



HOUSING FOR THE AGED ACTION GROUP INC.

CARPAV

Connections

Issue 1

NOTE: This is a general guide to the law only and does not constitute legal advice.

Assignment, Sub-letting and sale of dwelling

In this issue we will explain the rights for site tenants, under the Residential Tenancies Act 1997 (RTA) Part 4A, in relation to assignment, sub-letting and the sale of dwellings in caravan and residential parks and villages.

In the RTA a site tenant is defined as someone who owns, and permanently lives in, a transportable (moveable) dwelling in a caravan or residential park.

Assignment

Under section 206ZZD it states that a site tenant may assign their site agreement to another party, as long as they have the site owner's consent. (The site owner is usually the park owner).

The site owner must not unreasonably withhold consent but if he/she does the site tenant can apply to the Victorian Civil and Administrative Tribunal (VCAT) to challenge the decision.

Sub-letting

Under section 206ZZE it states that a site tenant may sub-let their Part 4a site, which would usually mean the unit that resides on the Part 4A site, as long as they have the site owner's consent.

The site owner must not unreasonably withhold consent and if he/she does then again the site tenant may challenge the decision at VCAT.

The most asked question about sub-letting relates to whether someone under 55 years of age may sub-let a unit in a residential park. Most people are unaware that in order to discriminate according to age a site owner would have to apply for an exemption from VCAT.

Without an exemption there cannot be a limit on the age of residents living in parks.

Consent

A site owner must not ask for any fees related to giving consent under section 206ZZG.

The section does allow, however, for a site owner to have the site tenant bear fees and costs related to preparing a written assignment of a site agreement.

Sale of a dwelling

Under section 206ZZH when deciding to sell a dwelling in a park a site tenant may choose the site owner to act as sales agent, may seek an independent agent or may sell privately.

If the site tenant chooses the site owner to act as sales agent any commission charged must be clearly disclosed up front in the site agreement, otherwise it cannot be charged.

A site owner must not, in any way, obstruct or hinder the sale of a dwelling.

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