

# Association of Residents of Queensland Retirement Villages (Inc)

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ARQRV

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NEWSLETTER

August 2007

## RECOGNITION

At a function at Parliament House on 19th June 2007, the Minister for Fair Trading, the Hon. Margaret Keech, made a number of 'Queensland Consumer Protection Awards'. The President of our Association and his wife were present to accept from the Minister a "Highly Commended Consumer Advocacy Award to the ARQRV for Outstanding Contribution to a Fairer Queensland Market Place".

We can all be reassured, I think, that we are not exactly a voice crying out in the wilderness. That doesn't mean, of course, that we should now lower the decibels!

## Ownership

We really can't keep up with them. The Victoria Manor village now named 'Renaissance', which we said had become, along with the other 'Manor' group villages, part of the new 'Meridien' group, is in fact still a Manor village. Maybe only until its development is finished.

But another big player has walked on to the playing field - Babcock and Brown. Primelife Corporation, long an Aged Care and Retirement Village operator has issued an enormous prospectus announcing their proposal to rename

themselves as Babcock and Brown Communities Ltd. B&B are of course a major financial stakeholder. The approximately 170 pages of excruciating detail in the prospectus makes the 80 pages of our Public Information Documents look quite brief. The group expects to raise 300 to 400 million dollars, including about 25 million dollars from securities available particularly to employees and residents.

It holds out a prospect of 8% per annum return on investment. To our members we can only say beware; remember Westpoint, Finncorp, Bridgecorp, Australian Capital Reserve and others. We ought to say study the prospectus first if you are inclined to invest but you'll probably find it incomprehensible. Alright for big institutional investors who will get their lawyers on to it but hardly easy reading for us poor peasants.

Prime Retirement and Aged Care Property Trust, through its managing entity Australian Property Custodian Holdings Ltd., which owns the Hibiscus villages and Buderim Gardens on the Sunshine Coast, is issuing a prospectus and have expressed an intention to list on the Australian Stock Exchange by December, 2007, perhaps earlier. Since early last year investors in that Trust have

At the foot of the back page you will find a proxy form to use if you wish to appoint someone to vote for you at the AGM. At the foot of page 3 there is a nomination form to use if you wish to nominate somebody for the Committee. Nominations should be posted to our P.O. Box to reach us by 10th September and proxies by 17th September. You may use one or both of the forms.

been unable to redeem their investment, much to the dismay of many elderly investors. Once listed on the Stock Exchange, however, it will be possible to sell one's holdings.

We are not investment advisers but we would remind our members of a caution often in the Australian Consumers' Association magazine 'Choice'. If it seems too good to be true, (thinking of big returns promised) it probably is!

## Privacy Act

When seeking information of one sort or another from your village manager, many of you will have come up against the response that you cannot be given such information because it would be contrary to the Privacy Act. I doubt that there is a village manager, or scheme operator for that matter, anywhere who knows one end of the Privacy Act from the other. If that is the response you get when seeking information ask what Privacy Principle it would breach. Let us know what response you get to that!

On getting explanatory information generally, a past Tribunal chairman once remarked that when residents ask for information the smart response from the operator is to ask what else they would like to know and then to provide it, because that builds trust. If only village operators and their managers had such wisdom there might well be greater trust.

## Deficits and Surpluses

An amendment to the Act, the new Section 102A, which became law on 1st January 2007, allows surpluses and deficits at 30th June, ie at the end of a financial year, to be carried forward and taken into account in determining the following year's charges to residents.

But Section 102A must be read as a whole and in our opinion it cannot apply until the year beginning 1st July 2007, ie it does not apply to surpluses and deficits accumulated at 30th June 2007. The point is that not until the financial year beginning 1 July 2007 does the Act

provide, through S.102A, for a degree of resident participation in adopting a budget for the following year. It follows, we believe, that the carrying forward provision must be contingent upon that.

If you had a significant surplus at 30th June 2007 and your scheme operator is telling you that it must be carried forward then let us know. Similarly, if your village residents have been advised that a deficit at 30th June 2007 will be carried forward and particularly if you are being told that a special levy will be necessary to pay for it, let us know. As with any opinion we offer, our opinion on this is not a statement of law and may need to be tested in the Commercial & Consumer Tribunal.

## Forrester Kurts

This company, with its 'Aveo' villages, is one of the major players in the Retirement Village field and one would have thought that they would be playing by the rules and not trying to steal a march on residents. Alas that is not the case, they are trying to lever surpluses out of their residents. At an Aveo village at Robina, in the Gold Coast hinterland, they tried to get residents to pass a special resolution whereby a significant surplus would not be returned to them - despite that only a couple of years earlier the Commercial & Consumer Tribunal had ruled that a similar surplus had to be refunded. After a lot of procrastination and without recourse to the Tribunal, Forrester Kurts had to refund. Well done Robina residents.

In another Forrester Kurts Aveo village, Lindsay Gardens on the Sunshine Coast, they are trying the same thing. They had a surplus at 30th June 2006 of \$22,155, which should have been returned to residents then, and at 30th June 2007 it had risen to \$44,598. But Forrester Kurts called a meeting to pass a special resolution on what to do with the surplus.

2 In this case the residents were swamped with a lot of confusing sheets of paper with figures

and asked to pass a special resolution to pay the 2005/2006 surplus into the maintenance reserve fund - “for the future benefit of the village”! Completely out of order; the MRF is supposed to be funded according to need as indicated by quantity survey reports and Section 98 of the Act. To extort a special contribution from residents is inconsistent with the Act. If ever there are insufficient funds in the MRF to pay for proper works then the scheme operator is to pay and treat it as an interest free loan to the MRF in accordance with Section 98(6)&(7) of the Act.

Aveo also wanted the 2006/2007 surplus carried forward in the general services fund and asked residents to vote on that proposition by special resolution. Such carrying forward is not required by the Act until 30 June 2008. That surplus should have been refunded to the residents who subscribed it and Aveo knows that well. They are incorrigible.

What is dismaying and disheartening is that the Queensland Government has accepted 'Aveo' as a 'major sponsor' of and advertiser in the Department of Communities production of a Seniors Week booklet - 'Calendar of Events'. Is the Queensland Government thus in thrall to the Aveo villages operator, and betraying the residents of their villages? Where does the Government think 'Aveo' gets the money to afford that sort of sponsorship if not from Aveo village residents.

Let us not be gulled by this carrying forward of

surpluses. It can and will be used to camouflage an increase in fees which, but for the surplus, would have required a special resolution. With the buffer of the surplus, our fees might not need to be increased even though the budget contains significantly increased expenditure. And then, at the end of the financial year, the S.113 financial statements reveal that S.106 charges were increased beyond the CPI increase. Thus we find that our fees have already been increased - by stealth.

**Local Transport**

On the Sunshine Coast there is something called “Sunshine Community Cabs”. It enables elderly and mobility impaired people to ring a telephone number to get a cab which will collect several people and transport them to shops etc. and return them in due course. There may well be a similar service operating in your area. Ring your local taxi service to find out. Or ring your local Council or Veterans Affairs office. Worth investigating.

**Commonwealth Parliamentary Committee**

There is a standing Commonwealth Parliamentary Committee on Constitutional and Legal Affairs to which we were invited to make a submission, which we did last November, on the topic “Older People and the Law”. In July of this year your President attended a public session of the Committee, presented a further submission and was questioned on the topic. Any member who would like a copy of our submissions need

**Association of Residents of Queensland Retirement Villages  
Annual General Meeting 24th September 2007  
Nomination for Committee membership**

I, ..... of ..... Village,

Nominate ..... of ..... Village

to be (\*)..... of the ARQRV. Seconded.....

I, .....accept the nomination.....  
(nominee) (signed by nominee)

(\*) Insert President, Secretary, Treasurer or committee member.

only ask and we will send copies. Whether anything will come of it is anybody's guess. We hope so but shall not hold our breath because we have too much experience of apparently laudable enquiries and investigations which come to naught.

Community Hall without Management permission, which may be withheld. This is a serious interference with residents' right to meet and invite guests into their village and is not to be tolerated. Also, the Residents' committee had been in the habit of giving new residents a sort of 'Welcome' news sheet explaining, amongst other things, the committee, its Constitution, local bus and rail and other local services.

Management appears to have banned that on the grounds that it is an invasion of privacy. What utter nonsense.

**Invasion of Privacy**

This is laughable but also serious. Management of the Hibiscus village at Brackenridge have told residents that they may not invite a politician to talk to them in the

**Butler McDermot - Solicitors.**  
6 - 8 William Street, Nambour, Qld. 4560.  
Specialists in retirement village issues.

Phone 5441 1044 Fax 5441 7044

**2007 AGM**

**As already announced, this year's AGM is to be held at the Maroochydore RSL club in Memorial Avenue, Maroochydore on Monday the 24th September. Tea and coffee etc. will be available from 9.30 am and the meeting will start at 10.00 am.**

**A personal note from President Phil Phillips**

*After a decade of battling intransigent scheme operators I have been experiencing what might be called a degree of 'burn-out'. I have had a couple of what are known in the trade as transient ischaemic attacks. - mini strokes to us commoners! So, medically advised that the next one might not be quite so transient, I have decided not to run for President at the 2007 AGM. Having become President in 1998, I am not anxious to give the Association away altogether and will stay around, in the back-room, but not as a backseat driver, for as long as I am thought to be of some use. It is not for a President to anoint his successor but I know that our present Secretary, Les Armstrong, has been nominated for President. I recommend his candidacy to you. 'Til after the AGM then.*

**Special resolution to be put to the AGM**

Our Constitution commits us to banking with the Commonwealth Bank. The present Committee believes that to be unnecessarily restrictive and would like to see the Constitution altered so that the Association may bank other than with the Commonwealth. We propose to put to the AGM a special resolution, that:

Clause 8.3.1 The words: "the Commonwealth Bank of Australia" be deleted and the following words be substituted: "an authorised Australian Deposit-taking Institution" that includes all the usually used banks in Australia.

**Annual General Meeting 24th September 2007**

**Proxy Form**

I ..... of.....Village

authorise:..... of .....Village

To be my proxy to vote for me on my behalf at the above Annual General meeting.

Signed..... signature of member giving proxy