

## Buying into a Retirement Village

Retirement village properties are not just another property purchase, a retirement unit purchase has additional legislations to comply with and requires extra careful consideration. The following are some questions to consider before signing a contract to purchase a retirement village unit:

### 1. What are the different types of retirement village contracts?

It is not unusual for two residents living in adjacent units in one retirement village to have different rights and responsibilities under their respective contracts. There are different legal forms of tenure depending on the retirement village contract e.g. strata title ownership, leasehold estates, licence to occupy /company share arrangements etc. It is important to know the different types of ownership to be able to negotiate with the village owners regarding the type of tenure that is most suitable for you.

#### Strata title Unit

This is one of the most common type of contract for retirement villages. A retirement village strata unit is similar to other strata-title scheme in that you pay the purchase price and become a member of the owner's corporation. However, for retirement village strata-title schemes, the sale is conditional on the Retirement Village operator approving you as a resident and then you will be required to enter into a management contract agreement with the village owner. Note, there may be further maintenance charges and fees applicable on a monthly or quarterly basis.

#### Lease/ licence

In this case you don't buy the title outright but instead you enter into an agreement to lease the land from the village owners. This arrangement most likely comes with on-going monthly / quarterly maintenance charge.

#### Company title

For a company title unit, instead of buying the title of a property, you are buying shares in a company. You are obliged to abide by the Constitution of the company and the shares you bought will give you the right to occupy a unit in the village. Upon leaving the village, you will receive the proceeds of the share sale minus any relevant fees imposed (see below).

#### Unit Trust

Under a unit trust contract, you are buying a unit in a trust which carries your right to occupy the unit. As it is a trust, the property is owned by the trustee who holds it for the benefit of the unit holders, the residents (in line with the terms of the trust). It is imperative that you seek advice before signing a company title/ unit trust retirement village contract as there are various complexities involved.

#### Cost associated with leaving the Retirement Village

It is important to note that depending on the terms of your contract, the retirement village operator may charge various exit fees including:

- a. Exit fee;
- b. Reinstatement fees;
- c. A share of the increased value of the unit;
- d. Marketing or sale fees;
- e. The proceeds of the sale.

### 2. What protection does *the Retirement Village Act 1986* afford me?

*The Retirement Village Act 1986* regulates the relationship between residents, village owners and managers. Under the act, retirement village operators / the owners are to provide the following documents to you:

1. **Information factsheet** about the village (allows you to compare different villages);

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2. An expanded pre-contract **disclosure statement** (in the approved form) (details costs of moving into, living in and leaving their unit);
3. Pro forma **Management Agreement** (where applicable e.g. with strata title unit); and
4. **Retirement village contracts** will have to include basic rights and responsibilities of the managers, owners and you as resident.

In addition to these, you may request to inspect particular documents that are held with the operators. For example, if you are buying for *company title unit* request for the company's constitution; and if you are buying *strata title unit* request for the owner's corporation certificate together with the minutes of the last AGM.

Depending on the Village, the operators are also obliged to provide other documents such as contract for specific services they are to provide or rules / by-laws of the Village. All the documents including the Contract has to be given to you at least 21 days before you enter into any agreement.

\*The factsheet and disclosure statement are important in assessing the financial obligations associated with retirement village living. It is advisable to bring the documents to a legal practitioner to better understand the implications.

### 3. Are there cooling off periods?

The cooling off period applicable for retirement village contract is a statutory minimum of three business days from the day you sign the contract.<sup>1</sup> You can terminate a retirement village contract within this time period by either giving notice to the village owner or leaving a signed notice at the village owner's address (as stated in the contract). In that case you should be able to get back most of the deposit and moneys paid (the owner can retain \$100 or 0.2 percent of the contribution).

### 4. Other matters

Some preliminary suggestions regarding things to look out for / consider in the contract:

- a. Whether or not you will be entitled to the capital growth of the property;
- b. What are the various fees and charges imposed by the village operator;
- c. Any other hidden cost?;
- d. Transparency of ongoing fees (It is important to know what you are paying for and how much);
- e. Whether or not you have to refurbish the unit before resale;
- f. Any restrictions on selling the property?;
- g. What is the ownership structure?;
- h. The lifestyle and facilities in the Retirement Village;
- i. Your rights, responsibilities and restrictions as a resident; and
- j. Security of your tenancy.

Whilst retirement villages has much to offer in terms of security and peace of mind, it is important to carefully consider the complexities involved especially the financial implications under the contract. Every contract is different with different implications. To better understand a retirement village contract, contact contact the team at Lyttletons Lawyers on **(03) 8555 3865**.

For general information about the retirement village lifestyle you can go to the RRVV website (Residents of Retirement Villages Victoria Inc). For more information about signing a retirement village contract you can go to the Consumer Affairs Victoria (CAV) website.

**Please note Lyttletons Lawyers' new address is 2/128 Centre Dandenong Road.**

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<sup>1</sup> Section 24, *Retirement Villages Act 1986*