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1 MAY 2012

Hon. Brian Ellis, MLC, Chairman
Standing Committee on Environment and Public Affairs
Parliament House,
Perth WA 6000

Dear Mr Chairman

Submission on Petition no 154 – Review of the Retirement Village Legislation Act

I refer to your letter dated 22 March 2012 and thank you for your invitation to make a submission in relation to the above petition, containing 51 signatures from the residents of Leederville Gardens Retirement Village.

The petition refers to the Department of Commerce Statutory Review of Retirement Villages Legislation Final Report dated November 2010 (the **Report**). It submits that "the review's recommendation should contain a time limit on the period of sale of vacated units, counted from the date when the unit has been vacated, as well as that these changes be made retrospective." I attach a copy of a letter written by the petitioner for consideration by the Committee, since it clearly sets out the rationale behind the petition.

I previously wrote to the Minister of Commerce regarding these matters. In his letter to me regarding the issues raised by the Leederville gardens residents, the Minister of Commerce states

> "Wherever possible, the reforms aim to apply to all contracts entered into under the *Retirement Villages Act 1992*. However in the course of the review, the Department of Commerce found that some provisions should not apply to existing contracts for a number of reasons, for example because they could significantly disrupt the financial operation of a village established under current contractual arrangements."

In fact the Report (page 123) does not state the reasons for recommending that this change to the legislation should apply only prospectively. I respectfully suggest that the Minister should be requested to detail all the reasons for not applying the legislation to existing contracts, since in my view this gives rise to a grave inequity for existing residents. If operators wish to avoid disruption to the financial operation of the retirement village they have six months in which to find an alternative resident, and only the operator, not the outgoing resident, has control over this process. Alternatively a "phase in" period, as suggested by Mr Boam, could be adopted to give the operators of retirement villages a period of grace in which to adapt to the new legislative requirements.

The Report also recommends "that the legislation provide that the operator must not attempt to recover these costs by increasing the recurrent charges payable by other residents" (recommendation 74). I respectfully suggest that the Minister should state whether this recommendation will be implemented in the new legislation.

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As a policy matter, the WA Greens believe that Older Australians have the right to maintain their independence to the extent and for as long as they are able to do so. I applaud the availability of accommodation in retirement villages, since this type of accommodation is one way in which this objective can be achieved.

It is also Greens policy that older Australians should be consulted on all legislative and procedural changes that affect them, and this occurred in the statutory review of the Retirement Villages Legislation. It is however something of an irony that overwhelmingly the residents in retirement villages supported the time limit on the payment of recurrent charges, and those are the very people who will now be deprived of the benefit of this legislative change.

Yours sincerely

Hon Lynn MacLaren MLC
Member for South Metropolitan Region

30 April 2012

Attachment: Letter dated February 2012 from Mr Peter Boam to Hon Giz Watson MLC re Retirement Villages Act.

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Peter S. Boam

February 2011

The Hon. Giz Watson M.L.C.
339 Oxford Street
LEEDERVILLE 6007

21 FEB 2012

Dear Giz .

RETIREMENT VILLAGES ACT .

Enclosed please find my request for your support , which is also signed by many of the residents of Leederville Gardens Retirement Village (which has a total of 66 units) which is meant to inform you of some of our serious concerns regarding the long-awaited changes to the Retirement Act .
We have now been advised , that the first part of the **AMENDMENTS** to the Retirement Villages Act can be expected soon , since it was decided to split the whole into two parts !
Our village , like quite possibly 90% of all retirement Villages in Western Australia , is a "LEASE-FOR-LIFE" village – which means that we lease the unit but we do NOT own our units !.

Our primary demands for changes to the existing Act are :

(1) the curtailing of the monthly (weekly) fees to be paid by residents (or their executors) to a maximum of **SIX (6) MONTHS** , after the unit has been vacated and the keys have been handed back to the owners of the unit . At present this time is unlimited !

(2) that this curtailment be made **RETROSPECTIVE** , or if that is not possible , to phase it in after two (2) years , otherwise it is of no help to the many thousands of residents now living in lease-for-life retirement villages in Western Australia , many of whom would like to (or need to) move into care facilities but are unable to do so for financial reasons !.

There are numerous examples where units have been empty (and the leases remain un-sold) for up to 2 years – and even longer ! All the while however , the departed resident (or his/her' estate) is required to pay the monthly fees – or (in some cases) if these fees are not paid monthly , the full sum of unpaid fees - plus costs , interests and charges – may be (are) deducted from the eventual pay-out sum ,(over which the former resident – or his/her' estate - has no control whatsoever !) when , in time , the lease is re-sold .

If say the monthly fees amount to $400 - an average figure - over 2 years , this mounts up to the best part of $10.000 which considerably reduces the pay-out figure ... for absolutely no gain – except to the owners !!

It happens time and time again , that for health reasons a resident should actually vacate his or her unit and move into care facilities ....but cannot do so , because of course , there – in the care facility - monthly fees will also be charged . It is obvious that this causes great financial – and consequential additional health - problems to many ailing residents !

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