



The Association of Residents of
Queensland Retirement Villages Inc

FACT SHEET #11

RESELLING A RIGHT TO RESIDE

The ARQRV is a strong consumer protection organisation that represents the interests of residents in retirement villages to governments and scheme operators. We are a not-for-profit organisation run by volunteers who are themselves residents in a retirement village, so we have first-hand experience of the issues affecting all residents. We act to inform members of their rights under the *Retirement Villages Act* and provide on-going information about issues that are significant to the retirement village lifestyle.

ARQRV has produced a range of fact sheets on various topics that will be of assistance when it comes to understanding retirement village living.

Recent changes to the *Retirement Villages Act 1999* has improved processes for the scheme operator and former resident to agree on the resale value of a unit

Reselling a right to reside - Commenced 1 February 2019

| | |
|--|---|
| <p>Scheme Operator and former resident to agree on resale value</p> | <p>Within 30 days after a resident’s right to reside is terminated, the former resident and scheme operator are to negotiate and agree in writing on the resale value of the right to reside for the accommodation unit.</p> <p>If the former resident and scheme operator cannot agree on the resale value, the scheme operator is to obtain a valuation from a valuer within 14 days.</p> <p>The valuation is taken to be the agreed resale value of the right to reside for the accommodation unit.</p> |
| <p>Units not sold within 6 months</p> | <p>If a former resident’s right to reside has not been sold within 6 months after the termination date and the former resident has not been paid their exit entitlement, the former resident may engage a real estate agent to sell the right to reside for the accommodation unit.</p> |
| <p>Scheme operator to tell resident of all offers</p> | <p>If a former resident has not been paid their exit entitlement in 6 months the scheme operator must promptly provide details of each offer received to purchase the former resident’s right to reside.</p> <p>Also, if the former resident requests, the scheme operator must give information about the following as soon as practicable after the end of each month while the right to reside remains unsold:</p> <ul style="list-style-type: none"> • All sales inquiries relating to the right to reside; • What steps the operator is taking to promote the sale of the right to reside; • Particulars of all other rights to reside for sale in the village, including, the number of rights for sale, the size of the units, the selling prices and how long the rights have been for sale. |

| | |
|---|---|
| <p>Updating agreed resale value every 3 months</p> | <p>If a former resident's right to reside is not sold within 3 months after the termination date and they have not been paid an exit entitlement, the former resident and scheme operator are to reconsider the resale value of the right to reside at least every 3 months and agree in writing on a new resale value, which may be the same.</p> <p>If the former resident and scheme operator cannot agree on the resale value, the scheme operator is to obtain a valuation from a valuer within 14 days.</p> <p>The valuation is taken to be the agreed resale value of the right to reside for the accommodation unit.</p> |
| <p>Limited grounds for scheme operator to refuse to accept offer</p> | <p>A scheme operator may refuse to accept an offer to purchase a right to reside in an accommodation unit if:</p> <ul style="list-style-type: none"> • the operator reasonable believes the prospective resident is not within the age limits for residents as stated in the village comparison document or the type of unit to which the right to reside relates is unsuitable for the prospective resident; or • the right to reside was terminated because the operator is implementing an approved closure plan. |
| <p>Appointment of a Valuer</p> | <p>If the scheme operator and the former resident cannot agree on the valuer, the scheme operator or the former resident must immediately inform the Chief Executive (Residential Services Unit) in writing and the valuer is to be decided by the Chief Executive within 14 days</p> <p>A registered valuer means a valuer registered under the <i>Valuers Registration Act 1992</i></p> <p>A valuer must be independent and must state any connection to, or an agreement with, the scheme operator that may call into question the independence of the valuation.</p> |
| <p>Submissions to Valuer and matters to be considered</p> | <p>In preparing a valuation, the valuer must take into consideration:</p> <ul style="list-style-type: none"> • Submissions and responses from the scheme operator • Must conduct the valuation on the basis that the retirement village is operating and will continue to operate, normally • The amount of the exit fee payable; and • Capital gain sharing arrangements. <p>The valuer must not take into consideration a different exit fee that would be payable by, or different capital gain sharing arrangements that would apply to any person who purchased the right to reside in the retirement village from the former resident.</p> <p>Capital gain sharing arrangements means the provisions of the residence contract that state how the resident or former resident and the scheme operator are to share any capital gain on the sale of the right to reside.</p> |

For further information please contact ARQRV

Mob: 0437 906 074

Email: enquiries@arqrv.org.au

www.arqrv.org.au