

WHAT IS A RETIREMENT VILLAGE?

A retirement village is essentially a community for seniors. Entry is generally restricted to people who have attained 55 years of age or have retired from full time employment. Retirement villages offer an accommodation and lifestyle alternative that suits many people. However there are many different legal structures to buy and sell retirement units which involve complex legal documentation.

TYPES OF RETIREMENT VILLAGES

Each retirement village is unique, some villages offer different levels of care from independent living units to fully serviced apartments providing a range of personal services.

There are many legal structures, which affect how you buy and sell your retirement unit. Most retirement units are bought and sold as a long-term lease. Villages use different structures such as strata title and community title, manufactured home, or a conventional lease. The different structures can have different implications in terms of the applicable legislation, stamp duty, GST, service charges, termination etc.

FINANCIAL CONSIDERATIONS – WHAT COSTS ARE INVOLVED.

Residents of a retirement village may be required to pay:

- An initial purchase price or ingoing contribution
- Rent or other service charges
- A deferred management fee or exit fee when you leave or sell the unit

The deferred management fee or exit fee is often complicated and difficult to calculate. The ingoing contribution, rent or other service charges often determine how your exit fee is calculated. It is essential to receive expert legal advice prior to entering a contract to purchase a retirement village unit.

COOLING OFF PERIOD – QUEENSLAND LEGISLATION

A cooling off period of 14 days starts on the date a residence agreement is made. During this time you are entitled to pull out of the contract and receive a full refund of any deposit paid.

BUYING OR SELLING A RETIREMENT UNIT?

When buying or selling a retirement unit in Queensland the parties must comply with government legislation requirements.

When purchasing you will receive a significant amount of disclosure material and other legal documentation known as a Public Information Document. You should carefully read the documentation and not rely on any representations that are not in writing. The Public Information Document sets out

the essential details about the village and the resident's rights and obligations. It should also contain a copy of:

- The Residence Agreement
- Any service agreement – to provide personal services to the resident
- Any by-laws applying to the village
- A budget for the operating cost of the village

Particular notice should be taken of the following issues contained in the Public Information Document:

- The communal facilities available for use
- The ingoing contribution
- The maintenance and capital replacement funds maintained by the Operator
- The insurance the Operator has in place and what insurance obligations rest with the resident
- The weekly fees
- The villages dispute resolution process

Retirement villages are a complex and specialised area of law. At Ferguson Cannon, we have extensive experience in this area and can assist you when buying or selling a retirement unit to ensure your rights and interests are adequately protected. We will provide you with advice in plain English and ensure the process is as trouble free as possible.

For any enquiries, please contact Byron Cannon or Tony Pattinson.