

**PRESIDENT'S REPORT
TO AGM
HELD AT THE DOMAIN ASHMORE QLD.
15th SEPTEMBER 2009**

Three principal objects of the Retirement Villages Act are:

- a. To promote consumer protection and fair trading practices;
- b. To encourage the continued growth and viability of the industry.
- c. To encourage the adoption of best practice standards by the retirement village industry.

Despite these tenets being espoused regularly by the major stakeholders, along with the need for Openness and Transparency, many Operators are still reluctant to accept that these three principals are not mutually-exclusive, and that by adopting best practice standard and practicing/promoting consumer protection, the viability of the Industry will be assured. In other words; satisfied, contented residents are the best ambassadors for the Industry and could contribute significantly to an enhanced entry rate. This entry or sale/resale rate is a major consideration in the financing equation for village development. In recent years, the rate has been approximately 4.5 unit sales/resales per month, but has slumped to less than 2 per month since the onset of the Financial Crisis.

One of the issues that dissuade well-informed prospective residents is Exit fees. There is continued resistance from some Operators to the District Court decision in the Saunders vs Paragon case which reinforced the ARQRV view that a natural reading of the RV Act Section 15(2) is that Exit fees are to be calculated on a daily pro-rata basis for any portion of an incomplete year of residency. Consequently, that interpretation should have been applied effective from 1 July 2000, the date from which the Retirement Villages Act 1999 became effective. This Association will maintain that stance on every exit fee calculation and, if necessary, seek reinforcement of the decision in the appropriate court.

Other matters for concern are that some Operators will not support the Energy Efficiency programs; they refuse to allow installation of Solar panels or insulation material in their villages. This is hardly a best practice standard because it denies residents the prospect of reduced electricity bills in an age of escalating electricity tariffs - and at no cost to the operator; difficult to understand. Not only that, as more and more energy saving solar heating and thermal insulation becomes the norm, informed prospective residents, who may have experienced the advantages in their existing homes, may reject village Units which do not have these energy efficiency measures incorporated. In other words, scheme operators who do not encourage such installations are really shooting themselves in the foot. Perhaps their Associations, the

RVA and ACQ will join the ARQRV in supporting these programs, which can only enhance the viability of the Industry.

On the subject of insurance, many operators apply large excesses to village insurance policies and then, in the event of a claim, try to recover the amounts of the excess from the resident, a practice that has been decried and ruled unlawful by the Commercial & Consumer Tribunal. Other operators refuse to provide documentation which would allow Committees to verify financial matters, especially related to employees Salary & Wages. Operators, almost in every village continue to quote the Privacy Act. Whether or not the Privacy Act affords protection and confidentiality to Operators regarding disclosure to Residents of employee records will be decided in a Tribunal hearing expected to be listed later this year. In the interim, Committees should continue to press for this disclosure.

I have mentioned the Queensland Commercial & Consumer Tribunal. There have been, over the last couple of years a review of that Tribunal, to which your Association made a submission. It will be succeeded by a new, more comprehensive Tribunal to be known as the Queensland Civil & Administrative Tribunal (QCAT). It was to have started quite soon, but very recently its nominated Head, a Supreme Court Judge, died. We don't know how long a delay that unfortunate event will cause, although QCAT commencement is still listed for 1 December 2009.

Notwithstanding that the Association has enjoyed a successful and solvent year, the former largely thanks to our lawyer, David Wise, and the latter largely thanks to our retiring Treasurer, Noel Lowrie. However, there have been some less-than-satisfactory aspects of the last year, some relating to lack of support from our members. For example:

- a. Within a 30 minute drive of Ashmore, where we are holding this AGM, there are 14 villages with 840 members between them. Our attendance today is only 33 from that catchment area. That is disappointing, especially when compared to the 30 who travelled from the Sunshine Coast/Northern suburbs.
- b. Approximately 5000 newsletters are despatched each quarter, but only 430 members have agreed to receive their copy by email. Every newsletter we can send via email saves your Association \$1.10. If you multiply that by, say, 500 members, it's not small bikkies.
- c. Our request for members to advise us of any unconscionable clauses in Contracts attracted only three responses. There may not be much we can do about those contract clauses, but before any action can be initiated, you must make us aware of them. We can, then do something about getting them outlawed.

Perhaps part of the problem is inadequate communication, or even lack of interest. Whatever these poor responses are not exactly encouraging. To be effective, the Committee needs feed-back and advice from the Membership. Our strength is in our membership.

There have been several satisfactory and beneficial Mediation hearings :

- ◆ Interpretation of Residence Contracts.
- ◆ Changes to Public Information Documents and enforcement of Villages Rules.
- ◆ By-Laws vs Village Rules.
- ◆ Termination of right-to-reside.
- ◆ Pro-rata Exit Fee calculations.

Favourable Tribunal Hearings have dealt with:

- ◆ Tew vs Masonic Care VH005-08 MRF Mismanagement
- ◆ Mayer vs Qld Villages VH004-08 Availability of financial documents
- ◆ Sheppard vs Urimibirra VH009-07 Refund of GSC overcharge

ARQRV Financial: - Prudent funds management:

Excellent work by the Treasurer, as witnessed by audited Annual Statement of Financial Accounts.

Short-term deposits; less cash at the bank but sufficient to ensure prompt payment of accounts. To retain our advantageous financial situation, the Committee recommends that the Association

1. Seeks Government grants and subsidies.
- 2 Endorse resident-beneficial products and activities.
3. Obtain sponsorship for Newsletters.

Note increased expenditure on :

Legal Costs: Visits to villages. Attendance at Industry-sponsored events, including ACQ Conference and RVA Conferences, LexisNexis RV Law Intensive.

Decreased expenditure on :

Administration, Data Base co-ordination, bookkeeping & production of newsletter, all tasks now being done by Committee members or Volunteers. Special mention here to Vi Armstrong for her efforts in maintaining the membership database.

Conference/Visits:

RVA National Conference - Perth, November 2008

LexisNexis Law Intensive - Brisbane October 2008

Aged Care Qld Conference May 2009.

The Association contributed extensively to a paper initiated by the ACCC titled: 'Questions to be asked before entering a Retirement Village'. Our input was included unchanged and is now available on our web page.

Members	Units	Residents	Life Member
30 June 2009	5071	7155	446
1 July 2008	<u>4628</u>	<u>6538</u>	<u>273</u>
	443	617	173

These figures reflect a satisfactory trend, perhaps as a result of our slogan

'Every Member Get A Member'

Policy Development:

June 2008 the Association participated in a Ministerial Working Party to identify any 'drafting errors' in the RV Act. An interesting term 'drafting error', which can be interpreted as any inclusion in the Act Amendment Bill that may be interpreted as not favourable to the Operator! The ARQRV listed 29 items that in our view required some amendment to meet the disclosure and/or consumer protection requirements of the Act. After three days of friendly confrontation, the only agreement reached was for a change to the 'Cooling-Off' period. No consensus whatsoever on the remainder; these items have been carried over until the next series of talks scheduled for November 2009.

The last year has been extremely busy and demanding for the Committee.

Approximately 4800 enquiries have been received and actioned by email, telephone, letter or a personal visit. Additionally the Treasurer and Database coordinator each handled approximately 4500 membership transactions.

Since July 2008, Committee members have travelled 1600km by road and air to visit 106 villages between Cairns and the Gold Coast and west to Toowoomba. A Sterling effort from a dedicated band of volunteers. On your behalf, I congratulate the outgoing Committee. Thank you team for a job well done!!