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BusinessDay

Village lifeline

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May 25, 2011



Buoyed...village residents have had a win against corporation charges.

Following a court victory, retirement home residents can get more transparency when it comes to charges.

Residents of a retirement village who took on a large corporation over the way it was assigning expenses to them have won a court case that some say sends a message to the big, multivillage operators that are emerging around the country.

Lawyer Peter Hill, who represented residents of Queens Lake Village at Laurieton, on the NSW mid north coast, says the court decision "is a significant win not only for residents at Queens Lake but also for residents across villages in NSW".

It's also a signal to big, commercial operators with many villages that transparency is more important than business convenience.

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"The other theme is the whole issue of the corporations running these villages getting larger," Hill, of Hill & Co Lawyers, says. "They've started to charge village residents head-office style costs - legal, IT and accounting - that previously didn't arise when these things were managed in-house, in the village."

He says some operators may be "double-dipping" by building head-office or management costs into "recurrent" charges, while levying hefty "deferred management fees" when residents leave and "a lot of operators will have to do a bit of soul-searching".

The ruling in the NSW District Court last month means state head-office costs must be directly attributable to services provided in a village, "not based on some arbitrary, fictitious or non-factual formula, which relates to costs assigned to multiple villages", Hill says.

The vice-president of the NSW Retirement Village Residents' Association and a Queens Lake resident, John Cooper, led the legal challenge. The village houses about 160 people. Cooper says the dispute wasn't about unwillingness to pay. "It's just that we wanted to know what we were paying for," he says. "We weren't convinced that what they were asking us to pay was fair and legitimate and applicable to this village."

The residents last year queried the basis for two items in the draft budget for 2010-11. The village, then owned by Aevum, was taken over by Stockland.

The residents wanted to know how Aevum came up with the figures for insurance and a "corporate recharge" item and went to the NSW Consumer Tenancy and Trader Tribunal (CTTT) when they felt they weren't getting enough detail.

The CTTT ruled in December that the insurance charges went beyond the cover an operator could require residents to pay under section 100 of the NSW Retirement Villages Act and under their contracts.

On the corporate recharge items, it ruled there was insufficient information to determine if all the expenses were associated with services at Queens Lake.

As a result, the CTTT said those items - \$23,100 and \$28,594, respectively - were to be removed from that year's budget.

The new owner, Stockland, appealed to the District Court earlier this year but offered to pay the residents' legal costs when they expressed anger about being forced into court.

A Stockland spokesman says: "Since the Stockland takeover of Aevum, it has taken steps to significantly improve the transparency of information provided to residents in the preparation of the 2011-12 budget." Residents' committees in Stockland villages have signed off on most 2011-12 budgets, he says.

Cooper agrees Stockland has improved transparency but describes it as being "on a steep learning curve".

The chief executive officer of the Retirement Villages Association, Andrew Giles, says the court decision shows "operators need to be transparent and consult". "The consumer is the lifeblood of the industry and they need to be satisfied."

Peter Hill says operators might find baby boomers more aggressive than past generations in asserting their rights.

"A lot of villagers are very astute people. They've run companies themselves."

Read more: <http://www.brisbanetimes.com.au/money/planning/village-lifeline-20110524-1f16t.html#ixzz1NJgzis2s>