

## Residential Parks and Villages: Falling Through the Gaps

### What are residential parks?

Residential parks are communities where people – who are typically retirees – purchase dwellings and lease the sites they occupy. In Victoria, they are covered by Part 4A of the Residential Tenancies Act, and are sometimes called lifestyle villages, manufactured homes or Part4A parks. They vary greatly in size, style and quality, with some in former caravan parks and increasing numbers that are purpose-built, with dwellings priced in the hundreds of thousands. There is no one reliable source of information about the number and size of these parks, yet there are thousands of Victorians over 55 years old living in this type of housing.

### The Problems

Residential parks suffer from numerous significant, systemic and overlapping issues, such as:

#### Complex & Ambiguous Contracts

Residents report pressure and urgency to sign contracts, which are not standardised, and often complex. There is a lack of expertise within the legal sector to assist residents, and operators may mislead prospective residents about their entitlements and liabilities. The lack of standardisation means there may be diverse contracts, even within the same village - for example, with lease terms ranging from 1-99 years.

### Key Messages

- Residential parks are a growing type of housing in Victoria, home to thousands of older Victorians.
- These types of dwellings are an attractive proposition for older Victorians, due to affordability and lifestyle, including for those known as “the missing middle”<sup>1</sup>, and could play a key role in addressing the housing crisis for older people.
- Rapid industry growth has created a mismatch between existing legal and regulatory frameworks and dispute resolution mechanisms, and the size, scale and nature of this housing type.
- Because they own their dwellings, residents often do not have the option to move elsewhere if conditions in a park or relationships with owners deteriorate, as other kinds of renters do.
- Without significant reform, residential parks will leave residents vulnerable to exploitation and abuse.

*“We were given the lease on the day we were meant to sign it. You’re meant to be given 20 days to look at it. We were sitting at the desk with the owner and the manager, and we had to try and read it then. And also we were given a piece of paper and they said “oh, sign this too” – and it’s a piece of paper to say we have to sell it back through them. And you’re sitting there with your truck full of furniture, there’s lots of pressure and it’s not explain clearly.*

### Fees and charges

Many residential parks have adopted fee structures common in retirement villages like Deferred Management Fees, but these can be unfair and exploitative without the limitations and protections

provided by retirement village law and practice. Rent increases can routinely exceed CPI even though residents overwhelmingly rely on pensions which only increase by CPI.

Exit fees vary significantly across and even within parks, with little transparency or accountability as to how these fees are used, what they cover, or what distinguishes them from rent. Exit fees are often structured so that residents are unable to move to other parks, reducing consumer choice. Of concern to many residents is how exit fees are applied if the resident passes away and bequeaths their home to family.

### **Dispute Resolution**

Residential park residents are largely older people with limited financial resources; site owners are often large businesses with lawyers representing them. This structural power imbalance makes residents reluctant to assert their rights. Enforcement and regulation is weak, and residents are largely expected to rely on inadequate internal dispute resolution processes or costly, stressful and inaccessible Tribunal applications to resolve their concerns. Residents overwhelmingly say this model doesn't work for them, and that they don't want to have to individually police their own rights. Residents feel that they are required to "police" compliance with the law, due to lack of government enforcement.

### **Poor Management**

Residents frequently report that managers lack basic skills in working with older people, or management skills generally. Manager conduct can range from disrespect to overt ageism and discrimination, harassment and bullying. Residents often express reluctance to exercise their rights out of fear of retaliation by managers.

*"CEO came to talk to people in the village, and people complained about things like maintenance of gardens. Anyone who makes comments the CEO says, 'we have to think about our shareholders.' They are also really good at marketing. There's an incredible imbalance of power."*

### **Maintenance and Safety**

As well as lack of clarity about responsibility and lack of responsiveness to repairs and maintenance requests, residents report unmaintained thoroughfares, damaged fencing and plumbing, disabled parking spots with no accessibility, shifting foundations, and rodent infestations. Many residents report either inadequate or non-existent emergency plans and evacuation procedures.

*"We had a toilet backflow issue that lasted about 11 years because the management didn't believe it was happening. Only fixed it once I threatened to go to VCAT."*

### **Sale of Dwellings**

Dwellings in residential parks are unusual in that they are major assets – often representing a resident's life savings – that can only be sold with the consent of the land owner. In many cases, park owners are incentivised to delay or even prevent a sale so they can sell newer units at a higher profit, or to maximise exit fees. Site tenants remain liable to keep paying rent as long as their units are for sale, in some cases for months or years. Existing legal protections, for example, to prevent village owners from unreasonably denying the sale, are insufficient to prevent this conduct. This also affects the families of deceased residents, with beneficiaries liable for rent to units they own but are not permitted to occupy.

## The Solution

Housing for the Aged Action Group (HAAG) proposes a six-pronged strategy to address these issues.

### 1. Introduce Training and Accreditation Standards

Retirement housing manager should be required to hold a Certificate IV qualification under the Australian Qualifications Framework and meet a fit and proper person test.

### 2. Reduce Contract Complexity

Prescribed forms should be developed for site agreements to ensure that contracts are expressed in plain English, properly address common issues and do not include unfair terms.

### 3. Establish a Retirement Housing Ombudsman

An industry-funded ombudsman service must be established to provide free, fair, and binding determinations for retirement housing disputes, including residential parks.

### 4. Stop Excessive Fees

Exit fees must be reformed and regulated to ensure they are charged in fair, consistent ways and do not incentivise exploitation and misconduct by site owners.

### 5. Protect Residents' Right to Sell

Legislation and enforcement mechanisms should ensure that residents can decide the how and when to sell their dwellings.

### 6. Consult Residents

Any and all proposed changes should be formulated in consultation and collaboration with residents, the real experts on residential parks.

#### For more information:

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