

Buying into a Retirement Village

Avoid unexpected pitfalls

- What am I typically liable to pay for?
- Will I get any money back when I leave the unit?
- What is the difference between buying into a retirement village and owning my own house?
- The Key Documents

Buying into a retirement village is different to buying a house. Villages vary considerably in their accommodation, legal and financial structures, and management. The Retirement Villages Act 2003 ("the Act") provides intending residents and current residents with certain rights.

What am I typically liable to pay for?

As mentioned, not all structures are identical, but some payments you may be liable for are as follows:

1. **A Capital Sum:** This is similar to a purchase price. In most cases, in return for payment of the capital sum you will get a licence to occupy the unit. This gives you the right to live in the unit but you do not own the unit itself.
2. **A Village Fee:** This is a weekly fee and covers costs like rates, insurance, maintenance, security and gardening.
3. **Utilities:** These include electricity, telephone, contents and insurance.
4. **Your own personal expenses:** For example, medical costs, normal household and personal expenses.
5. **Extra costs:** Some villages include a wide range of services in their fees while others leave you to choose and pay for the services you want or need. Make sure you find out whether the village adds a premium for these services.

Beware, costs can increase but residents are required to be consulted and informed of any proposed changes to services, benefits or charges.

Will I get my money back when I leave the unit?

Usually, the village operator controls the sale of the unit when you leave it. Often, you will have to wait until the unit is sold before getting your money back.

There can be significant costs associated with leaving a village and selling the unit. You may end up with considerably less money than when you entered the village.

The following costs may be deducted from the capital sum:

1. **A Deferred Management fee.** This is a percentage of the capital sum over a number of years. Typically, the deferred management fee is calculated as approximately 4% of the Capital Sum per annum for a maximum period of 5 years. This

covers costs such as communal facilities, management, or long term maintenance.

2. Any costs associated with restoring the unit back to the condition it was in when you moved in, less fair wear and tear.
3. Marketing, legal and administration costs associated with selling the unit.

In many instances you will not share in any capital gain on the resale of the unit, and in some cases, you may also be required to pay for any capital loss made on resale of the unit.

What is the difference between buying into a retirement village and owning my own home?

- Depending on the ownership structure of the unit, you may not own the unit. Most retirement villages give you a licence to occupy the unit.
- Typically interior maintenance of the unit will be your responsibility and the village may be responsible for exterior maintenance.
- In most instances you cannot make additions and alterations to the unit without the prior written consent of the village operator.
- Generally you are not responsible for insuring the unit but you are responsible for your own contents insurance.
- In many instances, the retirement village retains any capital gain on the unit when it is sold.

The Key documents

1. Application Form

When you apply to purchase the unit, you will be required to complete an application form. Amongst other things the application form will include your right to withdraw from the purchase. This is called "the cooling off period" and will give you the opportunity to discuss the purchase with your friends, family and most importantly your lawyer.

2. The Disclosure Statement

The village will be required to provide you with a disclosure statement which details the following:

- The village's ownership and management structure.
- The name of the statutory supervisor, their role and contact details. A statutory supervisor acts on behalf of the village residents to monitor its financial operation and to make sure it complies with the law.
- The type of legal title, for example, a licence to occupy or a unit title.

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- The sale process when you leave the unit.
- The number of occupied units and how long it's taken to sell vacant units.
- The services and facilities offered.
- Maintenance and refurbishment arrangements and terminating the agreement.
- The costs of entering, moving within and leaving the retirement village.
- The charges while living in the unit.

3. The Occupation Right Agreement

This agreement is required to detail the following:

- Payment obligations
- The manager's duties
- Procedures relating to meetings and consultation
- Termination rights
- The complaints and disputes resolution process
- Village rules such as visitors, parking, redecoration and additions to your unit

4. The Code of Residents Rights

This is a summary of your basic rights under the Act and will be provided to you.

5. The Code of Practice

This document is required to be provided to you. It will set out the minimum requirements to be included in every resident's occupation right agreement and includes details relating to:

- Staffing policy
- Safety and Personal Security
- Fire protection and emergency management
- Transfer of residents within the village
- Meetings and resident involvement
- Complaints
- Issuing of accounts for regular fees
- Maintenance and upgrading policies
- Termination of the occupation right agreement
- Communication

You can also ask for copies of the most recent audited financial statements, the village rules, any management agreement and the deed of supervision.

Deciding to buy into a Retirement Village is an important decision and can have many financial and legal implications. You are required to get independent legal advice.

At ARL Lawyers we have experience in advising clients buying into retirement villages and can assist you with this important decision. We will explain the documents to you, ensuring that you understand them and avoid any unexpected pitfalls. Contact our Property Team for more information.