



New Zealand Financial Planning

RETIREMENT VILLAGES A LIFESTYLE INVESTMENT!

Presented by

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FORTUNE MANNING
LAW PARTNERSHIP

WHERE ARE WE AT?

- A. We are living longer and dying faster**
- B. Average lifespan has increased over the past 15 years**
 - i. Males – 70.9 to 75.7 years**
 - ii. Females – 77.2 to 80.8 years**
- C. Good preventative care is improving the old – old's ability to be active.**
- D. Still no real cure for some diseases.**
- E. Retirement Villages a product of a growing generation of aging.**
- F. Today, 20,000 in 300 villages.**



WHERE ARE WE GOING?

- A. Estimated by 2050 there will be 50,000 in Retirement Villages when 1,000,000 people will be aged over 65.**
- B. Retirement Villages will become more stratified.**
- C. Growth will mean a growing awareness of the benefits of the alternative lifestyle.**
- D. Government Policy?**



DEFINITION OF A RETIREMENT VILLAGE

The key components are:

- Accommodation providing for people in their retirement.
- Rights of occupation conferred by payment of a capital sum.
- Provision of services, or facilities enjoyed in common with other residents.
- No regard to the nature of the occupation right, e.g. whether licence to occupy, lease or unit title, etc.



REASONS FOR NOT CONSIDERING A RETIREMENT VILLAGE

- Financially independent.
- Financially insecure.
- Simply not for you.
- Fear of institutional living and image of old people's homes.



FACTS OF THE MATTER

- Retirement Villages cater for diverse requirements of society.
- They are light-years away from old people's homes of yesteryear.
- They are not for everyone – choice is for the individual.
- A life changing decision requiring thorough research and objective analysis.



REASONS FOR MOVING INTO A RETIREMENT VILLAGE

- **FAMILY:** Spouse dies or both finding things difficult - option to move closer to family – could be difficulties.
- **LIFESTYLE:** House getting too big or older and needing repairs – list pros and cons – inspect villages and talk to friends.
- **FINANCE:** Capital in house – not much saved – talk to an independent financial adviser.
- **HEALTH:** Fiercely independent but health may not hold up.
- **SECURITY:** Peace of mind.



WHAT IS BEING PURCHASED – A BUNDLE OF RIGHTS

- Not property per se.
- Right to exclusive occupation until you choose to move out.
- Rights include care and support services and access to village activities.
- Rights may be much higher in value than equivalent value of purchase of real estate.



ACCOMMODATION

- TYPES OF RESIDENCY – OCCUPATION RIGHT AGREEMENTS
- Licence to Occupy: Account for over 60% of Occupation Right Agreements
- Unit Title or Freehold Title Purchase
- Memorandum of Lease



COSTS

1. DEDUCTIBLE FEE

- Referred to as "Community Facilities Fee", "Deferred Management Fee" or "Amenities Fee" for provision of services and use of community facilities.
- Ranges from 8% to 27% of purchase price amortised over 4, 5 or 10 years.
- Expended portion not recoverable.
- Proportion of fee may be put aside for community facility fund or long term maintenance or a sinking fund.
- Important that prospective purchaser establishes how long term maintenance is handled in Village.



COSTS continued.....

2. OUTGOING COSTS

- This is cost of Village operation to residents.
- Range: Independent living between \$70 and \$140 per week – average \$80 to \$90 per week.
- Serviced apartment range: \$180 to \$350 per week.
- Fees: Normally GST inclusive.
- Calculated by dividing expenses between number of units or people in accommodation.
- Usually set at beginning of each year and include staff wages, ground maintenance, external maintenance of buildings, rates, insurance for Village, electricity and plumbing for common areas etc.



CHOOSING A VILLAGE

Ask questions, take your time – last investment you will make.

1. LOCATION – whereabouts are shops, family, friends, clubs.

2. LONG TERM VIABILITY
 - How long has Village been established?
 - What is its reputation?
 - How old are the buildings?
 - What is the length of the waiting list?
 - Who is promoting the Village? Has the person ability to build, promote and manage?
 - Has developer built other villages? Visit other villages and find out how satisfied residents are.
 - What has been the general success of developer and business generally?



CHOOSING A VILLAGE continued....

3. BIGGER NOT NECESSARILY BETTER.

What does the Village comprise? Does it match your requirements?

- Accommodation: Size, décor, lights, power points, where will the sun be in the winter, is it close to facilities, what are the provisions for parking.
- Geography: How easy or difficult will it be to get about the Village now or in 10 years time.
- Gradients, sunshine, roads, walkways, winds and noises.



FACILITIES

If new, at what stages are the common facilities to be built.

1. **SUPPORT SERVICES:** What are they? If not what you want are independent providers close by?
2. **MEDICAL FACILITIES:** How close is the nearest hospital?
3. **SUPPORT FROM FAMILY AND FRIENDS:** Have you easy access to them?
4. **VILLAGE VISITORS:** Check the rules governing.
5. **WEEKLY FEES:** What are they?
6. **IS THE VILLAGE A MEMBER OF THE RETIREMENT VILLAGES ASSOCIATION OR A PROBATIONARY MEMBER?**



DOCUMENTATION REQUIRED

- **Occupancy Documentation:** Providing the basis for residency in the Village.
- You need help – paperwork totally different from ordinary real estate agreement. No two sets are the same.
- You need to involve your family.
- Make sure you, or your family, know what monies are available on termination of occupancy.



HOW DOES DOCUMENTATION DEAL WITH...

1. CHANGE IN CIRCUMSTANCES

- Change in personal circumstances - death or poor health.
- Change in finance.
- Change of heart about retirement villages.

2. TERMINATION OF OCCUPANCY

- Surviving resident dies.
- Resident transfers to another type of accommodation.
- Residency is terminated by agreement or by resident's request.

3. NOTICE OF TERMINATION

- In what circumstances can this be given?



HOW DOES DOCUMENTATION DEAL WITH...

4. REFURBISHMENT

Most documentation requires you to restore the accommodation to the condition in which you received it. You may have to pay for:

- Repairing and repainting walls, ceilings, architraves.
- Replacement floor coverings or a proportion of the cost of replacement.
- Making good all electrical appliances included.
- Resorting the services and edges of sinks, stoves, cupboards and drawers.
- Commercial cleaning including carpet cleaning if not replaced.

5. LEGAL COSTS OF TERMINATION OR ADMINISTRATION FEE

- Usually 2% of deposit.



HOW DOES DOCUMENTATION DEAL WITH...

6. SETTLING UP

- When will you receive your monies?

7. TRANSFERRING WITHIN THE VILLAGE

- Can you transfer up or down? Will you be required to pay a new amenities fee?



COMPLIANCE PRE-RETIREMENT VILLAGES ACT

- Villages governed by Securities Act 1978 - not appropriate - some refuse to comply.

- Retirement Villages Association Inc set the standards with
 - a. Review Authority to hear unsettled disputes.
 - b. Setting up Code of Practice.
 - c. Introduction of a system of accreditation and re-accreditation.

- Statutory Supervisor only real watchdog.



POST-RETIREMENT VILLAGES ACT LEGISLATION

- Act became law on 30 October 2003.
- Parts of Act came into force on 1 February 2004 - compliance components will come into force by Order in Council when compliance regulations framed later this year.
- New Act demands compliance by all villages.



KEY COMPLIANCE

- Operator must ensure registration of Village with Registrar of Companies.
- Operator must appoint Statutory Supervisor.
- Annual return must be filed with Registrar of Companies.
- Upon registration Registrar of Companies to notify Registrar-General of Land who places a memorial against title to Village restricting any security holders enforcement of its rights.
- Occupation Right Agreement must contain information prescribed in the Act.



KEY COMPLIANCE continued...

- Before Occupation Right Agreement entered into a Disclosure Statement must be received disclosing everything required by Act including Code of Rights and Code of Practice.
- Each Village must have a Code of Residential Rights - minimum standards set forth in Act.
- Two forms of dispute resolution procedure - complaints facility and dispute resolution facility.
- Each Village must comply with Code of Practice governing management and operation of retirement villages.
- Cooling off period granted to residents who do not have to give any reason for not proceeding, they simply give notice not later than 15 days from date of signing.



WHAT'S GREY UNDER ACT?

Currently:

- Most village documentation provides for refund of deposit when unit resold allowing owner to continue collecting weekly payments which can cause general dissatisfaction and some hardship for families.

Under new legislation

- No compulsory buy back. Industry argues this too extreme a commercial outcome and could inhibit the growth of industry.



WHAT IS GOING TO BE THE OWNER'S RESPONSIBILITY UNDER THE ACT?

A school of thought is that the Code of Practice may impose a 3 step process as follows:

1. Units vacant for 3 months or more will be subject to monthly advice to former resident or family on steps being taken to progress sale.
2. After 6 months the former resident can request the operator to obtain an independent valuation of the unit.
3. If unsold after 9 months the resident has a right to lodge a dispute notice alleging breach of the operator's negotiations.



WHAT IS GOING TO BE THE OWNER'S RESPONSIBILITY UNDER THE ACT?

continued..

4. The disputes panel will have a wide range of powers including, in extreme cases, a payment to the former resident of an amount equivalent to a sale.
5. New complaints facility, disputes resolution, enforcement and penalties significantly account for 35% of the Act by number of clauses.



RETIREMENT VILLAGES ASSOCIATION INCORPORATED

- Has pioneered the Retirement Village industry in New Zealand for 20 years.
- 145 villages are members representing 80% village residents.
- Over 12,000 residents live in RVA villages.
- 50% live in Auckland with average age of 74.
- 68% of RVA villages fully accredited.
- RVA has in place a Code of Practice and system of accreditation and re-accreditation and is developing a Standard Occupancy Agreement and working with the Government to frame the Code of Practice for all villages under the new legislation.



RECOMMENDED READING

- **Lifestyle Retirement** - A New Zealand Guide to the Retirement Village Option by Barry Flint published by Random House New Zealand
- **RVA's Directory of Retirement Villages** published by RVA, PO Box 91466, Auckland, phone 09 356 2638
- **Retirement Guide** published by Full Moon Publishing, PO Box 34198, Birkenhead, phone 09 419 5159



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