's views about retirement housing and identify ways in which the sector can best meet the demands and challenges it faces into the future," Mr O'Donohue said.

The Committee has been asked, as part of its terms of reference, to consider whether or not to recommend the appointment of a Retirement Housing Ombudsman.

It will examine the impact of local government rating on retirement housing.

Comparable reviews and recommendations for reform in other Australian and overseas jurisdictions will also be considered.

The terms of reference for the inquiry are available from the Committee's website.

*Issued: 16 March 2016*