

WARVRA Newsletter

January 2013

Vol. 13 No. 1



WARVRA

NOTICE OF GENERAL MEETING

The next General Meeting of the Association will be held at the
Piney Lakes Environmental Education Centre, Leach Highway, Winthrop
(The entry to the centre is on the south side of Leach Highway between Murdoch Drive and Winthrop Drive)

FRIDAY 8 FEBRUARY 2013 at 10.00 am

GUEST SPEAKER: Ms Shelley Whitaker

Wills, Powers of Attorney and Guardianship

Shelley is the honorary legal adviser to WARVRA.

Her topic is to help residents prepare for the management and decision making of your village property if by reason of death or incapacity you cannot do this yourself. The ability to make speedy and legal decisions will become more important as the Regulations on capping recurrent charges come into force later this year.

BUSINESS:

President's Annual Report

Treasurer's Annual Report

Election of New Committee Members

There are four vacancies
Three nominations have been received (two year term)

Colin Edwards	(Bethany Waters, Port Kennedy)
Julia Lynch	(River Pines, Wilson)
Denise Nicolay	(RAAFA, Erskine)

Continuing Members of the Committee (second year of term)

Des Cousins	(Harbourside)	Bernard Francis	(Jacaranda Gardens)
Ron Hasluck	(Forest Lakes)	Ron Lullfitz	(Mercy)
David Street	(Lady Brand)	Rob Waite	(Arcadia Waters)

Western Australian Retirement Villages Residents Association Inc

ABN

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WARVRA COMMITTEE DIRECTORY 2012-13

POSITION	NAME	PHONE	EMAIL
President	Des Cousins	9407 7849	dcousins@iimetro.com.au
Vice President	Jane Levett	9387 8598	jane.levett@optusnet.com.au
Secretary	Bernard Francis	9455 2510	marmet@bigpond.net.au
Treasurer/Membership	Ron Hasluck	9456 1991	rhasluck@bigpond.net.au
COTA Representative	Philip Griffin	9371 5277	grifmar@upnaway.com
	Ron Lullfitz	9388 8645	lullfitz@myway.com
	David Street	9586 1667	davenwen@multiline.com.au
	Rob Waite	9452 0797	rob_waite@bigpond.com
	Patrick Wyburn	9271 2733	spwyb@westnet.com.au

THE QUARTER'S NEWS IN SUMMARY

- The Retirement Villages Amendment Bill 2012 has passed through both houses of the State Parliament and has received Royal Assent. However, the provisions of the Act do not become operative until the Regulations containing the detail are approved and proclaimed. This will occur, hopefully, in the next few months.
- Our final seminar for Residents Committees was conducted at the Amherst Community Centre, Southern River on Tuesday 30 October 2012. There was a good attendance and Irena Dillon from the Department of Commerce was again our guest speaker.
- The amendments to the name, objects and purposes and other details in the Constitution were approved at the last General Meeting and on 18 December 2012, the Commissioner for Consumer Protection issued a certificate approving our new name. Two small details in the Constitution still need revision to comply with the wordings required by the Department of Commerce. The Committee has agreed to make these technical amendments and we expect final approval of the Constitution soon.
- Now is the time for membership renewals. We value your fees (small though they are) to help build up our reserves for a "Fighting Fund" if ever needed. But more than that, being able to count you or your village as members increases our credibility as we negotiate with government and village operators particularly over the new legislation and regulations.
- Our Committee member, Rob Waite, is a member of the round table of energy producers and consumers. He has been advocating for the "cost of living allowance", introduced this last year by the State Government to be available to all retirement village representatives—at present, residents in villages that have power contracts with companies other than Synergy are missing out.
- The Retirement Villages Association is no more. At its national meeting in Sydney in November 2012, the association decided to merge with the much larger Property Council of Australia. There will be a sub-section of the PCA called "the Retirement Living Committee".
- The Australian Retirement Village Residents Association Inc held its annual general meeting in Sydney during the RVA national conference. The new national president is Terry Macdonald who is also President of the Residents of Retirement Villages in Victoria (RRVV), our sister organisation in Victoria.
- President Des Cousins will be away on an extended cruising holiday from 18 February to 2 May 2013. Someone else will have the official mobile phone to deal with your enquiries.

WARVRA ACTIVITIES

LEGISLATION REPORT

We were all very excited when the first amendments to the retirement villages legislation were introduced into State Parliament at the end of August 2012, bringing to an end a process of review that had begun in July 2006.

Now, however, we are beginning to see again how slowly the legislative process works. The Retirement Villages Amendment Bill 2012 has now been passed but any changes from it are still months away.

To make sense of this, it is necessary to understand the way the legislation has been structured. Most of the provisions of the new Act do not change the law—rather they give the Government the power to make Regulations that will contain the changes.

So what is happening now is that the new Regulations are being developed. The process the Government is following to do this is very similar to that which it followed in preparing the new Act: the Department of Commerce is hosting a series of round tables in which its officers (middle level managers and senior policy officers) meet with representatives of the interested parties (called “stakeholders”) to discuss the broad content or policy settings for the new Regulations. The identified stakeholders are the owner/operators of retirement villages represented by the Retirement Villages Association (now the Retirement Living Committee of the Property Council of Australia) and Aged and Community Services WA and the residents represented by our association.

The Regulations to be developed have been divided into two groups and a working group of about 10 people is dealing with each one.

The Section 14A Working Group

We are represented on this working group by Patrick Wyburn, David Street and Des Cousins. The group is dealing with the new Section 14A of the Act which says that Regulations may be made about the matters which must or must not be included in a residence contract. This parallels what is already in the Code Division 4 but you must remember the Code is a set of Regulations made under another Act (the Fair Trading Act).

We have the opportunity here to take the present practices in regard to contracts and bring them up to date. Much of the material is able to be agreed by all parties but there are some issues that are beginning to emerge that give us cause for concern.

Three issues of concern to us are:

- the proposal that contracts have a fixed term rather than be for life. We have made it clear that we will not accept any proposal that could mean a contract will run out in the life time of a resident unless it provides a right to extension without any exit fees being payable.
- ensuring that village operating costs (recurrent charges) are on a cost recovery basis only and limited to the day-by-day running costs of the village.

- clarify what is refurbishment, upgrading, capital maintenance or whatever term your contract currently uses and how it is funded.

This working group will also be dealing with some amendments to the Code arising from the Statutory Review that can be made without any additional legislation.

The Section 23 Working Group

We are represented on this working group by Shelley Whitaker and Des Cousins. Section 23 is the new provision allowing the government to make regulations that put a cap on the length of time that recurrent charges are payable after a resident “permanently vacates” residential premises in a retirement village.

There is not much room for argument over the basic issues in this section as the Government made clear in the Minister’s Explanatory Memorandum what the time frames were to be. What has transpired, however, is that the owners/operators (who are still outraged with the Government’s decisions on capping recurrent charges) are trying to make it as hard as possible for departing residents or their representatives to prove that residential premises have been “permanently vacated”.

The owners/operators have indicated that they are going to insist that the necessary notices are given by a party that has full and clear legal authority to do so. It will be easy if the departing resident is alive and able to act legally his or her self. But if the resident is not capable (sick or confused) then notice will only be accepted from a legal personal representative (holding a power of attorney or a power of guardianship). And if the departing resident is deceased, then the only person acceptable to give notice will be the administrator of the deceased person’s estate (demonstrated by probate having been assigned or letters of administration having been granted).

The working group is also dealing with new section 24 of the Act which allows a departing resident to elect not to pay recurrent charges and instead to have them deducted from the selling price with interest being charged on the outstanding balance. The working group has agreed that the interest rate will be the Maximum Permissible Rate under the Aged Care Act, set by the Commonwealth Government each quarter as the interest rate charged on unpaid bonds in residential care facilities. Currently that rate is 7.62%. The rate at the time an election to defer payment of charges is made will apply throughout the period until the property is sold and the outstanding charges paid.

This working group is all considering the charges that owners/operators should be prohibited to charge residents. At this stage, both parties are preparing a list of items for the Department of Commerce. Broadly, the list we are preparing is aimed at protecting residents from paying any charges that are not directly related to the operation of the village. Expenses that relate to the owner/operator’s business should be paid by them.

BITS AND PIECES

What is Wisdom? What does it mean to be Wise?

Have you ever wondered what it takes to be a wise person? What characteristics make one person wise and another not so wise? How do you even know if a decision you make is wise or not? And why do we want or need to make wise decisions anyway?

Wisdom is hailed as one characteristic of humans that can improve with age. Research also suggests that wisdom is something that can contribute to a person's sense of wellbeing and overall life satisfaction. It is something that develops across our lifetime based on the experiences we have lived and allows us to "give back" to those around us.

Researcher Leander Mitchell is currently exploring wisdom as part of her PhD project and in this initial study is looking to characterise wisdom from the perspective of Australia's multicultural population.

If you are currently living in Australia and are aged 50 years and over, you are invited to participate in this study (even if you don't think you are particularly wise yet!). You will be asked to complete an online questionnaire including a range of questions about the characteristics and qualities of wisdom (a paper version of the questionnaire is also available if preferred). It is expected that the questionnaire will take around an hour to complete and it can be completed in the comfort of your own home.

If you are interested in becoming involved in defining wisdom and would like to receive more information about the study and how to access the online questionnaire or you would like to receive the questionnaire via the mail, please contact:

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Have you had problems with your housing situation?

If so, would you consider speaking to CRU researchers about your experiences?



**THE UNIVERSITY OF
WESTERN AUSTRALIA**

The Consumer Research Unit (CRU) in the Faculty of Law at the University of Western Australia is interested in speaking to senior Western Australians (aged 60 and above) about their housing and accommodation issues and concerns.

The CRU is undertaking research, in collaboration with the Council on the Ageing (COTA), to identify senior's housing concerns and to assess whether the present Western Australian and Commonwealth laws adequately address them. The research team is seeking volunteers to speak with them about their experiences.

All information given will be in the utmost confidence. If you participate, your responses to interview questions will be kept confidential. At no time will your actual identity be revealed.

You are under no obligation to participate and if, after speaking with us you decide not to continue there is no obligation to do so.

If you would be interested in contributing to this research, please contact:

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