Introduction

SA retirement village information for prospective residents

Moving to a retirement village is a major decision that has far reaching effects. As a lifestyle decision, it is important that prospective residents carefully consider all the issues involved with making such a move.

Retirement villages are regulated under the *Retirement Villages Act 1987* ("the Act") and the *Retirement Villages Regulations 2006* ("the Regulations").

The Department, through the Office for the Ageing (OFTA), is responsible for administering the Act/Regulations.

In relation to the administration of the Act/Regulations, the Department fosters a policy of mediation and conciliation, as well as consumer protection. It also emphasises the disclosure of information to prospective residents &/or their families/friends, to assist in making an informed choice about housing options.

It is important that prospective residents, existing residents, residents' committees, owners &/or administering authorities understand their rights and responsibilities under the Act/Regulations.

The information provided here is designed to help you understand these rights and obligations. It contains general information which is useful to consider before entering a village, and on a range of aspects relating to living in a retirement village.

It is a guide only and is not intended to replace the Act/Regulations. It is recommended that you seek advice (family/friends/legal/financial) prior to making a decision about moving into a retirement village.

What are retirement villages?

Retirement villages are complexes of residences or a number of separate complexes of residences on common land.

These residences are intended for residential use under a retirement village scheme.

The Act defines a retirement village scheme as one that is established (predominantly), for retired persons and their spouses under which:

- residences are occupied under a lease or licence; or
- the right of occupation is conferred by ownership of shares; or
- residences are purchased from the administering authority, subject to a right or option of repurchase; or
- residences are purchased by prospective residents on conditions restricting their subsequent disposal.

Government of South Australia
SA Health

It does not include a scheme where residents do not pay a premium for admission as a resident.

What is the Retirement Villages Act 1987?

The *Retirement Villages Act 1987* is a South Australian statute that regulates the management of retirement villages and the rights of residents.

The Act is designed to ensure that retirement villages achieve a balance between the rights and obligations of residents and administering authorities by:

- regulating the making, content, operation and termination of residence contracts; and
- providing for proper consultation between residents and administering authorities; and
- providing for dispute resolution processes.

Your rights under the Act

If you choose to live in a retirement village, you can expect that under the Act you will have various rights, and be entitled to a number of conditions which include:

- provision of a residence contract and related documents which clearly disclose conditions associated with your right of occupancy and costs for which you will be responsible
- an administering authority who must consult with you on matters which may impact on your finances, lifestyle and the village, and provide you with information which responds to any questions you may have about the management of village finances
- the quiet enjoyment of your residence and chosen lifestyle
- possible access to a residents' committee which could keep you informed of village activities, as well as assist in addressing any issues residents might have with the administering authority
- a clear village dispute resolution process and access to informal and formal, independent redress mechanisms which can assist in ensuring that your rights are protected.

Commonly used terms

Administering Authority (AA): the person by whom or on whose behalf the retirement village scheme is administered

Introduction

Managers: company/individual(s), employed by the AA, responsible for the day to day management of the retirement village

Premium: the payment made to the AA to secure the right to occupy a residence (this payment may or may not be part refundable)

Recurrent Charge: any amount payable to the AA on an ongoing basis *(must be described in the Residence Contract)*

Maintenance Fee: often referred to instead of the term “recurrent charge”

Capital Replacement Fund: a fund usually set up for the replacement of capital items *(the name of any fund & its purpose must be described in the Residence Contract)*

Long Term Maintenance Fund (Sinking Fund): a fund usually set up to meet non-budgeted, unplanned expenses or long term maintenance e.g. external painting *(the name of any fund & its purpose must be described in the Residence Contract)*

Personal / Additional Services: those services which can be made available to residents on a personal basis, often for a fee, and not necessarily provided to all residents

Residence Contract (Loan Licence Agreement, Resident’s Agreement): a contract under which a person enters into occupation of a residence in a retirement village

Re-license: retirement village residences in SA are usually licensed to individuals. This grants occupancy rights. Once a contract is terminated and the residence vacated, the AA has the right to re-license that residence to another person

Residence Rules: rules with which residents of a retirement village are expected to comply. Rules can only be amended in consultation with the Resident’s Committee

Resident: a person who has been admitted to occupation in accordance with the terms of their residence contract

Retired Person: a person who is 55 years or older and has retired from full-time employment

Residential Aged Care Facility (formerly hostels and nursing homes):
accommodation providing care for people who have been assessed by an Aged Care Assessment Team