Retirement Village Contracts - 10 questions to consider

Are you in your later years, already in, or looking forward to retirement? Have you lived in your family home for several decades, and feel it is now too large to live in and maintain? You may be considering moving into a retirement village. If so, it's vital that you fully investigate your options and do your research prior to making a final decision.

The obvious issues are set out in the "LIST OF IMPORTANT INFORMATION" provided by all retirement village providers. As well as addressing the questions outlined below, it's a good idea, when you are visiting a village, to talk to current residents about their experience and how satisfied they are with their choice.

1. Will you own or lease?

It is important to consider whether you are:

a. purchasing a freehold interest (i.e. becoming a registered proprietor on title – note that stamp duty may be payable, and you may or may not be entitled to any exemption or concession); or

b. entering into a loan/lease arrangement.

2. Is the village new or existing?

Take into account the issue of rectification of defects if your apartment has not yet been built, or conversely, the maintenance problems of living in an older village.

3. Have you thought about your health and future aged care?

You should enquire as to whether aged care is offered at an adjacent or affiliated facility, if other types of care are available and as to the location of the nearest hospital. Keep in mind that most retirement village agreements have a provision in them saying that if your care needs increase, you may be asked to leave.

4. Is the location convenient?

How close is the village to the local shopping centre, public transport, medical centre, family, friends and your old home? Is car parking available? Can you keep pets?

5. Will your pension entitlements be affected?

Take into account the possibility of your move affecting your pension entitlements (particularly with regard to the surplus funds gained on the sale of your home). It's advisable to speak with a financial advisor, and Centrelink if applicable.

6. Have you considered the fees & payments payable upon departure?

These may include:

a. the deferred management fee - which will be paid by you. This is calculated on the length of your term and on a percentage of either your ingoing contribution or the next resident's ingoing contribution;

b. the less obvious administrative, capital fund, selling commission payments and refurbishment payments which you may have to make.

7. What are the time periods for repayments to you?

Also note the time period within which the village will make a repayment to you, including when a new resident cannot be found to purchase or take the lease for your property. These periods may vary greatly, and may involve years rather than months.

8. Who bears the capital loss or gain?

You need to clarify who bears any capital loss or gain (and in what percentages) being the difference between your ingoing contribution and that paid by the next resident. Will this be you or the village?

9. What services are included?

You should check the services included in your weekly or monthly service fees, and ascertain any additional services which you will need to pay for. Also remember that a village with more facilities will have more expensive ongoing periodic fees, and these fees may increase rather than decrease.

10. Do you need help seeking advice?

Most importantly, do not be pushed into making a decision until you have done your research and have sought the appropriate legal and financial advice.

Sarah Lindsay, Principal Lawyer

HICKS OAKLEY CHESSELL WILLIAMS
Lawyers & Notary

Contact us at:

Melbourne Office
Phone: 03 9629 7411
Google Map Link

Level 14
114 William Street
Melbourne 3000

Fax: 03 9629 7422
DX: 31331 Mid-town
PO Box 16067
Collins Street West 8007

Mt Waverley Office
Phone: 03 9550 4600
Google Map Link

Central 1, Level 2, Suite 17
1 Ricketts Road
Mt Waverley 3149

Fax: 03 9544 8711
DX: 32002 Mt Waverley
PO Box 2165
Mt Waverley 3149

enquiries@hocw.com.au
www.hocw.com.au

Legal services include:

- Commercial Law;
- Commercial Litigation;
- Commercial Tenancy Law;
- Family Law;
- Wills & Estates;
- Property & Conveyancing

LAW INSTITUTE OF VICTORIA SPECIALIST ACCREDITATION

06/2019